

## SENATE—Wednesday, March 3, 1993

The Senate met at 8:45 a.m., and was called to order by the Honorable WENDELL H. FORD, a Senator from the State of Kentucky.

### PRAYER

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

Let us pray:  
*Thus saith the Lord, What iniquity have your fathers found in me, that they are gone far from me, and have walked after vanity, and are become vain?—Jeremiah 2:5.*

Almighty God, You ask a question which accurately diagnoses our present situation, forsaking Thee and following emptiness, we become empty; following hollow gods, we become hollow souls.

You remind us, Heavenly Father, that we are incurably religious. We must have a god, if not the true God, some substitute, even if that substitute is no-god. The real tragedy is we become like the god we worship. We watch helplessly while our culture degenerates into paganism and wonder what is happening.

Gracious God, help us see that the answer is a return to the God of our fathers, whose guidance made possible this great Nation. And help each of us to examine his soul, lest we blindly follow emptiness.

We pray in His name who is the Way, the Truth, and the Life. Amen.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,  
 PRESIDENT PRO TEMPORE,  
 Washington, DC, March 3, 1993.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable WENDELL H. FORD, a Senator from the State of Kentucky, to perform the duties of the Chair.

ROBERT C. BYRD,  
 President pro tempore.

Mr. FORD thereupon assumed the chair as Acting President pro tempore.

### RESERVATION OF LEADER TIME

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

### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Also, under the previous order,

there will now be a period for the transaction of morning business not to extend beyond the hour of 9:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

Does the Senator from Iowa seek recognition?

Mr. GRASSLEY. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HEFLIN). Without objection, it is so ordered.

The Senator, under the previous order, is recognized for up to 15 minutes.

### MEASURES PLACED ON THE CALENDAR

Mr. GRAHAM. Mr. President, before proceeding with my remarks, on behalf of the majority leader I ask unanimous consent that all bills and joint resolutions read a first time be deemed to have been read a second time en bloc, and objection being heard to further proceeding, the various matters be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

### HAITI

Mr. GRAHAM. Mr. President, 17 months have come and gone since democratically elected Jean-Bertrand Aristide, Haiti's first freely elected President, was violently overthrown.

During that time, over 500 days, Haiti has become a human rights nightmare. Just this past Saturday, soldiers attacked people attending a Mass in the southern town of Jeremie. Leading the service was Archbishop Willy Romelus, who was assaulted by a mob in Port au Prince 2 days earlier.

Mr. President, tragically the violence this weekend has not been an isolated event, but has become daily fare for the people of Haiti.

Meanwhile, the 67 percent of the Haitian population who voted for Aristide anxiously await his return. They wait for democracy to be restored and for an end to brutal military rule.

Their hopes are fragile. They are prepared for the worst. After all, hope is a luxury in Haiti. That is why 1,500 boats lie on the sandy shores of Haiti, waiting to be launched. They are every Hai-

tian's insurance policy, the last desperate means of escape from a violent regime should President Aristide not return.

Mr. President, Haitians are staking their futures—literally their lives—on the success of the United Nations and Organization of American States in their collective effort to restore President Aristide.

The International community—the United States in particular—has very little time to make good on its promise. We need to establish, right now, a firm date for President Aristide's return.

For 500 days the authoritarian regime has manipulated the negotiations. Its goal is not democracy but to outwait the patience or interest of the United States and the international community.

Its goal is to continue its reign of terror. Unless we set a firm date for President Aristide's return, negotiations will continue to drift inconclusively. We should set May 31 as that date.

Why this date?

The calmest seas prevail in the 3 months before the onslaught of the summer hurricane season—April, May, and June. Haitians are a Caribbean people. If they are going to escape, they know this is the time to try.

The wall represented by United States policy of forced repatriation of Haitians and enforced by sentries of Coast Guard ships is under pressure from both sides.

From the United States, the President's policy of direct return of Haitians is probably illegal and politically cannot be long sustained. Demonstrations last month in New York, Miami, and other American cities made that abundantly clear. As we discuss this issue here in the Senate, hunger strikes continue around the United States in opposition to our policy.

The Supreme Court yesterday considered the legality of our policy. Experience has shown that the outcome of this case will have even more influence on whether Haitians attempt the dangerous sea passage than the weather itself. If the Supreme Court overturns the current policy, and President Aristide has not been restored to the Presidency, we will face a new wave of refugees.

Third, Haitians are staying at home in part because President Aristide has asked them to, and because President Clinton has committed the United States to a policy of restoring democracy in Haiti.

Unless we make good on those commitments—and soon—Haitians will

lose hope and take the only action left to them; leave Haiti in mass waves.

Failure to restore President Aristide to power, therefore, could mean that literally tens of thousands of Haitians will launch their boats within the next 120 days, Coast Guard ships be damned. Hundreds, maybe thousands of men, women, and children, will drown before reaching the promised land that America represents.

The depressing reality is that this would relieve pressure on the current *de facto* regime while presenting the United States with yet another refugee crisis.

If we are to avoid this possible calamity, the United States must accelerate its efforts. Our goals are clear:

Restore President Aristide's government as soon as possible;

Be ready to activate a comprehensive economic recovery plan to get the country back on its feet, after democracy is restored;

Build democratic institutions. In this regard, three objectives are paramount:

The establishment of an independent system of justice—democracies in the Caribbean stand ready to assist us;

Separation from the army of a well-trained police force—the army must get out of the police business if human rights violations are to be curbed;

Establishment of a professional army which serves the nation, not its own corrupt ends. Haiti needs to be rebuilt. Its roads, its health system and its public works are a disaster. The army could play an important role in each of these areas.

To achieve these goals, the United States should lead the United Nations and the Organization of American States to establish a firm timetable for negotiations and create a climate where all sides will have the confidence to be flexible. The time for delay is over, and all sides must be made to realize this.

That means keeping the pressure on, and maintaining our Government's attention at the highest levels until President Aristide is restored to power. We must make clear to each party that they will pay a very personal price for further delay.

We must also stop sending mixed signals. Certain statements made by representatives of this administration have led some parties to this negotiation to believe that the United States is prepared to negotiate for a year or longer. That is absolutely the wrong impression to leave if we hope to resolve this issue.

To the regime holding power in Port au Prince, we must say, "you risk intervention if you continue to block President Aristide's return. We are prepared to negotiate President Aristide's peaceful return under conditions that take into account your legitimate interests. But believe us when we say that we are not prepared to rule out the use of force."

To ourselves, we must say, "get serious about restoring democracy to Haiti. Maintain the necessary administration focus at a high level. Stop temporizing, stop sending mixed signals and be prepared to maintain force as an option. Important U.S. interests are at stake. We must commence the organization of a multilateral force of hemispheric allies if negotiations break down."

To President Aristide, we must say, "Commit yourself to a policy of real democracy, one that recognizes the legitimate interests of those who disagree with you. Adopt a policy of redemption, not vengeance. That means a properly structured amnesty, which is an essential element in any successful negotiation. Without one, don't expect your opponents to negotiate themselves into exile, poverty, or prison."

To the army, we must say, "go back to the barracks, get out of the drug trade and begin to protect the Haitian people rather than terrorize them. If your institution is to survive, you must dedicate yourself to rebuilding the country, rather than destroying it."

To the powerful Haitian business community, we must say, "Come into the 20th century by accepting democracy and the will of the people. Stop running the country like its your personal fiefdom. Use your capital to profit not just yourselves but the Haitian people as well."

To our allies, the French, the Canadians, the Venezuelans, Mexicans, and others, we must say, "Haiti is a priority. We need your help and support, and we expect it. We must work together to construct a multinational economic program to rebuild the Haitian economy. By doing so, we signal the Haitian people that there will be international support for building democracy in Haiti."

And to international investors, we must say, "upon restoration of democracy in Haiti, the United States is prepared to renew its commitment to economic assistance and the Caribbean Basin Initiative."

Mr. President, the Organization of American States adopted a far-reaching policy in support of democracy when it approved the so-called Santiago accords in 1991. The accords represent an aggressive policy of preserving democratic gains in this hemisphere.

I believe that the Organization of American States must consider going one step further and establishing a multilateral peacemaking force for this hemisphere.

I know that there are numerous reasons to question this concept given this hemisphere's historical sensitivity toward intervention. Nevertheless, I believe the idea, in some form, deserves action.

In a world increasingly confronted by the tragedies of Haiti and Bosnia, a

credible military option is clearly necessary if diplomacy is to stand a chance of success.

A military force sends a clear message to those who would disrupt the democratic process that the hemisphere's democratic governments will not stand idly by in the face of such threats.

Mr. President, we have a very narrow window of opportunity to resolve this crisis. If we fail to restore President Aristide to office within the next 2 to 3 months, we will face a tidal wave of refugees. Our failure will also signal the rest of the hemisphere that we are less than committed in backing democratically elected governments.

It will send a powerful message to the barracks of Latin America that this period of democratic governments is an aberration; that the nations of the Western Hemisphere are prepared once again to tolerate the regime of military autocrats.

I urge this administration to make Haiti a priority, to develop a workable strategy and to bring this crisis to an end, to indicate without question our support for the principle of democracy in the new world.

Mr. President, I ask unanimous consent to print in the RECORD three newspaper items.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 3, 1993]

COURT IS ASKED TO BACK HAITIANS' RETURN

(By Linda Greenhouse)

WASHINGTON, March 2.—The Clinton Administration argued in the Supreme Court today for the right to continue picking up fleeing Haitians at sea and returning them to their country without asylum hearings, a Bush Administration policy that President Clinton had denounced as "cruel" and illegal when he was running for President last year.

In the absence of both an Attorney General and a Solicitor General, the White House had to rely on a staff lawyer in the solicitor general's office in its appeal. Last summer, a Federal appeals court ruled that the policy on Haitians violated rights guaranteed to refugees by the country's basic immigration law.

Maureen E. Mahoney, a deputy solicitor general, told the Justices that the President had emergency powers under the immigration law to carry out a policy to avert a "humanitarian tragedy at sea."

"The President is determined that in order to prevent a mass migration and the loss of hundreds or thousands of lives at sea, the policy of direct repatriation must continue," Ms. Mahoney told the Court.

CLINTON CONCEDES A POINT

Harold Hongju Koh, a professor of law at Yale University, arguing on behalf of a group of Haitians affected by the policy that President George Bush issued last May, told the Justices, "The fact that the new policy is effective and has terrified people so they won't leave does not make it legal."

President Clinton himself, at a White House picture-taking session today, said that "maybe I was too harsh in my criticism" of Mr. Bush.

"But I still think there's a big difference between what we're doing in Haiti and what they were doing in Haiti," Mr. Clinton said. "You know, something that was never brought up before but is now painfully apparent is, that if we did what the plaintiffs in the court case want, we would be consigning a very large number of Haitians in all probability to some sort of death warrant."

Professor Koh said the Government could not invoke the immigration laws as the authority to pick up refugees on the high seas without also being bound by the restraints contained in those laws. "They want the power without the restraint," he said. "They can't have it both ways."

The case arrived on the Court's calendar at a most awkward time for Mr. Clinton, who is simultaneously trying to develop both a policy toward Haiti and an Administration to carry it out. Last summer, he praised the appeals court decision that invalidated the repatriation program. The Supreme Court granted the Bush Administration a stay of the appeals court's ruling, while agreeing in October to hear the appeal. Briefs were filed before Inauguration Day.

The case has become a cause célèbre at Mr. Clinton's alma mater, Yale Law School, where the team of professors and students who brought the original lawsuit have been highly critical of the President.

At the White House today, George Stephanopoulos, the communications director, said the policy of intercepting the Haitians at sea was "a policy for exceptional circumstances," made necessary to "avert a humanitarian tragedy that could result from a large boat exodus." Meanwhile, Mr. Stephanopoulos said, the Administration is speeding up review of requests for asylum made by Haitians to the United States Embassy in Port-au-Prince. He said Mr. Clinton would meet on March 16 with President Jean-Bertrand Aristide of Haiti, whose overthrow in a military coup in 1991 led to the crisis.

The unusual politics of the situation were not readily apparent in the courtroom today, as two former Supreme Court law clerks presented well-prepared arguments. Ms. Mahoney clerked for Chief Justice William H. Rehnquist during the Court's 1979 term, when he was an Associate Justice, and Mr. Koh clerked for Justice Harry A. Blackmun two years later.

The Justices paid close attention during the hourlong argument but gave little evidence of how they would rule. At one point, Justice Antonin Scalia interrupted Ms. Mahoney's description of the humanitarian basis of the policy to say: "None of this has anything to do with the legal issue in front of us. Maybe we can talk about that."

Despite that display of impatience, Justice Scalia appeared equally skeptical toward parts of Mr. Koh's argument. When Mr. Koh said that under the logic of the Administration's case, President Aristide himself could be returned, Justice Scalia commented that simply because something was "horrible" did not mean that "there's a law against it."

There are several legal arguments in the case. One central issue is whether foreigners seeking asylum who have not yet reached United States territory have the same legal protection against forcible return that applies to those seeking asylum within the country.

#### A 1952 LAW IS BASIS

The Immigration and Nationality Act of 1952, the basic immigration law, simply authorized the Attorney General to "withhold deportation of any alien within the United

States" if the alien's life or freedom would be in peril in his home country.

In 1980, Congress amended that section of the law to provide that the Attorney General "shall not deport or return any alien" under those circumstances. The change was made to conform domestic law to a United Nations protocol on refugees that the United States signed in 1968.

Mr. Koh argued successfully before the United States Court of Appeals for the Second Circuit, in New York, that the 1980 amendment extended the law's original protections to aliens not yet in the United States. "This statute effectuates an international human rights norm," he said today. He said it was "the plain language of the statute and treaty" that "you don't send people back."

Ms. Mahoney said that in agreeing to the United Nations refugee treaty neither the United States nor any other country could be thought to have given up its ability to stop a "mass invasion by foreigners."

Mr. Koh said his position would not require the United States to accept all Haitian immigrants. He said there were other islands the Haitians might reach if they were not prevented from leaving by a "floating Berlin wall."

For 10 years until last May, United States policy was to intercept Haitians at sea and not to send them back without first giving them a chance to show that they were entitled to asylum. Under the new policy, that determination can be made only by American officials in Haiti.

[From the Miami Herald, Mar. 2, 1993]

#### POWERFUL HAITIAN CLAN'S TIES TO PEACE PROCESS CRITICIZED

(By Don Bohning and Christopher Marquis)

WASHINGTON.—A well-connected Washington attorney hired by one of Haiti's wealthiest families is quietly playing a major—and controversial—role in brokering a political solution to Haiti's simmering crisis.

For 15 months, Gregory Craig, a former Yale classmate of the Clintons, whose clients have ranged from Sen. Ted Kennedy to John Hinkley, has used the resources of Haiti's Mevs family in trying to forge a political consensus in that deeply divided country.

At the same time, Craig and Sven Holmes, one of his colleagues at the prestigious law firm of Williams & Connolly, have served as intermediaries between senior State Department officials and the Mevses, one of a handful of families who rose to great wealth during the Duvalier years.

Many of those same families were believed to have backed the September 1991 coup that ousted Jean-Bertrand Aristide, Haiti's first democratically elected president.

Despite signs of progress in Haiti, the link established by Craig between U.S. officials and the Mevses has drawn sharp criticism from all sides in Haiti's delicate peace process. The critics—who include other U.S. officials—question both the propriety of the contacts and the role played by the Mevses—with Craig serving as the intermediary—in attempting to dictate the outcome in Haiti.

The ultimate test of whether the effort is being made in good faith and not simply to buy time, observers say, will be when it comes time in the current negotiating process to determine a date for Aristide's physical return as president.

Robert White, president of the Center for International Policy and a former U.S. ambassador to El Salvador, termed it "bizarre" for U.S. officials to deal with the Mevs family.

#### TRYING TO BREAK DEADLOCK

Over the past year, as Washington groped for solutions on Haiti, Bernard Aronson and Robert Gelbard, the Bush administration's point men for Haiti who temporarily remain on the job under President Clinton, have repeatedly looked to the Mevses' attorneys to help break a political deadlock.

For Aronson and Gelbard, the contacts apparently began as part of a U.S. effort to open a back channel to Haiti's military, which toppled Aristide. Fritz Mevs Sr., a Miami resident who made his fortune with a sugar monopoly under the dictatorship of Francois "Papa Doc" Duvalier, his sons Gregory, Fritz Jr. and other family members in Haiti, are widely said to share the military's disdain for Aristide.

Aronson failed to respond to phone calls and Gelbard declined to be interviewed. But a State Department official who insisted that his name be withheld praised Craig for facilitating the accord that led to the deployment of international observers in Haiti last month.

"I don't think without him we could have gotten an agreement," the official said.

Attempts in both Haiti and Miami to obtain comment from the Mevses were unsuccessful.

For Craig, ties to the Mevses presented a unique opportunity to alter a seemingly hopeless situation.

"There's a moment in the process when one person can make a difference—when the process is stuck," Craig said.

But officials from both sides of Haiti's political debate—representatives of Aristide and of de facto Prime Minister Marc Bazin—are skeptical. Both groups fear that the family, whose wealth gives it influence over Haiti's military, is pursuing its own agenda, not Haiti's.

Even the military high command is said to be wary of the role of Mevs, but for the moment considers it to be in its own best interests to cooperate with the current efforts to resolve the crisis.

"If anyone believes that the Mevs family is a credible interlocutor for resolving the Haitian conflict in a way that helps Haiti build democratic institutions, then they are out of touch with reality," said Stephen Horblitt, a public relations consultant with ties to the Bazin government.

The Rev. Antoine Adrien, Aristide's chief negotiator in Haiti, said Washington "sends the wrong signal" by enlisting the help of known enemies of Aristide. "When you do that you are saying: We're still in business with [Aristide opponents]."

Dante Caputo, envoy to Haiti for the United Nations and Organization of American States, resents the U.S.-Mevs contacts. He says they reinforce the view that Washington is coddling anti-Aristide forces, the very people Caputo says must cede to international pressure to restore democracy.

One diplomat complained bitterly that Aronson and Gelbard, through Craig, have taken up the banner of Haiti's elite, calling at every turn for a quick lifting of the economic embargo. Within weeks of the coup, the OAS declared a boycott on trade with Haiti; the United States has since eased some of the sanctions unilaterally.

"We expected negotiations to go quickly because of a credible threat that [the United States] would tighten the embargo," the diplomat said of U.S. negotiations. "The last thing we expected was that we would have to fight to keep this leaky embargo on."

The imbroglio began quietly, more than a year ago, when Fritz Mevs contacted Craig

to discover what measures he should take to protect his interests as the Bush administration considered freezing assets of backers of the coup.

Craig may have been a newcomer to Haitian politics, but he had an enviable Washington Rolodex. As a litigator, he had defended Hinkley, the man who shot President Reagan; and he had been at Sen. Kennedy's side during the rape trial of William Kennedy Smith.

The election of Clinton added to Craig's clout. He knew both Bill and Hillary Clinton at Yale. He is chairman of the board of the International Human Rights Law Group, which includes Clinton's national security deputy, Samuel Berger. His Washington office has a gallery of snapshots of Craig with world movers: Fidel Castro, Martin Luther King, LBJ, even the pope.

With a call or two, Craig established that the U.S. government had no proof of Mevs family complicity in the coup, and he set to work trying to "make a difference" in resolving the Haitian crisis. He registered as a lobbyist for the Haitian Chamber of Commerce, but, when chamber members objected, amended his Justice Department filing to become Gregory Mevs' personal lobbyist in Washington.

Within weeks, Craig and Holmes, a former chief of staff of the Senate Intelligence Committee, had submitted a "declaration of principles" endorsed by Mevs and several other Haitian businessmen. The document formed the basis of the first peace accord, signed in Washington by Aristide and Haitian lawmakers six weeks later.

#### CRAIG TRIES AGAIN

The accord quickly collapsed, but Craig tried again, this time in December. He flew Gregory Mevs to Washington with Lionel "Son Son" Elysee, a close friend and adviser to Gen. Raoul Cedras, chief of Haiti's 8,000-member military. As Mevs met with Aronson and Gelbard, Elysee called on Pentagon officials.

Within a month, the deadlock between Haiti's military-backed government and Aristide was again broken. Aristide had agreed to call for international observers in Haiti, and the military had assented. It is widely believed that Craig may have had a hand in drafting at least an early version of the military's letter.

Craig and Homes were in Haiti when Bazin and the military gave letters to Caputo agreeing to the observers. When Bazin balked a few days later, Craig and Holmes hopped a private plane back to Haiti. Within 24 hours of their arrival, and a flurry of calls to Haiti from Aronson, the deal was back on track.

Yet even as the observers arrived in Haiti last month, Craig remained under fire. Friends and colleagues in his human rights law group voiced distaste for his alliance with Haiti's monied elite. The Haitian press, responding to nationalistic sentiments in Haiti, meanwhile, ripped into the Mevses for selling out the country to the United Nations.

But Craig is convinced he has helped the Mevses to right a sinking nation.

"What we are doing is allowing them to play a constructive role in the process," he said. "So far, that is what they have done."

The PRESIDING OFFICER (Mr. MATHEWS). Under the previous order, the Senator from South Dakota is recognized to speak for up to 10 minutes.

Mr. DASCHLE. I thank the Chair.

(The remarks of Mr. DASCHLE pertaining to the introduction of S. 484 are

located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DASCHLE. I thank the Chair. I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington [Mr. GORTON] is recognized.

#### NORTHWEST REGIONAL ENERGY ISSUES

Mr. GORTON. Mr. President, last week I had the pleasure of visiting with a number of individuals from Washington State who are concerned about regional energy issues. These meetings were enjoyable and informative for me but also somewhat worrisome. The Northwest faces a number of daunting challenges in the energy arena, and our ability to meet these challenges will determine in large part how our economy will fare over the next decade. I should like to take this opportunity to share some of what I heard last week.

The topic at the top of everyone's mind, of course, was President Clinton's proposed energy tax. While details of the proposal are still sketchy, preliminary figures indicate that the tax would translate into a 12-percent increase in the Bonneville Power Administration's wholesale power rate. As many of my colleagues know, Bonneville is the Federal power marketing agency that sells about half of the electricity consumed in the region.

Aside from my more general views as to whether a tax of this nature is appropriate at this time, there are specific components of the proposed tax that greatly concern me and many in the Northwest. For one, it is difficult to understand how the administration could propose taxing hydroelectric generation at a rate equal to fossil fuels. While I recognize that hydroelectric generation has environmental costs of its own, it is a renewable resource every bit as much as wind, solar or geothermal energy—all of which are exempted from the proposed energy tax.

I also note that in developing the energy tax, the administration completely ignored internationally accepted standards for generating efficiency. While hydroelectric generation requires only a third of the energy used in a coal plant to produce a kilowatt hour of electricity, hydro is nonetheless taxed at the same rate as coal. According to the Washington State Energy Office, such a tax structure would place Washington fourth or fifth in a ranking of States most affected by the energy tax. A more sensible hydro conversion factor of 3,500 to 3,900 Btu's per kilowatt hour would still subject Washington to higher than average costs—due to local weather, longer driving distances and predominance of energy intensive industries—but would be more appropriate from a thermo-

dynamic standpoint. I ask unanimous consent that a memo from the Washington State Energy Office describing some of these issues be printed in the Record at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. GORTON. Given that the proposed energy tax hits hydroelectric generation quite heavily, my colleagues can imagine the great concern being expressed by the energy intensive aluminum, titanium, and chemical industries in my State. These companies, known collectively as the Direct Service Industries, employ more than 10,000 people in the region. They located in the Northwest precisely because of the availability of inexpensive hydropower, but have watched over time as electric rates have crept upward, eroding the price advantage they enjoyed in world markets. Because electricity purchases represent from 30 to 50 percent of a DSI's manufacturing costs, the proposed energy tax would inflict a terrible blow on an already troubled industry. For this reason I hope the administration will consider exempting electricity used in such reduction processes as it purportedly would exempt petroleum used as feedstock in manufacturing processes.

Aside from the energy tax, those visiting my office last week had much to say about the Bonneville Power Administration rate case currently being heard by the Federal Energy Regulatory Commission. This rate case could result in a rate increase of 10 to 15 percent or more, and many speculate could be followed by another double digit rate increase in 2 years. The components of the proposed increase include the costs of resource acquisition, fish mitigation activities pursuant to endangered species listings, transmission improvements and other items, all of which have been compounded by some very poor water years.

While reasonable people may differ over the specifics of the rate proposal, all agree that the cost of Bonneville power is rising rapidly. The days are gone when BPA could be treated as a sort of slush fund to pay for any number of desirable social programs.

To his credit the current Bonneville Administrator, Randy Hardy, has recognized this fact, and is commencing a function-by-function review of all Bonneville programs and expenditures. In doing so he has put the region on notice that Bonneville must fight to stay competitive. Mr. Hardy deserves a great deal of credit for tackling the issue head on, and I certainly support him in this endeavor.

Those with whom I met last week are also concerned about the latest version of what have become annual power marketing administration repayment

reform proposals. Though the version in the President's economic plan is less onerous than those proposed in past years, it would still result in an estimated Bonneville rate increase of 2 to 3 percent. I am not convinced that scaling back of the proposal makes it any more justifiable, but I am prepared to work with the administration, the Northwest delegation and the Northwest energy community to explore creative financing alternatives for Bonneville. The time may have come to resolve this matter once and for all. I will be listening closely to the views of the people of Washington State for guidance on this issue.

When the impacts of the energy tax, Bonneville rate cases, repayment reform and other factors are considered, it is not unreasonable to envision a 40 to 50 percent increase in wholesale electricity rates in the Northwest over the next 3 years. Such an increase would be a devastating blow to Washington's economy, which is already reeling from the timber crisis and massive layoffs in the commercial aircraft industry.

I have taken this time today to let the people of Washington State know that I have listened to their concerns, and that I pledge to work hard on these issues during the 103d Congress. But I also want to make my colleagues aware of the difficulties we are facing, and to dispel the notion that the Northwest is rolling in cheap electricity. While we still enjoy lower than average rates, those rates are rising rapidly and our power surplus has disappeared. I hope my colleagues will remember this as we debate these issues over the coming months.

I thank the Chair.

#### EXHIBIT 1

WASHINGTON STATE ENERGY OFFICE,  
Olympia, WA, February 24, 1993.

#### MEMORANDUM

To: James C. Waldo, Chairman, Washington Energy Strategy Committee.

From: Jim Harding, Acting Director.

Subject: Clinton's Energy Tax Proposal.

As we discussed, I have summarized some of the key elements of the proposed Clinton administration energy tax proposal. I believe that the proposal contains some unjustified provisions with regard to hydroelectricity that should be promptly reconsidered.

The tax is proposed to be phased in over three years. A basic tax of 25.7 cents/million BTU is applied to all fossil fuels, nuclear fuel, and hydroelectricity. The tax is applied at the point of production. An additional "oil supplement" of 34.2 cents/million BTU is applied to petroleum and imported refined products. Non-fuel use of petroleum (plastics, waxes, road oils, etc.), other renewables (solar, geothermal, biomass, wind, etc.), and exported fossil fuels are not subject to the tax. A key point for the state of Washington is that the tax on hydroelectricity is applied as if the power had been generated by fossil fuel.

The consequences for the state of Washington are as follows. As currently formulated, the tax would yield revenues of about \$730 million per year. Petroleum bears most of

the burden. The treatment of hydro as a "fossil fuel" yields \$225 million in revenues from Washington state. The valuation of our hydropower as if it were coal, vaults us into the position of being the fourth or fifth most affected state in the nation (after Alaska, Hawaii, Wyoming, and, possibly, Texas). It may be unrealistic to assume that the government would exempt hydropower on the same grounds as it exempts wind and solar. However, standard practice is to convert hydroelectricity to primary energy at high efficiency (about 95 percent), yielding an alternative tax of \$72 million on Washington hydropower.

The difference is \$150 million per year. There is a perception that Northwest energy users receive special treatment. But we would still pay more than the national average even if the hydropower tax were correctly calculated, owing to climate, long driving distances, and energy intensive industries. The tax would yield a 10 percent increase in BPA's wholesale rate independent of the 11 to 15 percent increase that BPA is seeking for endangered species protection, new resource investments, drought, and high purchased power costs.

In justifying the package, the Administration focused on regional equity, fairness, and consistency with economic and environmental goals. The stated goals are to 1) increase energy efficiency for long-run competitive advantage, 2) improve environment through reduced growth of fossil fuels, . . . 3) enhance national security and improve the U.S. trade balance by reducing oil imports, and 4) strengthen economic performance through deficit reduction.

These are all good goals, and an energy tax may achieve them. But the approach taken on hydropower is neither fair, nor does it contribute to advancement of the stated goals.

#### 1. A Hydro Tax Will Not Contribute to Environmental Goals.

One argument in Washington, DC may be that hydroelectricity, while a renewable resource, has damaged Northwest salmon fisheries and should not be encouraged. This may be correct, as far as it goes, but the medicine is worse than the disease. Hydro plants have harmed Northwest salmon runs, a tax would not change the way in which they are used, reduce their use for power generation, or assist salmon migration in any conceivable way.

On the contrary, a tax on hydropower will probably have strongly negative environmental consequences. One is that it will setback one of the world's most ambitious electricity conservation programs underway—albeit slowly—at Bonneville Power Administration. BPA and the Northwest Power Planning Council expect to see \$7 billion spent regionally (\$4.5 billion in Washington) during the next 8 to 10 years in the public and private sectors on electricity efficiency measures. Many of these investments in the future will be crowded out by extreme rate pressure on BPA. Fish protection investments will also be crowded out.

A high tax on hydropower would also discourage the use of Northwest hydro facilities in a coordinated West Coast approach to energy and environmental protection. As our situation has shifted from surplus to deficit, the Northwest (including British Columbia) has tried to substitute long-term electricity exchanges for outright sales. These offer the opportunity to move more water down the river in spring and summer to help salmon migration while displacing generation in mid-summer in California when air quality

is worst. The generation is returned off peak, at night, during fall and winter to help refill our reservoirs and meet our winter needs. Both systems benefit environmentally and neither must build new generation to meet needs. This approach (and required Canadian involvement) would be strongly discouraged by a fossil-based BTU tax on hydroelectricity. The result would be new generation in both locations, greater releases of CO<sub>2</sub> and other pollutants, and greater difficulty in adjusting to the need to provide higher spring and summer flows for salmon protection.

#### 2. A Tax on Federal Hydropower Will Not Change Behavior.

There is usually little argument for a tax on federal government activities. Our hydro system is largely owned by the Bureau of Reclamation and U.S. Army Corps of Engineers and BPA owns the intervening transmission. However, a tax on the government may be justified if it alters purchasing behavior.

A rate increase may indeed spur greater efficiency investments throughout the Northwest. I doubt it, for the reasons described above. Meanwhile, a large tax on hydropower would not alter the use of the resource in any way that assists in fish migration, reduces air emissions, or prevents new hydro additions (they are already extremely unlikely for ESA and other permitting reasons). If behavior isn't changed—or is changed for the worse—there is hardly an argument for the tax.

#### 3. Hydropower Is A Renewable Resource. A Fossil-Based Approach is Fundamentally Wrong.

A typical fossil or nuclear fueled power plant requires about 8,000 to 11,000 BTUs of thermal energy (provided by the fuel) to boil water, turn turbines, and generate one kilowatt hour of electricity. A hydropower plant requires about 3,700 to 3,900 BTUs of energy to turn turbines, suffer frictional losses, and convert the energy of falling water into one kilowatt hour of electricity. There is no mystery here. Other areas of the world that are heavily reliant on hydroelectricity (Norway and Sweden) raise this issue in international energy use comparisons constantly. Standard international practices convert hydropower along with other renewables at 3,412.8 BTU per kilowatt-hour. One could argue for a few more BTUs to overcome the frictional losses of the turbine and generator, but, regardless, the physical energy conversion occurs with a third the energy required by a coal or nuclear plant. Valuation on a "fossil-fuel equivalent" basis is thermodynamically incorrect.

#### 4. Fairness Merits A Re-Evaluation of the Proposed Approach.

The Washington and Northwest economies benefit significantly from precipitation, runoff, altitude changes, and federal investments in hydroelectric generation. An unfair tax on hydropower does nothing to cure actual or perceived problems.

At the proposed level, the taxes will exacerbate solutions to salmon protection strategies, require the Northwest to pay a much greater burden than the national average (even moreso in percentage terms), reduce investments in needed conservation and renewables, and accomplish no clear positive national environmental or energy policy objective. At a thermodynamically appropriate level (3,413 to 3,900 BTU/kWh), we would still incur costs slightly above the national average, based on our colder weather, energy intensive industries, and longer average driving distances. This is fair. Asking for an ex-

emption from taxation as a renewable technology is unlikely and impolitic, but not entirely unjustified.

I think the Administration didn't think this through, and deserves a prompt opportunity to do so. I have written Governor Lowry on this issue, described the issues in several radio and television interviews, and notified appropriate committees of the Legislature. Please let me know if I can assist further.

#### VIDEO GAME PIRACY

Mr. GORTON. Mr. President, the piracy of American patents and copyrights and the counterfeiting of American trademarks costs our economy more than \$60 billion annually, according to executive branch estimates. Since most of this illicit activity takes place in foreign countries, Government action to reduce this problem would greatly benefit both our economy and our international trade balance.

Congress created the Special 301 process in the 1988 Trade Act to provide the executive branch another tool to deal with this serious problem. Under former U.S. Trade Representative Carla Hills, Special 301 was used effectively to call attention to these violations, and to bring about important reform through persuasion and occasionally, the threat of sanctions. Unfortunately, the problem requires constant attention and much remains to be done. I trust that the new USTR, Ambassador Kantor, will follow up on the excellent beginning made by Ambassador Hills.

Intellectual property piracy is particularly harmful to the economy of my State. Washington has become a U.S. center for the video game industry, a major victim of this piracy. The industry leader, Nintendo of America, is located in the Seattle area. This company directly or indirectly contributes more than \$100 million to the area's income, and more than \$400 million to area sales.

But Nintendo creates only about 30 percent of the game software for its hardware systems. Over 175 independent U.S. companies create or develop the remaining 70 percent of the games. Many of these companies are also located in Washington State. California, New York, Illinois, and Florida are additional centers.

In a conscious effort to expand its traditional manufacturing base, Nintendo has authorized a number of its licensees to manufacture their own game cartridges. These licensees have turned to Spokane's Key Tronic Corp., which last year manufactured more than 1 million game cartridges. As additional companies develop the capability to handle this part of the business, I expect manufacturing at Key Tronic to grow.

Mr. President, unfortunately the popularity of video games has bred an underground industry of counterfeit prod-

ucts. Based largely in Taiwan, this illegal industry sends fake Nintendo game cartridges around the world, to the point that many markets are essentially closed to legitimate goods.

To counteract this widespread and growing infringement, Nintendo of America has instituted civil, criminal, and customs actions in the United States and many foreign countries but has not been able to stop the manufacture and distribution of the pirated games.

Last year the Nintendo video game industry sought help from USTR, asking that Taiwan be designated a "priority foreign country" the category of the most serious violators under Special 301. A number of other industries also targeted Taiwan, resulting in its designation as one of three priority foreign countries.

The designation was subsequently withdrawn on the basis of an understanding providing for increased enforcement of trademarks and copyrights and the creation of an export monitoring system to be operated by an agency of the Taiwan Government. This system was intended to prevent the export of computer software, including video games, which would violate copyrights in the destination countries.

Unfortunately, Mr. President, while the agreement was an excellent one, serious problems remain. Accordingly, on February 12, Nintendo of America, over 70 licensees and developers, and character licensors such as movie studios asked that USTR retaliate against Taiwan. The industry also cited Korea, Venezuela, and Mexico for failure to protect intellectual property rights.

Mr. President, I am particularly concerned that appropriate action in the form of retaliation be taken against Taiwan. In the 9 months since the understanding was signed, there have been numerous delays and failures on the part of Taiwan to institute an effective export monitoring system covering software.

Initially, Taiwan even refused to record Nintendo of America copyrights in its export monitoring system, on the grounds that the copyrights owned by Nintendo of America were not protected in Taiwan. This would be totally contrary to the understanding. I have been informed that this decision may have been reversed, but I intend to watch this closely.

Mr. President, I call on USTR to take strong action against Taiwan's failure to enforce adequately video game copyrights and other intellectual property rights. Without such action, our video game industry in Washington and throughout the United States will have no effective remedy for growing piracy.

In addition, I strongly urge the USTR to institute appropriate action against Korea, Venezuela, and Mexico in order to ensure that these countries

also will significantly improve their current protection and enforcement of trademarks and copyrights. While these countries do not have the same worldwide impact on piracy as does Taiwan, the dominant manufacturing source of counterfeit video games, they have their own very serious problems.

I am eager to work with USTR to demand protection for United States intellectual property rights in these countries.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska [Mr. KERREY] is recognized.

#### THE PUBLIC SCHOOL REDEFINITION ACT—S. 429

Mr. KERREY. I thank the Chair. Mr. President, I rise today to cosponsor the Public School Redefinition Act, an important piece of legislation designed to support community based efforts to improve America's schools.

A close look at America's schools causes me to feel an intense mixture of pride, sadness, anger, and fear. I am proud of the heroic work of students, parents, teachers, principals, and others who are hitting the goal of excellence. I am proud of the many high school students whose intelligence, values and attitude cause me to feel impatient for the moment they take the reins of social, political, and economic power.

I also feel sadness. Sadness when we lose a gifted teacher who cannot afford to remain in education or whose decision to leave was based upon lack of respect or opportunity for personal growth. Sadness when I see children having children. Twenty-five percent of all our children born in Nebraska are born out of wedlock. This is up from 4 percent when I graduated from high school 30 years ago. I am saddened by the loss of children who suffer the abuse of alcoholic, negligent, or abusive parents. Sometimes the damage is too great even for even miracles to work.

I also feel anger. Anger at funding inequities which lift the bar even higher for children trying to jump into the American mainstream. Anger at funding restrictions which tie early childhood development workers into knots of paper shuffling frustration. Anger at colleges that graduate and allow unqualified people to become teachers. We would put them in jail if they ran medical schools. Anger in particular at teachers whose dislike for the students they teach should be an immediate disqualifier. Anger when adults talk about the importance of preventive health care but are unwilling to fight for reform that establishes health care as a right for all Americans regardless of income or social status.

And I feel fear. Fear for the consequences of graduating and presenting

diplomas to students who cannot read or write. Fear for the impact on our democracy of graduating students who do not understand enough history, geography, or language to be good citizens. Fear for the impact on our economy of sending into the workplace men and women who cannot speak in the language of mathematics, who cannot perform the complex tasks required of those who want to earn a decent living.

The Public School Redefinition Act is written in response to this pride, sadness, anger, and fear. The bill is based on a premise essential to reform—that successful innovation must occur at the local level with local heroes in the shape of parents, teachers, school board members, and business leaders. The Federal Government should serve as the role of partner and advocate.

This principle is the basis for the overall agenda I envision for America's schools. This agenda depends upon the Federal Government committing to the task of providing more choices to local districts to address their individual situations. The Federal Government must be prepared to quickly bring money to these ventures with results-oriented strings attached.

School districts are best able to identify which ideas should be tested and which should be ignored as well as the best strategies to develop more effective programs, a higher quality of instruction, improved staff development, better assessment strategies, a more dedicated community, and a uniform clarify of purpose.

The idea that fundamental reform must take place at the local level was the basis for legislation I introduced in the last Congress and plan to reintroduce in this Congress, the Education Capital Fund. This bill establishes the Federal Government as a catalyst for systemic school reform at the local level. It encourages local communities to develop their own proposals to restructure their schools and adopt initiatives that reflect specific needs of the community.

The Education Capital Fund would establish a Board of Directors that would enter into a contract with either States or local school districts who are committed to undertaking school reform. The Board would provide Federal grants to local entities in allowing them to implement promising reforms that will enhance student performance and improve school operation.

The Education Capital Fund would break the mold of top-down, category-driven aid. The No. 1 problem facing Americans who are working to improve the lives of our children is not the lack of money, but is the back-breaking pile of regulations. Paperwork is the demon haunting the lives of those who use the programs of chapter 1, Head Start, special education, and even school lunch. Regulation and the fussy need to put

every problem in a neat little compartment create an environment of growing distrust, wasted time, inflexible approaches, and the anguish of watching children fall through the gaping holes in our safety net.

But today, I am here to declare my enthusiastic support of another vehicle also designed to promote innovation at the local level—the Public School Redefinition Act.

The legislation which we are introducing today will give the U.S. Department of Education the resources to partner with local leaders who believe education choices should be expanded. In Omaha, NE, the public school choice program has received national acclaim. It has fostered healthy competition between the high schools and has forced them to find ways to attract and retain students. By expanding the educational choices for students, parents have become more active participants in their children's education and, as a result, have placed greater demands on these schools to ensure that their expectations are fulfilled. Public school choice is a step in the right direction.

But local leaders want to go even further. The Public School Redefinition Act will help them do just that. It provides Federal assistance to States to establish charter schools. Charter schools are public schools that are organized by parents, teachers, or community members and approved, or awarded a charter, by a public body, such as a state of local education agency.

Schools may choose to tailor their curriculum to target students from a certain background or students demonstrating interest in a particular subject area. The charter, which must describe student outcome objectives and how they will be fulfilled, is then established for a set number of years during which time the school must achieve these student performance expectations.

Charter schools are anchored in the belief that alternative forms of public schools are healthy if they continue to satisfy the fundamental principles of public education. Charter schools meet these requirements in that they may not charge tuition and they may not discriminate. They are authorized the same amount of funding as other public schools.

Central to the concept of charter schools is the idea that excessive regulation in schools inhibits successful reform. Efforts at reform are too often constrained by the burden of regulations. Because layers of Federal and State bureaucracy can discourage school autonomy, charter schools are waived from all statutes and regulations governing the operation of a school. They need only to comply with safety and health regulations. This enables the school's sponsors to creatively develop its proposals without

the barriers of mandates that could frustrate the reform effort.

Some friends in public education are concerned the concept of charter schools will undermine support for public schools. Carried to the extreme I acknowledge this is possible. However, if offered as an option, charter schools will generate increased support for public schools by demonstrating a willingness to innovate when circumstances warrant it.

When changes in school organization enhance rather than impede student achievement, taxpayers conclude they are getting their money's worth. Further, while charters are not appropriate for most schools and students, they can provide an important element of flexibility to promote reform in schools. And, they can provide an opportunity for teachers to flex their entrepreneurial muscles.

Mr. President, charter schools are just a small part of what we need to do to improve the quality of our children's lives. America's agenda for our children must begin with our families. One of President Clinton's most appealing observations is that Government cannot raise children, only parents can. The family will always be our most powerful and important institution. The more children learn in the home the more they will learn in the school.

However, it is also true that children do not pick their parents. Just as crucial is the difficult fact that being a parent is the toughest job of all. The implications of these two observations are that we should spend time and money making sure our children understand the responsibility of choosing to become a mother or father. And, it's irresponsible for us to ignore the plight of children just because they are not physically in our possession.

Mr. President, I will speak later about a broader agenda for education in America. At that time I will discuss the importance of three community institutions which are too often ignored when we consider the education of our children. These are our juvenile justice system, our parks, and our libraries. My evaluation of the three is as follows. Our juvenile justice system is a disgrace. Our parks haven't had a national advocate for 50 years. Our libraries need an injection of imagination and cash.

There are four areas of action where we are likely to generate substantial benefit and progress. First, we adults must demonstrate that we value learning. If all we do is talk about learning and make no effort to learn ourselves, at best our children will smile and judge us to be hypocrites. At worst, they will do as we do, not as we say.

Second, most State curricula are too large. The urge to add new requirements should not only be resisted, but the work of earlier urges should be undone.

Third, our standardized method of testing worked in the old world of standardized knowledge and work. It does not work in a world where there is a premium placed on the ability to demonstrate complex and creative thinking. We need a method of examination that is as rich as the learning itself. Such examinations are more difficult and more expensive. I never promised this would be easy.

Fourth, we need to accelerate the introduction of technology into the task of teaching and the work of learning. Teachers use less technology per person in their work than in any other sector of our economy. And, individualized computer learning has demonstrated extraordinary value assisting in subjects from reading to languages. This is an extremely important issue that I intend to discuss in depth at a later date.

In sum, I believe the Federal Government's role in assisting local school reform is clear, but we have a long way to go. I look forward to working with other Senators and the Clinton administration to see these proposals become a reality.

**A CALL FOR ACTION AT THE UNITED NATIONS**

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that a copy of a letter the American Jewish Congress sent on February 8 to Madeleine Albright, United States Ambassador to the United Nations, regarding rape as a tactic of warfare in the former Yugoslavia be inserted in the RECORD. The letter was signed by Henry Siegman, executive director, Robert K. Lifton, president, and Ann F. Lewis, chair, Commission for Women's Equality on behalf of 44 organizations representing many diverse constituencies.

The letter lays out a series of recommendations for action at the United Nations. It calls for the international war crimes tribunal to document and prosecute cases of rape as a tactic of warfare. It asks Ambassador Albright to help ensure that the U.N. Commission of Experts is given the necessary resources to carry out its work, and that the membership be expanded to include a woman. It also asks Ambassador Albright to press U.N. agencies to sponsor support and treatment services for the victims, and that she work to pass a resolution explicitly recognizing rape as a violation of human rights.

Mr. President, this letter is in line with a resolution that I along with Senator DOLE and 14 Members of the Senate introduced on January 26. That resolution, Senate Resolution 35, currently has 39 cosponsors and has been referred to the Senate Foreign Relations Committee. This letter is also similar to a letter I and 18 other Members of Congress sent to Madeleine Albright on February 1.

Mr. President, the systemic rape of women in the former Yugoslavia is a war crime and a crime against humanity. The perpetrators of these crimes should be prosecuted in an international war crimes tribunal. I hope that Ambassador Albright will make this issue a high priority at the United Nations, and I commend the American Jewish Congress for speaking out on this tragic issue.

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

FEBRUARY 8, 1993.

DR. MADELEINE K. ALBRIGHT,  
*U.S. Permanent Representative to the United Nations, U.S. Mission to the United Nations, New York, NY.*

DEAR AMBASSADOR ALBRIGHT: As you assume your new responsibilities as the United States Ambassador to the United Nations, we urge you to take immediate steps to work with the United Nations to document and prosecute, under an international war crimes tribunal, cases of rape as a tactic of warfare in the former Socialist Republic of Yugoslavia.

The undersigned organizations represent diverse constituencies. Some of us have already called for other actions to relieve the situation in Bosnia and prevent further suffering in the successor republics to the Yugoslav state, including enforcement of a no-fly zone and lifting of the arms embargo on Bosnia. Others of us have called for increased U.N. peacekeeping forces. But we are united in our horror at the reports of systematic rape and forced impregnation of women and girls, and we call in a single voice for immediate action to prosecute those responsible for these crimes against humanity.

As you know, the U.N. Security Council requested last October that the Secretary-General establish a commission of experts to gather and analyze information regarding violations of human rights in the former Yugoslavia. The commission's reports may be used to prosecute perpetrators of war crimes by an international war crimes tribunal. We are dismayed to hear that the commission, although established, has as yet not been funded. We urge you to help ensure that the commission is given the necessary resources to carry out its urgent and necessary work.

We are also disturbed by the fact that the commission's current membership includes no women. We are concerned that without female representation on the commission, rape as a war crime with unique consequences may not be given proper consideration. We urge you to press for inclusion of the perspective that women with expertise in this field can bring to the commission.

We urge you to press the appropriate U.N. agencies to sponsor the medical, psychological and social support and treatment services the victims desperately need and to ensure a full range of medical and social services for women. And we ask that you lobby for programs that will strengthen existing social services for families and children in the affected areas, or create them where they do not now exist.

Finally, we feel that the United Nations Commission on Human Rights can make an important contribution to this effort by passing a resolution explicitly recognizing rape as a violation of human rights. We hope that you will press this issue at the next meeting of the Human Rights Commission.

We hope that you will make the suffering in the former Yugoslavia, particularly the rape of women and girls, a high priority of our work.

Sincerely,

Henry Siegman, Executive Director,  
American Jewish Congress;  
Robert K. Lifton, President, American  
Jewish Congress;

Ann F. Lewis, Chair, Commission for  
Women's Equality, American Jewish  
Congress.

- American Jewish Congress on behalf of:
  - American Jewish Committee.
  - American Muslim Council.
  - American Public Health Association.
  - American Refugee Committee.
  - American Task Force on Bosnia.
  - Anti-Defamation League of B'nai Brith.
  - Armenian Assembly of America.
  - B'nai Brith Women.
  - Catholics for a Free Choice.
  - Central Conference of American Rabbis.
  - Coalition on Abuse and Neglect of Latino Children.
  - Ethiopian Development Community Council.
  - Federation of Reconstructionist Congregations and Havurot.
  - Fund for a Feminist Majority.
  - Hadassah, the Women's Zionist Organization of America.
  - International League for Human Rights.
  - International Rescue Committee.
  - Jewish Labor Committee.
  - Lutheran Immigration and Refugee Service.
  - Lutheran Office for Governmental Affairs.
  - Mary House.
  - Maryknoll Missioners Justice and Peace Office.
  - Na'amat USA.
  - National Coalition Against Domestic Violence.
  - National Council of Churches, Washington Office.
  - National Council of Jewish Women.
  - National Federation of Business and Professional Women's Clubs/USA.
  - NETWORK: A National Catholic Social Justice Lobby.
  - The Rabbinical Assembly.
  - Rabbinical Council of America.
  - Reconstructionist Rabbinical Association.
  - Synagogue Council of America.
  - Tolstoy Foundation, Inc.
  - Union of American Hebrew Congregations.
  - Union of Orthodox Jewish Congregations of America.
  - Unitarian Universalist Service Committee.
  - United Church of Christ—Office of Church in Society.
  - United Church of Christ—Board for World Ministries.
  - United Synagogue of Conservative Judaism.
  - Women of Reform Judaism, National Federation of Temple Sisterhoods.
  - Women's American ORT.
  - Women's Commission for Refugee Women and Children.
  - Women's League for Conservative Judaism.
  - World Relief.
- ESMERALDA "BETTY" ROSE  
GRANT, OLDEST CITIZEN OF  
WOLFEBORO
- Mr. SMITH. Mr. President, I would like to pay tribute to Esmeralda "Betty" Rose Grant who is the oldest citizen in Wolfeboro, NH. Ms. Grant,

who was born on September 13, 1891, was 101 years old this past year. She will be receiving the Boston Post Cane from the town of Wolfeboro in honor of this milestone.

Betty Grant was born in Flamengoes, Azores Island in 1891 and came to the United States while still in her teens. She lived in Gloucester, MA, with her family until 1921 when she moved to Lynn, MA, where she went to beautician's school.

Wishing to further her career, Betty moved to White Plains, NY, and worked in several salons in the Hartsdale/Scarsdale area. She met her husband, John Grant, in New York and they were married for 26 years before he passed away in 1964.

Following her husband's death, Betty moved to Peabody, MA, to live with her niece. She was very active in the Senior Citizens Club and was an avid bowler until her early nineties. She and her kid sister, Adal, who is now 96, moved to the Clipper Home in Wolfeboro, NH, in 1987.

Today, Betty, who was an accomplished seamstress, is still knitting Afghans and has made several which she happily gives away. She always has a smile and a word of encouragement for everyone she passes as she walks the halls of the Clipper Home. Betty says she finds it difficult to believe she is 101 years old and says she feels 40.

I just want to extend my best wishes to Betty for receiving the Boston Post Cane. I am pleased that she is in good health and good spirits at the Clipper Home.

#### EMERGING DEMOCRACIES IN ASIA

Mr. PELL. Mr. President, I wish to salute two developments in Asia of great importance to Americans. On February 23, Dr. Lien Chan was confirmed by the Legislative Yuan as Premier of the Republic of China. He is the first ethnic Taiwanese ever to hold that important post. On February 25, Kim Young Sam was sworn in as South Korea's seventh President and the first civilian President of that country in more than 30 years.

Both these developments signal the coming of age of democratic institutions and practices in Taiwan and South Korea.

As the Department of State observed in a statement recently, Premier Lien Chan's appointment is "part of Taiwan's ongoing process of democratization." Noted, according to the State Department, for his "long-standing dedication to promoting good relations between the peoples of the United States and Taiwan," the Premier has had a long and distinguished career as an academic and public servant. He received his master and doctoral degree from the University of Chicago and taught at the National Taiwan University. Later he served as an ambassador,

Vice Premier, and most recently Minister of Foreign Affairs and Governor of Taiwan Province.

Premier Lien Chan's appointment under president Li Teng-Hui means a coming of age to power by the native Taiwanese. Both the President and the Premier are Taiwanese, ushering in a new age of politics in Taiwan, one which promises open and frank debate on national issues with participation from all parts of the political spectrum.

President Kim Young Sam's election in South Korea promises the same new age for politics in that country. As he stated in his inaugural, "I have a vision of a new Korea \* \* \* a freer and more mature democracy." Having spent much of his 39 years in politics in the opposition, fighting the repression of military juntas in South Korea, President Kim has a keen personal understanding of the price that is often paid for freedom.

We should all applaud these developments in Taiwan and South Korea. As Americans we can take great satisfaction in what has occurred. The desire for democracy continues to overwhelm any tendency toward tyranny.

As our relationship with Taiwan and South Korea deepens, it also should mean closer and more frequent contacts between our respective legislative bodies. Clearly the opening of the democratic process in both countries ensures a more open dialog with the United States on the issues which mutually concern us. The inauguration of Premier Lien and President Kim signal the start of a new age not only in their countries but also with our's.

#### THE PARENTS AS TEACHERS PROGRAM

Mr. HEFLIN. Mr. President, I am pleased to once again take the lead along with my friend Senator BOND in pushing for passage and enactment of the Parents as Teachers Family Involvement in Education Act. This legislation not only allows our Governors to designate organizations in their respective States to coordinate such efforts, it also provides funding for those already acting as Parents as Teachers programs.

Title III of the act establishes the new Parents as Teachers Program. It provides seed money for States to develop and expand parent and early childhood education programs which will increase parents' knowledge of and confidence in childbearing activities. The focus is on such activities as teaching and nurturing young children; strengthening partnerships between parents and schools; and enhancing the developmental progress of participating children. Alabama, Missouri, Rhode Island, Kansas, Illinois, and a number of other States have implemented innovative early childhood-parent edu-

cation programs known as Parents as Teachers. It is my hope that other States will follow their lead in ensuring that all children enter school ready and eager to learn.

As I have stated before, there is growing understanding of the importance of the first 3 years of a child's life. It is during this period of development that subtle and overt influences may adversely affect the academic and social growth of the child. I am convinced that the Parents as Teachers Program is one of the most effective systems we have to help parents best nurture and teach their children.

The Parents as Teachers Program may also help to address some of the social problems that plague us, including the nagging problem of child abuse and neglect. Individuals from 27 States have participated in training programs in Missouri. Dr. Martha Semon was the first individual from Alabama to participate. She and Janet G. Horton initiated a pilot program in Mobile, AL, that has been in place for 2 years. It is funded in large part by the Children's Trust Fund, with additional support coming from Scott Paper Co., the College of Medicine at the University of South Alabama, and the Mobile Community Foundation. There are also several private donors. Approximately 90 adults and 50 infants are currently participating.

Ideally, Parents as Teachers programs will eventually be available nationwide. The program has proven itself effective in helping young people develop their intellectual, verbal, and social skills, all of which are at high risk during infancy, but which are critically important to a child's success in school.

I hope to see all of my colleagues supporting this important legislation. Parental involvement in the education of their children is the key to long-term gains for youngsters of all income brackets. It is also an important first step in empowering people by giving them a real stake in how children are reared, knowing that the success and well-being of their communities are direct results of the values imparted upon their young.

#### A TRIBUTE TO COL. FRANK NORTON, U.S. ARMY

Mr. HEFLIN. Mr. President, I rise today to pay tribute to Col. Frank Norton, who retired yesterday from the U.S. Army. Frank has had a long and distinguished career in our Armed Forces, where he last served as Army Senate Liaison Division chief.

This division has a history of excellent commanders, but certainly Frank stands out as one of the finest officers to ever hold that position. He is seen as a friend and confidant by Members of the Senate, and as a trusted adviser by congressional staff. Indeed, Colonel

Norton has won the friendship and gratitude of all who have worked with him.

Frank began his Army career in 1967, joining the 17th Infantry and attending Ranger School at Fort Benning. Like most of his class, he was sent to Vietnam after graduation for a 1-year tour. His next overseas assignment was in Baumholder, Germany, where Frank received his first company command. For those not familiar with Baumholder—it is an endless cycle of dust, mud, and snow. It is good testing ground for our young officers, and by all accounts, Frank passed all tests with flying colors.

In 1976, Frank returned to Georgia, this time being stationed at Fort Stewart. He held a number of assignments there, ranging from company commander to the executive officer of the Third Battalion. But though Frank loves Georgia, even he would admit that he did not find his true calling until he was reassigned to the Pentagon in 1980. That year the young major joined the Army's legislative liaison team, and never was anyone more perfectly suited to the position.

Legislative liaison is no easy job. Caught between the politics of the Pentagon and Capitol Hill, this select group of officers tread a fine line. To be successful, they must be honest to both their superiors and the Congress, while demonstrating sound judgment both in their choice of words and the level of detail they provide. But they do far more than just provide information, they are the Army's ambassadors to the Senate. Many on Capitol Hill, especially among the staff, will form their view of the Army from their interaction with these officers. These Service men and women must therefore meet the highest standards. Mr. President, the Army could have had no better ambassador than Col. Frank Norton.

One of the liaison office's duties is to escort members of Congress on visits to military facilities. Over the years I have had the pleasure of taking two or three trips with Frank, and let me assure you that the Army could not have assigned a better host. I want to say that my travels with him were well coordinated and ran like clockwork, and my memories of these trips are only good ones.

Of course, during these trips I did witness Colonel Norton's one weakness, his love of fine dining. No matter what dish you name, Colonel Norton can tell you the one restaurant in the whole world that serves it best. Lest you think that Colonel Norton has forgotten his infantry roots, let me assure you that even though he has developed the most discriminating of palates, his appetite has remained equal opportunity, accepting a hamburger as quickly as the finest of haute cuisine.

Mr. President, Colonel Norton's service as chief of Senate liaison sets the

standard for all those who follow. He dedicated himself to fostering and improving the relationship between the Army and Congress, and I feel he succeeded in this in so many tangible ways that it would be difficult, if not impossible, to list them all. During his career he received over 25 service ribbons and metals, including two Legion of Merit awards, a Bronze Star for Valor, and a Purple Heart. Upon retirement, Frank received the Distinguished Service Medal. Very few officers receive this award, but I can think of no man more deserving.

It is my pleasure to offer my congratulations to Colonel Frank Norton on an outstanding career and to thank him for his many contributions to our national defense. While I was prepared to wish he and his wife, Carol, all the best for a happy and healthy retirement, I have learned that Frank will be joining the Senate Armed Services Committee staff. Considering Colonel Norton's experience, talent, and knowledge of defense issues, this is good news for both the Senate and the Department of Defense. I look forward to working with him in the future.

#### TRIBUTE TO VICTOR A. LANDRY

Mr. JOHNSTON. Mr. President, I rise today to pay tribute to Mr. Victor A. Landry.

Last Saturday, February 27, 1993, Vic retired from the U.S. Army Corps of Engineers after 36 years of truly outstanding service. To say that Vic is an institution at the Army Corps of Engineers, after so many years of dedicated service, is indeed a great understatement. A more apt description of Vic's talents, knowledge, and performance would be "legendary."

Vic has served Louisiana and the Nation well through Hurricanes Hilda, Betsy, Camille, and Andrew. Throughout his many years of service, Vic has served as chief for flood fight and levees, chief of projects operations, and has directed numerous mobilization operations. His contribution to the corps has been hands-on—from sandbagging, to hurricane and flood evacuation, his work has benefited not only New Orleans, but Louisiana overall.

But most importantly, for me at least, has been the invaluable help Vic has provided me, as chairman of the Energy and Water Appropriations Subcommittee. When a corps project is mentioned in my office, we think of Vic Landry.

He is truly the epitome of a public servant.

Mr. President, I will miss his valuable counsel, expertise, and extreme professionalism. I want to extend my heartfelt thanks to Vic, and my very best wishes to his wife, Frankie, and their children, Scott, Victor Jr., Lauren, and Melanie.

#### IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOX SCORE

Mr. HELMS. Mr. President, the Federal debt, run up by the U.S. Congress, stood at \$4,205,086,748,556.94 as of the close of business on Monday, March 1.

Anybody remotely familiar with the U.S. Constitution is bound to know that no President can spend a dime that has not first been authorized and appropriated by the Congress of the United States. Therefore, no Member of Congress, House or Senate, can pass the buck as to the responsibility for this shameful display of irresponsibility. The dead cat lies on the doorstep of the Congress of the United States.

During the past fiscal year, it cost the American taxpayers \$286,022,000,000 merely to pay the interest on deficit Federal spending, approved by Congress, over and above what the Federal Government has collected in taxes and other income. Averaged out, this amounts to \$5.5 billion every week, or \$785 million every day—just to pay the interest on the existing Federal debt.

On a per capita basis, every man, woman, and child owes \$16,371.19—thanks to the big spenders in Congress for the past half century. Paying the interest on this massive debt, averages out to be \$1,127.85 per year for each man, woman, and child in America. Or, looking at it another way, for each family of four, the tab—to pay the interest alone—comes to \$4,511.40 per year.

What would America's economic stability be today if there had been a Congress with the courage and the integrity to operate on a balanced budget? The arithmetic speaks for itself.

#### VIETNAM WOMEN'S MEMORIAL COIN ACT OF 1994

Ms. MIKULSKI. Mr. President, I rise today to add my support for the legislation authorizing the Secretary of the Treasury to mint coins in commemoration of the Vietnam Women's Memorial project. This act, the Vietnam Women's Memorial Coin Act of 1994, was introduced by my colleague from Virginia, Senator JOHN WARNER, and myself yesterday.

This act helps bring recognition to a group too long neglected—those tens of thousands of women veterans who served in Vietnam. The proceeds from the coins minted and sold under this legislation will be used as a permanent source of endowment for the memorial. This endowment, as well the contributions from volunteers and organizations such as the Vietnam Women's Memorial project, will ensure the perpetual care of the memorial at no burden to the taxpayer.

These moneys also serve to support educational programs, health research for women veterans, and help in the identification and documentation of the women who served in this conflict.

Above all else, Mr. President, this legislation permits all Americans—men and women, young and old, people from all walks of life—the opportunity of joining with their countrymen to honor this very special group of veterans.

I respectfully ask each of my colleagues to join Senator WARNER and me in supporting this truly worthwhile legislation.

Thank you, Mr. President.

#### THE RECORDBREAKING UNIVERSITY OF VERMONT WOMEN'S BASKETBALL TEAM

Mr. LEAHY. Mr. President, I come to the floor to talk about the only thing that stands taller today in Vermont than the snowbanks—the University of Vermont Women's Basketball Team.

Last Friday, in what has become so routine for Vermont's Lady Catamounts, they chalked up another "W" in the win column. However, Mr. President, this was not just another victory. The Catamounts won for the 50th time in the past 50 regular season games, breaking a NCAA Division 1 record that has stood for 12 years.

The UVM team doesn't have a towel-chewing coach nicknamed the Shark and isn't a team known for their on or off court theatrics. What this team has is a gritty playing style that has been key to their success. A style, may I add, that complements a starting lineup that cannot boast a player over 5'11".

The Catamounts also have a university, a city, and a State full of faithfuls watching as they knock off opponent after opponent on their way toward the top of the NCAA rankings.

This should come as no surprise. Last year, the UVM team finished the regular season with their win streak standing at 27—putting their challengers and the sports writers on notice.

It isn't just the warmth of UVM's Patrick Gymnasium that has brought out the legions of fans during this long and cold Vermont winter. The pride and admiration for these players runs much deeper—a pride that was obvious last year when I was joined by Senator JEFFORDS, Congressman SANDERS, staff and friends to watch UVM challenge George Washington University in tournament play here in Washington.

Far from home and loyal fans, the D.C. contingent of expatriates decided we needed to show the players they were among friends. What we found when we arrived were bleachers already filled with over 300 Vermonters who had driven 12 hours by bus to cheer on Vermont's finest.

As the State tuned to the live telecast on Vermont's largest television station, we were treated to the kind of performance that has become the hallmark of the UVM women's basketball team. The courage and perseverance of

head coach Cathy Inglese, assistants Pam Borton and Keith Cieplicki, and the entire Vermont squad gave the fans one more victory and the record books a new chapter.

The people of Vermont and I salute the University of Vermont Women's Basketball Team and pass along our thanks for the pleasure of watching a group of athletes and coaches play with the enthusiasm, dedication, and desire that is now in the record books for all to see.

I ask unanimous consent that, along with my statement, a copy of Debbie Becker's feature article in the Wednesday, February 24, edition of USA Today be included in the RECORD.

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

[From the USA Today, Feb. 24, 1993]  
HOT HOOPS LIGHT A FIRE UNDER FANS  
(By Debbie Becker)

BURLINGTON, VT.—In a place where the cold grabs your toes the instant you step outdoors, a tiny group of overachieving women in black high tops has warmed the soul of a state best known for moose and maple syrup.

With players most top programs wouldn't touch and with no starter taller than 5-11, the Vermont women's basketball team Thursday can break the NCAA Division I record for consecutive regular-season victories.

The Catamounts (22-0, 11-0 North Atlantic Conference) tied Butler's record of 49 Saturday night with a dramatic 68-67 defeat of Maine. In two days, coach Cathy Inglese's team hosts Northeastern (12-11, 8-3)—winner of 10 of its last 12—before a sellout crowd of 3,228. The game will be shown live locally by WCAX-TV. The men's game is tape-delayed.

"We're still kind of caught up in it," says 5-6 senior guard Jen Niebling, one of six Vermont natives on the team. "I'm sure in a few years we'll look back and appreciate how much we've done, but for now we still feel we have a lot to do."

The improbable success of the Catamounts, No. 13 in the USA TODAY/CNN Top 25, prompted Burlington, a trendy city of 40,100, to adopt the women as their own.

Fans have waited as long as four hours in 10-below weather for a coveted ticket. Last week, 2,000 tickets sold in 30 minutes. Officials expect fans to camp out tonight so they can be first in line when the ticket office opens at 9 a.m. game day.

What's the draw?

"When I first came here, a lot of people thought women's sports were dull and boring. But we lit a fire under everyone," says junior forward Sheri Turnbull, whose parents are driving 12 hours from Windsor, Ontario, to see her play for the first time in her college career Thursday night. "We've got a lot of heart on this team. Everyone wants to win. We play hard. We like each other."

Times were not always this glorious.

Just two years ago, the women drew a lonely 200 fans a game. Because of the lack of interest, one side of the bleachers stayed locked up. Desperate to increase attendance, Inglese invited local teams to play at half-time in the hopes at least their parents might show up to watch.

"You could get here two minutes before the game, sit anywhere you want and stretch your legs out," says Inglese, whose program has a 100% graduation rate.

That's hardly the situation now. Ticket manager Ann Daley is the most beloved or hated person on campus—depending on who gets tickets.

"People feel ownership of this team," Daley says. "The fact is there are only so many tickets, and some people aren't going to get in."

Despite the Cats' success, not all have caught on.

This season, Inglese sent one high school coach information about the program in hopes of recruiting a player. The coach threw it out and later explained to Inglese that he thought Vermont was a Division III team.

The Catamounts' success begins with Inglese and assistants Pam Borton and Keith Cieplicki, who have magically created more with less.

NCAA rules permit women's programs to give 15 scholarships. Vermont has 11½. Allowed to have two full-time assistants and one part-time coach, Inglese has only one full-time and one part-time assistant.

To compensate, the fast-talking, hyperactive Inglese works well into the night and has become good friends with custodians who clean the gym in the evening hours.

"She works nonstop," says sophomore guard Carrie LaPine, who plays despite chronic pain from a bulging disk. "She's in the gym at 9 a.m. and goes home at 10 p.m. She puts her life into the game, and that's reflected in our team—aggressive, fast-paced."

Inglese says the secret is signing players—like starters Sharon Bay and Kari Greenbaum—with the right attitude.

"We don't want to recruit a kid that only wants to play in games. Mistakes, adjustments take place in practice," says Inglese, who grew up in Wallingford, Conn., the second-oldest of five children. "We want players who want to become better. We give them a kick in the butt sometimes, but we also let them know we care about them as individuals."

Inglese calls Niebling, from Randolph, Vt., the backbone of the team.

"She's an outstanding student, a competitor. You can't coach that," Inglese says. "She made herself a better player on her own. She'd be anywhere within a 20-mile radius to play a pickup game with the guys."

Inglese jokes that the first thing she does each day when she arrives at the gym is take three laps around her office, enlarged from last season's miniature space. This year, she gets to park in front of the gym.

Last season, The Burlington Free Press created a ruckus when it compared Inglese's salary (\$27,500) to men's coach Tom Brennan (\$47,800). The issue was even discussed in the state legislature.

Inglese did get a raise but is more interested this season in getting Cieplicki promoted to full-time status than in getting more money for herself.

Pretty heady stuff for someone who never wanted to coach. Inglese aspired to teach nutrition and work in public health before she took a high school coaching job for "just one year."

She was hooked and now can't imagine doing anything else.

"There's never a day I don't want to come to work. We're trying so hard. We appreciate people getting joy in what we're doing. It's nice to share that."

#### TRIBUTE TO REPRESENTATIVE SAMUEL E. HAYES, JR.

Mr. WOFFORD. Mr. President, I rise to salute retired Pennsylvania State

Representative Samuel E. Hayes, Jr. Representative Hayes served admirably and diligently for 22 years in the Pennsylvania Legislature. He is a man for whom I have a great deal of respect both professionally and personally.

Representative Hayes was working as a high school teacher when he was elected to the House of Representatives in 1970. He was reelected every 2 years after that until retiring in 1992. Once in the legislature, Sam Hayes worked to make significant contributions to the lives of all Pennsylvanians. He served on the education, State government, military and veteran affairs, ethics and rules committees.

During the 1977-78 session Sam became the majority whip and served as minority caucus chairman; he was the youngest person in the history of the Pennsylvania Legislature to ever serve in either capacity. Then, in 1981, Sam became the majority leader of the Pennsylvania House and in 1983 he became minority whip, a position he had until he retired. I had the privilege of working with Sam when I was secretary of the department of labor and industry. He made major contributions to education and agriculture. During his 22 years he coupled two of Pennsylvania's most important resources, youth and agriculture. It is easy to see why many of Sam's friends refer to him as the "dean of agriculture and education" on the Hill. His contributions can be seen, today, in every county of Pennsylvania.

In addition, Representative Hayes served his country in other capacities. Sam served 5 years in the U.S. Army as a commissioned officer. He then went to Pennsylvania State University and received a bachelor's and master's degree. After completing his studies, Sam reenlisted in the Army and served 2 years in Vietnam, earning a Bronze Star for leadership and courage. After his tour of duty, Sam became a high school teacher in Tyrone, PA, working as a teacher until his election.

Again, it is an honor to salute Sam Hayes for his service to Pennsylvanians and all Americans.

**CONCLUSION OF MORNING BUSINESS**

The PRESIDING OFFICER. The time for morning business is now closed.

**EMERGENCY UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1993**

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 382, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 382) to extend the emergency unemployment compensation program, and for other purposes.

The Senate resumed consideration of the bill.

Pending: Packwood amendment No. 66, to provide for the payment of unemployment benefits through the enactment of savings to streamline government and enhance management efficiency.

**AMENDMENT NO. 66**

The PRESIDING OFFICER. The pending question is the amendment by the Senator from Oregon, No. 66, on which there shall be 1 hour of debate to be equally divided, minus the time used by the Senator from Nebraska.

Mr. PACKWOOD. Mr. President, I yield myself such time as I may need. The amendment I have offered is a relatively simple amendment. We have before us an unemployment compensation bill. All of us realize the emergency nature of those who are out of work. For them it is an emergency. We want to extend to them a helping hand by extending the unemployment compensation bill. The question is: Should we pay for it?

The administration's bill, which we have before us, will spend close to \$6 billion over the next 2 years for unemployment compensation, without paying for it. We are going to widen the deficit and borrow the money. The amendment I have offered has suggested a 0.5 percent—half of 1 percent—cut in a variety of administrative services, travel, and other executive branch expenditures, which will raise the money necessary to pay for the bill in the first year.

There are about \$644 billion in personnel, travel, communications, printing, consulting services, and whatnot, and it is from this amount that I cut the money. Interestingly, the President has suggested this spending cut in his economic plan. It is one of the streamlining in Government cuts he proposes for deficit reduction later on. All I am suggesting is that with this first spending bill we have in the Senate, this is going to set the standard for whether or not we are going to pay for things, or whether we are just going to spend and not pay.

So the amendment is simple. The amendment will pay for the expenses of the bill in the first year. The question for the Senate is: Do you want to pay or borrow? I think we ought to pay, and I do it by cutting other programs, not by increasing taxes. The bill, as it stands, would simply say let us widen the deficit and borrow. I hope that the Senate will support my amendment.

I yield the floor.

Mr. MOYNIHAN. Mr. President, I want to, first of all, thank the distinguished ranking member of our committee as this final hour commences, for the thoughtfulness he has put into the position he has offered the Senate, or the considerateness, but perhaps it would be less forthcoming as regard to the thoughtfulness. The alternative of-

ferred here is not a program; it is not even an idea. It is simply a decimal point reduction across the board, regardless of relative merit, need, demand, circumstance, of all programs, a fixed amount of money, starting Sunday, and lasting for 7 months.

That is not a way to reduce the size of Government. We have before us a proposal for doing that, 145 pages, a vision of change for America, which the President has sent us, in accordance with his State of the Union Address and the budget recommendations that go with it.

We are given specific items for streamlining government, for cutting specific programs, not as any generalized proposition across the board. You do not cut across the board. You cut item by item. You go from a fixed amount in the forest program to a lesser amount.

You take the budget outlays by function one by one. National defense, \$292.9 billion; international affairs, \$19.3 billion; general science, space and technology, \$17.2 billion; energy, \$4.9 billion; natural resources and development, \$22.1 billion; agriculture, \$21.6 billion, and right down through the entire list of general budget functions, until you get to all distributed offsetting receipts, including Social Security, \$305 billion; income security, \$2.8 billion.

That is the way in which budget reductions are made. The President proposes to make them in this budget cycle. The Budget Committee will be holding hearings momentarily with the prospect of a budget resolution before us in a month's time. Then our Committee on Finance will have its work to do.

We may have to go through painful, necessary, and unavoidable proposals to raise revenues and cut outlays.

In the meantime, we have an emergency program which ceases at midnight, which, if it is not continued for the 7 months we are proposing, will leave 1.8 million people without extended unemployment benefits.

As the distinguished presiding officer knows, business cycles are determined by the National Bureau of Economic Research, and it does so on very rigorous standards of economic growth in production and output of goods and services. It does not measure unemployment. And we are dealing with the first ever recorded recession in which there is virtually no increase in employment, although there is a significant increase in output.

So while we can say we are in a recovery, we can also say, with emphasis, that unemployment is higher today than it was at the trough of that recession.

And so, the President has asked us, as an emergency, given the fact that this program ends Saturday night, to keep it going. That is what this vote will be about.

It will not be about reducing the size of Government. It will not be about cutting the whole area of activity or raising revenues, getting ourselves on track to a balanced budget. That has happened, and the business community has said it has happened. This elusive creature called the bond market has said it has happened.

We had some rather welcoming remarks from fellow Republican Senators who met with the President yesterday and they acknowledged something is underway. That something is a process we are at work at.

Directly before us this morning is a simple decision concerning the lives of millions of Americans who have done nothing wrong, who are working Americans, who have attachment to the work force. They only gain entitlement to unemployment insurance by attachment to the work force. They have been laid off in proportions unprecedented. They have been laid off with no prospect of returning.

It is not a cyclical inventory recession of the kind we have seen, where inventories build up and a plant lays off for a while, letting people expect to return.

Only 14 percent of the persons laid off in this recession have reason to expect that they will return. Therefore, in this legislation—new and long past due—is a provision for developing a profile of people who really cannot expect to return to work, working with them on retraining and whatever is necessary before their benefits have expired; when it is clear that there is not going to be a new job for them in their old workplace.

Therefore, Mr. President, the whole operation we are dealing with here this morning is an ongoing extended unemployment insurance proposal, a measure we have had in place since the 1930's.

We are simply keeping it in place while we can go about changing the whole structure of American Government outlays and income as we have to do.

This morning, the President is announcing the creation of a national performance review task force, headed by Vice President GORE, which is directed to the performance of actual programs in Government; again, with the object of getting more product out of what is obviously a large and by no means perfectly efficient enterprise.

But the one program we know works, where money goes directly to people who need it and who have earned it, earned it through their periods of employment for which contributions have been made, these millions of Americans and their dependents. And it is in their name that we will be voting in a very short time.

Mr. PACKWOOD addressed the Chair. The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, of all the Senators in this body, there is no one that is a greater gem than the chairman of the Finance Committee, PAT MOYNIHAN. He has a respect for this institution. He has a knowledge of the history of this institution and of this country that is unrivaled.

But, I would say, when he says that this is a bad way to budget—simply cutting across the board—I have taken this from the President's suggestions. He plans to do this, he says, later. I am saying, let us do it now.

But in terms of cutting across the board, I am reading from the President's Executive order of February 10 as to how he is going to reduce \$9 billion in executive branch expenses. One item, 4 percent reduction in civilian personnel over the first 3 years, across the board.

Deficit control and productivity improvement in the administration of Government requires a reduction in the Federal administrative expenses as follows: 3 percent in 1994, 6 percent in 1995, 9 percent in 1996, 14 percent in 1997, across the board.

These are not line items. These are not saying, we find the Defense Department more or less valuable than the Department of Agriculture, so we will make greater cuts in defense or greater cuts in agriculture.

So they are just across the board. I did not dream up this idea. I took it from the President himself.

But the key, again, Mr. President, is: Do we want to pay for this program? If we pay for it, it is not going to delay it. We can pay for it. We can pass it in the Senate today with a method to pay for it. We can send it to the House. They can adopt a provision for paying for it or give us another one and we can finish a conference on this bill tomorrow afternoon and have it on the President's desk tomorrow night with a provision to pay for it.

Last night, I appeared on a business news program somewhat critical of the President's budget. One of the commentators on the program said to me: "But don't you like the Head Start Program? Don't you want the Summer Youth Employment Program?"

I said, "Those are good programs. Should we pay for them?"

And there was kind of an obfuscated response, but basically it was these are nice programs, so we should have them.

And what I fear, Mr. President, is we are going to start down the road—just like this unemployment program—and not pay for it. And then Congress, for one reason or another, will not come up with all the taxes the President wants. Maybe the energy tax does not pass—who knows?—and yet we will still want the programs. And we will start to vote for them, saying we are going to raise the revenues later, or say we are going to cut some other programs later to bail it out, and we will not do it.

This particular bill is starting down the wrong road. There is nothing wrong with extending a helping hand to those who are unemployed. It is a decent thing to do that the Government should do. But we ought to pay for it in the way proposed in this amendment.

This amendment would require that. I am prepared to yield to the Senator from Oklahoma, if he is ready.

How much time would the Senator like?

Mr. NICKLES. Seven minutes. Mr. PACKWOOD. I yield 7 minutes to the Senator from Oklahoma.

Mr. NICKLES. Mr. President, I wish to compliment Senator PACKWOOD and other colleagues—Senator DOLE and Senator DOMENICI—who came up with this amendment, because we felt very strongly that if we are going to have unemployment extension and benefits, we should pay for it.

I might mention to my colleagues, when we had the three previous extensions—one extension in November 1991, one in February 1992 and one in July 1992—when those bills were reported out of the Finance Committee, or before they passed, we paid for them. And I think before this bill passes we should pay for it.

So the amendment we are offering this morning says we are going to pay for it. We are going to pay for it through spending cuts, not through tax increases. But I think it would be a lot more responsible to pay for it through a tax increase than just to say we are not going to pay for it, we are going to declare an emergency and just have it increase the deficit. I think that is the most irresponsible action we could take.

We have several actions. We could just do nothing, have no extension—that is one possibility. Another one is we could have the extension but we pay for it and we pay for it either by cutting spending—which is the amendment that Senator PACKWOOD, myself, and others have offered, which I think is the most desirable alternative—or we can pay for it in the form of a tax increase. That is what has happened in the past. I think we have gone back too many times to the taxpayers to expand the program.

So I think the alternative we have is the best one. Yes, let us have the extension of unemployment compensation benefits, but let us pay for it. Let us pay for it by cutting Federal spending.

Frankly, I am bothered by what we see because this Congress, the 103d Congress, is not very old, but we have passed one piece of legislation that we sent to the President, and already it is a mandate on business. We are mandating to business they have to provide parental leave, not maternal leave but parental leave. That goes a lot further than most people think. It talks about mothers-in-law and fathers-in-law. But

anyway it dictates a mandate on business.

Now, the next piece of legislation we are going to pass is an extension of an entitlement program. I am on the Appropriations Committee and I listen to the appropriators always bemoan the fact that the discretionary amount we appropriate is not really growing; it is those darned entitlement programs that are exploding. And it just so happens they are right. And this is one entitlement program that is exploding. The cost of this program, unemployment compensation benefits, last year grew at 48 percent. The cost of living grew at about 3 or 4 percent, but the cost of this program grew 10 times that amount, 12 times that amount. It grew at 48 percent.

You have to compare it to what? Well, the year before it grew at 46 percent. So this is in outlays, this is in real dollars, this is in dollars that Uncle Sam is drawing a check for. You can see in 1989 we were spending \$14 billion; in 1990 we are spending \$17 billion; in 1991 it increased by 46 percent and went up to \$25 billion; and in 1992 it increased to \$37.8 billion. It is exploding in cost.

One reason why it is exploding is we have had three extensions in the last 2 years. Fine. At least we paid for that. At least we can actually say, yes, we know that it is exploding; we did have the courage and conviction to say, well, let us pay for it. So Congress raised the taxes to pay for it.

The amendment we have today does not raise taxes. It says let us cut spending. Let us pay for this bill. The cost of this bill we have before us is \$5.7 billion. If we do not pay for it, it is just that much more increasing the deficit.

We received a Statement of Administration Policy that I had printed in the RECORD yesterday that I find to be very irresponsible. Basically, it said the President wants to pass this package, but he does not want any offsets. For those who are not familiar with what that term means, it means we do not want to pay for it. He does not want to pay for it through spending cuts. He does not want to pay for it through tax increases. I think that is grossly irresponsible. That is the reason why we have a deficit that is growing. That is the reason why we have entitlement programs that are exploding. This is not the only one, but it is one of the fastest growing entitlement programs we have. It is compounding right at 50 percent per year. And now we are not even going to pay for it. I find that to be grossly irresponsible.

I really do hope most of my colleagues will support this amendment. I hope the Democrats and Republicans will support this amendment. This should not be a party-line issue. We should stand together and say we are not going to expand an entitlement

program unless we at least pay for it—pay as you go.

The only way they are getting around the pay-as-you-go requirements in the Budget Act is they are declaring it an emergency. I compliment President Bush. When Congress tried to do this a couple of years ago he said, "I will veto the bill unless you pay for it." And because of that resolve, at least we did pay for it. We did not increase the deficit, even in spite of this increase in outlay, because we did have the courage to pay for the program as it was growing.

Right now we are just saying let us be irresponsible. The first piece of legislation that comes out of the Finance Committee, the first piece of legislation that comes out of the House dealing with spending money, we are not going to fund it. I just find that to be irresponsible.

So I hope my colleagues in a bipartisan fashion will support this amendment. This amendment is not going to hurt people. We are not going to be cutting your favorite program. We are going to be cutting some administrative expenses, and, frankly, I think some can and could and should be cut.

The administration has said we can cut \$30-some billion over the next 5 years. Most of their cuts are in the 4th and 5th year. I think we should take the 4th- and 5th-year cuts and throw them away because the 4th- and 5th-year cuts made in the 1990 budget package are not happening. The caps that were agreed to under the 1990 budget package, President Clinton said we do not need to adhere to those caps for 1995. In other words, we do not have to make the spending cuts that were agreed to in the 1990 budget package—as many of us forecast.

I think we have to be up front and put the spending cuts up front and not at the back end. This says, yes, if we are going to expand that entitlement program, that is fine but, yes, let us pay for it, and pay for it by cutting spending. So I hope my colleagues will agree to this amendment and that it will be agreed to today.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I rise in close accord, I believe, with my friend about the disarray into which this program has fallen. We had a very straightforward measure in the 1930's, one temporary extension under President Eisenhower in 1958, then another under President Kennedy in 1961; then in 1970 a permanent extension, which has had its problems. Our original concept of the legislation was that employers paid into an unemployment tax fund, FUTA. The funds built up during periods of high employment, then were spent down during periods of low employment.

It has to be understood that, when you were spending them down, you

were, in fact, borrowing money, because when money comes into the trust fund, it immediately goes to the Treasury. That is the reality of Federal finance.

A year ago we established an advisory council on this whole program, and somehow it has not gotten into place. I am told the very distinguished former head of the Bureau of Labor Statistics, Dr. Janet Norwood, has been designated as chairman, but the final appointments from the executive branch have not come. I am told on the Senate side, Owen Bieber, of the UAW; Bill Grossenbacher, of the Texas Employment Commission; and John Stephens, of Roseburg Forest Products, have been appointed. On the House side: Tom Donahue, secretary-treasurer of the AFL/CIO; Kay Bailey Hutchinson, Texas State treasurer; Bob Mitchell, payroll manager at Sears, Roebuck. The executive branch has evidently also selected Mitch Daniels, of Eli Lilly. But nothing has happened.

Secretary of Labor Reich has told me he is going to put this commission to work; he is going to put it together, get it moving. It has 1 year. Maybe a year will be sufficient for its purposes. I do not know why it ought not. The commission, headed by Professor Witte of the University of Wisconsin, drafted the entire Social Security Program in 1 year. But what Senator NICKLES has been saying needs to be done.

On the other hand, the specific plight of 1.8 million workers, whose prospect is to get back, on average, as unemployment compensation, one-third of their weekly wage—that commences Saturday night—to say no to them because we have been inattentive to our duty is to compound that inattention.

Mr. President, that is very simply what the vote will be about in 30 minutes' time.

Mr. President, I see no other Senator seeking recognition and wonder if we might have a quorum call, to be equally divided in regard to time.

Mr. PACKWOOD. Mr. President, I ask unanimous consent to add Senator SMITH of New Hampshire, as a cosponsor of the amendment.

The PRESIDING OFFICER (Mr. WOFFORD). Without objection, it is so ordered.

Mr. PACKWOOD. I suggest the absence of a quorum to be equally divided.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent to dispense with further proceedings under the call of the quorum.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I yield 3 minutes to the Senator from South Dakota.

The PRESIDING OFFICER. The Senator from South Dakota.

(The remarks of Mr. PRESSLER pertaining to the introduction of S. 485 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. PRESSLER. Mr. President, I yield to my colleague from Oregon.

Mr. PACKWOOD. I thank my good friend from South Dakota. I ask unanimous consent to add Senator FAIRCLOTH as an original sponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Could I ask how much time I have remaining?

The PRESIDING OFFICER. Nine minutes and twenty-eight seconds.

Mr. PACKWOOD. I yield 4½ minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I express my appreciation to my colleague, Senator PACKWOOD, and to my leader, Senator MOYNIHAN.

Mr. President, today I join with Senators PACKWOOD, DOLE, and other colleagues in sponsoring an amendment that would offset the costs of extending the Emergency Unemployment Compensation Program with specific corresponding budget cuts.

I first want to emphasize that I believe it is necessary to extend the EUC Program. While this program was not meant to provide income security forever, it is clear that we must respond to the needs of the long-term unemployed who have exhausted their regular State unemployment benefits and who would not be eligible for any additional Federal benefits without this extension. According to preliminary figures from the Department of Labor, nearly 4,500 Minnesotans made initial claims for emergency unemployment compensation benefits last month, over 5,500 Minnesotans received their first EUC benefit payment, and another 2,000 Minnesotans exhausted their EUC benefits entirely.

We in Minnesota are blessed with an economy that is strong and vibrant when compared with the States of many of my colleagues that have been hurt so badly during the recent recession. Yet, while Minnesota's 4.9 percent unemployment rate is low compared to the rest of the Nation, that figure does not, and cannot, tell the full story. Today, there are over 120,000 Minnesotans who want to work, but who are unable to find the jobs they need to feed their families and to meet their mortgages.

Many of these people are victims of defense cuts, such as those which have occurred at Alliant Tech, FMC, and others. Minnesota's high-tech community also has suffered employment losses due to restructuring and downsizing necessitated by weak economic

conditions both here and abroad. For the first time, many layoffs in these industries have occurred among middle management, professional, and highly skilled workers.

There are signs that our Nation's economy is improving. Yet, at the same time, there is growing evidence that this recovery will be more slow and more painful for American working men and women than at any other time in recent memory.

When we first enacted the EUC Program at the end of 1991, the Nation's unemployment rate stood at 6.9 percent. Unemployment now has exceeded 7 percent for 14 consecutive months.

Unemployed workers are exhausting their regular benefits at a rate that is 20 percent higher now than it was at the low point of the recession, and they are collecting unemployment benefits at a rate that is 15 percent higher than at the low point of the recession.

Moreover, many people who have lost jobs in the recent recession have no hope of being rehired by their former employers.

Many people are so frustrated by the lack of employment opportunities that they have stopped looking for work altogether.

However, unlike the original EUC legislation and its two earlier extensions, this bill is designated as an emergency requirement—and therefore it is exempt from the pay-as-you-go requirements of the Budget Enforcement Act.

When we passed the law creating the Emergency Unemployment Compensation Program back in November 1991, we made sure that those benefits were paid for by revenue offsets. When we first extended the EUC Program in February 1992, to give workers exhausting their EUC benefits an additional 13 weeks of benefits, that legislation again was paid for by revenue offsets. And most recently, in July 1992, when Congress extended EUC benefits until March 6, 1993, that extension also was paid for by offsets.

The administration has assured us repeatedly that it is committed to reducing the Federal deficit. Therefore, I fail to understand why this EUC extension—the first of President Clinton's spending programs to reach the floor of the Senate—actually proposes to increase the deficit. If this is an example of how the Clinton administration's economic program is going to work, we are in deep trouble.

As I said earlier, I believe that we should extend the EUC Program. At the same time, however, the American people are deeply concerned about our burgeoning deficit and our \$4 trillion national debt. They are watching us, and holding us accountable. And they need to know that we are serious about reducing the Federal deficit, a point the President made clear with us on the Republican side of the aisle at lunch yesterday.

There are many necessary and worthwhile spending programs. But if we are truly committed to reducing the deficit, then every spending program cannot constitute an emergency. If we are serious about reducing the deficit, we cannot continue to redraw the boundaries which limit Federal spending whenever we find it difficult or inconvenient to stay within them.

The President has set forth a number of spending cuts in his new economic program. The amendment we have offered simply requires that one of the cuts that President Clinton already has proposed be used to offset this spending program so that it does not add to the already staggering Federal deficit.

Mr. President, I would like to make one final, important point about this legislation in general, the profiling and referral system proposed by the administration is an interesting prospect. But it does not begin to address the serious problem of long-term unemployment, or the serious needs of the long-term unemployed.

Our unemployment insurance system was designed to provide temporary support to workers who had been laid off or who had lost their jobs. It cannot effectively combat the more serious, and more costly, problem of long-term unemployment and permanent worker displacement.

In order to thrive in today's increasingly competitive global marketplace, American businesses are striving to be even more productive and efficient. This brave new world has presented American workers with unprecedented challenges, as well. That is why I believe that instead of continuing to pass further EUC extensions, we should direct our efforts in the future toward ensuring that industry restructuring will have the least possible impact on American workers. We may have no choice for the near term. But somehow we have to strive to fix the problem of long-term unemployment, or at least move more quickly in that direction by improving our job training programs and developing new strategies to help workers adapt to today's changing workplace needs.

I would like to work with the administration to develop a more comprehensive approach to this serious problem, and I look forward to doing so.

In the meantime, I applaud the administration for proposing to extend EUC benefits. As I said before, the country still faces a serious unemployment problem. But in attempting to provide support to American workers so that they can provide for themselves and their families while they find new jobs, it is imperative that we do so within the confines of the Federal budget.

Mr. President, I ask my colleagues to step up to the plate on this one—and stop piling up our national debt. Let us be responsible—vote "aye" on this amendment.

Mr. MOYNIHAN addressed the Chair. The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I would make the point that the amendment before us does not strike the emergency designation of the underlying bill and that would remain in either.

Mr. President, we are honored this morning that the President pro tempore has come to offer his thoughts on the matter and I yield 5 minutes, half the remaining time.

Mr. BYRD. Mr. President, I thank my distinguished friend, who is a scholar by education and a gentleman by nature.

This amendment would require across-the-board cuts in administrative expenses to finance an extension of unemployment benefits.

Mr. President, the proponents have pointed out that the President himself is proposing to cut administrative expenses by 4 percent in 1994 and by 14 percent over the next 4 years. Therefore, what difference could it make now to make this one-half percent reduction in order to pay for this extension of unemployment benefits?

I must admit that it is a clever and well-drafted amendment that attempts to beat the President to the punch on his own proposal. But I have in my mind a letter from the director of the Congressional Budget Office to Senator MOYNIHAN, chairman of the Finance Committee, a short letter, paragraph 2 of which reads as follows:

The bill, S. 382, would affect direct spending and thus would be subject to pay-as-you-go procedures under Section 13101 of the Budget Enforcement Act of 1990.

The bill, Mr. President, would affect direct spending as defined in the 1990 Budget Enforcement Act. As Senators are aware, the Budget Enforcement Act of 1990 was enacted as a result of the 1990 budget summit. I participated in that summit. The Bush administration participated in that summit. Despite the fact that former President Bush in the heat of his campaign stated that he regretted having signed the Budget Enforcement Act of 1990, that act resulted in many important improvements in the budget process.

The Budget Enforcement Act of 1990 contained stringent annual caps on discretionary appropriations and for the first time it required committees of jurisdiction to pay for new entitlement and mandatory spending programs under their jurisdiction. In other words, the committee that does the deed is required to pay for the deed. This was a very important change in the budget process that was enacted as part of the Budget Enforcement Act following the summit.

Mr. President, up until now that agreement has been lived up to by the committees in the Senate. The Appropriations Committee has lived up to

our part of the bargain. For example, for the 13 fiscal year 1993 appropriations bills, we appropriated \$16 billion less than the caps allowed by the Budget Enforcement Act.

Now, with this amendment we are being asked to cut discretionary appropriations further in order to pay for an extension of unemployment benefits. I must strongly oppose the amendment because it would require that the discretionary appropriations be rescinded to pay for a direct spending program.

This amendment violates the spirit and the letter of the Budget Enforcement Act. It requires across-the-board cuts in discretionary programs to pay for legislation that should be paid for by the committees of jurisdiction, the Finance Committee and the Ways and Means Committee in the other body. If it were to be offset, it should be from programs under their jurisdiction.

Section 13101 of the Budget Enforcement Act exempts spending from pay-as-you-go requirements if the President and the Congress designate such spending as emergency spending. It allows such spending to occur without offsets. In section 6 of this bill Congress designates as an emergency any direct spending provided pursuant to this bill. If the President also makes an emergency designation amounts pursuant to the bill it will not be subject to the pay-as-you-go procedure.

Surely, this extension of unemployment benefits meets the definition of an emergency as contemplated by the Budget Enforcement Act. I am told that without this extension, between 250,000, 300,000 workers per month would no longer be able to receive Federal extension benefits.

Mr. President, to agree to this amendment would set a popular, new, direct spending program and require that the discretionary appropriations be rescinded to pay for the program. It would violate the principles of committee accountability established in the 1990 budget agreement, a principle which is vital if we are to have any chance of controlling growth in new entitlement spending.

Mr. President, I urge that that amendment be defeated.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, we have heard a powerfully persuasive statement. Not only are we voting on a specific program, but as the revered President pro tempore of this body has said, we are voting on an absolutely essential issue. We would establish a precedent that would undo the entire work of 1950.

Mr. President, I can imagine no more forceful case to be made to defeat this amendment and get on with this legislation.

Mr. BYRD. Mr. President, I thank my distinguished friend.

Mr. PACKWOOD. Mr. President, I yield such time to the Republican leader as he might desire.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Is leader time reserved, Mr. President?

The PRESIDING OFFICER. Leader time is reserved. If there is no objection, the Republican leader will use that time.

Mr. DOLE. Mr. President, I thank my colleague and manager, our distinguished chairman, Senator MOYNIHAN.

In my view this is probably the most important vote we have had this year and maybe the most important vote we are going to have for the next several weeks because it is a very defining vote. We heard all this talk about deficit reduction, all the speeches, all the rhetoric, all the polls. What have we done this year, the first bill we passed was a mandate which is a tax on business employers across the Nation that the Federal Government knew best on how to mandate family leave. Now the next proposal is to add about \$5.8 billion to the deficit.

Maybe I do not understand everything but today the President is going to announce the national performance review program. He wants to go through Government with a fine-toothed comb and make it better and user friendly and eliminate waste in all of these things that we should do.

Yesterday, the President was kind enough to accept our invitation to meet with Republican Senators over lunch. He emphasized again that we need to deal with the deficit. So here we are, first shot out of the box, saying, oh, well, we do not really mean that. We do that later. But right now we have to add about \$5.8 billion to the deficit.

If the amendment offered by the distinguished Senator from Oregon, myself, and others is not adequate, let us have another one. Let us have one from that side of the aisle that pays for this program. We need to extend the unemployment benefits package. We did it three times last year but the difference was we paid for it each time last year. So is this an emergency? With all the spending and all the taxes that President Clinton is advocating, \$178 billion in new spending, \$360 billion in increased taxes, \$58 billion in new tax breaks, is it necessary that we add \$5.8 billion to the deficit?

And Republicans are asked almost by the hour from the media, well, where is your plan? Where is your plan? Well, we do not have a Republican plan. We have a number of people with amendments. Like Senator GRAMM is having a press conference as I speak—some meeting where he is laying out his proposal. There will be other proposals and we will have a coordinated position at the appropriate time.

We are also in the midst of a recovery. The Bush recovery is working. The

economy grew at an all time rate of 4.8 percent in the fourth quarter of 1992—the best quarter of economic growth in 5 years, the best quarter in 5 years. Inflation remains low and interest rates are low. Last month the national unemployment rate dropped to 7.1 percent.

So we look at a number of opportunities, a number of signals that growth and job expansion are on the economic horizon, that the Bush recovery is picking up steam. That does not mean much if you are out of work. That is why we are here today, that is why we ought to pass this bill and get it to the President for his signature.

We have had in my own State of Kansas announcements by Boeing of up to 6,000 to 7,000 people who will lose their jobs; Sears another couple thousand; 400 from Beech; and on it goes. Generally, the economy is good. But there are pockets where we have problems.

So, job loss means sacrifice and hardship and, yes, it means the Government has a responsibility to lend a helping hand. Normally, we used to divide these payments with the State governments but the States figure out if they wait long enough the Federal Government will pick up the entire tab.

So we are here today debating whether or not we ought to add \$5.8 billion to the deficit. The next one we are going to take up, another mandate that is going to cost a couple hundred million dollars, is moto-voter. We will tell the counties, States, this is good for you because the Federal Government says it is, and we are going to mandate it but we will not send you any money. You figure out how to get the money.

So here we are in I think sort of a watershed. This is a watershed vote. If we really believe what President Clinton said to us in the joint session of Congress a couple of weeks ago, that we had a real problem with the deficit, if we believe all those polls which say 60 to 70 percent of the people support the President, or at least support his speech on the deficit, why are we here adding \$5.8 million to the deficit? Explain that to somebody in Kansas or any other State represented in this body.

We cannot do it because there are plenty of areas we can cut spending enough to pay for this package as outlined in the amendment offered by the Senator from Oregon [Mr. PACKWOOD].

So it seems to me that this is hopefully not a partisan vote, not a party-line vote. This ought to have the unanimous support of Members on both sides of the aisle. I hope that we would attract good bipartisan support to help the President to underscore the importance of what he has been saying about reducing the deficit and not walking the other way and say, oh, now we will add \$5.8 billion to the deficit. I did not hear President Clinton say he was going to increase the deficit. I thought

he was going to cut the deficit. Apparently, he is prepared to sign this legislation. They sent up the administration's position, which is in support of this legislation without paying for it, and therein lies I think the problem with the whole Clinton package. We do not have the details. We really do not know where the defense cuts are going to hit, who they are going to hit, what States are going to be hit, how many young men and women are going to be kicked out of the military because of \$112 billion in new defense cuts on top of the \$50 billion already passed by Congress, proposed by President Bush, \$360 billion in new taxes, \$178 billion in new spending, and it seems to me that we are underscoring the flaws in this package by passing this bill today. We do not have a budget. We do not even know what the details are. We are going to be asked in this body before long to pass a budget resolution before we have the budget. It seems again to me that we are just proceeding in the wrong way.

If we cannot take money out of travel and consulting, personnel and other overhead expenses in Government across the board, then I think it is an indication that we are not going to be very tough when it comes to spending reductions, and that is true. There are not many spending reductions in the President's package. They are all taxes and new spending and very little spending reductions.

So, Mr. President, this amendment is sound, it ought to have unanimous support. We ought to pass it on a voice vote. Maybe we can do that. In any event, it is a watershed vote. It is going to determine what is going to happen in the next 2, 3, 4 weeks, 30 days, 60 days, 90 days, when we talk about reducing the deficit.

You cannot fool the American people. We start here if we want to reduce the deficit. \$5.8 billion. Ross Perot said yesterday that we ought to pay for this bill. We should not add more money to the deficit. So all those who want to cut the deficit, this is their opportunity. This is the first ball over the plate.

I hope my colleagues on both sides of the aisle will act responsibly and give the American taxpayer a break and, at the same time, give the unemployed a break and let us pay for this, and not impose the burden on their children and grandchildren 10, 20, 30 years from now.

Mr. MOYNIHAN. Mr. President, I yield the remaining time, and such time as he may wish to use, to the majority leader, Senator MITCHELL.

Mr. MITCHELL. Mr. President, I ask unanimous consent that if I go beyond the time allotted remaining for the distinguished chairman, that it come off of my leader time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, the sponsors of this amendment have said that their intent is to offset the costs of the unemployment insurance bill. Yet, the offset they propose does not cover the cost this year. According to estimates from the Office of Management and Budget and the Congressional Budget Office, the offset used by the sponsors does not even come close to raising the amount that the sponsors claim this year. So it will not pay for the bill.

The sponsors claim they have offset \$3.3 billion. Yet, both OMB and CBO estimate that the sponsor's amendment would actually amount to much less in savings this year. What would this offset actually do? While the sponsors claim that it involves reductions in administrative overhead, the amendment actually goes far beyond that.

The sponsors of the amendment break down Federal administrative expenses as something called object classes. What does this mean? This is budgetese, technical jargon. No one has really explained it. I think the Senate, before voting for such an amendment, ought to examine what these so-called object classes and administrative expenses are.

First, the sponsors list 16 items which they say would add up to \$644 billion. That \$644 billion would then be subjected to a one-half of 1 percent reduction in fiscal year 1993. Included in that \$644 billion are the costs of regular salaries and wages paid to full-time civilian employees, salaries and wages for terminal leave payments, hazardous duty pay, overtime, holiday pay, and night work differential. At the same time, the text of the same amendment appears to preclude reductions in current rates of pay.

Well, if pay is not to be reduced, does this mean that people are to be fired to achieve these savings? No one has explained it. There is no language in the amendment regarding civilian government jobs, or language protecting Americans who are at this moment abroad in hazardous duty pay areas. No one has explained that.

Everyone knows that personnel accounts are the fastest spending accounts. If we are to achieve savings in personnel accounts without reducing pay, will there have to be employees fired to achieve it? Would it not be a supreme irony to pay for unemployment benefits by creating more unemployment. To totally exclude personnel costs such as wages and salaries in both defense and civilian government employment, \$162 billion has to be sliced right off of the top of the sponsors' \$644 billion base. It clearly will not do what the sponsors say it will do.

That is because this is not a substantive amendment. This is a political amendment. Let us talk about some of the remaining items on the sponsors' list.

There is a vague category called other services, \$230 billion. What services? No one has explained that. An inquiry has determined that it includes hospital care and premiums on insurance. Hospital care for whom? Insurance for what? No one has explained that. Are we going to cancel Government insurance policies? Has anybody explained it? No one has explained it.

Equally vague categories are listed as equipment and land and investments. That is another \$133 billion. Do these accounts or any of the others cover defense procurement or weapons systems? The minority leader just said we should not be cutting defense as much as proposed. Yet, here is an amendment cutting defense, and nobody even knows what defense is being cut.

What are these categories listed under something called acquisition of capital assets? Nobody has explained that. The amendment refers, as I said, to something called object classes. That is clearly an effort to make this whole thing sound painless and technical, using budget jargon. But if you look at the definition of object classes, you are talking about real contracts and real things.

For example, category 31.0, equipment. If you get the definition of object classes—not provided by the sponsors of the amendment; you have to dig it out otherwise—it includes obligations for tanks, armored carriers, tractors, missiles, bayonets, anti-aircraft guns, artillery, search lights, detectors, fire control apparatus, submarine, mine equipment, ammunition hoists, torpedo tubes, and other miscellaneous military equipment. The sponsors know that is what they are cutting with this amendment. Did they intend that? Does anybody understand that. Has anybody explained it. Does anybody know what this is all about, other than that it is a political effort?

Aside from the substantive issues of exactly what is being proposed for reduction, there are practical issues to examine. We are halfway through the fiscal year 1993. The end of the fiscal year is September 30. How would these across-the-board cuts be implemented? Much of the \$644 billion has already been obligated. Will contracts be canceled? Are there penalty clauses in those contracts, as is common with Government contracts, so that actually the cost to the Government would be higher than the savings alleged? Does anybody know? Nobody has explained that.

President Clinton has proposed downsizing Government. The sponsors claim their proposal is the Clinton proposal, but it is not. I would like to remind my colleagues that the President has proposed to prospectively reduce administrative costs. He has given fair notice that there will be thorough examination by the relative committees

in Congress and executive agencies, and rational decisions will be made on what to cut and what not to cut.

This amendment does not do that. There is no examination by the committees. Obviously, there is no examination by anyone. Furthermore, the President's proposal would operate against the base of about \$50 billion in administrative expenses. This proposal has a base of \$644 billion. What is the difference? Nobody has explained that. Does anybody know? Nobody voting will know, because it has not been explained.

In view of the obviously hasty manner in which the amendment appears to have been put together, and the obviously political purpose of the amendment, as opposed to any substantive decision, the lack of any explanation of its provisions, lack of any understanding of what it will do or what it is intended to do, no one can know or understand what they are voting for.

The unemployment insurance bill is part of the President's overall economic package. That package is needed to ensure that a recovery does install, and we get more job growth. I urge my colleagues, let us give the President's economic program a chance by joining me in defeating this amendment.

I agree with the Republican leader on one thing. This is a significant vote on one thing. This is an effort to torpedo the President's economic program, beginning here and now in the Senate.

So the question really before us is: Are we going to give the President's economic program a chance, or are we going to torpedo the President's economic program beginning right here? Let there be no mistake about that. Those who vote for this amendment are voting to torpedo the President's economic program.

Let us get at it right now in the beginning. This is a significant vote, and if you want to kill the President's economic program before giving it a chance, then you vote for this amendment. If you think that the President's economic program ought to have a chance, if we ought to once and for all end the gridlock in this country and get this country moving again and let us support the President's economic program, then the way to do it is defeat this amendment.

I yield the floor.

The PRESIDING OFFICER. All time has expired.

Mr. MOYNIHAN. Mr. President, I move to table the pending amendment.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on a motion to table the amendment No. 66.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 57, nays 43, as follows:

{Rollcall Vote No. 21 Leg.}

YEAS—57

Akaka	Feinstein	Metzenbaum
Baucus	Ford	Mikulski
Biden	Glenn	Mitchell
Bigman	Graham	Moseley-Braun
Boren	Harkin	Moynihan
Boxer	Heflin	Murray
Bradley	Hollings	Nunn
Breaux	Inouye	Pell
Bryan	Johnston	Pryor
Bumpers	Kennedy	Reid
Byrd	Kerrey	Riegle
Campbell	Kerry	Robb
Conrad	Kohl	Rockefeller
Daschle	Krueger	Sarbanes
DeConcini	Lautenberg	Sasser
Dodd	Leahy	Shelby
Dorgan	Levin	Simon
Exon	Lieberman	Wellstone
Feingold	Mathews	Wofford

NAYS—43

Bennett	Faircloth	McConnell
Bond	Gorton	Murkowski
Brown	Gramm	Nickles
Burns	Grassley	Packwood
Chafee	Gregg	Pressler
Coats	Hatch	Roth
Cochran	Hatfield	Simpson
Cohen	Helms	Smith
Coverdell	Jeffords	Specter
Craig	Kassebaum	Stevens
D'Amato	Kempthorne	Thurmond
Danforth	Lott	Wallop
Dole	Lugar	Warner
Domenici	Mack	
Durenberger	McCain	

NOT VOTING—0

So the motion to table the amendment (No. 66) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote.

Mr. BYRD. 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 Oregon.

Mr. PACKWOOD. Mr. President, I ask unanimous consent to add Senator ROTH as a cosponsor of the amendment that was just defeated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. MURRAY. Mr. President, with the current extended unemployment benefits program set to expire this Saturday, legislation to reauthorize the Emergency Unemployment Compensation Program is sorely needed. We may be emerging from the recession, but new jobs are simply not being created fast enough.

In my home State of Washington, where the unemployment rate is over 7 percent, Boeing recently announced plans to lay off more than 20,000 workers in the next 18 months. Each Boeing job supports an additional 2.8 jobs, meaning that as many as 60,000 workers and their families may be affected in the near future. In our timber-dependent communities, thousands of other workers and their families are struggling to survive as they have consistently watched jobs disappear over the last 4 years. We must not abandon any of them at this time of great need.

Nor can we forsake the other 1.5 million unemployed Americans currently receiving Federal emergency

compensation. These emergency benefits will stop flowing on March 6, just a few days from now, if we do not pass this bill.

As large American companies are downsizing and banks have a tight hold on credit needed to help start new businesses, it is extremely difficult for many of our unemployed workers to find new jobs or to get the kind of retraining they need to enter new fields. I am committed to working with President Clinton to enact his deficit reduction and economic stimulus package. For Washington State, job creation and economic diversification are two of my top priorities. But as we move forward to create good-paying jobs, we must not cut off support to the unemployed in the meantime.

Finally, I would like to commend President Clinton and the sponsors of this bill for recognizing that many displaced workers must find new employment in different industries. The inclusion of a special initiative in this legislation to identify displaced workers and provide them with retraining, counseling, and job search assistance is very important.

Mr. President, I urge my colleagues to support this critical legislation.

The PRESIDING OFFICER. The question recurs on the committee amendment.

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

Mr. CHAFEE. Mr. President, I am ready to go forward if the Senator would defer with that.

Mr. MOYNIHAN. Should we dispose of the committee amendment first?

Mr. President, I ask that matter be put off pending a colloquy with the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, it was my intention to offer an amendment that would do away with the so-called luxury tax, as far as it pertains to boats. This has been an absolute disaster tax.

Mr. MOYNIHAN. Mr. President, the Senator from Rhode Island has a matter of urgent concern to him, and the Senate should be able to hear it.

The PRESIDING OFFICER. The Senate will come to order.

The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, if I might repeat, several years ago, we enacted the so-called luxury tax that applied to boats, airplanes, furs, jewelry, and automobiles. I am only going to discuss the aspect that is of deepest concern to me, the tax that applies to boats.

What that so-called luxury tax does is to apply a 10-percent tax on the sale of all new boats over \$100,000. The objective of this originally, Mr. President, was to hit the rich. But as so often happens, the projectile did not hit the target.

Mr. President, what happened was that it did not hurt the rich. The rich just stopped buying boats and they invested their money in vacation homes in the Caribbean, or wherever it might be. The people who were hurt are the people who make the boats. They are not millionaires. The people who were hurt were the people out in the production line. And by modest estimate something like 19,000 Americans have lost their jobs in boat building. In my State, perhaps 3,000 to 5,000 lost their jobs. You might think 3,000 to 5,000 is not much, but that is a lot in a little State like ours.

Rhode Island, the smallest State in the Nation, produces more sail boat hulls than any State in the Nation. And so the construction of boats was a very, very major factor in our economy. It is not just the people who build the boats. It is the people who design them; it is the people who make the sails, the cordage, the ropes, the lines, the people who make the winches that pull up the anchors, the winches that are used for the jib sheets and the main sheets. It is a total industry that has been really severely hit.

Mr. President, you might say, well, there has been a recession and that is what has happened to the boat industry, it was not the so-called luxury tax. History has shown, however, that in the boatbuilding business when bad times come, the small boats are hit but big boat sales continue. So we have had a double whammy in the boatbuilding industry. The recession has hit the small boat builders, and the luxury tax has hit the big boat builders.

We have twice passed in the Senate, in connection with other legislation, repeal of that tax bill, but because of other factors, primarily objections of the past administration to other facets of that legislation, the repeal was part of a bill that was later vetoed.

So, Mr. President, as is the distinguished Senator from Louisiana who has been one of the real leaders in this and indeed it was his repeal measure that has been the factor that we have worked together on, we are looking for a vehicle and it was my belief that this particular vehicle would be adequate. But I had it explained to me that this is not a tax bill.

The original proposal was to come in with a replacement tax; namely, the diesel tax, a tax on diesel fuel on which there is currently no tax. We would apply the diesel fuel tax to yachts, but not for commercial vessels, fishermen and so forth. That would replace whatever lost revenue was anticipated although, I believe the Treasury is losing revenue if other factors such as unemployment compensation and last income tax receipts are taken into consideration.

So, Mr. President, I would like to hear from the distinguished chairman of the committee. I see the distin-

guished majority leader is also on the floor and he certainly is involved in this with a big boatbuilding industry in his State. I know he is concerned about this so-called luxury tax.

Mr. BREAUX. Will the Senator yield?

Mr. CHAFEE. I will be glad to yield. I would like to yield a moment to the Senator from Louisiana because he has been deeply involved with this from the beginning.

Mr. MOYNIHAN. Mr. President, just to be clear, we do very much want to hear from the Senator from Louisiana and then we will want to hear from the Senator from Maine and then I would like to respond as would be appropriate.

Mr. BREAUX addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. Mr. President, just briefly, the Senator from Rhode Island has accurately outlined the situation. The Senate on two separate occasions has looked at this proposition which I think was ill-conceived in the first place and the Senate has spoken clearly on it; that it is the desire of this Senate to repeal the so-called luxury tax on large vessels.

It was an idea to try and offset the regressive nature of the tax on beer and alcohol and wine by somehow hitting millionaires who bought large boats. The problem is instead of hitting the millionaires, as the Senator from Rhode Island has accurately spelled out, we hit the people who make the boats, the workers, the craftsmen and women who build the boats. They lost their jobs because fewer and fewer boats were actually produced. Instead of generating more revenues, we generated no new revenues and, in addition, put people out of work. That was not the intent of the Congress. It is time we recognize it, as we have on two separate occasions, and ask the Clinton administration to embrace this.

I just want to comment to Senator CHAFEE from Rhode Island, as well as the majority leader who has been steadfast in pushing this legislation for the people he represents in Maine. It has been a high priority for the majority leader. We have been working with the chairman, the distinguished chairman of the Senate Finance Committee to encourage his active support. He certainly understands this problem. I look forward with anticipation to his leadership in this area. So maybe in a few weeks, a few months at the most we can all come back and say we have all put our heads together and solved the problem.

With that, Mr. President, I yield the floor.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. MITCHELL. Mr. President, I strongly favor repeal of the luxury tax on boats for reasons explained by the

Senators from Rhode Island and Louisiana. It has clearly not worked as intended and should be and must be and will be repealed. I commend the Senators from Rhode Island and Louisiana for their leadership in this area, and I commit to all involved that we are going to get the luxury tax repealed this year and as soon as possible.

The problem we face with respect to this bill was, of course, stated by the Senator from Rhode Island. Under the American Constitution, the Senate has no legal authority to initiate a tax bill. None. All tax measures must originate in the House of Representatives. If the Senate on its own initiative passes a tax bill, it will not be taken up in the House. It is annulled. It is an act that has no legal consequence or significance.

The unemployment insurance bill is not a tax bill. Adoption of the luxury tax repeal on boats would convert it into a tax bill and, therefore, would have only the effect of killing the unemployment insurance extension without enacting the boat tax repeal.

That must originate in the House of Representatives. Therefore, what we must do is find a vehicle which originates in the House under constitutional procedures and which we can then take and act on the luxury tax repeal. I am strongly committed to that. I have discussed it with several members of the administration, high-ranking officials in the administration, as has Senator MOYNIHAN, and I believe is going to address that subject now because he himself has been involved in the discussions.

We passed this twice last year. Twice it was vetoed, not because of this provision but because of other unrelated provisions in the bill. I hope very much that this year, and soon and promptly, we are going to be able to pass this repeal and get this matter over with once and for all because I think the Senator from Rhode Island is quite right; it must be repealed, and I say to him and my friend from Louisiana and others, it will be repealed. We are going to get that done.

Mr. MOYNIHAN addressed the Chair. The PRESIDING OFFICER. The Chair recognizes the Senator from New York.

Mr. MOYNIHAN. If we are on the same subject, may I say that the President of the United States agrees with the Senator from Rhode Island, the Senator from Louisiana, and not unnaturally the Senator from Maine. It is not normal to report conversations with the President on the Senate floor, but I think this is a special occasion.

On February 15, the President asked if I would meet with him to review the measures that would come before the Finance Committee that would be discussed in the State of the Union Message. I observed that on the list of measures repeal of the luxury tax was

not on the list. I pointed that out to the President and said the Senate twice repealed this measure, that it was in no sense an effective measure; and it resulted in lost jobs.

The President said he was entirely agreeable to our adding this measure to the first tax vehicle that came through the body.

I am sure the President would not be averse to my having made this point because I said at the time that I would inform Senators. I mentioned the Senator from Rhode Island, I mentioned the Senator from Louisiana, and I mentioned the Senator from Maine whose specific interests are involved, said it is a matter of great concern to them as well as to me. What has been done twice will be attempted a third time and I am confident that this time it will be signed.

Mr. CHAFEE addressed the Chair. The PRESIDING OFFICER. The Chair recognizes the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I want to thank the distinguished majority leader, who, as I mentioned before, has been deeply involved with this right from the beginning. I know his State and the boat building industry in his State well. I know his concern for it. So his remarks and the remarks of our distinguished chairman are very satisfying and gratifying.

I would like to make one point, that there is a sense of urgency here, and so it is terribly important that the first vehicle which goes through here that we can attach this measure onto is one I am going to grab hold of because now is when all the boat shows are on. People want to know are they going to have to pay 10 percent additional for anything over \$100,000 for any boat they buy.

I believe we have to move as rapidly as possible. And so when the first vehicle comes through here that I believe we can grab hold of, I will grab hold of it.

I appreciate the support of the distinguished leader.

I will say one more thing. I know my colleague from Florida wants to comment briefly on this. The distinguished Republican leader would be on the floor because he has an interest in this, not with respect to boats, but with the private aircraft, which are also part of the so-called luxury tax. Perhaps he will comment on that later.

Mr. MOYNIHAN addressed the Chair. The PRESIDING OFFICER. The Chair recognizes the Senator from New York.

Mr. MOYNIHAN. Before we hear the distinguished Senator from Florida, may I make the point that my discussion with the President had to do with the entire measure. It dealt with small aircraft, jewelry, furs, and boats.

Mr. MACK addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Florida.

Mr. MACK. Mr. President, first, let me express my gratitude to Senator CHAFEE for raising this issue once again. It is obviously an important issue in the State of Florida. There are a number of companies that have gone out of business as a result of the decline in their sales. In our State, the luxury tax is not really called the luxury tax. It is called the layoff tax. I met with a number of employees of failed boat companies in the State of Florida. These workers told me that is how they refer to this tax.

I also want to say to the distinguished chairman how much I appreciate his efforts to see that this tax is repealed. Particularly, I appreciate the conversation that the Senator has had with the President. I also want to express my appreciation to the majority leader for his commitment for an early repeal.

I would like to extend my comments a moment longer not for the purpose of getting into some tough partisan debate, but to talk about a tax that was designed to make the wealthy pay more in taxes. The Senate has voted twice to repeal this measure because we have found out that you cannot force the wealthy to pay more taxes; they will find a way around the effort to make them pay more taxes. This is a prime example of how tax rates can affect people's behavior.

The assumption was made, when this tax was passed, that all action, all behavior, all decisions by the wealthy in the Nation would continue as if nothing had changed. The reality is that with the higher tax on boats, on luxury items, people decided not to buy them and the wealthy did not pay the tax. The people in fact who lost their jobs paid the tax through the layoff tax. I appreciate the comments of the Senator and look forward to working with him.

Mr. MOYNIHAN. Mr. President, may I thank the Senator from Florida. He very properly describes the measure, the layoff tax, and I think as an issue of principle it has been resolved and we will get to it presently.

Mr. KENNEDY. Mr. President, I join in urging action by Congress as quickly as possible to repeal the luxury tax on boats. We should have done so long before now.

The tax was enacted in November 1990 by Congress as one of numerous deficit reduction measures in the Omnibus Reconciliation Act of 1990. It imposed a 10-percent excise tax on the amount of the retail sales price of boats that exceeds \$100,000, and it took effect on January 1, 1991.

It quickly became clear, however, that the tax was counterproductive. It has been the cause of significant job losses in the boat industry in Massachusetts and many other States, and has only made the recession worse. Obviously, that was not the purpose of

the tax or the intention of Congress in enacting it.

More than a year ago, in November 1991, by the overwhelming vote of 82-14, the Senate adopted a resolution urging that the tax should be immediately repealed. I voted in favor of its repeal then, and I continue to support its repeal. Unfortunately, that resolution was nonbinding, and all our efforts throughout 1992 to enact the repeal into law were finally blocked for unrelated reasons, when President Bush vetoed the omnibus tax bill.

Now, that impasse is behind us, and effective action is possible. All of us know that repeal of this misguided tax is clearly overdue, and I join many others in Congress in urging that it be repealed on the first available bill.

Mr. DOLE. Mr. President, I would like to join my distinguished colleague from Rhode Island, and put in a word for the aircraft industry.

The aircraft industry has sold the lowest number of planes since World War II—899 planes in 1992. In this economic environment we do not need the additional burden of the luxury tax as another worker penalty.

I might add that the industry has lost over 50 percent of its jobs since 1980. This is not a luxury—we must repeal the tax.

Although the repeal is not included in the administration's proposal I hope that the President will reconsider. And I hope we have the chairman's support.

Mr. MOYNIHAN. Mr. President, will the Senator yield for a comment, to say that it was very specifically contemplated in my conversation with the President that the concerns of the distinguished Republican leader will be covered by the measure that it is understood will be offered and will be approved.

Mr. DOLE. I thank my colleague from New York, the chairman, for that comment.

It is very helpful.

Mr. PELL. Mr. President, I want to add my voice in support of Senator CHAFEE's tireless efforts to repeal the luxury tax on boats. I understand the difficulty he faces in finding the appropriate vehicle for a repeal of this tax, but I just wanted to make clear that I fully support him in this effort. This tax has been a disaster for Rhode Island and other States whose economies depend on a healthy boat building industry. This tax has not raised the revenue it intended. All it has accomplished has been what was not intended: it has put hundreds of workers in my State and other boat building States out of work. It must be repealed.

I commend the majority leader, the chairman of the Finance Committee, Senator CHAFEE and Senator BREAUX for their leadership in this area and I will continue to work with them to repeal this tax at the earliest possible date.

Mr. HELMS. Mr. President, there has been a great deal of rhetoric about the need to help the unemployed. It should be said that Congress has approved numerous bills that have put people out of work. Some "help."

One prime example is the 10-percent luxury tax on boats and yachts that Congress unwisely passed as a part of the 1990 budget agreement. Some Senators salivated because Congress was really socking it to the rich guys with that one.

But what happened? Taxes went up, demand for boats went down and thousands of blue-collar workers lost their jobs. What a way to sock it to the rich. The luxury tax has hurt working-class Americans far more than the wealthy.

The Senator from Rhode Island [Mr. CHAFEE] has indicated that he will offer his repeal amendment to another bill, instead of this bill—and I will support his efforts. So will all sensible Americans, particularly the working men and women.

Mr. President, this tax is costing the Federal Government far more than it is bringing in. A report prepared by the Joint Economic Committee in July 1991, describes the inherently flawed methodology used to assess the impact of the luxury tax. The report states that methodology failed to take into account all the effects of this tax increase.

The committee's report concluded that the luxury tax on boats would result in the elimination of at least 7,600 boat-manufacturing and retail jobs in 1991. However, officials in the boat-manufacturing industry tell me that the loss is far worse, ranging between 20,000 and 25,000 jobs. The committee also found that the combined cost of the revenue lost and the increased outlays from this unemployment is \$18.4 million, exceeding the \$3 million revenue gain anticipated by a margin of better than 6 to 1.

Mr. President, North Carolina is one of America's 10 largest boatbuilding States. It once was home to some of the country's largest boat building industries. But this tax has devastated the boating industry: Hatteras Yachts in High Point has lost 500 jobs due to the tax; Davis Yacht in Wanchese lost several hundred jobs; and Carver Boat Co. closed their Pender County boat factory.

This tax has also affected the businesses that supply the boat builders with products like diesel engines, wood wiring, paint, and fiberglass.

Many citizens of North Carolina are waiting for Congress to repeal the foolish luxury tax on boats. It is time for Congress to admit its mistake and repeal the luxury tax on boats as soon as possible.

Mr. DURENBERGER. Mr. President, I rise today to support my colleague from Rhode Island in his mission to save the American boating industry

from the road to ruin on which it now finds itself. I appreciate the fact that this bill may not be introduced in connection with today's pending legislation, but will be addressed upon the arrival in the Senate of a tax bill originating in the House. However, I wish to speak about this vitally important issue, so that my colleagues may understand the suffering of the boatbuilding industry, and that I may ensure it's being addressed as soon as possible.

When this tax was originally created in 1990, the intent was to enact symbolic measures aimed at the country's wealthier individuals in lieu of increasing the marginal tax rates. The provision enacting a 10-percent luxury tax on boats costing over \$100,000 was implemented without hearings and without a thorough examination of the true impact of this tax on the industry as a whole. Well, the impact is certainly apparent today.

The impact has been the industry-wide devastation—within the first 6 months of 1991, sales of yachts of more than \$100,000 were off by 70 percent from 1990. Industry estimates show that it has lost over \$1 billion in capital over the last 2 years. This has a severe impact upon an industry which is relatively small, yet has maintained the highest quality in the world and kept import penetration into the U.S. market to under 5 percent just 4 years ago.

Due to the significant hardship suffered as a result of the dramatic drop-off of sales, many previously thriving, healthy companies have been forced out of business. Since this inequitable tax was added to the sale of these boats, the industry has seen a third of the U.S. yacht-building companies go out of production during the last year.

This figure represents 100 manufacturing companies, both builders and suppliers, who have closed down, been put out of business by their banks, or sought reorganization under the Bankruptcy Act. This leaves 25,000 individuals out of work. This is certainly not the time when our country can afford to drive an industry out of business.

We only hurt ourselves when we retain inequitable treatment of an industry that is suffering. The clock continues to run on the future of the boating industry, we must act immediately to assist those who have been unintentionally harmed by this tax. The impact of the tax was not sufficiently researched when it was put into place, and now that the effects have been felt, and we watch a once thriving industry rapidly disintegrate, we must move to rectify this situation. If we do not act immediately, we may not need to act at all, for this industry is on the brink of financial ruin and will not survive much longer without our help.

I have been told repeatedly by the boat builders in Minnesota how des-

perate the situation now is. One of my constituents, Jim Schueppert, has explained to me the vicious cycle in which the industry finds itself. Builders have attempted to absorb the tax themselves, rather than passing it on to the consumer, to stimulate sales. This, of course, leaves the company in a tenuous financial situation.

A majority of the builders have liquidated their company and personal resources to provide hard cash to stay in business. Failure to repeal this tax has caused a complete lack of confidence by auditors, lenders, suppliers, and investors. Accounting firms are refusing to give these companies going concern opinions in the certification of their financial statements. In effect, the auditors are saying that they probably won't stay in business, which results in a complete shut down of line of credit and is forcing insolvencies.

Not only are the banking industries avoiding working with the boatbuilding industry, customers have incentive to stay away as well. With the on-again off-again approach of the repeal of this tax, customers are delaying purchasing decisions until a repeal is passed.

The boatbuilding industry has been one of the great American success stories. It is highly respected throughout the world, and it has been very successful—employing a significant number of people, producing a high-quality product, and successfully thriving in the marketplace. Building one 60-foot boat will employ 60 people for 100 days. We cannot afford to allow this industry to disintegrate—an American institution is at stake, companies are at stake, people's futures are at stake.

I urge my colleagues to join with us to save this industry from a tax that is not serving the purpose for which it was intended. Bankrupting companies and laying off skilled workers is not aiding the economy. Quite the contrary, it is doing more harm than good. We must act now to save the boatbuilding industry before it is too late.

The PRESIDING OFFICER. The Chair recognizes the Senator from Iowa.

Mr. PACKWOOD. I wonder if the Senator from Iowa might withhold for a moment. The minority leader wants to come to the floor.

Mr. GRASSLEY. I would be glad to yield to him.

Mr. PACKWOOD. Why does not the Senator go ahead then until he comes.

The PRESIDING OFFICER. The Chair recognizes the Senator from Iowa.

Mr. GRASSLEY. I thank the Chair.

I want to tell my colleagues I am not going to offer an amendment. So for the floor leaders, Senator MOYNIHAN and Senator PACKWOOD, I want to speak on the bill and I want to speak primarily in relation to the deficit sit-

uation and how this \$5.7 billion of additional expenditures is a continuation of bad policy that we have had both under Republicans and now evidently under Democrats. I hope that we learn from the past and will not make the same mistakes of the past.

I want to also preface my remarks with a feeling on my part that I want to work with President Clinton. I think I can best help him by urging him not to make the mistakes that his predecessors have made.

He wants to reinvent Government. We ought to help him reinvent Government, but based upon new policies and not doing those things that lead to additional deficits.

I think also I speak with some authority on this business of deficits, because President Reagan—not so much under President Bush—as a Member of this body, I reminded all my Republican colleagues that when it came to defense expenditures, we Republicans are not as cautious in watching the taxpayers' dollars as we tend to be in areas like welfare and other domestic programs.

I reminded President Reagan—when he would talk about welfare spending—that we have military industrial welfare queens, or we have our own welfare queens in the defense industry.

So when I visit with my colleagues from the Democratic party, the majority party here in this body, and now in the Presidency, I would like to have my remarks not be seen as partisan. I have a responsibility to be an independent policymaker in a branch of the Government that is a check on the administrative branch, and that dictates that I not be a rubber stamp for a Republican President. It dictates that I not be a stumbling block for a Democratic President—I intend to work with the President when I agree with him; when I disagree with him, I intend to say so. But I also intend to have a responsible alternative.

I think Senator PACKWOOD had a responsible alternative, as an amendment, to pay for this bill. Now it looks like it is going to be passed without being paid for. That is bad policy. I simply want to point this out to my Democratic colleagues and a new President of learning, so that he does not repeat the mistakes of the past.

On this specific issue, then, as has been said so many times, President Bush and the Congress at least two times, maybe three times, reached bipartisan agreements that brought relief to hundreds of thousands of unemployed Americans. There is no question but that President Bush and most of Congress supported extended benefits. The only question of disagreement was whether the program would be paid for—maybe in part how it would be paid for—or whether instead we would increase the deficit.

To everyone's credit, in the last Congress on two or three occasions, we al-

ways found a way to pay for these unemployment benefits. And in the process of doing that, we held the line on deficit spending.

You know, when you have hundreds of billions of dollars of deficit spending, my friends out there in the grass-roots are going to raise the question: How is that holding the line? Well, it would have gotten worse, and it is going to get \$5.7 billion worse with this bill we are working on now because we are not paying for it.

Unfortunately, hard times have continued for many.

In the last Congress, we increased unemployment benefits in a responsible, bipartisan way by paying for it. This bill increases the debt. It does not pay the bill. We do not raise revenues; we do not cut spending anywhere else. It just adds to the debt. But there are still hard times for many.

Those are the unemployed.

As before, I agree there should be another extension of benefits. That is my personal view. But again, as in the last Congress, I believe that these benefits must be paid for instead of us increasing the deficit. Why should we ask our children and our grandchildren to pay for the cost of my generation's unemployed? It seems to me a very sound principle that any government ought to adopt; and that is, except in time of war, when the very existence of the Nation is at stake, each generation ought to pay its own way.

Republicans have been as negligent in that as Democrats have. That is just a statement of fact that is applicable to all Americans and to all parties. There is enough blame to go around. The President has said that better than I can say it. I am glad that the President is willing to say it because I think that is trying to show some non-partisanship, or at least bipartisanship.

That is why I supported the Packwood alternative, which paid for this in a responsible way by offsets, which offsets President Clinton himself supports because they are in his budget. We can still pass a responsible bill before the Saturday deadline, notwithstanding many of the arguments heard on the floor.

Under the terms of the underlying bill before us, the cost of unemployment insurance will not be paid for. That is the third time I have said it. I do not see how one can say it enough times.

We are increasing the deficit again by \$5.7 billion. That is the third time I have said that. You cannot say that too many times when you have the terrible fiscal situation we have.

Mr. President, from the standpoint of this bill passing, and signed by the President then, it is too much business as usual. This is not progress, then, on the deficit front.

I would like to put this a little bit more in context. President Clinton and

my Democratic brethren decry the fiscal evils of the past 12 years. Here is their argument, and this is an argument I agree with; this is a point where a Republican Senator agrees with what President Clinton has said.

They say: From 1976 to 1981, the United States racked up \$1 trillion of total national debt. During the first Reagan term, another \$1 trillion were added to the debt, in effect, then, doubling the debt of the previous 200 years. And that happened just in 4 years.

During the second Reagan term, another \$1 trillion were added to the debt. Then, during the Bush term, another \$1 trillion were added. That is an approximate figure. All of these are approximate figures.

So President Clinton is essentially correct in that statement. Each new term by another new President since 1981 brought another \$1 trillion added to the debt.

This is what I and many of my colleagues fought against throughout the decade of the eighties, when I proposed across-the-board spending freezes in the years of 1983-86, when just by freezing for 1 year—just by freezing—you could have a balanced budget in 2½ years, and that is without tax increases. I was joined, of course, in this effort by many of my Democratic colleagues. I appreciate that.

What we were trying to do, in a bipartisan fashion—I suppose the outstanding example of this is when Senator KASSEBAUM and Senator BIDEN and myself participated in a joint bipartisan effort to freeze across the board. What we were trying to do in those days was to gain a large and very decisive win against the massive buildup of debt that now is turning out to threaten the standard of living of future generations.

The debt is so large that each man, woman, and child in this country, whether they are working or not, would have to kick in more than \$16,000 to retire the debt. The total debt this year—that is, the accumulation of all the deficits that the Government runs up year after year—is going to be \$4.5 trillion.

This happens to be the most pernicious of taxes that we levy on the American people.

In a way, this can be considered an inheritance tax because future generations will pay for this deficit.

Let us be very frank. Sooner or later, societies, including ours, pay off the debt, either by taxes or by inflation, or with decades of spending surpluses. And we all know that it is not going to be spending surpluses that retires this debt.

President Clinton is right in decrying this buildup of debt and, of course, so is Ross Perot. And so are all of us. So the President was elected to do something about it. Indeed, he promised to do something about it. And so we now

have before us the President's plan to do something about it. I want to refer to this chart, Mr. President. This is how President Clinton is going to tackle this fundamental, pernicious, spiraling problem of national debt.

His plan, as you can see here, is to add \$1 trillion—\$916 billion to be exact—to that debt. I want to repeat that. That is \$1 trillion on top of 3 previous trillions of dollars added to the debt. And these are the President's own numbers, numbers that are in his plan.

This is very much a dramatic change from what we have been waiting for, as promised by a President. He promised change, to stem the spiraling debt. Yet here we have another almost \$1 trillion of new debt, and that will be at the end of 4 years of this new Presidency.

Mr. President, I submit that this is the most graphic, most lucid, and most irrefutable argument that the Clinton plan is simply business as usual. I suppose back in these days over here I said exactly the same thing, that this is too much business as usual. As an example, in my first 4 months in the U.S. Senate, we had a vote in the Budget Committee, which I still serve on, where three freshmen Republicans—at least three—voted against the first Reagan budget and stalled it, or killed it, for that period of time. It came back alive, as you know things around here do.

We voted against the first Reagan budget, because he promised a balanced budget at the end of his first term of office. He had a budget projection of a \$40 billion deficit at the end of that 4 years. How I would like to have a President Reagan, or a President Bush, or even a President Clinton come back here and propose a budget with a \$40 billion deficit in it. I would be very happy to vote for that. But I voted against it back then, 12 years ago, when I was a new Member of this body, because we had a President that promised something and he did not carry it out.

So I am saying to President Clinton, even if the figures are somewhat off from what you thought they were last summer, it is business as usual to have this sort of figure, regardless of how sincere you are. And if you do not see it as business as usual, I want to point it out as business as usual, because too many of us have been through this before.

The devil is not in the details, Mr. President. The devil happens to be in the bottom line, and this is the bottom line.

Different oxen might be gored, but that bottom line does not change. This is a formal proposal by the President to increase the debt on each individual in this country by an additional \$4,000 during the President's first term. That is a \$4,000 tax increase in effect added to the \$16,000 I spoke of earlier. This is simply a debt tax.

So, under the Clinton plan, we will not each owe \$16,000 of debt, but after 4

years, we will owe \$20,000 of debt. That is a 20-percent increase in what each of us owes toward debt under the Clinton 4-year plan.

Again, Mr. President, that is what the incumbent President, himself, is proposing. I am using his own numbers. The bottom line is that we will have another \$1 trillion of debt. That is not change. It is not what the country expects, and it is not what the country was promised.

Ross Perot, are you listening?

Let me go one step further to point out what a dangerous proposal this is by this administration. I have another chart. We always wonder whether or not Mr. Perot is going to make a lasting contribution to Government. He sure has with the explosion of charts that has shown up on Capitol Hill. He has done a good job of knowing how to explain his message. We are not all quite used to it yet, but I think he will cause us all to get used to it.

This chart shows how the debt has swelled under each President. It shows Reagan's first term, his second term, and it shows Bush's only term, and these are all actual numbers to this point, through the Republican Presidencies; each of these bars are actual numbers. It shows the Clinton numbers, and the Clinton numbers, of course, are not actual, but only proposed numbers. Again, those are his numbers.

Under Reagan's first term, his four deficits added to \$733 billion. Again, these are actual deficits accumulated. They do not include the compounding effect on the debt, which would bring the figure closer to \$1 trillion. During his second term, Reagan added a \$679 billion to the debt. Under Bush, of course, was added one and one-tenth trillion dollars.

These are all ex post facto actual deficits. So that we may more fully understand the Clinton plan, let me compare the Clinton proposal with the Reagan and Bush records. Of course, to compare the Clinton plan with the Reagan and Bush ex post facto records is, of course, mixing apples and oranges and would not be fair to Reagan or Bush, because actual records are always worse than their proposals. These are the proposals. This here, is what he thought he was going to add to the debt, and this is for Bush. Actually, it is much worse.

Typically, one has to be careful to compare records with records and proposals with proposals. Nonetheless, even though a comparison would not be fair to Reagan and Bush, and in the spirit of extending good will to the new President, let us anyway draw such a comparison of President Clinton's proposals with the records of the Bush and Reagan years. Of course, I must point out that such a comparison is inherently overgenerous to President Clinton.

Nevertheless, even on that score, President Clinton's proposal is just as bad as the Reagan and Bush records. Reagan did not propose to add \$733 billion to the debt in his first term. He did not propose doing this. This is what he proposed to do. This is what actually happened. Reagan also did not propose this in his second term. Bush proposed this deficit after 4 years. This is what he ended up with.

So I want to try to lay out here for you the apples and oranges. Look at the initial budget proposed, and then you see what each budget proposal added to the next 4 years. This is, of course, what you ended up with at the end of each of those particular times. This particular instance, as I said, is what he proposed in his first term, and what he ended up with.

Now, there might be a slight mismatch at this point, Mr. President, because this is a little closer to what was proposed to be left over in debt and what actually ended up in debt.

And in reality, this mismatch may have been because there was some discipline brought as a result of Gramm-Rudman or it may have been just this simple: That maybe a President in his second term, such as Reagan was, does not have any incentive to be overly optimistic in numbers. And you know that overoptimism is what creates these problems.

We always estimate that much more revenue will come in than what comes in. We are always saying things are going to cost less than they really end up costing. If we could just be more honest in the approach—and I compliment, also, President Clinton for attempting to do this, although I think I can make a point that, when he chooses CBO, that really is not a whole lot better than OMB.

Of course, the worst mismatch here was during the Bush term, when we were going to add \$187 billion, supposedly, to the national debt and the reality of it is we ended up with \$1.1 trillion.

So that brings us to President Clinton's plan—and this is a plan; these are not real numbers, but they are his numbers—to increase the debt by \$916 billion over the next 4 years. And, of course, we will not know for 4 years what the actual results will be. This is just a plan. But this is an optimistic plan.

One thing is for sure. All the forces in the universe, not to mention inside the beltway, will conspire to cause the actual debt—that will be out here at the end of 4 years—all of these forces of the universe and all the forces within the beltway are going to conspire to cause the actual debt generated by this plan to be much, much greater. Just like it was much, much greater under 12 years of Republicans.

The plan is bad enough just on its face. Can we imagine how bad it is

going to be when we put a bar here 4 years from now, if history just simply repeats itself? Just history repeating itself.

In short, this is a terribly perilous place from which to start. Starting right here, as we are right now. We are starting right here, but this is projected. It is perilous. The plan represents hitting the ground backpedaling. And there is little reason with which to hope that plans will become reality. And I want to elaborate on that.

They cannot use the argument that the Clinton plan is different because they are using realistic numbers. That argument would only acknowledge the fact that this plan represents business as usual—adding \$1 trillion to the debt is definitely business as usual. That is the bottom line.

Moreover, recent CBO estimates for predicting the deficit are nearly as bad, historically, as OMB's. The average miscalculation during the 1980's was \$40 billion per year during 10 years. Over \$40 billion on projections.

This administration also cannot use the argument that things would have gotten much worse without the Clinton plan. That argument can also be used by every other former President, as well. But you use that argument and the bottom line is still the status quo.

And there are other more immediate factors that militate against hope for realizing the President's numbers here—this bar. The President has not yet even calculated into the deficit the cost of the RTC payments. That will add tens of billions of dollars more to the debt.

Also, economists are lining up in observation that the President's revenue numbers are substantially overestimated. This may increase the debt by an additional \$50 billion to \$75 billion over the next 4 years.

Here is a place we can learn a lesson from just 3 years ago: The 1990 budget agreement, in which President Bush broke his promise of no tax increases. I voted against that. But, regardless of that, new changes in Gramm-Rudman allowed us to simply reestimate for technical reasons and then extend the deficit and the debt limit. In just 4 months, the debt had grown by something like \$75 billion or \$90 billion.

So there is every reason, judging from past precedent, to think that this \$50 to \$75 billion will get worse in 4 years.

This means that we will not, in fact, owe an additional \$4,000 each under the Clinton plan. It may be \$5,000 or \$6,000. Who really knows? For sure, it is going to be higher. It may be much, much higher.

The fact is, Mr. President, that the Clinton plan is a poor starting point. And all indications are that—once again, as with President Reagan and President Bush—let me make that

clear, because I am a Republican—once again, we are going to make the same bad decisions that were made under a Reagan and Bush Presidency, and that is that reality will be far worse than what is proposed. That is not questioning President Clinton's sincerity or any efforts that he wants to improve things. The reality of it is, it is not going to.

As I said earlier, the devil is the bottom line. And the bottom line of this plan is that it is business as usual. It is not change. It proposes to add another trillion dollars of debt. It comes dangerously close to ignoring the predicament of debt accumulation and the phenomenon of plans-versus-reality mismatch.

Again, Ross Perot, are you listening? And, in a sense, America, are you listening?

This plan is too much like the Reagan I plan, the Reagan II plan, and the Bush I plan.

So America, I hope you can help us strip this plan of its false advertising and get it back to the drawing board; or let the President work with us up here on the Hill to bring down the expenditures, not increase funding for new programs and maybe increase some taxes.

I do not like to increase taxes, and I am not advocating an increase in taxes. But that is a possible compromise.

If you just do not spend a lot of new money, make sure that every cent is reducing present programs and any new taxes go dollar for dollar for a reduction in the deficit, I think that is what the American people out there want us to do here within the beltway.

Do we really want a plan that adds a \$1 trillion to the debt over the next 4 years, using President Clinton's numbers, adding \$4,000 or \$5,000 or more for what each of us owes on top of that \$16,000 that, for the most, is a result of these 12 years?

Unless we demand change and unless their feet are held to the fire, we will continue business as usual.

Now, that brings me back to this unemployment compensation bill.

This is the President's first bill. I know we have signed one that was vetoed by previous Republican Presidents dealing with family medical leave that the President signed, but this is the first proposal coming out of this administration.

What a tone this bill from the White House is setting. What a signal it is sending. We are not going to hold the line on the deficit—that is really what it says—because we are adding \$5.7 billion. And that is notwithstanding the rhetoric to the contrary.

One of the things we in Government must be more careful about is the rhetoric, both on the campaign trail as well as beyond the campaign trail; that our performance in office is commensurate with that rhetoric.

Last week, the Secretary of Labor stated that this bill is only the first of many so-called emergencies that will increase the deficit. So we are not talking about just once passing a bill here that is going to increase the deficit by \$5.7 billion. There is more coming down the pike. We are going to increase the deficit rather than pay for it with revenues or by reducing spending elsewhere.

Mr. President, the sound you hear, from the bill we have before us, plus, as the Secretary of Labor said, a lot of other bills coming down the pike, is the sound of the floodgates opening.

I fear the people back home, at the grassroots, are simply going to see that the debt is not an issue with this administration. It is surely not an issue with this Congress. Let us all be clear about that. People in this country want to contribute to debt reduction. But they will not want to, I believe, when they learn about how little this plan does to lower that debt. That is why I think we ought to still be looking, before we pass this bill, for ways to pay for it.

One final comment. There certainly has been change. But it is kind of a two-dimensional change. What was fully funded under Reagan and Bush is underfunded in the Clinton budget. What was underfunded in Reagan and Bush is fully funded in the Clinton budget. What was undertaxed in the Reagan/Bush budgets is fully taxed in the Clinton budget. What was fully taxed under Reagan/Bush is undertaxed in this budget.

Mr. President, I submit, yes, this is certainly change. But all it does is take all of the chairs that were on one side of the *Titanic* and move them to the other side. But the *Titanic* is still headed toward that iceberg.

The PRESIDING OFFICER. The Chair recognizes the Senator from Pennsylvania.

Mr. WOFFORD. Mr. President, we have had signs of an improving economy. But no matter what the experts say about the economy's health, the fact of the matter is, it is not producing enough jobs.

As the President has said, there is no recovery worth its name that does not create jobs.

And as the layoffs from Sears, IBM, Boeing, and GM vividly show, we are still losing good manufacturing jobs in my State and around the country.

Twelve years of policies that quadrupled our Federal debt, that gave tax breaks to the wealthiest while most Americans struggled harder just to stay even, and failed to invest in our future productivity, these policies have put this economy on the wrong track.

This is the time for a major change in course that turns our economy around for the long term. But there is a deadline facing us with unemployment compensation benefits running out.

The long-term plan that we need action on soon is what the President's program presented to us is designed to do.

The Senator from Iowa and other Senators have been using this occasion, today, the crisis of the unemployment compensation benefits running out for hundreds of thousands and then millions of Americans, as an occasion to debate the President's overall economic plan. I am ready for that debate. I relish it. I look forward to it. I hope we will carry it through to action, and action soon. But that is not the issue today. The issue today is a deadline facing us. The long-term problem is crucial. But in the meantime we have to face up to the short-term challenge facing millions of American families who were victimized by a long, lingering recession.

For those who lost their jobs through no fault of their own, this recession has not ended. Extending unemployment compensation benefits is only a temporary stopgap, but it is a vital and a necessary one, not only for the people who need the help but for an economy that needs them to return to the work force.

This legislation also makes significant improvements to the unemployment compensation system. While I was Pennsylvania's secretary of labor I saw firsthand the problems and also the promise of our unemployment compensation system.

And much like legislation that I have introduced, this bill asks and encourages the States to review the reemployment prospects of workers soon after they have lost their jobs, so they can receive necessary services and training before they exhaust their benefits. This kind of early intervention makes it much more likely that people can receive the retraining and placement service they need to get a job.

There are other improvements that can still be made. For example, unemployment funds should be used more creatively to support worker retraining, job placement, and even new business formation. We have done some of that in Pennsylvania and I hope we will turn to that in due course in this body.

But the bill we pass today of course must be paid for. We cannot take the matter of the Federal deficit lightly—for its quadrupling over the past decade is robbing our children of their jobs and opportunities for the future, and the President's economic plan is designed to enable us to pay for what we do in this society our ours. But at the same time, we cannot allow the pain of that deficit reduction to fall on these families who are already suffering due to a weak economy. That would not only be cruel and unfair, it would be penny-wise and dollar-foolish. For it is the children of those unemployed workers who will suffer the most if

their families cannot afford groceries, or house payments, or shoes for school.

Extending unemployment benefits was the very first issue I pressed with my colleagues when I arrived here, nearly 2 years ago, knowing how people in Pennsylvania were hurting because their unemployment compensation benefits were running out. It is too bad we had to pass such legislation three times before it was finally signed, and the help reached the people who needed it. It is even more disappointing that the need for continued action remains so great today.

I hope the work we do in the months ahead to invest in our economy, to cut the deficit, to control the skyrocketing cost of health care, to reduce spending, will give us a strong and a growing economy so we can concentrate on training people for new employment, instead of compensating them for unemployment. That must be our goal. But first things first. Let us help the people who need it right now, this week, today, before the deadline comes. And make long-term improvements to the Federal-State employment compensation while we are doing it.

I thank the Chair and yield the floor.

Mr. MOYNIHAN. Mr. President, before the Senator from Pennsylvania has to leave the floor, may I thank him for such an able and thoughtful statement. It comes with the authority of someone who has concerned himself with these issues for a generation now—two generations, in political terms.

The Senator cannot but have been pleased to see President Clinton go to New Jersey earlier this week to propose a national service program of the kind that the Senator from Pennsylvania has been proposing quietly, forcefully, patiently, persistently for the last 30 years, modeled on the Peace Corps, which he invented and helped to create just 32 years ago, I believe, as the President was speaking on the anniversary of that occasion; finding work, finding service, finding a role in life for young people.

If there is anything we do badly in this country, and there are many things we do not do well, it is that transition from childhood youth to an adult role in the economy that many of the societies work out so much better than we and the persistent problems of employment beyond any expectation of 32 years ago. We would have a world of millions of men and women out of work, unemployment going on 26 weeks, 52 weeks, and the economy not responding.

In those years, the Council of Economic Advisers thought to establish as a goal for the Nation a 4-percent unemployment rate and in the Department of Labor, it was protested that it was too high. It agreed to an interim number. We are still at it. Thanks be to

God the Senator from Pennsylvania is still here to guide us. I really want to thank him.

Mr. WOFFORD. I thank the Senator from New York and I will point out that the President's program for national service has a direct impact on what we are talking about today. The opportunities for young people coming out of school into a world where jobs are few are being further reduced by the number of young people who will no longer have opportunities in the military as the military is reducing recruiting from 300,000 young people a year to 200,000 young people a year. In a few years, there will be approximately 100,000 less young people having opportunities for serving the country through the military.

So the President's program that will in a few years offer 100,000 opportunities for young people to engage in full-time civilian service is in part making up for the future loss of opportunities for national service in the military.

I think that if there is anything we should know by now it is a scandal to let a new generation of young people come out of school into the streets, into unemployment without the opportunity, without the prospect of making a difference, of learning what effective work and teamwork can be. In many cases the military has provided these youth with an alternative path full of opportunities. Much in the same way, youth service programs, whether the Peace Corps overseas, the Philadelphia Youth City Corps, City Corps in Massachusetts, or scores of service corps across the country, have provided young people, including the most disadvantaged young people, with opportunities and they have learned that it is better to serve than to be served.

That first Peace Corps volunteer who was quoted many years ago on the White House lawn as to why did the silent generation respond to the Peace Corps by the hundreds of thousands said, "Nobody had ever asked me to do anything unselfish, patriotic, or for the common good. Kennedy asked."

I prodded a Philadelphia Youth Service Corps member who had been in a street gang, a dropout but was a star member of this service corps that was building habitat homes and learning how to build their lives while helping their community, as to why he chose to take this hardest job he ever loved. He said, "I just got tired of people all the time helping me." He said, "I got tired of people doing good against me. All my life people were coming to help me, and this was the first time I had ever been asked to help."

That is the psychological spirit that I think can make a tremendous difference for our young people so they do not come to the unemployment offices, so they go from school into a chance to serve their communities and in that learn teamwork and responsibility and

initiative and start out to become productive workers and good citizens.

So I think the President's program that was launched on Monday at Rutgers is directly in line with a strategy to get our country back on the right track.

Mr. MOYNIHAN. It would not be too much to speak of it as HARRIS WOFFORD's program. We will leave it there. That wonderful phrase, "doing good against me," is a brilliant phrase.

Mr. WOFFORD. It is a psychological principle that we should learn and turn upside down the patronizing approach in which we are seeing young people as dangers to be dealt with, as problems to be solved rather than as resources, as talent to be tapped. I thank the Senator.

Mr. MOYNIHAN. I thank the Senator.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER (Mr. SHELBY). The Senator from Ohio.

#### MORNING BUSINESS

Mr. METZENBAUM. Mr. President, I ask unanimous consent that there now be a period for morning business not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### HEALTH CARE REFORM

Mr. METZENBAUM. Mr. President, in the past several months, I have grown increasingly enthused and optimistic over the prospect of real reform in our Nation's health care system. It seems to me that the Clinton administration has set both the proper tone and pace to result in an imaginative overhaul of a system that has become exceedingly wasteful for our Government, hurtful to our national economy, unaffordable to American consumers, and excessively profitable for a relatively few vested special interests.

I continue to feel a healthy sense of optimism over the promise for real health care reform—although I admit that reading Sunday's New York Times sent chills up my spine and left me feeling ill at ease. The front page of the Times' business section reported on the workings of a "potent brain trust on health reform."

My eyes then shifted to a large photo of the group in its deliberations. Immediately my heart sank. There, gathered in casual comfort, totally relaxed around a cozy sectional sofa in a Wyoming ski resort, were a roomful of middle-aged men on the Fortune 500 roll-call: Prudential Insurance Co., CIGNA Insurance, General Electric, PepsiCo, Aetna Insurance, Kaiser, the American Medical Association, the Pharmaceutical Manufacturers Association, and many more.

If this picture is worth a thousand words, "change" is not one of them.

That group wants to maintain the status quo.

The Jackson Hole group is comprised of individuals who represent insurance companies, drugmakers, hospitals, doctors, and big business. A few academics, consultants and lawyers round out the roster.

Mr. President, I am certain that each of these people is intelligent, capable and accomplished in his or her field. I certainly do not question anyone's right to attempt to influence the policymaking process. And I am pleased that Mr. Magaziner, on behalf of Hillary Clinton's Health Care Task Force, took the time to hear from the group. That is important; it is appropriate. Mr. Magaziner and the Hillary Clinton group should be hearing from all groups.

So while the group's right to gather to formulate policy proposals is unquestioned, I do question the motives—or better stated, I question the objectives of many in that group. Again, not for any dark, nefarious or underhanded dealings. I do not see any hidden agenda—it ought to be plain for anyone to see.

Insurance company executives are looking out for insurance company interests. Drug companies want to protect what they have. The AMA takes care of doctors. You do not need any masters degree in public policy to figure that out. So I do not care if this group gets together to brainstorm, or to draft proposals, or to dress up in cowboy outfits, for that matter.

I care a great deal, however, about any presumption that the results of these meetings will set the appropriate course for the Clinton administration's goals. How, for instance, can we expect representatives of the pharmaceutical industry to recommend a proposal to contain out-of-control costs to consumers? Drug prices mean drug company profits, and CEO's are ultimately responsible to their shareholders. We have already heard the drug industry's response to reform; that it will wreck the industry, stifle innovation, and halt medical progress—this from an industry that raised prices by almost 130 percent during the 1980's; this from an industry that has been hiking those prices mostly on drugs already on the market; this from an industry which puts most of its development efforts toward sure-fire, me-too drugs and spends far more money marketing those products than in researching breakthrough medicine.

These are the people whom we are supposed to trust? These are the ones who are going to conceptualize a new health care program for our country? These are the ones who are going to spend their time working in order to help every American have a decent health care plan? And included in that group was also representatives of the insurance industry. The Jackson Hole

group includes executives of many of the Nation's largest insurance companies. It reads like a blueblood list of insurance companies: Aetna, Prudential, Met Life, CIGNA, Blue Cross/Blue Shield. These same insurance companies champion managed competition, a system in which those large insurance companies are supposed—supposed—to compete against each other to provide affordable health benefits.

Mr. President, no one should be under any illusions about what is really afoot here. It should be clear that the insurance industry plans to lobby long and hard to protect the insurance industry's role in a restricted health care system.

But those interests have become a leech upon our health care system, bleeding us and the American people of untold billions. Of the \$840 billion spent on health care last year, \$460 billion went to insurance companies. And out of that \$460 billion, approximately 25 percent or \$115 billion was wasted on redundant administration and paperwork.

Mr. President, this is a tragedy and a travesty.

Some companies spend up to 40 percent of health care premiums on administrative costs. That \$115 billion could have been used to provide health care to the 37 million Americans who have no health insurance.

Not only are insurance companies wasting our health care dollars, but their strategic trend is to cover the people who are the healthiest and least likely to file claims for benefits. They spent endless amounts of premium dollars shopping around for, and marketing, to healthy individuals.

When individuals do file claims for benefits, claims go unpaid for months and individuals are hassled with endless paperwork before claims are paid. Insurance companies constantly come up with new ways not to pay claims. They have put clauses in their contracts denying payment for preexisting conditions, services that they do not consider medically necessary, services that they consider are experimental, and a host of other clauses to deny the individual payment of his or her claim. They use exorbitant deductibles, copayments, and other monetary caps on benefits as part of their endless game of dodging legitimate benefit payments.

Where this all leads should be clear to everybody involved in the health care debate. Managed competition is the pride and product of the Jackson Hole group—and the Jackson Hole group is the sum of its parts—the insurance industry, the drug industry, the AMA, the hospitals, and big business. You can therefore be absolutely certain that the managed competition concept is the program that these special interests will fight for in order to preserve their lucrative role in our health care system.

I already hear some of their spokespersons coming to the floor of the Senate to argue for, and to read, speeches given to them about what a great idea it is to have managed competition. But the truth is, their position in the health care system must change fundamentally. In the case of the insurance industry, that role should be eliminated altogether, or if not altogether, they ought to have but a minimum role in order to provide the administrative services.

The insurance industry is the seed of the problem. We cannot expect them to sow the solution. If they were to have some minimum role, it ought to be an extremely low figure, just to provide for covering of the administrative costs. But that is not what is the case today. The insurance industry is not only getting the administrative costs covered, we are paying for the duplication, we are paying for the competitive aspects, we are paying for the insurance industry, salespersons, we are paying for the executive salaries in the insurance industry. They are a leech upon the American health care system at the present time.

But they are not the only ones. The AMA, the drug companies, the hospital associations, and big business are all looking to protect themselves first, and managed competition is their ticket.

We have to create a health care system in which all Americans have a right to coverage and to a standard set of benefits. We have to cut out the middleman, whom we can no longer afford.

Foremost, health care reform must be designed in the interest of the people who need health care, the patients. Before the doctors and the hospitals, and certainly before the drug and the insurance companies, the needs of the patient must come first.

Let the Jackson Hole group and the other special interests lobby on. That is their right. But we should spend the bulk of our time listening to the people who matter, the American people. They are the ones who are suffering under our current system. They are the ones for whom the system must be restructured. We must listen to them and stand up to the high-priced lobbyists out to save their fees and profits.

I commend the President and his wife for bringing together a large group of individuals who are experts in the field, who have the experience, who will be able to sift out the good from the bad. I think it is the most meaningful exercise that any President who has led this Nation has put together in order to provide a health care system good for all the people of this country.

But the fact is, managed competition, which is being advocated as a program of the special interests, has to be recognized for what it is. It has to be sifted down to the reality of managed competition. And that means that we

need a program for all Americans. I do not believe that managed competition is the answer. I do not know whether single pay is the answer. I joined in putting in such a piece of legislation today. But I have confidence that the President's wife and the group that she has put together will bring about a system that is good for this Nation, that provides a health care system that all of us want to have in place to leave to those who come after us in this country. I believe a good program will come out of that effort, that task force that Hillary Clinton has put together. I look forward to working with it.

But I felt that the efforts of the Jackson Hole group to foist upon the American people the so-called concept of managed competition ought to be exposed for what it is. All of us owe the "New York Times" a debt of gratitude for their article of last Sunday. I ask unanimous consent at this time that the entire article be printed in the RECORD.

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

[From the New York Times, Feb. 28, 1993]

HILLARY CLINTON'S POTENT BRAIN TRUST ON HEALTH REFORM  
(By Robin Toner)

WASHINGTON.—The Clock is running on the Clinton Administration's task force on health care, which now has only two months to produce a comprehensive restructuring of a system that has resisted comprehensive restructuring for years. But Ira C. Magaziner, who is running the mammoth policy-making enterprise with First Lady Hillary Rodham Clinton, still found time last week to make the long trip to the Tetons.

There he met with a loose-knit group of experts that has become one of the most important influences in the shaping of the Clinton plan. Known as the Jackson Hole Group for the Wyoming ski town where its members meet, it has included over the past three years about 100 academics; executives from the insurance, hospital and pharmaceutical industries; physicians; representatives of business and assorted policy makers.

Although Mrs. Clinton did not attend the session, she demurred regretfully and respectfully. The Jackson Hole Group is, at the moment, hot—the leading proponent of "managed competition," an approach to health insurance that was embraced by President Clinton during last year's campaign and thus moved to the center of the policy debate.

To understand the shadowy fascination of the Jackson Hole Group, one must first understand this: An exercise in policy-making that affects virtually every major constituent, interest group and business is under way in Washington, and it is largely taking place in endless meetings of working groups behind closed doors. In such a blackout, deciphering the intellectual forces at work on Mrs. Clinton and her top advisers might hint at the outcome. While Mrs. Clinton and Mr. Magaziner have marshaled more than 300 experts to assemble the health reform proposal by May 1, the Jackson Hole Group has already provided much of the basic blueprint.

HOW IT WORKS

Managed competition is still, as Mr. Clinton's political adviser James Carville puts it,

a term that "no person has ever heard of, only intellectual forces." And it has its critics, including those who call it a kind of Insurance Industry Preservation Act and those who question whether it alone will truly control medical costs. But it has gained a wide following in recent years.

In theory, it would band employers and individuals into large cooperatives to purchase health insurance, giving small businesses and individuals the same bargaining power as big companies. On the other end, it would force doctors, hospitals and insurers to form partnerships that would compete for the cooperatives' business, each trying to offer the highest-quality but least-expensive health plan.

The thinking is that such competition—overseen by a National Health Board establishing standards for benefit plans—would hold down medical costs yet improve health care. As for Americans currently uninsured, contributions from employers and the Government would allow them to join a cooperative.

Two of the principal advocates of managed competition are Alain C. Enthoven, a professor of economics at Stanford University, who began formulating these ideas back in the 1970's, and Dr. Paul M. Ellwood, a pediatric neurologist from Minnesota who is widely considered a father of health maintenance organizations.

While the informal meetings at Dr. Ellwood's home in Jackson Hole have taken place for 20 years, they—and the concept of managed competition—received little attention until soaring medical costs forced policy makers on the state and national level to seriously consider change. The concept was set forth in 1991 in a formal document: "The 21st Century American Health System—Managed Competition: A Proposal for Public and Private Health Care Reform."

Around that time, various versions of managed competition began creeping into the political process. The theory was embraced by a group of conservative Democrats on Capitol Hill, led by Representative Jim Cooper of Tennessee by former Senator Paul E. Tsongas of Massachusetts, and ultimately by President Bush and Mr. Clinton. The editorial page of *The New York Times* also played an important role with a number of editorials in support of managed competition, according to longtime players in the debate.

The group and its proposal have many fans, who see it as a sweeping reform of the health-care system that is sensitive to American culture and sensibilities; the very name sounds like a muscular but orderly capitalism. It also has a strong political appeal for elected officials who fear that other widely discussed alternatives, including a Government-run system like Canada's, are too radical or too costly to sell to the voters.

#### THE DISBELIEVERS

The group and its ideas have legions of critics and skeptics. "If you get it down to sea level, it doesn't do anything, which is why everybody likes it," said Representative Pete Stark, the California Democrat who is chairman of the health subcommittee of the House Ways and Means Committee. "There's no new taxes needed, it provides universal access, and if you believe all that, that's somewhere between the tooth fairy and the chuckling oyster."

More specifically, many critics see the Jackson Hole philosophy as an attempt to stave off true reform and preserve the lucrative franchises of the establishments that dominate health care—especially the insur-

ance industry. Dr. Steffie Woolhandler, an assistant professor of medicine at Harvard and a founder of Physicians for a National Health Program, a supporter of a Canadian-style system, says: "Managed competition is a last-ditch effort to preserve a role for the insurance industry in health care."

Dr. Ellwood says he was only trying to bring together all the players in the health-care system and sit them down in his living room to hunt for solutions. "The basic problem with the health industry is, here's this huge industry and there's no obvious leader," he said in an interview. "In order to get some sense of consensus, some sense of what could be accomplished, the device I used was to informally assemble leaders to focus on the problems."

Dr. Ellwood, who practiced medicine for 17 years, has been advising and consulting on health policy and planning for many years through the research group he founded, called InterStudy. Mr. Enthoven, a former economist with the Rand Corporation and an assistant Secretary of Defense under President Johnson, has also consulted and written extensively on health issues. Along with Lynn M. Etheredge, a Washington-based health-care consultant, those two are considered the principal architects of the Jackson Hole initiative.

The insurance industry and the medical profession are both well represented in the group, as is the pharmaceutical industry, which has been criticized by both Clintons lately.

Jackson Hole Group organizers are careful to note that not all the participants support the group's formal proposal. Mr. Enthoven said in an interview: "What was valuable is that we brought together people from many perspectives. We learned from each other."

Dr. Ellwood said the organizers "go to great lengths psychologically to make this meeting work." Participants dress casually and engage in opening ceremonies and skits, occasionally in frontier or Western attire. (Mr. Magaziner, reflecting Washington more than Wyoming, showed up in a suit.)

Last weekend's meeting was technical, detailed and focused on the practical problems of moving toward a system of managed competition. Dr. Ellwood said. Mr. Magaziner, who attended on Sunday, briefed the group and sought proposals on cost containment. Dr. Ellwood added.

The links go beyond that meeting. Mr. Enthoven and Mr. Etheredge and among the consultants to the Clinton task force, for example. (The culture of secrecy is such that the White House refuses to provide a full list of consultants brought in to aid in the effort.)

Jackson Hole leaders also briefed Mrs. Clinton a few weeks ago. "Clearly, the Jackson Hole group is seen as the intellectual brain trust for the managed competition model," said Bob Boorstin, the White House spokesman for the health-care task force. "Given that they obviously played a very, very strong indirect role in what has evolved into the President's plan."

But, as Mr. Boorstin suggests, the President's plan will be the President's plan. The health-care task force is widely expected to propose some form of managed competition, but one with some kind of cap on overall medical spending. "We don't like it," Dr. Ellwood said, "mostly because we don't think it's practical. You don't get a market started by slapping price controls on it."

#### IS IT ENOUGH?

But if the Clinton Administration hopes to control medical costs and provide coverage

to the more than 35 million Americans without health insurance, it badly needs savings from health-care reform, and quickly. And the Congressional Budget Office has suggested that managed competition—like other alternatives—will take substantial time to produce significant savings.

Helping to meld these imperatives into a coherent policy are Mr. Magaziner, senior White House domestic policy adviser, and Judith Feder, who is coordinating the operation in Health and Human Services. (Both denied requests for interviews through White House spokesman.)

On the intellectual front, Paul Starr, the Princeton sociologist who won the Pulitzer Prize for his book "The Social Transformation of American Medicine," is closely watched for making the case for a grand compromise. He recently made such an attempt in an article in *Health Affairs* magazine with Walter A. Zelman, special deputy for health issues to California's Insurance Commissioner, John Garamendi.

Mr. Starr and Mr. Zelman, who are advising the task force, argued that a system combining managed competition with some form of spending limits is the answer.

In fact, many analysts suggested that if Mr. Clinton holds true to form, his health-care policy will almost certainly be the "third way" he so often seeks in truly polarized debates—not pure Jackson Hole, not total regulation, but something that seeks to meet the progressive goals of making health insurance more affordable and more widely available without utterly dismantling the American system.

For now, however, the Jackson Hole Group is engaging in a little pride of parentage. "We're acting like it's going to happen," said Dr. Ellwood in an interview this week, far from the Tetons, but just a few blocks from the Capitol.

#### EMERGENCY UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1993

The Senate continued with the consideration of the bill.

Mr. MITCHELL, Mr. President, I have discussed with the managers of the bill the status of the bill. We completed voting on an amendment over an hour ago. This is a very important measure. We are awaiting final action so the measure can go to the President for signature prior to the legal expiration of this program later this week.

I know the managers have been very diligent in proceeding, and I know they want to get this bill completed. I inquire of the managers, is there any reason why we cannot vote on final passage now; or if there are amendments to be offered, whether the Senators who are going to offer amendments will come to the Senate floor and offer the amendments?

Mr. MOYNIHAN. May I say, Mr. President, there are no amendments from this side of the aisle, so we are in a position to vote, to go to final passage directly.

I believe my distinguished colleague would wish to comment on his side.

Mr. PACKWOOD. To the best of my knowledge, Mr. President, Senator DOLE does have an amendment, and

Senator BROWN. I believe Senator BROWN is not quite ready to present his amendment yet but will be shortly after lunch. Senator DOLE has indicated his amendment will not take too long.

Those are the two I know of. My intuition tells me there will not be any others, but the Senator has been in this body long enough to know that intuition is not always correct. But I know those are the two that will be offered.

Mr. MITCHELL. Mr. President, might I inquire of the distinguished Senator from Oregon whether it would be possible to get one or both of the Senators who have amendments to come to the Senate floor to offer them so that we can proceed?

Mr. PACKWOOD. I will check. I know the Senator from Colorado said he would not be ready until about 2 o'clock. He is putting the last of it together. I do not know if the Senator wants to suggest a recess until 1:30 or a quarter to 2, but I think they will be ready this afternoon.

Mr. MITCHELL. Mr. President, I just want to say that first I have received, as I do every day, a number of calls and requests from Senators wanting to know what the schedule will be for later today; when we will finish this bill. That is a daily occurrence. I do not mean to suggest it is unusual on this day. But I announced weeks ago that we were going to bring this bill up at this time. I did so in an effort to be responsive to a suggestion made by the distinguished Republican leader, my friend and colleague, that I announce schedules in advance so Senators could be notified to what bills would be coming up, in part so they could prepare their amendments and be ready to go forward with them.

I know Senator DOLE's amendment will not take very long, so that is not a problem. We can do that at any time. I hope the Senator could contact the Senator from Colorado and see if it would be possible to start as soon as possible.

Mr. PACKWOOD. I know the Senator from Colorado is not ready, but he will be ready. He is not intending to delay this bill.

I have been handed a note that Senator KASSEBAUM may have an amendment on the Job Training Partnership Act.

Mr. MOYNIHAN. Will the majority leader allow me a remark?

Mr. MITCHELL. Yes, certainly.

Mr. MOYNIHAN. Mr. President, I wish Senators would understand that we have a deadline of midnight on Saturday, when this program expires. We have had our vote. By a most emphatic vote of 57 to 42 we have said: Pass this measure; get it back to the House, as it must return, in identical form. And we will in fact move to substitute the House measure, which is here on the calendar. We have to send that back.

Now, there will be time for the Job Partnership Training Act, and anybody would want to hear what the Senator from Kansas wants to say, in the context of a measure dealing with that subject.

The measure of the Senator from Colorado, I am sure, will be of interest. But if he has not decided, does not know what it is yet, I do not know what more he is going to know at 2 o'clock. The Republican leader can come and we can dispose of that matter very directly. But there is no reason we should not be done with this now.

We have had in our testimony the representatives of the State employment agencies specifically asking that they be given 48 hours' notice that the program will continue, in order to be ready on Monday morning when they open to say, yes, we are still in business in this regard.

Now, that requires that we get this matter done today, not just today but now. I hope matters that could be put on other legislation which will be coming along might be deferred.

Mr. MITCHELL addressed the Chair. The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, the Senate now finds itself in an all too familiar situation, which occurs regularly and which all of us deplore. That is, we are considering a bill; we have Senators who have amendments which they say they intend to offer but they are not prepared to offer them, so the Senate simply sits and waits. We have thought about a lot of different ways to deal with that.

I want to make emphatically clear that this is not a partisan issue. It so happens in this case that the only amendments to be offered are by Republican Senators, but it happens just as often on the Democratic side. So I want to be very clear and emphasize that this is not limited to one group of Senators or another but any category. We are all participants and we are all victims of the system.

I simply say that I hope in this session we can devise methods to reduce the amount of delay in which we engage, and through cooperation and comity among Members enable us to proceed expeditiously with legislation and to accommodate Senators' schedules. I now simply will have to report to Senators there will be further votes this afternoon. We do not know when, and we do not know how many. But Senators will have to be prepared for that uncertainty in their schedules.

But I appreciate the managers' efforts in this, and I hope very much we will be able to proceed as promptly as possible under the circumstances, and that over time we will be able to devise fair and equitable mechanisms to reduce the number of occasions in which this kind of delay occurs.

Mr. MOYNIHAN. Mr. President, I just have to add that one Democratic Sen-

ator has already explained to me the flu had just overcome him and he had to go home. I hope we are not seeing a devilish device by my friends across the aisle to see our ranks decimated by influenza such that they are going to talk until there is none of us remaining standing, because flu works both ways.

Mr. PACKWOOD. I am afraid we have not devised a partition in the aisle to stop that.

Mr. MITCHELL. Mr. President, I thank my colleagues and I yield the floor.

Mr. PACKWOOD. Mr. President, 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. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### HEALTH CARE REFORM

Mr. PACKWOOD. Mr. President, I listened to my good friend from Ohio, Senator METZENBAUM, who spoke on the subject of managed competition, being somewhat critical of the Jackson Hole group, and mentioned Paul Ellwood, who used to teach at the University of Minnesota, and now lives in Jackson Hole. I never regarded him as in the pocket of an insurance company, or other providers or carriers of insurance. I regard him as a very sane and balanced man.

One of the other gurus in the movement is Alain Enthoven, who teaches at Stanford, who knows the subject of managed competition. I might take a little time to explain it. I do not think the insurance companies are leeches on society. I do not think you can have a health delivery system that says we are going to exclude the doctors from any kinds of suggestions and the hospitals from any kind of suggestions and the pharmaceutical companies, and that the only ones that will have any suggestions are the patients.

Here is how managed competition works in theory. Stanford University has it, and the California Public Employees Retirement System through which health benefits for public employees are provided, has it. Under managed competition, the Government—or it can be a quasi-governmental body, decrees a uniform level of benefits in the health insurance package. It states in the law what they are. And every insurance company or health maintenance organization, or provider that chooses to attempt to cover people, must provide that level of benefits, and there cannot be any exclusions for preexisting conditions. You cannot community rate so that one area that has 100 people is rated on the same basis as some other group of 100,000.

In California, all of the public employees are rated as a whole. You spread your risks over the entire group. Those who want to bid, then have to bid on whatever the size of the group is, and they must guarantee delivery of the benefits. Both their quality and performance are monitored. If they do not deliver either on quality or on coverage, they are excluded from bidding and are out.

These groups then go to the hospitals and the doctors and say: we will provide you with 5,000 patients a year or 5,000 patients a month, and pay you \$200 or \$300, whatever the fixed rate is per capita; we will pay you a fixed rate. But for that, you must provide all of the medical benefits that the patient needs, at least that which is covered by the program. There may be some exclusions for everybody, but you must cover everything covered in the program.

Dr. Enthoven talks of the experience at Stanford that has had this program for a number of years. At Stanford, they have three what they call health maintenance organizations and a preferred provider organization [PPO] as it is called in the medical profession. Each of them writes plans, but they must provide a minimum level of benefits for the employees, and then the employees can individually choose which of the plans they want. Here is the key, very frankly, that anybody involved in this says is a key. The employer must not pay whatever the highest cost plan is.

On all of these plans that provide minimum benefit levels, plans can provide more, if they want. They just cannot provide less. If you provide more, it obviously costs a bit more. But unless the employee and the employer are forced to make a decision on a cost-benefit basis, there is no incentive for the employer or employee to have any threshold of discretion as to accepting a plan that perhaps provides just the minimum level of benefits and for which you therefore pay less.

Doctor Enthoven indicates that at Stanford they have had great success with managed competition. There is no question that the theory is correct, and in statement after statement, the doctors involved with this, and the health care and delivery systems involved, will tell you this: Price controls will not control the cost of the delivery of medicine, because the problem is not price, it is volume. If we attempt to put a price lid on it, those who deliver will find a way to do more volume, and this is what we discovered in Medicare and Medicaid.

It is why, when we estimated the Medicare costs in the midsixties, when we passed the program, that the most severe critic then, the American Medical Association who, as I recall, had the highest estimate of what Medicare was going to cost, the highest esti-

mate, was woefully low in their estimate. Everybody else was even worse off and lower.

So under the managed competition system, if you are only going to get \$300 a day for a patient in a hospital, or if you are only going to be paid a certain amount to take care of the patient's needs, rather than the present system where you do it once, you do not do it very well, and a patient comes back and you do it again, and a patient comes back a third time, and you get paid three times. If you are only going to get paid a fixed amount, it pays you, the hospital, or you, the doctor, or Kaiser Health Plan, which is what we call a health maintenance organization, it pays you well to practice very good preventive medicine, first, and to stop people from having to go to the hospital, or stopping them from having to see the doctor tremendously, because it saves you money.

Second, whenever you treat a patient, it pays you well to treat the patient correctly the first time. And within the health maintenance organizations—and in many of these organizations the doctors are on salary, and it is not a fee for service. They all, therefore, have a collective interest in the health maintenance organization delivering the health for as inexpensive a price as possible and still maintaining the quality required under the plan.

I am not saying necessarily that the managed competition is the answer, but if anybody thinks that a single payer system is the answer, where the Federal Government is going to wipe out all of the insurance companies, we are going to collect all of the money from all over this country, bring it to Washington, DC, and then we are going to pay all of the bills in Medford, OR, and Topeka, KS, and Utica, NY, and we are going to make all of the decisions as to whether or not if a psychiatrist in New York City should get more than one in Reno or an internist in Portland, OR, should get more or less than an internist in New Orleans. If we are going to try to fathom from Washington why it is that hospital stays in the east, on average, are longer than in the west, and are we going to therefore pay the hospitals in the east more, because they keep the patients longer. Or perhaps would the hospitals in the east, if they had a per capita payment, be inclined to keep the patients a shorter period of time?

Our friend from Ohio mentioned an article in the New York Times on Sunday. There was also an article in the Times about a month ago on the German health system, which is often held up as a good system. Their costs are climbing quite dramatically now. There was proof additionally—a statement of what would happen if you paid somebody on a cost basis, rather than on a per capita basis. You can check

somebody into a hospital on Friday for an operation to happen Monday, and the hospital is paid for Saturday and Sunday. You check them out the following Monday even though they could have been checked out Friday, and they are again paid on Saturday and Sunday. If you are being reimbursed on a per capita basis, and are only going to get \$1,000, \$2,000 or \$5,000 for that patient, you are probably going to have the patient, if medically safe, come in Sunday night, or maybe Monday morning and check them out on Friday afternoon.

So before we start calling different segments of society leeches, I think, in fairness, we should listen to what the insurance carriers have to say, who have been delivering health insurance in this country for a good long period of time, and we should look to the experience of California with Dr. Enthoven; and Paul Ellwood, who I do not think is in the pocket of the insurance companies or the hospitals. He was a practicing physician, was a neurosurgeon who taught at the University of Minnesota and now lives at Jackson Hole and it happens to be in his living room that these meetings are held.

I think managed competition can be made to work but, more important, as to whether it is the perfect system, I think almost any system is better than the one where the Federal Government tries to collect all money, determines all the prices, and pays all the bills from Washington, DC.

Mr. MOYNIHAN. Will the Senator yield at that point?

Mr. PACKWOOD. Yes.

Mr. MOYNIHAN. We may not be making much progress with respect to the extension of unemployment insurance, but it is a very useful moment to point out some agreements that we seem to have in the Finance Committee on health care.

The idea that the Federal Government might take over this system and be the single payer—I believe that is the term—and determine what length of stay is appropriate in Medford, OR, as against Medford, MA, and so forth, ought to be put aside and put down once and for all.

And if I could say, if the Senator and I, who will have to lead this discussion—we will certainly not be the most important participants, certainly on my side; on our side there are members of the Finance Committee who know much more about the subject than I do—but we will be leading the discussion, if we could make clear at the outset, that is not a starter; do not even talk about that.

And I was glad to hear the Senator speaks so favorably of Alain Enthoven, who has been—I do not presume to call him a friend in the personal sense, but we have been professionally—we were in the Kennedy administration to-

gether and have known each other over the years. He certainly is widely regarded and looked to by people who are doing the job, I mean not just having a seminar about it, but I believe he has been most influential in redesigning the health care system in The Netherlands. I am quite sure of that, but I do not have the document in front of me. And people in Europe listen to him. He is an economist of great achievement.

But in the terms of managed competition, I was recently in Rochester, NY, where, in the course of three Presidential debates, now-President Clinton mentioned two places that seemed to him to do this matter very well. One was Hawaii and one was the city of Rochester, county of Monroe, the is SMSA, a as we say.

And I asked Dennis O'Brien, the president of the University of Rochester, if he would put on a seminar for me and try to teach me what goes on up there that would be applicable elsewhere. The question is, Can you replicate an experience? And I heard from some extraordinary people. Dr. Griner, who is head of Strong Memorial Hospital.

And if there was one thing that came through, it was the simple proposition, but simple once you hear it, that the key determinant of health costs is the supply of health care services.

In New York State, in 1965, a commission then-Governor Rockefeller established—with Marion B. Folsom, a famous name, of Rochester, of the Kodak Co.; he was chairman of it—established a practice where any addition to hospital beds, as an example, requires a State certificate of need. And this has had apparently good results, but in Rochester, spectacular results.

A Blue Cross/Blue Shield family policy for the State of New York costs \$4,300. In Rochester, \$2,300. How? In a place where you know the doctoring and nursing and looking after is going to be very good, right at the edge of the Art.

And it was put to me in terms of that ancient economic conundrum, if you could use it that way, what is called Says' law—a Frenchman named Says—who propounded in the 18th century that supply creates demand. Now economists have never, the best I understand, never quite liked that because they prefer the proposition that demand creates supply. But it noted that supply creates demand.

And if you build another hospital and add another 200 beds, they will be filled. In that wonderful Field of Dreams, "If you build it, they will come." And it is true of mythical baseball players in corn fields in Iowa and it is true of hospital beds in Monroe County.

It is very hard to add a hospital bed. Mind you, on the edges people are adding things that are not called hospitals but do have beds and do charge you, so there is a tendency here.

Dr. Griner said to me, in what I thought to be a very powerful comment—and I see the Senator from Ohio is on the floor—he said—now I do not want to be held to a precise number—but he said there are 650,000 physicians in the country today. And at some time in the future, which is the near enough future to think about, he said there will be 850,000. And if there are 650,000 now and there are 650,000 practices, and if we are going to add 200,000 there will be 200,000 more practices. Supply creates demand.

I am willing to turn to two respected colleagues. On the one hand, the Senator from Ohio, who has a distinguished career in business, as well as in public life; and the Senator from Oregon who was taught mathematics at Cal Tech by Murray Gell-Mann and physics by Linus Pauling.

And so, I would turn with equal respect to either of you to answer that problem or to comment on it.

Mr. PACKWOOD. I think the Senator is absolutely right. And it is a derivation of what I heard Dr. Enthoven and Paul Ellwood say about it; that the problem is volume not price. If you create the capacity somehow, which I would call volume, we will fill it. We will have to pay for it. We will somehow get the patients to come and we will get somebody to pay for it.

Mr. MOYNIHAN. I think the volume is the function of capacity, some ratio. And if you have enough of the one, you will get the other, and then you will get the costs.

And so we may find ourselves addressing the question of how many physicians per thousand persons do you need or 10,000 or whatever, what is the ratio?

I always find you learn something if you ask what the Canadians do.

But I think it is wonderful we are asking these questions. They are good questions, unlike some of the questions we know doubt sometime today will be debating on the bill we passed 2 hours ago.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I did not respond to the Senator from New York, my good friend, because I came in a little late and did not get the total thrust of his remarks. But I just want to say publicly that whenever he speaks, it is like getting a lesson. His profundity, his wealth of knowledge, and the breadth of his knowledge always overwhelms me. When I read his books, I wonder where does he find the time to write them. He certainly does his job as chairman of the Finance Committee and in so many other places in this body.

I will go back into the RECORD to actually read that which he said. But I failed to respond because I was not

really up to speed, as to the thrust of my colleague's question.

Mr. MOYNIHAN. The Senator is characteristically generous, Mr. President.

I do have a datum, that the number of physicians per thousand people has gone up by 50 percent between 1970 and 1990. There you are. If we are talking about supply creating demand, we certainly can see an increase in supply.

What is the reason for that? We have on the floor another distinguished economist, the senior Senator from Texas.

Mr. GRAMM. I thank my colleague for the recognition.

Mr. MOYNIHAN. But these are the kinds of things we will be learning about. And it is time we did. I thank the Senator for his great courtesy.

Mr. METZENBAUM. I thank the Senator from New York for his concern and interest.

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. GRAMM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### EMERGENCY UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1993

The Senate continued with the consideration of the bill.

Mr. GRAMM. Mr. President, I am going to be very brief. I had spoken yesterday on the amendment that we voted on earlier today. We had some closing comments while I was busy this morning trying to do the Lord's work by trying to get the facts on the President's budget and the various alternatives out to the American people through some of our larger trade and professional associations like the Farm Bureau, and the National Federation of Independent Businesses.

But I feel so strongly about the vote that we took that I wanted to just come over and make a comment on it because I am really alarmed about what happened here this morning. This morning we voted on the first spending bill of the year, \$5.5 billion of new spending to extend unemployment benefits. We had an opportunity to pay for that new spending by taking savings in President Clinton's own budget and bringing those savings forward by 6 months to pay for this new expenditure. We had a vote. It was a straight party line vote. And the Senate decided not to pay for this new expenditure but instead to add every penny of it to the Federal deficit.

Mr. President, I am very concerned about that because we have now had

for the last 6 months, Members of both parties talking about balancing the budget, reducing the deficit. We had an opportunity today to put our money where our mouth was—or the taxpayers' money where our mouth was—and we did not do it.

So I am very concerned about it and I think, as we look to the future, it is not very reassuring that after 6 months of talking about balancing the budget, reducing the deficit, that when we had an opportunity to actually put our vote where our mouth was, we refused to do it. I think it is bad news for the American economy. I think it sets a very bad example. And I am very sorry that it happened.

I yield the floor and 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. BREAUX. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. FEINSTEIN). Without objection, it is so ordered.

Mr. BREAUX. Madam President, I ask unanimous consent that I may be allowed to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### THE PRESIDENT'S NATIONAL SERVICE PROPOSAL

Mr. BREAUX. Madam President, I take this opportunity, while the Senate is in a quorum call on the legislation now before the Senate, to make a comment or two about President Clinton's remarks 2 days ago on a concept of national service.

Let me just say that many political persons around the country look with very careful attention to an elected official's promises during a campaign, and they are very quick to point out when they are not fulfilled, even in the first 2 or 3 months of an administration.

I am greatly encouraged by the announcement of the national service proposal that President Clinton outlined. I say that because it was one of the principal ingredients in his election efforts.

I am pleased that the budget the President has submitted to us talks about spending that is good for the future of this country. I think we can all recognize that there is good spending, and there is bad spending, and all of us are opposed to bad spending. I think most people would support good spending for the good of the Nation.

Therefore, I am delighted that the national service concept is one of the proposals that was contained in the budget when President Clinton spoke to the joint session of the Congress in his first address.

National service is a concept that talks about investing in the infrastructure of this country. It talks about spending money not just on consumption or paying interest on the national debt, for which we get very little, but actually spending money for a proposal to better educate and better train our young people of this country in order to make them more productive, in order to make them more competitive.

Indeed, one area that the United States has dramatically fallen back on, with regard to competition internationally that we face from other industrialized nations, is in the area of the training for the people of this country, the training that is necessary, the education that is necessary for our young people to be competitive once again.

When I sat over in the other body and listened to the President's remarks, I was so pleased to hear him outline a plan and a series of proposals to spend money to improve the infrastructure of America.

I heard, while I sat and listened to that first speech, the President talk about national service, talk about a youth apprenticeship program, which I strongly believe in and have in fact introduced legislation to accomplish that. I heard him speak about welfare reform. I heard him speak about defense conversion programs to take people who worked in defense plants who are losing their jobs. And, as the Presiding Officer knows so well in her State of California, it is having a major impact for defense workers who may no longer have jobs in defense plants, which are no longer going to be needed in the future as we change our defense structure.

So what I heard in that address was a call for spending to improve and develop the infrastructure of our country by investing in the citizens of this Nation, to give them the training and the education so that they can compete in a global market and on a global scale, which I think we have fallen far short of in the last decade.

The national service concept, as the President outlined, is really not something that is that new, but it is building on some principles which I think are very important as this country faces the demands and the challenges of the 21st century.

The President spoke about responsibility, he spoke about opportunity, and he spoke about community. And when you look at the national service concept, I think that it really addresses those three principles of responsibility, opportunity and community.

First, it addresses a citizen's responsibility to his Nation, in the sense that when a country gives something to someone to improve themselves, then that citizen has a responsibility to return something back to that Government that has helped him or her progress in our society.

National service says that your Government will help you get an education, we will loan you the money, but after you have that education, you have a responsibility to give something back to your nation, to give something back to the taxpayers who have invested in your future. And that giving back is in terms of paying back that loan in dollars, if the individual is fortunate enough to have a job to be able to pay back those moneys that were loaned for them to get that education; or, as President Clinton has outlined, a proposal that says if you cannot afford to give back in dollars, give back in your personal contribution, give something back to your local community to pay off that debt to your Government in terms of working in your local community—working in drug rehabilitation, working in a health program, working in police protection or fire protection; but working in your local community to say, "Yes, I got something from my Government, but, yes, I am willing to give something back to my Government that helped me when I was in need; that now I can help my community when they are in need."

That is the concept of national service.

He talked about opportunity. National service gives people an opportunity. It gives them an opportunity to improve their status in life by getting that education that they might not be able to afford without this particular type of a program.

So the concept, I think, of opportunity under national service is one, indeed, that fits all of the requirements for giving something back to your community.

Finally, community. The President talked about community. And what better way to fulfill the obligation that citizens have to their community than by requiring young men and women, or perhaps middle age or even older American citizens who might want to take advantage of the national service concept, to allow them to give something back indeed to their community, not by asking them to work overseas in a Third World country, as noble as that is, but asking them to work in their community and in their hometown or in their home county or in their home State, so there is a direct connection between that person and where he or she happens to be performing their duties.

So I suggest that the President has hit just the right note, just the right tone, and is moving in just the right direction when he asked the Congress of the United States to join with him in putting together a national service program, which I predict will be as successful as the old GI bill ever was in educating literally millions of young men and women who have returned from the service, by providing them the college education and the funds they need to accomplish that goal.

The national service is an idea whose time has come. I will support the efforts in Congress to see that legislation is, in fact, enacted in this Congress to meet those demands of responsibility, opportunity, and community. And the concept proposed by President Clinton for national service I think meets all those needs in a way that we can all be proud of.

I urge speedy consideration by the Congress and look forward to working with my colleagues in that endeavor.

Madam President, seeing no one else interested in speaking at this moment, if the chairman would like me to put in a quorum call, I would be pleased to do that. Is that the wishes to the chairman?

Mr. MOYNIHAN. Yes.

Mr. BREAUX. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum is noted. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DORGAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from North Dakota is recognized.

#### BIG SHOTS, LITTLE GUYS AND NAFTA

Mr. DORGAN. Madam President, not that long ago, Americans went to bed at night knowing that the economic ground beneath them was solid.

But over the last decade, they have lost that sense of safety. They wake up and discover that pillars of our economy—companies like Sears, General Motors, even IBM—are tottering, and laying off workers with no end in sight. Economists assure us that this is all an illusion—that the economy is really growing, and a wonderful high technological future is ahead.

But people in my State and across the country wonder what planet these economists are on. That growth—whatever it actually consists of—never seems to trickle down to the people who need it.

Some of the trouble comes, of course, from the tough competition from abroad. But that was bound to happen sooner or later. The truly unsettling part was the turmoil our Government permitted here at home. While we should have been putting our financial house in order and preparing for the global challenge, the Federal Government instead let the sharp financial operators in this country run berserk.

The savings and loan fiasco, the speculative frenzy on Wall Street, the leveraged buyouts and junk bonds—it seemed our national policy was bent on economic self-destruction, at the very time when we should have been mustering our resources.

#### ANOTHER DOSE OF TURMOIL

Now, Americans are looking to a new administration to halt this turmoil and bring some stability to their lives. They have responded to the President's economic plan—taxes and all—in a way that has totally defied the pronouncements of the Beltway pundits. They want to get back that sense that their work and investment today will yield its due reward in the future.

But that will not happen unless we cast off the old policies and the old thinking that were holding this country back. An excellent place to start is with the final legacy of Reagan-Bush economics: The trade treaty with Mexico, the North American Free-Trade Agreement.

NAFTA is not all bad. But it contains too much that the people of this country should not have to accept. It would clear the way for American corporations to take their jobs to Mexico where workers make a dollar an hour. It would give these companies a virtual veto over American laws that protect workers and the public against health and safety hazards. The advocates of this treaty promise wonderful things to the producers of this country—our workers, farmers, and small business people. But the only real guarantees go to large financial interests that can take our jobs away.

In sum, this treaty is not an answer to the economic turmoil that Americans have faced. It is another dose of that turmoil. In its present form, it will bring more job losses, more plant closings, more farm failures, more wage cuts, with only token gestures at softening the blow. The nations that succeed in the new international marketplace do not accept agreements like this, like beggars. They proceed carefully, step by step, the way the European Community has been doing. They make sure they have their bases covered. They give their businesses and workers time to prepare. They make their trade agreements part of a larger strategy.

The American people deserve no less. The question is not whether we should trade more with Mexico. Trade with Mexico is already growing. It will continue to do so and the only question is under what rules. NAFTA does not provide those rules. It reflects the mentality of the administration that agreed to it, not the needs and aspirations of the American people.

#### IKE'S ECONOMICS

The Founders of this Nation understood that economic strength begins with production. The very first act of the new government in 1789 was a system of tariffs that gave our fledgling industries a chance to develop. People like Hamilton and Jefferson had radically different views on the form our home-grown industry would take. But they both understood that strong producers succeed at trade; trade does not in itself create strong producers.

This does not mean tariffs are good policy; rather, good policy puts the home-grown producer first. This is especially true if a nation aspires to leadership in the world. Dwight Eisenhower was a strong advocate of free trade. But he drew the line where the productive base of the country was at stake. Eisenhower observed in his autobiography that to end all protections for our farms and industry would "visit hardship on many workers and their families." More than that, it would put in peril America's role as a bulwark of freedom in a dangerous world.

The demands of national security, he wrote, sometimes are contrary to "pure economic law." Nations must be "at least partly self-sufficient, able to produce goods for their armies and navies which other countries, if war should end forever, might better produce for them."

In other words, abstract free market theory could lead to the economic equivalent of unilateral disarmament. We need to be wise and prudent, and not just theoretically correct. "To go all out in the direction of free trade," the former President and World War II hero added, "the world would need permanent peace."

As commander of America's forces in World War II, Eisenhower had learned this lesson from experience. He knew that America won that war in its factories, as well as on the battlefield. I wonder what he would say today about a trade agreement based on the principle that it makes no difference whether an auto plant or a textile mill is in Toledo or Tijuana, Charleston, or Chihuahua.

The main security in this agreement is not for America. It is for corporations that move their plants out of America.

#### PROMISES, PROMISES

Perhaps the best way to understand NAFTA in its present form is to ask, "Who gets the promises and who gets the guarantees?" Up and down the line, the runaway corporations get the guarantees, while American farmers and workers and business people get the promises.

For example, corporations get a guarantee that they can take their jobs south, operate under lax Mexican law enforcement with cheap labor, and sell their products back to the United States. United States workers, by contrast, get a promise that this will mean jobs for them: That the runaway plants will create a Mexican middle class which in turn will buy America's high-technological products. They are promised that this new middle class also will insist upon enforcement of the environmental and worker safety laws that Mexico has not enforced with any rigor in the past; and that the new prosperity in Mexico will give the government the funds to enforce these laws.

That is the deal that the proponents of NAFTA want to force upon the American people.

It is no surprise that these proponents have not offered to be personally responsible for these promises. They are not offering the American people a contract, but rather a sales pitch. The fact is—to take just one example—prosperous industry alone has never given rise to strong environmental and worker safety laws. Industrialists are not champions of those causes. They come only from strong, independent political movements and unions—neither of which exist in Mexico.

The guarantees are set in concrete. The promises, by contrast, to the extent they are enforceable at all, must be pursued through the procedure the treaty sets out. In the fast track debate on the Senate floor, one of my Senate colleagues said that the Canadian trade agreement provides a splendid model for how these disputes can be resolved.

Well, North Dakota wheat farmers have had experience with that wonderful Canadian dispute process; and this experience does indeed suggest what American producers are in for if NAFTA goes through in its current form.

To make a long, sad story short, after we signed the Canadian Free-Trade Agreement, the Canadians flooded our market with tens of millions of bushels of Durum wheat—the kind used in pasta—along with Spring wheat and barley. The Canadian Government subsidized this grain heavily, through payments to farmers and by paying much of the rail freight.

As a result, the grain sold in America for less than its cost of production. Our own farmers can not compete at those prices, and the Durum acreage in my State has dropped by almost a third since 1989. The Canadian treaty established a special panel to halt such abuses, and just recently this panel reached a remarkable conclusion. It decided that the Canadian subsidies in question did not count as subsidies for purposes of the treaty.

So the Canadian producers can continue dumping their grain on our market, undercutting our own farmers. That is the wonderful treaty that the former administration negotiated with Canada; and that is also a taste of the wonderful dispute process that is supposed to protect our producers under NAFTA.

#### ECONOMISTS FOR HIRE

The supporters of NAFTA try to portray it as a boon for the American worker. They acknowledge that corporations will take their jobs to Mexico. But this receding tide, they say, will lift all boats, providing new jobs and prosperity and environmental protections for all.

This sunny picture is from the same people who, a decade ago, told us that

tax cuts for the rich would bestir so much new growth that the Federal budget would balance itself. In truth, this whole NAFTA agreement rests upon a single fact: workers in Mexico make an average of \$1,800 a year. That is why corporations are so eager to move down there, and that is why American wages and living standards are so much at stake.

The estimates for American job gains or losses vary widely. Generally, economists give their clients the conclusions they have paid for. The predictions of American gains under this treaty are especially dubious. Some of the assumptions would be hilarious if so much were not at stake.

One common assumption in these studies, for example, is that an American who loses a job in one industry is immediately hired in another. Another assumption is that none of the new investment in Mexico will be diverted from the United States, even though some 63 percent of foreign investment in Mexico comes from the United States today. With economists like these, the solution to poverty in the world should be clear: assume it never existed.

The Mexican wage levels speak for themselves. America is more likely to lose jobs than to gain them; and the jobs we lose first will be precisely the low-skilled ones that are the crucial step out of poverty for the Americans who need this opportunity the most.

Henry Ford realized that the key to the American economy lies in paying the worker a decent wage. Then those workers can go out and buy the products that we produce. NAFTA is based on another premise: that America's wages should slide down toward Third World levels. The people making this argument, let us note, are the lobbyists, journalists, executives, and financiers whose wages will not be subject to this slide.

Naturally, there will be some winners under NAFTA. Largely, they will be in America's high-technological industries in which Mexico's unskilled labor cannot compete—yet. That is well and good. But it is not much comfort to parts of the Nation like mine that will not partake much in that benefit. The fact is, the jobs that will flow south include the kind that rural States like North Dakota are trying so hard to attract—small manufacturing operations that can move without huge expense.

#### MEXICAN FRIES

America's family farmers will lose as well. NAFTA trades away their livelihoods just as the Canadian agreement already has done. Time and again in NAFTA, we find that Mexican producers get open markets while Americans face continued barriers. Potatoes are an example. America will phase out its tariffs on potatoes over 5 years, while Mexico will have 10 years. Food processors in Mexico will be able to sell vir-

tually every last french fry to America, while Americans will be shackled with even tighter quotas in Mexico than exist now, along with continued tariffs for 10 years.

Many have compared NAFTA to a table that tilts down towards Mexico, and this is an example. With low wages and tariff protections in Mexico, plus free access back into the American market, do you think that our potato processors just might move some of their plants down there. Americans will be left to stock the shelves and bag the groceries.

Trade can not be free if it is not fair. When we try to make that obvious point, the establishment media hoots us down as protectionist. But the potato gap in NAFTA is precisely what we are talking about. It is not an isolated case, but rather one instance of a pattern that runs throughout this treaty. Beans, for example: America has to drop its tariff immediately, while Mexico keeps its tariffs for 15 years. I wish that the high-minded free traders in this town would explain provisions like that one on beans. This agreement will cost America thousands of jobs in our sugar industry, moreover, which has been an economic bulwark of rural America.

#### LABS INTO LACKEYS

NAFTA is not just an agreement about trade. Much more; it is an agreement to change America's form of government. It would take powers that our Founding Fathers intended for the people of this Nation and their elected representatives, and give those powers to foreign countries and to corporations that move their jobs abroad.

That may sound like populist oratory, but it happens to be true. If this agreement becomes law, then those countries and corporations will be able to challenge virtually any law of the Federal Government and the States—even ones enacted by the voters themselves—as barriers to trade. These challenges will be resolved in secret, by people whom Americans have not elected.

We should be clear on what is happening here. Powerful economic interests are using the treaty process to get what they want through the back door. They do not care whether Americans have clean water and air. They do not care whether the people of this Nation are safe against threats to their safety and health. They know the American public supports our laws in these areas, so they have created a new layer of government to undermine them.

They have greased this process to make it very difficult for us to stop them. The so-called fast track prevents us from doing what the Constitution gives us the responsibility to do: remove or revise provisions that could be harmful to the people of this country. Under the fast-track procedure we are supposed to swallow NAFTA whole.

These interests knew what they were doing. They have turned the treaty process into a smoke-filled room.

NAFTA would compromise the Constitution in yet another way; namely, it would undermine the role of the States in our Federal system. America is not like Europe. Our system grew from the bottom up, not from the top down. The States created the Federal Government, not vice versa. In our system, the States function as what Justice Louis Brandeis called the laboratories of democracy. Virtually every step forward in American public policy began with an experiment in State or local government.

NAFTA would short-circuit that process, which is the genius of our Federal system. It would say to the States, "If you do something a foreign government or a multinational corporation doesn't like, they can get it overturned as a 'barrier to trade.'" It would turn the States from laboratories into lackeys.

The Bush administration obviously felt that the American Constitution is passe where trade agreements are concerned. But the American people do not agree. We should not let the ghosts of the Bush administration spook us into a trade treaty that sets up our producers—our farmers, workers, and business people—for more unfair assaults from abroad. Our trade agreements must begin to represent the economic interests of our people. That is not shortsighted, nor misguided economic nationalism, as critics charge. It is simply what the voters who send us here, expect.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER (Mr. REID). The Senator from Montana.

Mr. BAUCUS. I thank the Chair.

(The remarks of Mr. BAUCUS pertaining to the introduction of S. 489 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BAUCUS. 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. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ORDER OF PROCEDURE

Mr. DOMENICI. Mr. President, I was waiting to go with an amendment. But I understand that Senator SASSER is en route. I was going to ask if Senator SPECTER might proceed for 4 or 5 minutes as if in morning business.

The PRESIDING OFFICER. Hearing no objection, the Senator from Pennsylvania is recognized for 5 minutes as if in morning business.

Mr. SPECTER. Mr. President, I thank the Chair. I thank my distinguished colleague from New Mexico for making that request.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. I thank the Chair.

(The remarks of Mr. SPECTER pertaining to the introduction of S. 488 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

#### EMERGENCY UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1993

The Senate continued with the consideration of the bill.

Mr. MOYNIHAN. Mr. President, it is now 2:30 in the afternoon of March 3. We have been dealing with the proposal to extend unemployment insurance for 1.8 million persons—a program that expires Saturday night.

The decisive vote has been taken. It was concluded at approximately 10:40 this morning.

It was, I regret to say, a party line vote, but the decision was made to make this the first test of the President's economic program. And the test was passed, 57-42. And the program needs to go forward. Yet, here we are, no amendments, and no decision.

May I say, Mr. President, that the Committee on Finance held a hearing on this measure on February 18. The principal witness was the Secretary of Labor, Secretary Reich, who spelled out in great detail, why, in the current situation of unemployment, higher than it was at the trough of the recession, we needed to continue the extended benefits. We also had a panel consisting of Mr. Warren Blue—the senior vice president and general counsel of R.E. Harrington, Inc., of Columbus, OH, on behalf of the Council of State Chambers of Commerce—in the company of William J. Cunningham, representing the AFL-CIO; and finally, Mr. Andrew Richardson, who is the commissioner of the West Virginia Bureau of Employment Programs, and President-elect of the Interstate Conference of Employment Security Agencies. Those were the agencies that were established by the 1935 legislation.

In the closing moments of that hearing, Mr. Richardson had this one request to make. He said: "Please try to give us more than a few day's notice on March 6, if this is extended."

I asked: "What do you need, tell me?"

Mr. Richardson said: "A week."

I said: "You need a week."

On February 18, they asked that this legislation be adopted by last Friday. It is now well into Wednesday afternoon, and a critical vote has been taken. The vote will not change. All that will change is that we will delay the time in which the employment se-

curity agencies around the Nation can prepare for the continuation of this program.

Mr. President, this has been a civil debate. We have had friendly and, on occasion, informative exchanges. But there comes a time when civility wears thin. We have had our vote. Can we not pass the bill and get the benefits, ensure the benefits, to 1.8 million people for a program that expires on Saturday night?

Mr. President, I acknowledge that the Senator from New Mexico is showing a courtesy waiting for the Senator from Tennessee.

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. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 67 TO COMMITTEE AMENDMENT  
ON PAGE 4

(Purpose: To improve the bill)

Mr. DOMENICI. Mr. President, I send an 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 New Mexico [Mr. DOMENICI], for himself, Mr. DOLE, Mr. PACKWOOD, Mr. GRAMM, and Mr. SPECTER, proposes an amendment numbered 67.

Mr. DOMENICI. 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:

At the appropriate place, add the following:

It is hereby the sense of the Senate that until the President of the United States has submitted the budget required by section 300 of the Congressional Budget Act of 1974, no concurrent resolution on the budget should be considered.

Mr. DOMENICI. Mr. President, this is a very simple amendment. It is a sense-of-the-Senate amendment attached to this bill, because I hear that the majority party and the majority chairman of the Budget Committee are suggesting that we should begin to mark up, actually vote on a budget resolution as early as next week. I will have no other opportunity to air this issue for the Senate and for the public. I say there is clearly no intention to go on at any length today, just sufficient time to make a very simple point. I guess I will start with a question.

Mr. MOYNIHAN. If the Senator from New Mexico will allow the Senator from New York to say I understand that, and I appreciate that obviously that is the case.

Mr. DOMENICI. Mr. President, I start by a very simple proposition. It is

a question: Where is the budget? Frankly, I do not think anybody who would really believe that in this period of dramatic change, when our President has told the American public, and rightly so, this is the time to really focus on a deficit, and when our President has said I have a plan, and when he has given a speech in detail about what he wants to do, I do not think it would be too much to ask, before we produce a budget resolution, which is a blueprint with many mandates in it as to how we should get from here to where the President wants us to get, where is the President's budget.

Now let me talk about a budget and a budget resolution. Again, this resolution says we should not produce a budget resolution and begin to work on it formally in committee until the President of the United States has submitted the budget of the United States as required by section 300 of the Congressional Budget Act of 1974.

Now, again, let me just ask a question: how can we produce a budget resolution and make intelligent, prudent, wise decisions when we do not know what is in the budget? Would it not be far better, if this budget resolution is going to be such an important document, that we have before us what it is in detail that the President is asking for?

Again, we have heard the President tell us what he wants in this budget. He has told the American people what he wants in this budget, but when we ask how do we do it and where are the specifics, for the most part we have been getting back from the other side of the aisle, "Where is your budget?" to the Republicans; "Where are your specifics?"

Frankly, I would like to make the point that we do not know what the President's specifics are yet.

Let me give you a couple of examples. The President has told us that he wants to save \$12 billion over the next 4 years, even though he must submit a 5-year budget. But over the next 4 years, he wants to save \$12 billion.

Are the budget committee members going to all stand up and say yes to the \$12 billion when they have no idea what it means? Would it not be fair to give us at least an opportunity to look at the \$12 billion he proposes and say whether some of it seems unreasonable, unjustifiable, or maybe we might even say it is not enough? But what we are going to be asked to do is to vote on \$12 billion in streamlining Government.

And let me suggest there has not been a Cabinet member that I am aware of, and I say this to my friend from New York, that has appeared before a committee that has been able to tell a committee of the Congress what the President has in mind, specifically. In fact, I am not a member of the chairman's committee, but I under-

stand our good friend Secretary Bentsen has been asked details about the tax program, and I think his answer was that he will not know until the budget comes up.

But we will not have the budget by the approach that is being asked by the chairman of the Budget Committee and I assume the majority leader that the Budget Committee of the U.S. Senate begin to do the budget without having the budget. We do not even have the thing called a budget.

Now, let me give you a couple more. Here is one, improve management in the VA hospitals. This is in the President's vision package. And we are supposed to save \$1.5 billion on improving management at the VA hospitals.

Somehow in the budget process, when we are in there working on this resolution, somebody is going to say: "I think we ought to cut the veterans' function by \$1.5 billion over 4 years because we are going to have improved management in the veterans' hospitals."

I do not really think very many Senators on this floor, if I put that proposition to them here, let us have a binding agreement here; cut the veterans hospitals \$1.5 billion because we are going to have improved manage, I do not think we would get four votes. Why? Because they do not know what it means. They do not know what you are going to do to the veterans' hospitals. How can you pass judgment on the propriety of it?

The budget is a very large document, with more details than we need, but sufficient details to arrive at an orderly, wise evaluation. When it is finally forthcoming, the President and all of his people will have done that. But they have not done it yet.

Let me repeat: We had the Secretary of Health and Human Services before us and we asked about savings within her department, because many of these "streamlining Government" must come out of her department, one of the largest funded departments in America—Administrative savings, which the President wants, of \$11 billion over the next 4 years. She does not know, because we do not have a budget yet. They are working on it.

I merely ask: Where is the budget for us to pass judgment on in the budget resolution? I do not think we are asking for too much. We are merely asking the President to send the budget up as soon as he can, and we understand he needs time. And we are saying to Congress, do not proceed with a budget resolution and make it sound like we know what we are doing, make it sound like we know what we are proposing to add and subtract and increase and cut, when we do not have any budget before us.

So I do not think this is a very complicated request. I am sure the chairman of the Budget Committee is going

to talk about precedent. But I can tell you, I know of no time since we had a Budget Act that we have produced a budget resolution without having either a Presidential budget or a Presidential budget amended by an incoming President so that we had a budget in total before us.

Let me give you a couple of other questions for Senators who are truly interested. And I truly urge that this not be a partisan vote. I think Senators, if they just will listen a bit, will understand that Republicans and Democrats alike on the Budget Committee of the U.S. Senate ought to have a budget from which to mark up and vote on where the cuts will be, where the add-ons will be.

I will pose a few questions. Should we not know what the Congressional Budget Office has to say about the loss of jobs from the defense cuts proposed by the administration?

It seems to me that is pretty imperative. If we have a new economic plan that is supposed to create jobs, should we not have a good, solid estimate of how many people we are going to cause to be laid off in the next 4 or 5 years? CBO will do that as to defense cuts, once we know what they are.

Should we not know what all the defense cuts are before we are asking for a dollar number that will limit the defense expenditures of our country?

Should we not know what the largest tax increase in the history of the Republic will do to growth and investment and savings by having it before the Congress and let a Budget Committee ask economists and experts what it is going to do; maybe even how we are going to collect the Btu tax? Has anybody figured that one out? I presume a budget will itemize that and tell us about it.

Should we not know who is exempt and what rates and so on are going to be applied under the tax structure proposed? Even though the budget resolution will not adopt it, it will be predicated upon it. It will send an instruction to the Finance Committee, presumably indicating that we do or do not want the President's approach. And it will have a tax number in there. Where are we going to get this? Just pull it out of the sky and say: "We read a speech. We saw a vision statement. So let us just do this."?

I think that I told you about the Senate Budget Committee and our Secretary of Health and Human Services and her inability to tell us what she was going to cut to achieve savings.

I also would suggest that it might be good to know a little more about the health care plan before we do this. But perhaps we can put that off so long as we do not ask the budget reconciliation agreement to involve the problem of health care when we do not even know what the plan is. I surmise some are even thinking of putting that in the

budget resolution when we have no idea what it is all about.

So let me repeat, and then I will yield the floor. I notice my friend, Senator SPECTER, is here and he would like to speak. Let me just say how can we be expected to produce a budget resolution when we do not have a budget? We have been asked repeatedly, Where is your budget, Republicans? I think today we are trying to make a point that we have not seen our President's budget. I think we should see it. I think it should be explored by committee members and by the public at large before we have to write into stone the mandatory targets and limitations in a budget resolution and say we made all the savings and cuts and add-ons the President wants, which I assume is what that budget resolution is going to try to do.

So, "Where is the budget?" is as good a question now as it was before when we were asking for budgets from the other side. And I sincerely ask some of my friends on the Democratic side to join us in this very simple request, that we have the President's budget before we proceed to produce a binding budget resolution for the budget of the United States.

At this point I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, I rise in opposition to the amendment proposed by the distinguished ranking Republican member of the Budget Committee. My friend from New Mexico is very learned in matters of the budget and in budget procedure. He served, as my colleagues will recall, as chairman of the Senate Budget Committee during a very critical time, in the early days of the Reagan administration from 1981 through 1987. And my friend from New Mexico will recall that during that period this body went forward with a budget resolution just in the same manner as this President is asking us to do now. The only difference is that the names of the Presidents have changed. In 1981, it was President Reagan, and today, in 1993, it is President Clinton.

Let us just review what occurred in 1981 because I want to lay it out here in some detail so my colleagues will know that what we are doing now is something that has been done in the past. There is substantial precedent and there is no reason for anyone to say they are being taken by surprise by going forthwith the budget resolution.

On February 18, 1981, President Reagan transmitted to the Congress a volume entitled, "A Program for Economic Recovery." This Program for Economic Recovery which was followed in a few short months by the deepest recession we had had since the Great Depression of 1930's, showed spending cuts totaling \$41.4 billion over 1 year, my friend will recall, and reduced taxes

by \$53.9 billion over the same 1-year period—for fiscal year 1982.

Here, we have a volume entitled "A Vision of Change for America," dated February 17, 1993, submitted by a new President, Bill Clinton. President Clinton, in this volume entitled "A Vision of Change for America," has over 150 specific policy cuts to reduce the deficit. Included in this program are a number of specific revenue-increasing proposals that he is asking the Congress to enact.

So this President is following essentially the same precedent of the last really new President, or new administration, that we had in 1981. There was a substantial carryover when the Bush administration succeeded the Reagan administration in January 1989, so it could not be considered truly a new administration in all ways the Reagan to the Clinton administration is here in 1993.

Looking back to 1981, when this volume, "A Program for Economic Recovery," was submitted on February 18 of 1981, my good friend and then Senate majority leader, Howard Baker, of Tennessee, said on the Senate floor that he intended to move the Reagan package "in less than a month. Every day that it is delayed makes it more difficult to pass." And Senator Baker's statement was dutifully reported by the distinguished reporter, Mr. Marty Tolchin, of the New York Times on February 20, 1981. On February 24 of that same year, the Senate Budget Committee chairman, my good friend, now the ranking member of the committee, the Senator from New Mexico, and the then ranking minority member, Senator EARNEST HOLLINGS, of South Carolina, introduced reconciliation instructions, "to enact many of the savings proposed last week by the President."

Mr. DOMENICI. May I ask the Senator a question about that one?

Mr. SASSER. If I could just finish my statement here. So I say to my colleagues, we are not facing a situation here which is unprecedented by any stretch of the imagination.

Following those events, in March 1981, we received revisions to the original economic recovery program that had been submitted by President Reagan. And, finally, on April 7, we received the final budget submission from the Reagan administration.

By that time the Senate Budget Committee, on March 23, had reported reconciliation instructions requiring Senate committees to cut \$34.4 billion in fiscal year 1982 spending, virtually rubber-stamping the Reagan program. So what we are seeing here is simply a rerun, to some extent, of the events of 1981. Clearly, this is not an unprecedented situation.

Now, as my—

Mr. DOMENICI. Could I ask a question of my friend?

Mr. SASSER. I would be pleased to respond.

Mr. DOMENICI. Will the Senator refer back to the date in his notes on Senator HOLLINGS and Senator DOMENICI introducing a series of reconciliation instructions?

Mr. SASSER. Yes, February 24, introduced reconciliation instructions "to enact many of the savings proposed last week by the President."

Mr. DOMENICI. Might I ask if the staff, which has so dutifully and appropriately given my colleague the dates and lists of items here, would confirm or not confirm as to whether the Hollings-Domenici reconciliation bill was an amendment to an existing budget or an amendment to a new budget? My recollection is there was a budget in place and a freestanding reconciliation bill was offered amending that budget that was in place.

Mr. SASSER. I am advised it was an amendment to an existing budget that was proposed at that time. That is the only way that reconciliation could be brought up.

(Mr. MATHEWS assumed the chair.)

Mr. DOMENICI. Yes. The point is my colleague is saying that we can do reconciliation without a budget. There was a budget.

Mr. SASSER. But my point is this, that the Budget Act calls for us to address the budget by major functional categories, not by programs. And, as my friend from New Mexico is fond of reminding us—and I am pleased that he does—he tells us many times in the Budget Committee that the Congressional Budget Act envisions that the budget resolution deal only with the broad picture. In fact, budget resolutions do not include numbers that are smaller than \$100 million.

So what we are doing in a budget resolution is simply sending large, broad numbers out to committees. There are no policy decisions made or necessary to be made in the budget resolution.

So I submit to my colleagues that there is no reason for us to delay in dealing with the budget resolution should the Budget Committee decide to go forward in the next few days or, indeed, the next few weeks.

There is precedent for doing so, but even without precedent for doing so, certainly we could go forward based on the information that has been submitted to us by President Clinton in his book entitled "A Vision of Change for America" which specifies, as I said earlier, over 150 policy decisions that result in cuts to the budget.

The American people, I think, have stated very clearly that they want us to move expeditiously in this Congress in carrying out this administration's proposal, to carry out this new President's program for change in this country. It appears to me that there is a strategy developing here and that is a strategy to slow things down, to try to reinstitute the old gridlock that the American people are so sick of. I think

that we in this body have an obligation to move forward in an expeditious fashion to deliver the budget, the broad outlines of a budget resolution which this new administration has requested this Congress to do.

In the budget resolutions, we are not making specific policy decisions. Those are reserved for the committees of competent jurisdiction. We are simply stating what the broad outlines and the broad parameters should be. And clearly that is contained in the President's message which he transmitted to us on February 17, 1993, and which he spoke so eloquently about to the American people.

Mr. DOMENICI. Can I ask a question?

Mr. SASSER. I will be pleased to yield for a question.

Mr. DOMENICI. Is the Senator suggesting in those last remarks that the Senator from New Mexico, in asking that we have a budget before we mark up the budget resolution which is what we have done every time since we had the Budget Act, that I am guilty of being a gridlocker because I am asking for that?

Mr. SASSER. Well, of course, I was very careful not to refer to my friend from New Mexico specifically. There appears to be a pattern of trying to slow down the progress of this body in dealing with the President's economic package, and the American people do not want that to occur. What my constituents want is action. They voted for change and they do not want this Congress, this body, these Senators of either party, Republican or Democratic Senators, seeking to slow or drag down this economic package. They want action. They want to give this new, young President and this new administration a chance. They want some change.

Mr. President, I will simply submit that myself, acting in the capacity as chairman of the Senate Budget Committee, and I hope the leadership on both sides of the aisle, will move in an expeditious fashion using the information that the administration has proposed to us, proposing amendments that any Senator might wish to propose. Some have said, for example, there are not enough spending cuts in this President's proposal. Then I say to those who say that, just propose some cuts and perhaps we can amend the resolution. I have some cuts that I want to propose. Senator BUMPERS and myself, and the distinguished Senator from Virginia [Mr. WARNER] have indicated we would like to make some savings on two projects, the superconducting super collider and the space station. We may offer those as an amendment when the resolution comes to the floor.

Senators can offer amendments and change the resolution as they wish. But clearly we will simply be discussing large numbers and the policy deci-

sions or the votes made on the budget resolution, even if we should decide to delete the superconducting super collider, would not be binding on the Energy Committee. They could make those savings in another way. We will simply be dealing in very broad generalities.

For us to hold up the very vital work of this new administration so that we would have every "t" crossed and every "i" dotted, so that we would know specifically what every policy change would be or that we should hold it up, so that we would know who might lose a job at what defense installation because of some cuts that might be proposed in this broad outline which may or may not be enacted into law by this body acting on the appropriate authorization of the appropriations bills appears as flying in the face of the will of the American people. I think we would do a great disservice to them and a great disservice to this new administration.

So I urge my colleagues to reject this resolution and to prepare us, get us in a position so that we may move forward in an expeditious fashion in dealing with the preliminary budget plans of this new administration and the Senate. I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from the State of New York.

Mr. MOYNIHAN. Mr. President, I find myself reminded of that little line about the question is very much too wide, and much too deep, and much too hollow, and learned men on either side use arguments I cannot follow.

It is very clear that we have a difference of view between two learned and experienced Members of this body about a matter which, however, has nothing whatever to do with the bill before us. We have here a measure to extend unemployment benefits to 1.8 million persons which expires Saturday night. Mr. President, we passed this bill at approximately 10:40 this morning. The State commissioners have asked that they be given a week's notice.

Now, I do not want to cut off an informative and serious debate. I heard the Senator from Tennessee say to his friend from New Mexico that this would really be an issue that would have to be resolved in the Budget Committee. It is not going to be resolved on the floor, at least not on this occasion. But I wonder, the Senator from Colorado has an amendment. The day is going by. We will soon lose another day that could be used for administrative planning. Could we agree to, say, 20 minutes equally divided? I do not want to cut off my friend from New Mexico. He knows my respect for him.

Mr. DOMENICI. Mr. President, I may be able to do that shortly, but I do want to wait for the Republican leader to return and see if he wants to speak.

Mr. MOYNIHAN. Of course.

Mr. DOMENICI. It will not be a long time. We are not going to delay.

Mr. MOYNIHAN. Of course.

The PRESIDING OFFICER. The Senator from New York has the floor.

Mr. MOYNIHAN. I yield the floor.

Mr. DOMENICI. Mr. President, let me close until the Republican leader arrives. I suggest, first, nobody should be confused. We have never voted in the Senate for a full budget resolution without having a Presidential budget. That is point No. 1. All the numbers and dates notwithstanding, that has never happened before.

Second, if the other side would like, on the one hand, to say the budget resolution is a very important document that is going to determine whether or not we cut the budget, if you are going to say that, then I think we ought to know what is going to be cut in defense when the President's vision plan says—and I am going to use these words very guardedly—that the minimum amount of new defense cuts—defense cuts from this time forward over the next 5 years are \$112 billion plus President Bush's \$74 billion.

Now, do we want to vote in the Budget Committee and tell our people across this land we are prudent, we are trying to fix things, but we are going to vote for a defense cut of that size and we do not know where the cuts are?

That is No. 1. No. 2, does anyone want to vote to cut VA hospitals \$1.5 billion? That is what I gather the spending reductions are called, improving management of VA hospitals. Some would say that is not cutting the VA. I will just read it like it is: "Improving management VA hospitals, \$1.5 billion." Would you like to vote on that in a budget resolution wherever you find it, without knowing what it is, how you are going to get there?

I have two other examples, and I mean this seriously. We are going to streamline Government and save \$12.124 billion. Would we not like to know where it is coming from? It will be in a budget sooner or later. Maybe if we looked at a budget, we would say why not some more, or why not \$3 billion less, or we might even say how realistic is it.

So I did not come before the Senate to stall the President's plan. Everybody who knows me knows that I am ready to go. I just do not know how we are going to fulfill our duty to produce a meaningful budget resolution when we do not know, in the areas I have just given you, and many more, what the budget says. So I stop where I start. If we are going to be asked to produce a meaningful, to-be-implemented, sound budget resolution, where is the budget?

I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I thank the Chair.

Mr. President, I commend my distinguished colleague from New Mexico for offering this sense-of-the-Senate resolution. I think it is an important resolution, and I think the Senator from New Mexico has articulated the reasons for bringing it forward at this time, and it can be done on a fairly brief timetable. I believe it is fundamental that we ought to have a budget before we can have a budget resolution, and I shall not repeat the specifics which Senator DOMENICI has articulated on wanting to know where the cuts are before we are going to vote on a budget resolution.

When the distinguished Senator from Tennessee, the chairman of the Budget Committee, says that there is a "pattern of slowing down progress," I respectfully disagree with that. When he uses the word gridlock, I do not believe that applies to this Senator or to other Senators on this side of the aisle.

When the Senator from Tennessee talks about holding up vital projects and says do we have to dot every i, do we have to cross every t, I would submit that is precisely what the Senate ought to do. I believe it is important to proceed in an analytical, factual way to see what is in the national interest.

I, for one, was very disappointed in the vote this morning—strict party lines—in rejecting the amendment to pay for extended unemployment compensation benefits before they are put into effect. The proposal this morning on rescinding administrative accounts for one-half of 1 percent so that we could pay for the extension of unemployment benefits was preeminently sound.

I have said publicly and privately that I want to support President Clinton where I can. I know the American people want answers to the problems which confront this Nation, and they are not concerned with whether they are going to be Republican answers or Democrat answers. The answers ought to be found.

That does not mean we are going to give President Clinton a blank check. But when we come forward on this important bill to extend unemployment benefits and increase the deficit when that could be avoided, I think that is bad policy, and I think that is bad government. I believe the American people do want to deal with the deficit, but what is happening on this bill is counterproductive.

Now, I intend to vote in favor of this bill to extend unemployment benefits because I think it is indispensable that it be enacted. I have supported, during my tenure in the Senate, every single bill on unemployment benefits and the extension of unemployment benefits because I know not only from my State, Pennsylvania, but across the country, unemployment is a problem of enormous consequence, and we simply have to extend the benefits.

But I submit that the responsible way would have been to have paid for it. And that when the measures are proposed by the administration without consulting with this side of the aisle, without consulting with the Republicans, I question that.

I have been in the Senate for a little over 12 years now, and when I have felt that the national interest required agreeing with a Democratic proposal, I have not hesitated to do so. It may be that the majority can secure 57 votes today, which is not a very good way to run the Senate, at least in my opinion. But there will come a time, and it will be in fairly short order, when there will be an interest in finding support on the Republican side of the aisle. There are quite a few of us who have been willing to do that when we felt the national interest required it. But if we are going to start a process, beginning of a new administration, when at the outset there is a sincere interest in supporting the President where we can in solving the problems in a sensible way, where we have party line votes and where we disregard a sound way to pay for an important piece of legislation, and where we seek a budget resolution without having a budget, then I submit, Mr. President, that attitudes may harden and it will not be in the national interest to have that course of action.

I thank the Chair and yield the floor. Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, let me call my colleagues' attention here to a computer run of 224 pages—224 pages of a computer run which gives the program detail on the outlay side of this proposal or budget that has been submitted by President Clinton. There are 224 pages of program detail just on the outlay side, that includes the adds and the cuts in the outlay side of the budget. It does not even include the revenue side. We can bring up another computer run just as large on the revenue side.

So for my colleagues to say that they do not have the detail on which to make a judgment, I simply call their attention to this. And we will be pleased to make these available to any of our colleagues who wish to review them in greater detail.

Now, my good friend from New Mexico—and he is my friend, and he knows that I have great admiration and respect for him—indicated a moment ago that we did not have a detailed budget as we had in 1981. He is quite right about that. But in 1981, that detailed budget was the budget presented by the outgoing President, President Jimmy Carter. We do not have a detailed budget in 1993 because President Bush did not present a detailed budget. But regardless, the detailed budget presented by Jimmy Carter in 1981 was for all effect and purposes, a nullity.

Now, I hear some complain: Well, we do not know what the cuts are, and the cuts are too large.

The cuts in defense are too large. I thought that the complaint was that the cuts were not enough, that President Clinton was not cutting enough. So they are coming in and saying, well, the President did not cut enough but the cuts he made we do not like. That is what we are hearing.

There was a budget alternative offered from the other side of the aisle. Judging from the newspaper accounts I have been reading, there is not unanimity on how to approach this problem among our friends on the other side, but there was something that one news account called a Republican alternative. I think that was presented by Senators GRAMM and LOTT. That included the defense cuts that had been proposed by President Clinton.

So at least some of our colleagues on the other side think that the Clinton proposals, with regard to defense cuts, are adequate; and adequate in detail.

But in the end we come back to this conclusion. It is that the budget resolution, Mr. President, deals only with a very broad picture. What we are doing with the budget resolution is simply presenting numbers of aggregate outlays, numbers of aggregate revenues, and presenting the anticipated deficit. That is what it does.

No policy decisions are made in the budget resolution as my friend from New Mexico knows as well, or better than I. Those policy decisions will be made later with regard to defense outlays. They will be made in the Armed Services Committee. That authorization bill will be debated on the floor of this Senate in great detail, and Senators will vote on it, and express their views.

Then later the defense component will be debated in the Defense Appropriations Committee, and voted upon there, brought to the floor, debated here on the floor, voted on again.

So we will know with specificity what we are voting on, and what we are not voting on, and what these policy changes will amount to. That is not something that a budget resolution deals with. We are just dealing with the broad aggregates.

I would submit to my colleagues that 224 pages, small in computer print, that details the programs on the outlay side and this 224 pages is on the outlay side alone, that details cuts, is ample information for us to deal with the broad outlines of the budget resolution.

So I return to my original premise—that our business here must be to get about the business of the American people with regard to dealing with the budget and economic problem that we have before us. The President laid that out I think, very clearly, in his message to the joint session. And what he

had to say resonated with the American people if the polls are to be believed, and if the bond markets are to have any credibility with us.

So I think we need to move forward. We do not need to be looking for reasons why we cannot move forward. Certainly, we do not need to be doing that when there are substantial precedents for moving in the direction we are moving, moving with the speed with which we hope to move, and certainly when there is adequate detail on which to base our judgments.

So, Mr. President, I rest my case on that, and I yield the floor.

Mr. BROWN addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. MOYNIHAN. Mr. President, will the Senator from Colorado yield for a question?

Mr. BROWN. Certainly.

Mr. MOYNIHAN. Does he propose to offer an amendment at this point?

Mr. BROWN. My hope is to offer an amendment to the underlying amendment at the completion of this colloquy.

Mr. MOYNIHAN. And disposition of the amendment?

Mr. BROWN. Yes.

Mr. DOMENICI. May I ask for the yeas and nays on the Domenici amendment?

The PRESIDING OFFICER. The Senator from Colorado holds the floor.

Mr. DOMENICI. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. MOYNIHAN. On the Domenici amendment.

Mr. MITCHELL. Mr. President, will the Senator from Colorado yield to permit me to direct a question to the Senator from New Mexico without his losing his right to the floor?

Mr. BROWN. Yes.

Mr. MITCHELL. I wonder whether it would be possible to get an agreement on time limitation on this amendment, a time to complete action on this bill.

Mr. DOMENICI. Let me say to the distinguished majority leader, I will leave the floor right now and ask Senator DOLE what his pleasure is. He wants to speak. I will come back and enter into a time agreement.

Mr. MITCHELL. I thank my colleagues.

Mr. BROWN. Just to assure the distinguished majority leader my intention is not to prolong the debate, I will keep my remarks succinct.

The PRESIDING OFFICER. The yeas and nays have been asked for on the amendment.

Mr. BROWN. Mr. President, there are, indeed, some things we ought to disagree on in this body. There are sincere differences of opinion, sincerely held, different views as to how we ought to proceed on matters. But this clearly is not one of them. The sugges-

tion that we ought to understand the President's budget and have it submitted before we vote on a budget is not a partisan suggestion. It is not a mean-spirited suggestion. It is not an unreasonable suggestion. I believe every Democratic Member of this Chamber wants to know what they are voting on just as much as every Republican Member wishes to know what they are voting on. This is not a perfect world. No one is suggesting that it is or should be. It simply is not possible to make it perfect.

But this is a very reasonable suggestion by the Senator from New Mexico. It simply says that we follow the practice we followed in the past. The Senator from New Mexico noted, and I thought very clearly, that we have never voted on a full budget reconciliation bill without a Presidential budget. I think some important questions have been raised. I thought it might be well worth addressing.

First of all, should we know what is in the budget plan before we vote on it? I think the answer to that is pretty clear. If indeed there is someone here who does not think we ought to know what the President is recommending in his budget before we vote on our budget, perhaps they would want to come to the floor and say that. But I cannot believe there is anybody in this Chamber that does not think it is important to know what the President is suggesting before they vote on this budget.

I suppose the next question that is logical to ask ourselves is: Is it clear what the President is recommending?

The distinguished chairman of the Budget Committee has kindly pointed out in the Chamber that there are several hundred pages of recommendations from the President. Let me acknowledge that he is right. I have been through them. I have been through them and I personally endorse and incorporate into a plan, at least that I propose, and hope to bring before consideration before this body; over \$118 billion of the President's recommended cuts I endorse and that I am going to vote for and support.

There is \$6 billion in his other receipts that he has recommended that I have endorsed and will support. Over half of his defense recommendations have merit, and I have endorsed them and I am going to support them.

But, Mr. President, it is not clear what he is recommending in many areas. Let me not just leave a charge hanging. Let me be specific. The amendment that I hope to offer to the underlying amendment before us today is one that implements one of the President's suggestions; that is, a freeze in pay. I think it has merit. I think it is courageous. I believe we ought to adopt it along with the additional spending that is contemplated in this resolution.

But let me tell you what happened when I tried to draft that measure. The

President had recommended—this is out of A Vision of Change for America, the President's package, that there will be no national pay increase or locality pay increase for Federal employees in calendar year 1994. National pay increases in 1995 and 1997 would be 1 percent less than the current law in each year. Locality pay would be implemented beginning in 1995 under a revised system that will permit more equitable and accurate determinations to be made.

I think that is a good measure, and I am going to support it. We called the White House and the other administrative agencies to find out how we draft it, because we wanted to draft it the way he believed in it and the way he proposed it. They do not have it. It is not there. They do not have the language that implements the suspension of the locality pay differentials. They do not have the language that implements the one percent below cost of living for the outyears. I do not fault them. It is complicated, involved, but is enormously significant. It involves billions of dollars. The amendment we have today is only that portion to which the White House had a clear description—that is, the suspension of pay of COLA's in 1994.

I am going to support the rest of it. I have every confidence it will come out in a reasonable manner. But it is not there today. The White House cannot tell you what it is they are supporting, what it is they have done. They will get it, I have trust in them. But it is not laid out, and Member will not know what they are voting on.

Included in the President's proposal is a \$16.355 billion savings, or spending reduction, under the category of "shortening the maturity of debt securities," which this country sells to borrow money. Apparently, the idea is, instead of borrowing so much in long-term treasury bonds, we shorten the term in which we borrow money and borrow more in T-bills. There is a differential in the rates.

Over 5 years, the President claims a savings of over \$16 billion in the budget. Do we support it or not? There is not a description of how much we are going to change, or where that comes from. There is no legislative language. It has never been recognized by the Congressional Budget Office, as far as I know, as a legitimate savings. Is this a category of spending we are going to cut based on that recommendation in the President's budget? It is not spelled out. I am not finding fault with the President. It is complicated and involved and will take some time. But it is an integral part of this budget—over \$16 billion over 5 years—and there is no backup, and there is no way to include it without additional information.

The President himself, when he chatted with our caucus the other day, was very frank and straightforward. He

came off, I think, to everybody as objective and fair, and as quite informed and quite involved in the details of his plan and knowledgeable of them. The President readily admitted that a portion of his defense numbers are simply plug. They intend to give us the details on it. They simply have not done it yet. That is not an indictment of the President. It is just a matter of getting the details of what is proposed. The Btu tax has been mentioned, but it is simply not laid out. There are ideas, yes, but it is not there. The bottom line is: do you want to know what we are voting on before we vote on it, or not? It is pretty simple and basic.

Mr. MITCHELL. Will the Senator yield for a question?

Mr. BROWN. I am just about finished. Do you want to know what you are voting on, or do you not? If you are the defendant in a criminal trial, would you like to have a trial first and then the punishment, or the punishment first? The American people get to ask that. This budget is not free from harm. It involves a \$3,000 tax increase for every taxpayer in the country, if you average it out. I think it would be fair to point out that some will have a heavier burden than others, but that is the average.

The bottom line is this: On every budget resolution that we have had, every major, full budget proposal that has come before us, we have had the benefit of having the Presidential budget. I think it is reasonable. It is not worth a long argument. It is something we ought to find as a nonpartisan suggestion. I am one who happens to believe that the distinguished Senator from New Mexico has focused his attention in this body on nonpartisan, good government efforts, meant to move this body forward. He has strong fundamental beliefs, but he is not deleterious. He is one with positive ideas. This is one we ought to accept.

I yield the floor.

Mr. MITCHELL. Mr. President, I direct a question to the Senator through the Chair. I noted with interest his comments about the need for detailed information for understanding all of this before we vote upon it. And, as he said, the bottom line is: Do you want to know what you are voting on?

I inquire through the Chair how did the Senator vote on the Packwood amendment?

Mr. BROWN. I supported the Packwood amendment on the motion to table.

Mr. MITCHELL. I wonder if it is possible to get a time agreement on this measure, Mr. President.

Mr. DOMENICI. Yes. We are prepared, I say to the distinguished majority leader, to seek consent through you, for 20 minutes on our side, and we will divide it as we see fit.

Mr. PACKWOOD. Can I ask the majority leader a question? I know the

President indicated that he wants to have his vote on spending cuts before we vote on the taxes, and I assume the leader will agree with that.

When we vote, if we vote on the budget resolution, is that going to count as the vote on the spending cuts?

Mr. MITCHELL. As the vote?

Mr. PACKWOOD. Will it be said that we have voted on the concurrent resolution on the budget, and that we now may go ahead with the stimulus package in the taxes?

Mr. MITCHELL. My hope is that we are going to vote on the budget resolution, stimulus package, and the reconciliation bill and lock these spending cuts and tax increases in, all in one packet. So if the tax increases and spending cuts should be combined, so that if there are no spending cuts, there will not be any tax increases in the reconciliation bill.

Mr. PACKWOOD. Even though we vote against the budget resolution, assuming it passes, that will not be held up as having voted for the spending cuts; therefore, we can vote for just the taxes?

Mr. MITCHELL. That will be the most important and significant and essential vote in the proceedings to achieve the spending cuts and the tax changes. We have to get a budget resolution to proceed with the budget.

Mr. PACKWOOD. I am not phrasing the question right. I understand the budget resolution is important, without getting into the argument about how the President has not given us a budget yet.

In the passage of the budget resolution, is it the intention of the majority leader to say that is a vote on the spending cuts, we have now fulfilled the President's obligation to vote on the spending cuts. If, for whatever reason, we cannot put together the reconciliation package, or the specific cuts do not come together, we will go ahead with the taxes?

Mr. MITCHELL. My answer is that the Senator is dealing with a hypothetical that I think has no prospect of occurring. We are going to pass this whole package.

Mr. PACKWOOD. The majority leader is more sure of that than I am. It is your intention to have it as a package?

Mr. MITCHELL. We are going to proceed and pass this program.

Mr. President, in accordance with the comments of the Senator from New Mexico, I ask unanimous consent that there be a time limitation for debate on the pending Domenici amendment as follows: 20 minutes under the control of Senator DOMENICI, and 10 minutes under the control of Senator SASSER.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, then Senators should be notified, and I ask

both staffs, majority and minority, to notify Senator's offices and those not present, that in approximately 30 minutes, at approximately 4:10, there will be a vote on or in relation to the Domenici amendment. I expect that the Senator from New York will be moving to table the amendment at an appropriate time. I thank my colleagues.

Mr. President, I yield the floor. I believe the Senator from New Mexico has 20 minutes.

Mr. DOMENICI. I thank the distinguished majority leader.

I thank Senator GREGG from New Hampshire wants to speak. I yield 5 minutes to Senator GREGG.

Mr. GREGG. I thank the Senator for yielding me this time. I rise in support of his proposal. I do find it peculiar, and maybe it is because I am new to this body, that we would vote on a budget for the United States, without having a chance to read the President's proposals.

That is how new I am here. I cannot figure out how to turn off my beeper.

That indicates a situation which puts most of us, who have not been here for a considerable amount of time, in a position of having no real sense of what we are voting for on probably one of the most significant votes that the U.S. Senate is going to take during this session, the concept of voting on a budget without having the budget.

Whatever happened to right to know. Where I come from, we have some rules and the citizenry have an opportunity to at least review and hear what is going on in Government. I presume they also expect that the people who are their Governors and people who are in charge of that Government have an opportunity to review and know what is going on.

And yet, that is not going to occur in this case. We are simply not going to be allowed the opportunity to review the specifics of the President's budget prior to being asked to vote on a resolution which incorporates the President's budget.

That is truly peculiar, in my opinion. And, as I understand it, it is the first time that it has happened. This will be the first time that this body has not taken the opportunity to at least know what it is going to vote on before it votes on it in the area of the budget activity.

I guess I feel a little bit like the fellow who tried to get an appointment with Major Major Major in Joseph Heller's wonderful book "Catch 22." Because when he tried to get an appointment with Major Major Major, when he was in, he was out, and when he was out, he was in, and therefore there was no way to get an appointment with him.

Well, it appears there is no way we are going to know what is in the President's budget prior to voting on it.

This sort of Mad Hatter budgeting may be OK at some levels of Govern-

ment, but when you are talking about a \$1.5 trillion item, which defines the purposes and goals of this body for the next year and really sets the tone of where this institution is going to go over the next 4 years of this Presidency, I think it is doing us little service and clearly doing our citizenry a disservice not to allow the Members of this body to have a chance to review the substance of what we are voting on.

And thus I think it only amounts to logic that the amendment offered by the Senator from New Mexico should be voted on and voted on favorably.

I thank the Chair and I yield back the remainder of my time.

Mr. MOYNIHAN addressed the Chair. The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, may I congratulate the Senator from New Hampshire on his statements, which were straightforward, clear, and to the point, as New Hampshire men would like to be.

May I say to him that I have been in this body 17 years. I gave up trying to control a beeper my first month.

The PRESIDING OFFICER. Who yields time?

Mr. MACK addressed the Chair.

Mr. DOMENICI. Mr. President, I was unaware the Senator wanted time. Does he desire time?

Mr. MACK. I just wanted to ask the Senator a question or two about his proposal.

Mr. DOMENICI. I ask our distinguished leader if we could proceed with these few questions first.

Mr. DOLE. Yes.

Mr. DOMENICI. I yield such time as these questions need off of our 20 minutes.

Mr. MACK. I thank the Senator.

If I could, let me again, in light of this discussion about not knowing what we are going to be voting on a budget resolution, I would like to ask again, since such a point was made of the CBO and the role of the CBO in the budget process, as I recall, in the President's State of the Union Message, there was a statement about the significance and importance of CBO; in fact, that they would be using CBO, I guess, to evaluate all of their plans.

Does the Senator know whether the President's budget is based on the CBO baseline or is it some other baseline? And I guess the second part of that is, if it is not the CBO baseline, can the Senator from New Mexico tell me what effect that has on the President's proposed spending cuts?

Mr. DOMENICI. Mr. President, that is a very good question.

My friend, the chairman of the committee, held up a sheet of paper and said there are 224 pages in there and said that is the substitute for a budget, because it has a lot of sheets in it.

My understanding is that in that document, and in this document, "A Vi-

sion of Change for America," the Congressional Budget Office baseline, that is the starting point for domestic spending, CBO's baseline is not used.

As a matter of fact, it is very difficult to determine which starting point, that is what a baseline is, a starting point to determine whether you are adding or subtracting, my understanding is it is a new kind of baseline that has somehow been put together, but does not use the existing law which has caps in which CBO would have used. So it is different from CBO substantially.

Mr. MACK. Mr. President, let me ask the Senator this question: Is it his opinion that the baseline has been moved higher?

Mr. DOMENICI. The baseline has been moved. The first time through, when we tried to analyze this, it was adjusted upward beyond a CBO baseline, higher, so that when you took the sum total of the cuts, you took the delta of the change between that upward moved baseline and the baseline of CBO, and you took all that as savings.

So there was a significant overstatement, maybe as much as \$123 billion overstatement, of the savings, because the previous line that CBO used was what we had to do anyway. We had to do it under the old agreement. As I said, we paid for that once in new taxes, authorization cuts.

Mr. MACK. So the detail that we need that would make the point about each individual spending cut is really not available to us? No. 2, if it was available to us, it would be from a different baseline from the one that was used for the last 10 or 12 years. And at the same time, that means that they have overstated the spending cuts.

Mr. DOMENICI. It is my best information that when first presented, immediately following the vision of change document, that the baseline was inflated above CBO dramatically. Now there has been somebody working on trying to fix that, but I do not know if it is fixed yet or not. Some say it has been changed. Maybe when we go to markup without a budget, maybe it will change again downward, which all leads to a very moving target when it comes to what we are really doing.

Mr. MACK. I thank the Senator for yielding me that time.

Mr. DOMENICI. Mr. President, how much time do we have remaining on our side?

The PRESIDING OFFICER. The Senator has 12½ minutes.

Mr. DOMENICI. Mr. President, I yield myself 2 minutes and then the remaining 10 is at the disposal of our leader.

First, I would like to make sure that nobody assumes that President Bush did anything untoward when he did not submit a detailed budget. Frankly, he did something that he thought was

very favorable for the new President, because he understood that the new President had very different ideas. And there is no mandate that President Bush, an outgoing President, submit a budget. So he just took a budget and said, let us leave everything as it is and let the new President submit his own or modifications to it.

That is all we are asking; that we give our President time to do that before we move with the budget resolution. In that framework, I believe we are asking for something very reasonable.

I yield now the distinguished Republican leader.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, I do not think I will take 10 minutes, because I think it is not a major request that is being made by Members on this side of the aisle. We are just asking, before we buy the product, before we vote on the product, we ought to see the product.

And there is not any existing budget. There is not going to be an existing budget. So we are asked to vote on a budget resolution without ever knowing what the details of the plan are.

It is a little like going in to buy a car and not asking any questions and you drive it out and the wheel falls off.

And that is precisely what we are asked to do here: Do not ask any questions. Just take it. Take our word for it.

There is not any precedent for this. I came to the floor last week and said this happened in 1981, but I was corrected. It did not happen in 1991. And I came back and changed my remarks on the Senate floor.

Mr. President, all the distinguished Senator from New Mexico, the ranking Republican on the Budget Committee, would like to do is, we would like to see the budget before we vote on the budget resolution.

It is my understanding that a point of order is going to be made on the amendment, so I am going to reserve some of the time so the distinguished Senator from New Mexico can respond to that.

We are asked almost every 5 minutes by the media, where is the Republican plan? We are not the Government. We would like to be in charge, but the Democrats control the Congress, the Democrats control the White House. But the media keep asking us, where is your plan?

Well, where is Clinton's plan? We have not seen it. Maybe somebody in the media has seen it, but if they get a copy I wish they would give it to us. Before we can work out any plan, if we decide to have a plan, and that may not be our strategy, we would like to see what the Democrats' plan is.

President Clinton got elected. He said during his campaign that within 100 days—an explosive 100-day action

period. Maybe that is the case. But it seems to me we can hardly have an action period until we get the facts, until we find out what is going to happen.

So, Mr. President, there is no doubt in my mind who will prevail. But I think we are trying to get our message out to the American people. It is very difficult because we have an effort by some to say well, where is their plan? Where is their plan? They do not care where Clinton's plan is.

I will tell you what it is: \$360 billion in new taxes, \$178 billion in new spending, it is \$68 billion in new tax breaks, it is \$112 billion in new cuts in defense, and the list goes on and on, and the deficit reduction is small, very, very small. It is not a tough, tough program. It is taxes, taxes, taxes, and defense cuts. That is about all you have.

So this morning we had a vote, and this vote will sort of make the picture, for at least this Senator. This morning we said it is all right to add another \$5.8 billion to the deficit, and it was a party-line vote so the American people should understand. Those who want to add to the deficit are on that side of the aisle.

Now all we are asking for are the facts on the budget. Give us the budget. Let us see the details. As Ross Perot says every day, the devil is in the details. We do not know the details and we are not going to be told the details. We are going to be asked in this Senate to vote on a budget resolution without ever knowing what is the budget.

I know they have that little book, that little book here. This is it, "A Vision of Change for America." Let us vote for the book. I like the cover. Do not worry about the contents because the cover is all you are going to see. And we do not even get to see the cover of the budget.

So I just hope we understand what we are doing here. We are saying, first of all, it is all right to raise the deficit \$6 billion today—which we did, \$5.8 billion.

Now it is all right to say in a vote in the Senate—I do not care whether it is a point of order or not, it is going to be properly understood and properly interpreted—you do not need the budget. You are not entitled to have the facts. You vote and then some day you will get a budget. Maybe not this year, but maybe sometime next year.

So, I just ask my colleagues on the other side, this is sort of a fair play amendment, a fair play amendment. That is all we ask. We understand we are not in the majority, but even the minority should have some rights and some rights to see the President's plan.

We had a good visit with the President yesterday. We want to cooperate with the President. We want growth, we want jobs, we want the economy to be sustained. To do that we think we

have a right to take a look at this budget process, and take a look at the budget itself, and then vote on a budget resolution.

So, Mr. President, for all the reasons I can think of, I hope the point of order would not be made and we could have an up-or-down vote on the amendment.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, the Senate is a place in which serious business is conducted and it is done in a civil way. And often in the course of the serious business, humorous things occur, sometimes intentionally, sometimes inadvertently.

I think what we have just heard here this afternoon in this debate really is humorous. This morning, just a few hours ago, 43 Republican Senators voted for an amendment that is five sentences long, less than one page, double-spaced, that was introduced less than 24 hours ago, on which there were no hearings, little debate, no explanation, and which purported to affect Government programs of up to \$644 billion.

And then this afternoon we hear why, we ought to know what is in these amendments, we ought to know what the effect of these amendments are before we vote on them.

Mr. President, that is humorous.

Now, the argument is made that we do not know what the President's budget is. Mr. President, as—I do not know which one of our Republican colleagues just said the President submitted 700 pages of documents. Here are 250 pages of computer printouts on the budget. I wonder—I respect the Senator from Colorado who says he has read every single one of the 700 pages, and I accept what he said. I wonder how many other of our colleagues have.

Mr. BROWN. Will the leader yield?

Mr. MITCHELL. Certainly as long as it is not on my time. Go ahead.

Mr. BROWN. If I may, I appreciate the reference and the compliment. While I did take Evelyn Wood's speed-reading course, I will not claim full recollection of all of the pages, just for the record.

Mr. MITCHELL. I thank the Senator.

So, Mr. President, I do not want to get into intent because I do not know what is in other people's minds. But let us talk about effect.

The effect of this will be to slow the process. Nobody disputes that. This will be to slow the process by which the Senate can vote on the spending cuts and the economic program proposed by the President.

A few minutes after we dispose of this amendment the Senator from Colorado is going to offer an amendment to speed up the process of voting on a particular cut. So on the one hand we are asked by our colleagues to slow the process down, and a few minutes later we are going to be asked to speed the process up.

The effect will be to undermine the President's economic program. That is what this is all about and the American people understand that.

Are we here trying to help the new President and the new administration get their economic program through and to turn this economy around? Or, are we here trying to prevent the new President and the new administration from getting this program through? That is the effect of what is occurring here, and that is how this vote should be decided.

Are we trying to help the President? Are we trying to end the gridlock? Are we trying to get action? Are we trying to move forward? Or are we trying to prevent the President's program from going forward.

The President has said this is an important part of his program. We want to move forward on the unemployment insurance bill. One point eight million American families are now being held hostage to the delays that are occurring here on matters that have nothing to do with the unemployment insurance bill. And, as the distinguished chairman has pointed out, that program expires Saturday this week, and the administrators have asked for a week's notice. They cannot get a week's notice. Let us at least give them a couple of days' notice. Let us pass this bill and then let us get to the budget resolution.

No one is asking for a vote in the Senate without careful consideration. The committee will take a long time on it. And then the Senate will have the opportunity to debate it for a full week, up to 50 hours. There will be ample opportunity for discussion, debate, alternatives to be offered. But the crux of this matter is, and the essence of this vote is, are we here trying to get action, trying to help the President, trying to move forward on this economic program? Or, are we here causing delay and trying to prevent the President's program from going forward?

I urge my colleagues to vote. Let us vote and dispose of this amendment, and then let us get to the bill and then let us get to the budget resolution and then let us get to the whole rest of the program and pass them all as soon as we can.

The PRESIDING OFFICER. Who yields time? The Senator from Oregon.

Mr. PACKWOOD. Mr. President, could I ask the Senate majority leader a question again? I did not very artfully ask my question before. I want to get the sequence of what the majority leader has in mind.

We will vote on the budget resolution at some time, whenever, and we will vote on it before we actually have the President's detailed budget. I am not arguing that question here.

It is then the intention of the leader for us to vote on the stimulus package shortly after that, as I understand?

Mr. MITCHELL. That is correct.

Mr. PACKWOOD. The stimulus package being all spending. And there may be spending cuts coming later. There may be taxes coming later. But the budget resolution itself is not a law. The budget resolution does not cut any spending, does not cut any taxes, does not raise any taxes. So that we will be voting on significant spending, i.e. the stimulus, new spending, before we have had any spending cuts or any taxes to even pay for the spending?

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. I do not want this on my time, but I am pleased to respond on the Senator's time.

The answer is: Yes. The program laid out by the President, as he himself stated very clearly, is, because of the fragile state of the economy, the lack of job creation—the number of jobs created in this recovery from recession is only one-tenth that of jobs created in previous recessions—

The rate of unemployment today is higher than it was when the recession technically ended. It necessitates action to get the economy moving again to get jobs created. The whole purpose of the President's program as I see it is twofold; jobs created, incomes increased. All of these are measures to accomplish that objective. We then will have placed in effect the tax increases and spending cuts that we hope will produce the necessary deficit reduction and lay the foundation for sustained long-term economic growth in the future.

Mr. PACKWOOD. I heard what the Senator said. We are going to vote the spending all right. We are going to pass that stimulus package, and then we hope that we pass some spending cuts.

Mr. MITCHELL. The Senator has misstated my comment.

Mr. DOMENICI. We do not want to use any more time on that. The majority leader made a marvelous speech on our time. Will he yield me 3 minutes of his time?

Mr. MITCHELL. I will be pleased to answer any questions the Senator wants on his time.

Mr. DOMENICI. I have no questions. The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, how much time do we have on our side?

The PRESIDING OFFICER. Approximately 4 minutes.

Mr. DOMENICI. Mr. President, might I ask the distinguished majority leader or Chairman SASSER, do they intend to make a point of order against the Domenici resolution?

Mr. SASSER. Mr. President, I do intend to make a point of order at the appropriate time.

Mr. DOMENICI. Mr. President, once the point of order is made, I will move to waive it. I am going to use about 2

minutes to explain this whole business about a point of order.

This is a very simple Senate resolution. The body is being asked as a Senate to vote that we should not take up a budget resolution in a committee of this Senate until we have a budget to base it on. That is all it says.

Speaking of absurdities or silliness or hilariousness, humor, think of this as something humorous. The point of order is going to say: This is not right to be taken up because it is the business of the Budget Committee when the Budget Committee has already made a decision that they are going to take up a resolution without the budget, so we are really going to have a chance to make our point. He is going to make a point of order that this Domenici resolution has to go to the Budget Committee not the Senate. Just think of that for humor. The Budget Committee has made a decision through its chairman that we are going to proceed.

Having said that, let me just close on a couple of points. First the distinguished majority leader is a master as he obviously has done as a prosecuting attorney. He takes a Republican proposal that is very precise and he says it is not precise. If you read the language by which we were going to pay for this \$6 billion addition to the deficit in this bill, it says by action of the Congress budget authority is rescinded and a given dollar amount is stated that it will be rescinded. Now that is a lot different than saying we did not do anything. That literally forces things to be cut by that amount.

Now having said that, I am really, really perplexed. I was present when our President visited the Republicans and I want to say right here, I did not question his knowledge or his sincerity, but I cannot believe that he believes that we are going to vote on a budget resolution but it does not mean we are carrying out his program. That is essentially what is being said here today. I believe the President of the United States has been led to believe that when we vote on that budget resolution, we are voting to carry out his plan and yet we are being told it does not mean that. We are just voting on an overall outline. I believe if this President knew what a budget resolution was all about, he would be on our side on this debate. I think he has been told technically we do not need it. On the other hand, when we vote on it we are adopting his plan, Mr. President. Which is it? If it is his plan, I think he would truly, consistent with his strength and vigor and honesty, say we deserve to see it before we vote to enforce it and implement it. I yield the floor.

The PRESIDING OFFICER (Mr. WELLSTONE). Who yields time?

The Senator from Tennessee.

Mr. SASSER. How much time do we have remaining?

The PRESIDING OFFICER. Four minutes, thirty-three seconds.

Mr. SASSER. Mr. President, I want to just make a couple comments and then yield some time to the distinguished Senator from California.

The point is made time and time again from my friends on the other side of the aisle that they do not have enough information, they do not have a specific budget before them on which to make various judgments.

Mr. President, I will simply point out that apparently the bond markets, those hard-eyed businesspersons who run that bond market and make those investments think apparently they have enough information on which to base their judgments. Following the President's statements to the Congress and following the introduction of his budget plan entitled "A Vision of Change for America," bond prices, long-term bonds fell to the lowest level in over two decades. Apparently Dr. Allan Greenspan believes that there are enough specifics in this budget that he could characterize it as credible, to use his term with regard to deficit reduction. And what about foreign governments? Statesmen of foreign governments who have been for years telling us in the United States you must get your fiscal house in order. I well remember a Japanese statesman lecturing some of the highest leaders in the Bush administration about getting our fiscal house in order and making the hard decisions. What do the foreign governments think of this plan presented by the President? They are not saying it is not specific enough. They are not saying the budget is not specific. What they are saying is almost uniform in their praise of it.

And what about the American people who saw it presented on television, who read about it in the newspapers, who have seen it discussed day after day on the television channels and not always in the most flattering terms? Some of my friends on the other side of the aisle have been quick, as they should be, and I do not blame them, in pointing out what they perceive to be the shortcomings of the President's budget proposals. But the American people are not buying it. By over a 2-to-1 margin they say, let us go, let us go forward, let us give this new President and his economic plan a chance.

So, Mr. President, those who really count think they have enough by way of specifics to make some very hard concrete judgments.

So I say to my friends who want more information, there will be more information forthcoming. If there is something in this budget resolution that is ambiguous, we can debate it on the floor, we can debate it in committee, we can try to make it more specific, but in the final analysis all we are talking about are the large parameters of a budget resolution.

Mr. President, I do not want to use all my time.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the time for this matter be extended by 3 minutes so that the Senator from California might be heard. Only 45 seconds remains.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. I did not hear the request.

Mr. MOYNIHAN. Three minutes for the Senator from California.

Mr. DOMENICI. We would get 3 minutes?

Mr. MOYNIHAN. Of course.

Mr. DOMENICI. I have no objection.

The PRESIDING OFFICER. Without objection, it so ordered.

The Senator from California is recognized.

Mrs. BOXER. I am pleased to add my voice to the voice of my chairman, the chairman of the Budget Committee, and to my leader. The question is why are we delaying a vote on this very important extension of unemployment compensation to people who are suffering in our country?

It seems to me, as I listened to all the voices here, that my good friend on the other side of the aisle, my distinguished friend from New Mexico, wants more paper, wants more paper to look at our new President's plan for real economic growth. I say to my good friend that not only do we have enough paper—and the leader has shown us some of it, just some of it—but we know exactly what he wants to do to get this country moving again because he said it in the campaign, a short-term stimulus, long-term investment, deficit reduction over time that we can handle that will not disrupt our economy. And we want to get on with it. We will have much more paper coming. We will begin the markup on this budget next week.

But I would say to my good friends that we do have an emergency on our hands; 1.8 million people Saturday night will not be able to buy food if we do not act. I say to my friends that all of the numbers that you want you will get, you will have, because this President, unlike any other I have seen—and I served on the Budget Committee in the House of Representatives for 6 years—has detailed those cuts very clearly.

I conclude and say to my friends, in 1980, a new President was elected. He took office in 1981, and he had a whole new philosophy. His name was Ronald Reagan. As I look back at history, what do I see? Those very same Senators who were very willing to throw the process out the window then, who were very willing to give that new President a chance then, want to stop the process today.

So I urge that we get on with the business before us, that we move for-

ward, and that we bring this Nation forward out of this economic recession which, although there are many who say we are passed it, we know we are still in—a jobs recession. So let us move forward today.

Mr. President, thank you very much. I yield back my time.

The PRESIDING OFFICER. The Senator from New Mexico has 3 minutes, 42 seconds. The Senator from Tennessee has 45 seconds.

Mr. DOMENICI. How much time did you say?

The PRESIDING OFFICER. Who yields time?

Mr. SASSER. Mr. President, I yield myself 30 seconds.

I just might say the pending Domenici amendment deals with matters that are within the jurisdiction of the Committee on Budget. The underlying bill has not been reported by the Budget Committee or discharged from that committee. It is thus not in order to consider the amendment under the terms of section 306 of the Congressional Budget Act of 1974. So at the conclusion of all time, when all time has expired, I intend to make a point of order against the amendment under the Budget Act.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. DOMENICI. You have heard the distinguished chairman of the Budget Committee state what he intends to do. Might I ask the Chair for a parliamentary interpretation. Is the Domenici resolution subject to a point of order as stated by the chairman of the Budget Committee?

The PRESIDING OFFICER. It is the opinion of the Chair that the point of order would be well taken.

Mr. DOMENICI. Might I ask, has the Parliamentarian taken into consideration that it is a sense-of-the-Senate resolution only?

The PRESIDING OFFICER. The Chair is aware of no exception in the Budget Act.

Mr. DOMENICI. Might I ask the Parliamentarian, what is the language, if he recalls, of this statute that says that this kind of measure must go to the Budget Committee? Could you quote me the language, please?

The PRESIDING OFFICER. Will the Senator hold at this moment?

Mr. DOMENICI. I will be pleased to.

The PRESIDING OFFICER. The amendment if introduced as a free-standing resolution would be referred to the Committee on the Budget.

Mr. DOMENICI. I thank the Parliamentarian. I thank the Chair.

The PRESIDING OFFICER. That is the basis of the ruling.

Mr. DOMENICI. Mr. President, I am just going to use 1 minute. I really

thought that we were going to start this year off without any accusations, without any lack of cooperation and we would all try to do that. Frankly, I brought this resolution to the floor as a commonsense, fair play resolution. I really did not expect, nor do I think the Senate should condone, the raising of a technical objection of this type to something that would express the will of the Senate only that we not be asked to mark up and prepare a budget resolution for the next 5 years without having the budget of the President of the United States before us. But it now seems that we cannot win because now it will require 60 votes to adopt this commonsense, fair play approach. I really do not think this is a very good way to start out a process which has a long way to go and which from time to time requires an accommodation and some good will on both sides. And that is nothing more than my observation and my statement.

Since I know the parliamentary situation, I yield the remainder of my time and ask if there is any time remaining.

The PRESIDING OFFICER. All time has expired.

Mr. DOMENICI. Mr. President, I move that the Senate waive the Budget Act in question and ask for the yeas and nays on my motion to waive.

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 motion to waive the Budget Act. 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 New Mexico [Mr. BINGAMAN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 44, nays 55, as follows:

[Rollcall Vote No. 22 Leg.]

YEAS—44

Bennett	Faircloth	McConnell
Bond	Gorton	Murkowski
Brown	Gramm	Nickles
Burns	Grassley	Packwood
Chafee	Gregg	Pressler
Coats	Hatch	Roth
Cochran	Hatfield	Shelby
Cohen	Helms	Simpson
Coverdell	Jeffords	Smith
Craig	Kassebaum	Specter
D'Amato	Kempthorne	Stevens
Danforth	Lott	Thurmond
Dole	Lugar	Wallop
Domenici	Mack	Warner
Durenberger	McCain	

NAYS—55

Akaka	Bumpers	Exon
Baucus	Byrd	Feingold
Biden	Campbell	Feinstein
Boren	Conrad	Ford
Boxer	Daschle	Glenn
Bradley	DeConcini	Graham
Breaux	Dodd	Harkin
Bryan	Dorgan	Heflin

Hollings	Lieberman	Reid
Inouye	Mathews	Riegle
Johnston	Metzenbaum	Robb
Kennedy	Mikulski	Rockefeller
Kerrey	Mitchell	Sarbanes
Kerry	Moseley-Braun	Sasser
Kohl	Moynihan	Simon
Krueger	Murray	Wellstone
Lautenberg	Nunn	Wofford
Leahy	Pell	
Levin	Pryor	

NOT VOTING—1

Bingaman

So the motion was rejected.

Mr. SASSER. 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.

Mr. SASSER. Mr. President, I raise a point of order that the pending amendment violates section 306 of the Congressional Budget Act of 1974.

The PRESIDING OFFICER. The amendment of the Senator from New Mexico contains matter within the jurisdiction of the Senate Budget Committee and has not been offered to a bill that was reported by that committee. The amendment thus violates section 306 of the Congressional Budget Act.

The point of order is sustained. The amendment fails.

Mrs. FEINSTEIN. Mr. President, we have heard encouraging news about the United States heading into an economic recovery—and I believe it. But as Californians know all too well, the lag in jobs still remains. We are not seeing the kind of job growth in the postrecession period that has occurred in the past.

The emergency extension of unemployment insurance benefits is critically important to my own State. California's 9.5-percent unemployment rate remains higher than any other State in the Union, save one. More than 1.4 million Californians are out of work. Mr. President, we have more unemployed workers in our State than the total population of 13 other States.

On top of stagnant job growth, I am profoundly concerned about the pool of permanently unemployed jobseekers that is surfacing in our country. With only 14 percent of unemployed workers expected to be recalled by their previous employers, we are a far cry from the trends of other past recessions where 44 percent of those laid off were able to go back to work.

I am encouraged that we will soon be acting on legislation that will help both small and large businesses that have seen hard economic times get back on a productive track. That is a longer term solution however, and today we must address the immediate needs.

I am strongly supporting S. 382 to extend benefits under the Emergency Unemployment Compensation Program through October 2. The bill extends the current policy of providing 20 or 26

weeks for qualified workers who exhaust regular State benefits. Because California is a high unemployment State, workers will receive benefits for 26 weeks. Without enactment of this bill, up to 300,000 workers per month, who exhaust their regular benefits, would no longer have any unemployment compensation.

Another important provision of this bill is the funding for State employment agencies to develop automated systems to identify workers who appear to have been displaced permanently. This can provide the necessary link to get these workers to local retraining, counseling, or job assistance programs.

Clearly, this is not the solution to our Nation's economic woes. But it is a critical part of solving some families' financial worries, and providing some of the support needed to get back into the work force.

Tying together compensation with the ability to identify unemployed workers and direct them to the services they need to get back to work is not only compassionate, but practical. We should make our move and pass this bill.

AMENDMENT TO UNEMPLOYMENT EXTENSION STATEMENT

Mrs. KASSEBAUM. Mr. President, I had intended to offer an amendment which would have provided flexibility for States to redirect excess JTPA funds to where they are desperately needed—in the dislocated workers program.

In the past month, Boeing, the largest employer in Kansas, announced that it will lay off one-third of its work force—almost 7,000 workers in Wichita alone. This is on top of additional layoffs announced by Sears, Beech Aircraft, and other Kansas-based companies.

Yet at the same time, Kansas took a 43-percent cut this year in its JTPA funds for the dislocated worker program—the largest cut in the country—due to its low unemployment rate in previous years. Because the funding formula is based on previous years, the allocation of funds does not take into account unexpected mass layoffs such as the ones my State is now witnessing.

Ironically, Kansas has excess funds in another JTPA program amounting to over \$1.5 million which they have not been able to spend. Yet, this money cannot be used to meet this large increase in the number of dislocated workers in Kansas. This just does not make sense.

The situation is urgent. All the dislocated worker funds in Kansas have already been obligated for this year without even addressing these new layoffs. And there are over \$675,000 in funding requests from local communities that the State cannot fill now.

States need the flexibility to use these funds in a manner that will best

meet the particular needs of their unemployed workers, which my amendment would have allowed.

However, after some discussion with the Department of Labor, I have decided not to offer the amendment at this time. Department of Labor officials have offered some suggestions as to other avenues the State of Kansas might pursue in order to meet this crisis.

I will withhold my amendment for now in order to explore these options.

Mr. MITCHELL. Mr. President, I intend to offer an amendment shortly. I do not expect that there will be lengthy debate on that amendment.

Mr. President, that will be followed shortly by an amendment by the distinguished Senator from Colorado [Mr. BROWN], and I would like to explain the circumstances which give rise to the two amendments.

The Senator from Colorado will offer an amendment which seeks to add to this bill an amendment that would put into place the freeze on cost-of-living adjustments for all Federal employees, including Members of Congress, which President Clinton proposed in his budget, and which will be voted on and, I am confident, approved as part of the President's budget.

I told the Senator from Colorado that I do not favor adoption of his amendment at this time, although I favor the provision, and I expect that it will be included and approved as part of the President's budget.

We do not want to delay this bill any further. We are already way behind on this unemployment insurance bill. And speaking only for myself, I do not want to get into the practice, which is apparently developing, of picking out individual cuts within the President's budget and offering them as amendments in advance of that, so that people who will vote against the President's budget will be able to say they voted for a particular provision in the budget.

I indicated to the Senator from Colorado—and we discussed this directly and frankly—that I would offer an amendment that would cover Members of Congress, which follows up on the resolution which the Senate has previously approved without a dissenting vote, and this would place it in statute as an amendment to the pending bill. And then, when he offers his amendment, of course, the provisions relating to Members of Congress will be inapplicable, since we will have already dealt with them in the preceding amendment which I intend to offer.

I wanted to explain that to the Members of the Senate before I offered the amendment.

Mr. President, before I do so, I am going to momentarily suggest the absence of a quorum.

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. 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.

AMENDMENT NO. 68

Mr. MITCHELL. Mr. President, on behalf of myself and the distinguished Republican leader, Senator DOLE, I send an amendment to the desk and ask it be stated.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows: The Senator from Maine [Mr. MITCHELL], for himself, Mr. DOLE, Mr. BROWN, and Mr. WELLSTONE, proposes an amendment numbered 68.

Mr. MITCHELL. 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:

At the end of the amendment add the following:

SEC. . ELIMINATION OF COST OF LIVING ADJUSTMENT FOR MEMBERS OF CONGRESS IN 1994.

(A) 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) SEVERABILITY.—If any provision of this Act, or an amendment made by this Act, or the application of such provision to any person or circumstance, is held to be invalid, the remainder of this Act, or an amendment made by this Act, or the application of such provision to other persons or circumstances, shall not be affected.

Mr. MITCHELL. Mr. President, the intent and effect of this amendment is straightforward and clear. It would legislatively prohibit the cost-of-living adjustment for Members of Congress which would otherwise have become effective for the calendar year 1994 under previously existing law.

Indeed it is included as section (a)(2)(b) of the amendment of the Senator from Colorado, and for the reasons I have previously stated I am offering it at this time.

It affects only Members of Congress. I do not believe there is any opposition to it. There were no votes in opposition when we previously passed this by unanimous consent, and I therefore do not propose to debate it at length, unless some Senator has a question on the matter or wishes to discuss it further.

As with the previous resolution, I suggest any Senator who wishes to be a cosponsor may do so by simply asking the clerk to add his name to the list.

If the Senator from Colorado wishes to address the Senate, I will yield the floor, Mr. President.

Mr. BROWN. If the distinguished Senator will yield?

Mr. MITCHELL. Yes, Mr. President.

Mr. BROWN. I thank the distinguished Senator for his explanation. I think he has made it perfectly clear.

I would like to be added as a cosponsor.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senator from Colorado be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there further debate on the amendment?

Mr. MITCHELL. Mr. President, 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. 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.

Mr. MITCHELL. Mr. President, I ask unanimous consent that upon the disposition of the pending amendment, Senator BROWN be recognized to offer an amendment, and that there be 40 minutes for debate on his amendment, equally divided, under the control of Senator BROWN and Senator MOYNIHAN.

The PRESIDING OFFICER. Without objection, it is so ordered.

If there is no further debate, the question is on agreeing to the amendment offered by the Senator from Maine [Mr. MITCHELL].

The amendment (No. 68) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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 Colorado is recognized.

AMENDMENT NO. 69

(Purpose: To eliminate cost-of-living adjustments for Federal employees and Members of Congress)

Mr. BROWN. Mr. President, I send an 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 Colorado [Mr. BROWN], for himself and Mr. HELMS, proposes an amendment numbered 69.

Mr. BROWN. 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:

At the end of the amendment add the following new section:

SEC. . LIMITATION ON FEDERAL COST OF LIVING ADJUSTMENTS IN CALENDAR YEAR 1994.

(a) FEDERAL EMPLOYEES.—

(1) IN GENERAL.—The rates of basic pay for each statutory pay system shall not be adjusted under section 5303 of title 5, United States Code, during calendar year 1994.

(2) CONFORMING AMENDMENT.—Section 633 of the Treasury, Postal Service and General Government Appropriations Act, 1991 (Public Law 101-509; 104 Stat. 1481) is repealed.

(b) MEMBERS OF CONGRESS.—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 (if not for the provisions of this subsection) shall not take effect.

Mr. BROWN. Mr. President, the intent of the amendment is quite straightforward and I think it has been previously described by the distinguished majority leader.

The intent of the amendment is simply this: in our debates prior to this moment, the distinguished Senator from Oregon, Senator PACKWOOD, offered an amendment that would have provided that this measure, that is, Emergency Unemployment Insurance Compensation Amendments of 1993, be paid for.

It is a fundamental concept of responsible budgeting to pay for items that are over budget. Senator PACKWOOD's amendment would have done that. It would have provided a method to pay for the additional outlays that are over budget in the particular bill that is before us.

Senator PACKWOOD's amendment was criticized for not being specific enough. It seems to me only responsible, then, to come forward and offer a specific item to help pay for the cost of this amendment.

I think there is broad agreement on this floor that some additional efforts to help unemployed people are appropriate. The debate that we find ourselves in is one of whether or not we will pay for these efforts out of other spending. I am one who believes that we ought to pay for it out of other spending.

The President has offered a series of specific proposals to reduce the deficit or control spending. And thus, what I am offering in this amendment is the President's proposal to freeze pay in 1994. For the fiscal year 1994, the President specifically suggests that we not have Federal employees receive a cost-of-living allowance.

As I think will be noted by many, the President made other recommendations with regard to pay, and I quote:

With regard to Federal salaries, it is the President's intention to ensure that the Government makes the first contribution to major deficit reductions he is calling for. The administration proposes that there be no national pay increases or locality pay increases for Federal employees in calendar 1994. National pay increases in 1995 through 1997 would be 1 percent less than the current law each year. Locality pay would be implemented beginning in 1995 under a revised system that will permit more equitable and accurate determinations to be made than

would occur under the current flawed methodology. The savings from these initiatives are \$2.7 billion in 1997 and \$8 billion over 4 years.

Mr. President, this is, thus, only a piece of the recommendations by the President for savings in this area. I favor the President's recommendation and I favor all of the President's recommendations in this area. The reason all of them are not before this body is, in contacting the White House, the Office of Management and Budget simply indicated that they are not able to draft the legislative language that the President had favored.

My hope was to bring this measure to the floor with an air of impartiality, with an air of bipartisanship, and to bring it in specific language that corresponded to the President's proposal. Thus, what is before us is the portion of the President's proposal—that is the cost-of-living adjustment for 1994—in which the President's intention is clear and I am confident and represent to the body that, at least in this portion of it, it is exactly what the President intends.

There are several questions I think that are reasonable to ask. One, why bother to pay for additional spending? All I can say is that every State legislature that I am familiar with that is mandated by its constitution to balance its budget each year follows a similar pattern. When they come up with items that are new spending during the fiscal year that exceed the budget that had been planned for that year, they pay for them out of cuts in other portions of their budget. This is nothing more than an attempt to honor the budget outlines that we have committed ourselves to as a Congress. Thus, it is one measure that will help reduce the deficit at the same time we increase it.

Fair comment, I think, would be, does this take care of the entire amount that is contemplated by the amendment in additional spending? The answer is no. I wish it did. The budget estimate that we have for this portion of it is \$2.97 billion over 5 years. Thus, it is less than the total amount of the bill that is before us. It is in different categories. And the savings are spread over a different time period.

But, Mr. President, it does help reduce the deficit in this regard and help make this a pay-as-you-go change in our law. The simple fact is that if we spend without regard to what the budget guidelines are, we create fiscal anarchy and the President's noble efforts to try and bring the deficit down go for naught if this Congress is unwilling to live by the guidelines which it itself has set.

Mr. President, I offer this as a sincere proposal. It is not only the President's recommendation but it is one that I endorse, one that I would sup-

port, one that I am going to vote for. But I think it would be a tragic mistake if this Congress adopted an attitude that we are not going to pay for additional spending as we go along.

So, short as this is—because it is only part of what is spent, and as difficult as it is—because it is a difficult issue to not provide a cost of living for conscientious Federal employees, it seems to me it is the right thing to do. It is at least an effort to address the fiscal shortfall that is caused by this particular bill.

Mr. President, the option is to ignore it. The option is to ignore the spending limits. The option is to say we are going to spend without regard to what the budget says, and without regard to what our revenues are. There is no surer path to the destruction of the American dream than that. And the record of this Congress and other Congresses in spending matters, and in deficit spending particularly, is a testimony to what can happen when budgets are not followed.

I hope the Members will come forward and honor the recommendation of the President of the United States and will support this modest proposal that at least in part covers the shortfall and that the effort to resolve the deficit will be one that continues to be bipartisan.

Let me add two other facts, if I could, Mr. President. It is not my intent to delay this process 1 minute in term of the final passage of this bill. There are a number of Members who have come forward today and suggested we should dispense with all of these other considerations and simply pass the unemployment benefits bill because they are needed. This unemployment benefits bill could well have come up in January. We had open calendars for much of January. It could well have come up in February. We had open calendars for much of February. It is not here at this late date because of my choosing. It is here at this late date because this body did not act on it earlier. So I want to make it clear that this is not an effort to slow the process or to slow the deliberations on this particularly important issue.

Second, I want to make another point. My amendment is offered because it is a clear, concise, and precise description of the President's proposal. Some could criticize it because it is not enough. And I simply want to assure the Members of this body, if there are other measures that save the taxpayers money that are included in the President's proposal, that do not raise taxes, I will welcome them as amendments to this measure. No one should leave the Chamber today or deliberate on this particular issue under the apprehension that additional cuts as recommended by the President would be spurned or disregarded. I think they ought to be considered. I think they

ought to be taken up. And I simply want to assure the Members of this body if there are other responsible cuts in spending that are not tax increases, I want to welcome them as additions to this particular amendment. It seems to me that that would be a responsible way to approach it.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, the debate today has taken more twists and turns than the yellow brick road in the "Wizard of Oz." It would be pretty tough for anyone to follow the logic of what has occurred.

Those who are fastest to denounce the President's budget now invoke the President's budget in urging support for this amendment. Those who had just a few moments ago voted to delay consideration of the President's budget now say we cannot wait for consideration of the President's budget before we take up this part of it. Those who we all know are going to vote against the President's budget now come here and say this part of the President's budget is so good we cannot wait another minute before we vote on it.

Alice would be lost here today. The fact of the matter is, we all know what is happening. Again I do not ascribe intention, I ascribe effect. Adoption of this amendment will frustrate and delay passage of the unemployment insurance extension bill; 1.8 million American families at this moment are hostage to these kinds of delaying tactics. This has nothing to do with the underlying bill, as the sponsor of the amendment himself has just candidly acknowledged. The place to consider this amendment is in the President's budget, which we have been trying all day to get moving on and on which our colleagues on the other side of the aisle have been trying to delay action.

The proper course of action is for the Senate to table this amendment, to pass the unemployment insurance extension bill now so the 1.8 million American families who now face anxiety and fear as to the effects of the expiration of the program on Saturday will have those fears and anxieties allayed and then to proceed full blast to take up the President's budget and to vote on it, including this and every other provision in the budget.

Instead, we are now apparently to be subjected to this piecemeal approach, this dual approach which consists of the conflicting strategies of trying to delay action on the President's budget but, meanwhile, to take individual items from the President's budget and bring them up right now; which consists on the one hand of denouncing the President's budget but on the other hand to invoke the President's budget as a reason to support a particular amendment.

I conclude this portion of my remarks by asking that a letter to Senator BROWN, dated March 2, from the Congressional Budget Office, be printed in the RECORD. I will just read the first paragraph, three sentences.

DEAR SENATOR: The Congressional Budget Office has reviewed your proposal to freeze pay rates for federal employees, Members of Congress, and Congressional employees, as described in your fax of March 1, 1993. The proposal would freeze salaries at their 1993 levels for calendar 1994, with cost-of-living and locality pay adjustments resuming in January of 1995. Because pay raises are funded through annual appropriations, the proposal would not affect direct spending.

I do not know what that means. First, I do not even know if the amendment offered is the same as the faxed amendment, but I think it is something Members ought to have when they vote on it so I ask unanimous consent that the letter and accompanying table be printed in the RECORD.

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

CONGRESSIONAL BUDGET OFFICE,  
Washington, DC, March 2, 1993.

Hon. HANK BROWN,  
U.S. Senate, Washington, DC.

DEAR SENATOR: The Congressional Budget Office has reviewed your proposal to freeze pay rates for federal employees, Members of Congress, and Congressional employees, as described in your fax of March 1, 1993. The proposal would freeze salaries at their 1993 levels for calendar 1994, with cost-of-living and locality pay adjustments resuming in January of 1995. Because pay raises are funded through annual appropriations, the proposal would not affect direct spending.

If appropriations are reduced by the amount of the proposed reduction in current law salaries, the proposal would save \$2.7 billion in 1994 and \$5.2 billion over the 1994-1998 period compared to the baseline described by the Budget Enforcement Act, not assuming compliance with the BEA discretionary caps. By 1998, the cost of the locality pay would outweigh the savings from the one-year freeze, producing a cost of just over \$600 million. The BEA discretionary spending limits require reductions in discretionary spending below the unconstrained baseline in 1994 and 1995. Because there is no way to anticipate whether those required savings would come at least in part from reductions in personnel costs, it is impossible to estimate how much a 1994 pay freeze would reduce discretionary spending below CBO's baseline assuming compliance with the BEA caps.

The effects of the proposal are summarized in the enclosed table. Although the proposal would not affect direct spending, and would not be counted on the pay-as-you-go scorecard, it would change the portion of an agency's appropriation that must go towards paying federal employees' salaries.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Leslie Griffin, who can be reached at 226-2880.

Sincerely,

ROBERT D. REISCHAUER.

Enclosure

#### SAVINGS FROM A ONE-YEAR FREEZE IN FEDERAL CIVILIAN PAY

[By fiscal year, in millions of dollars]

	1994	1995	1996	1997	1998
<b>Gross savings:</b>					
Non-DOD civilians including members .....	-1,824	-898	263	1,088	1,844
DOD civilians .....	-1,243	-1,505	-1,316	-1,194	-1,157
Subtotal .....	-3,067	-2,403	-1,053	-106	687
<b>950 Offsets:</b>					
Non-DOD civilians including members .....	207	104	-31	131	-226
DOD civilians .....	189	184	150	141	141
Subtotal .....	396	288	119	10	-85
<b>Net savings:</b>					
Non-DOD civilians including members .....	-1,616	-793	232	957	1,618
DOD civilians .....	-1,054	-1,321	-1,165	-1,054	-1,016
Subtotal .....	-2,670	-2,114	-933	-97	-302

Source: Congressional Budget Office.

Mr. MITCHELL. Mr. President, I just want to say again, we are trying to pass this unemployment insurance bill. By the candid acknowledgment of the author of the amendment, the amendment has nothing to do with the unemployment insurance bill. The only conceivable effect of adopting this amendment would be to delay enactment of the unemployment insurance bill, perhaps to cause it not to be extended prior to the expiration date on Saturday. If our colleagues genuinely, strongly, and sincerely believe, as I know they do, in getting this unemployment insurance program extended, they should defeat this amendment and permit us to proceed to pass the bill.

I yield the floor and reserve the remainder of time.

Mr. BROWN addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. BROWN. Mr. President, I would like to respond to the comments of the distinguished majority leader as he reviewed it. Perhaps it would be most helpful to comment on the budget letter that was just entered into the RECORD. That particular letter does not relate to the amendment that is being offered. If there is some misunderstanding that my actions have caused that has misled the majority leader, I certainly want to acknowledge that and apologize for it.

The amendment is not the same as was included and considered by the budget office. As a matter of fact, the measure before us does not eliminate COLA's for congressional staff because that is funded separately. This is not, we are advised, the appropriate vehicle to do that on. The COLA freeze is simply the proposal of the President which relates both to Members of Congress and to other Federal employees.

The letter that has been entered into the RECORD does not relate to the amendment that is before the body.

Second, Mr. President, the distinguished majority leader had referred to some of the Members who had criticized the President's budget so vehemently and yet seemed to be going the other way in advocating this measure.

I do not know if that was a reference to this Senator from Colorado, but let me make my position clear on that.

I have reviewed the President's budget. We have looked indepth at a number of the proposals. I have specifically endorsed \$118 billion in savings that the President recommends in the non-defense areas that covers both discretionary spending and entitlements. I do not know if other Members have come to the conclusion that that much is worthwhile and supportable, but I have. In fact, we have endorsed almost all of the savings the President recommends except for those that are in reality tax increases.

Moreover, Mr. President, I have reviewed the defense proportions that are specified, and I support more than half of them. I suspect a significant majority of this body may have come to that conclusion at this point.

I also reviewed the receipts the President recommends and specifically endorse over \$6 billion. The bottom line, Mr. President, is I do not come here opposed to the cost savings that the President has outlined in this area. I come here as an advocate of it. I have publicly endorsed it. I included it in a proposal that I mean to bring before the Budget Committee. I bring it to the floor as one who supports it and will vote for it. So the suggestion that there is somehow skulduggery, if that is implied, simply does not apply to this Senator. I am an advocate for these portions of the budget. I am not an advocate of tax increases on the American people without real controls on spending.

But I want to assure the Members present that I am a believer in, and advocate of, and will vote for, these measures that cut the deficit in this regard.

Second, let me just reiterate, it is not my purpose to delay the bill, and I shall not delay the bill. This is why I have agreed to a very tight time limit. This is why we have tried to make our remarks concise. I simply reiterate, it is not by my choice that this measure did not come up in January. It should have. It is not by my choice it did not come up in February. It should have. I think as Members of the Senate will recall, we had ample open time on the floor when it could have.

Finally, Mr. President, let me suggest the description of my remarks by others implying that this amendment had nothing to do with the bill, was certainly not what I intended. I thought I went into depth to point out how essentially important it was to make sure that every time we increase spending in a way that could exceed the budget we ought to be willing to come up with ways to pay for it. This is not a perfect way to pay for it, and I readily acknowledge this. It is an effort to pay for it. It does pay for part of it. I think it shows a sincere effort

to face some of the budget challenges we have to address.

Let me just close with this remark, Mr. President. The name of the game is change in the United States. The fact that the President has come forth with a series of proposals that cut the deficit indicates it is a new day. This country does not have a future for our children and our grandchildren if we do not get this deficit under control. The time when someone could get elected to the Congress based on how much money they are going to give out at home is over. American voters want this problem addressed, and that is what this proposal does. It takes the President's proposal. It is verbatim out of the President's message; the entire portion we have exact language on, and we offer this as an offset.

Mr. President, I hope the Members will consider this measure; that they will act responsibly because I think the President's leadership on this particular issue deserves to be followed.

I yield the floor at this time and retain the remainder of my time.

The PRESIDING OFFICER (Mr. AKAKA). The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, may I make the point that the proposal before us would go into effect 1 year from now, January 1, 1994, and we will have ample opportunity to vote for it within the next few months, if not weeks. And it will pass.

All that enacting it today would do would put in jeopardy the extended unemployment insurance of 1.8 million families. The situation in the House of Representatives gives no promise that a new piece of legislation, which this would be added to the bill we have before us, could be enacted. We are playing with a possible, hugely irresponsible move. I hope we will not.

I see the distinguished Senator from Arkansas is on the floor. I yield him 5 minutes.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I do not think I need the entirety of the 5 minutes. I compliment my distinguished chairman of the Senate Finance Committee, the majority leader and those responsible today for bringing this legislation to the floor of the U.S. Senate in this fashion.

Mr. President, I think, too, it is time to say that this particular amendment, though the intentions may have been worthy, is going to do nothing but wreak havoc on the unemployment compensation bill that we labored mightily to get from the Finance Committee to the floor of the Senate.

In addition, Mr. President, as the distinguished chairman has just stated, this amendment is not even going to go into effect until 1994. It will have no effect this year. The place for this discussion, if there is one for an amend-

ment such as this, is going to be on the budget resolution, reconciliation or in the budget process, not upon the unemployment compensation bill, as our distinguished manager has mentioned, that is going to hold hostage 1.8 million American families.

Mr. President, in conclusion, let me also state my distinguished friend from Colorado has left out an integral part of the costs of running Government. Did he put a COLA freeze on those? Did he put a cap on their salaries? Of course not. I am talking, Mr. President, about those \$4 billion worth of Government consultants and contractors who were hired just in the last 4 years, during the last administration. When our President would stand before the Congress and say that we are going to eliminate 100,000 Federal jobs, what he did not tell us is that the agencies for every Federal job eliminated through attrition, retirement, firings, what have you, would increase, double that number of Government consultants and contractors.

What does this do, Mr. President, to the morale of the Federal employees out there in the agencies when sitting at the next desk is someone paid by a contracting firm or consulting firm making twice, three times the salary of that Federal employee? And then we come along with this amendment at this time, on the wrong bill, the wrong day, the wrong moment.

Mr. President, I hope our colleagues can see that this is in fact going to wreak havoc upon the possibilities of us by tomorrow night or Friday giving to the American people an unemployment compensation bill that I truly believe most of us in this body feel must be passed.

Let us do what we need to do on that, and let us wait on this proposal or any like it until the proper place and the proper time.

Mr. President, I thank the distinguished chairman and manager, and I thank the Chair for recognizing me.

I yield back the remainder of my time.

Mr. MOYNIHAN. Well said, I say to the Senator.

Mr. President, if the distinguished Senator from Colorado is ready to yield back his time, we will do the same.

Mr. BROWN. I thank the distinguished chairman. I did have a question for the distinguished chairman if he is willing to engage me on the subject.

Mr. MOYNIHAN. Of course.

Mr. BROWN. I thought the distinguished chairman brought up an important point and one that merited consideration. It certainly is not my intention to delay the action on this measure, and it is why I have entered into a time agreement. But the distinguished chairman had raised the specter that having an amendment added to this measure could well delay its consideration.

If I understand what has happened, have we not already adopted an amendment to this measure which will require it to go back to the House for consideration?

Mr. MOYNIHAN. The distinguished Senator is quite correct. But the amendment that we have adopted would be instantly accepted in the House. We will not have a chance to conference. Time has run out. But the amendment of the Senator from Colorado would be an occasion for a 2- or 3-day debate. The House is going to come in briefly tomorrow, and this program dies at midnight.

I plead with the Senator; I plead with Senators who may be listening. They will have a chance to vote for the Senator's proposal. It is the President's proposal. We are all going to vote for it. But will we put in jeopardy, will we kill the extended unemployment benefits for 1.8 million people, some of whom have been out of work for half a year and more, living on an average of one-third, the benefit replaces one-third the average weekly wage. Is this the time to do that to such people? I think not.

Mr. BROWN. Mr. President, I simply state that I have great respect for the view of the distinguished Senator from New York, and he is, indeed, an expert in the field.

Having spent a decade in the House of Representatives myself, it would come as a surprise to me if, indeed, this matter did merit several days of debate. My recollection of such decade in the House indicates that the leadership has ample power to control debate and, as a matter of fact, debate is as a normal course quite severely limited.

With regard to how controversial this portion of the measure is, I certainly think every Senator is probably their own best judge of how controversial it is. I merely would observe this is verbatim the President's own recommendation. I believe that you have a significant majority of Republicans in the House who would embrace this measure and vote for it, and I must say I believe you have a substantial majority of Democrats in the House who are inclined, at least at this point—at least in my judgment—to want to support the President.

Lastly, Mr. President, I would simply like to point out that over the 12 years I have served in the Congress, there was not a single year in which this Congress kept spending within the budget that Congress passed.

Mr. President, let me repeat that. There was not a single year in those 12 years where spending was limited to the amount Congress suggested in its own budget. There was 1 year we came pretty close. Not once, not once.

In those 12 years, I have heard people say do not adopt this cut because it is too early; do not adopt this cut because it is too late. The one we have today

apparently is adopted too early and it would be some months before it would take effect. Apparently, that is a reason to vote against it. Some say do not vote for the Packwood amendment because it is too general. When you respond with a very specific proposal, some have said, look, it is too specific. Too early, too late; too general, too specific.

Mr. President, when are we going to face up to the realities? The major question the American people have about the President's budget is not whether or not it has tough things in it. They know it has tough things in it, and they are willing to accept it. Frankly, most Americans I hear are proud of the President's willingness to do difficult, tough things. Most Americans want us to do it. Most Americans have a real and sincere doubt that this Congress is capable of controlling spending.

They are not cynics. They have watched us operate. They have watched us for a dozen years in a row overspend the budgets that this Congress passes, its own budgets. And not a single one of those budgets has been a cut. There has never been a year in those 12 years where we have cut spending in the budgets. They have all been increased, and we have all overspent.

Is this amendment relevant? Of course, it is, because it indicates and signals our willingness to do at least something to control spending at the same time you are increasing it.

The concern the American people have about the budget that is so hotly debated is not doubt about the President. They admire his willingness to come forward with a plan and lay it out and work on it.

The concern they have is whether or not we are going to follow it; whether or not he will veto every measure that is over budget; whether or not we will keep spending within the budgets once they are passed. That is the question. It is credibility that is on the line. It is why I, as a Republican, come forward to offer the President's proposal which I support and for which I am going to vote.

That is the issue today: Credibility.

Let me simply say one other thing, Mr. President. If anyone doubts the sincerity of trying to bring this in line, let me suggest I would happily welcome any additional proposals that the President has made, to attach to this bill. If, indeed, the concern of the distinguished Senator from New York or others is that this does not save enough money soon enough, then let us bring forward the other proposals and adopt those, too. I stand here willing to commit that I will vote for every one of those cuts in spending that does not involve a tax increase to provide offsets for this bill.

But the issue before us is not employment. The issue before us is not the

timing of the unemployment benefits because they could have been brought up any day in January and any day in February, and they were not. It was not because we had full calendars. The issue before us is credibility before the American people. Do we really intend to adopt cuts along with the spending increases? That is the question. That is what Americans at home are wondering about. And it is why I bring this measure to the floor.

Mr. President, I relinquish the floor and retain the remainder of my time.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from New York.

Mr. MOYNIHAN. I yield to the Senator from Maryland 3 minutes.

Mr. SARBANES. Mr. President, I will be very brief.

The PRESIDING OFFICER. The Senator from Maryland [Mr. SARBANES] is recognized.

Mr. SARBANES. Mr. President, I have people who watch these debates in the Senate ask me, how do you all do your business there? We do not understand. How is it that a bill can come up, in this instance, which deals with unemployment insurance, and you can get amendments offered to the bill that have absolutely nothing to do with unemployment insurance?

Frankly, I have to tell you I think it is a very reasonable question. The proposal of the Senator from Colorado is going to be considered when the budget issue comes before us—that proposal and many others. There will be sharp differences on what ought to be done. We will have the proper debate and the proper resolution of those.

But this constantly keeps happening in this body. There is a joint committee on the organization and process of the Congress. I have to tell you, listening to this debate, it is becoming clearer to me what one of the recommendations of that committee ought to be; that is, amendments ought to be relevant and pertinent to the legislation to which they are offered. Otherwise, you have this situation.

We are trying to pass a desperately needed extension of the unemployment insurance bill. We are getting amendments offered to it that have nothing to do with unemployment insurance. We are then told we are trying to do the President a favor by offering these amendments because we are taking one piece or another out of his budget proposals, and we are going to add that particular piece onto this proposition.

For those of you that are trying to help the President, let me say to you, the President wrote to the majority leader—this is from President Clinton—saying the administration strongly supports this legislation and urges its quick enactment. This legislation—I am excerpting from it—would "assist the unemployed and their families. I am strongly opposed to any sub-

stantive amendments to this bill," says the President.

So, if you are trying to help the President, I do not think the President has asked or is seeking your help. In fact, the President is telling us to go ahead and pass the bill, S. 382, the unemployment insurance benefits. Pass this bill. This program is going to expire on Saturday. There are going to be people who cannot pay their mortgages, cannot put food on the table, cannot meet their car payments.

Mr. President, this does, I think, dramatize the need to change the way we ought to do business. I really beseech my colleagues to think about it for a bit. This is not the first time it has happened. It is not the last time.

I am not particularly being critical of the Senator from Colorado because most, if not all, Members do this sort of thing. We get legislation out here on a particular subject. Then we get amendments offered that have absolutely nothing to do with that subject. It is no way to do business. You know that a certain subject is up on the floor and an amendment gets offered. You come in the door, getting ready to vote, and then you discover the amendment is offered which has absolutely nothing to do with the legislation that is being proposed.

If you want to say something to the American people, what I say to the American people is this is no way to do business. This procedure ought to change in the U.S. Senate. I think the more examples we get of this sort, the more we dramatize that issue, and, hopefully, the joint committee will recommend such a change. Then we will have to have amendments that are germane and relevant to the legislation on which they are being offered. So I support the leader in his position.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Thank you, Mr. President. I have not spoken on this issue, but I would like to reiterate what the Senator from Maryland has said. I am a freshman. I have listened to this debate. I have heard people say the gross domestic product is up, and it is. I have heard people say that for the last 4 consecutive months in 1992 food stamps in this Nation have gone up to an all time high. I come from a State where 1.4 million people are out of work.

This is a simple, pure bill. I have not heard anyone say it is not necessary to pass this bill. Yet, I have sat here and I have listened to debate which would tack on amendments which would probably throw the bill in jeopardy within the time limit in the House of Representatives.

I might just respectfully say to the majority leader, Mr. President, and the minority leader, that from where I

come this is what people do not like about Government. They do not want urban aid with the tax bill tacked onto it. They do not want an unemployment compensation insurance extension with other things tacked onto it. I think we were sent here to break the gridlock. At least that is what the 1992 election was all about. We have a pure and simple thing. Do we extend unemployment insurance compensation to the needy families until October or do we not? It seems to me it is time to get on with it and cast that vote and tackle other issues on other days.

Mr. MOYNIHAN. Well said.

May I yield the remainder of my time to the majority leader.

Mr. MITCHELL. Mr. President, I hope we will vote shortly. I will not prolong it. Earlier I referred to a letter to the Senator from Colorado from the Congressional Budget Office. A question was raised about the applicability of that legislation to this amendment. My staff has checked with the Congressional Budget Office and has been advised that, notwithstanding the fact that the amendment offered is not identical to that described by the Senator from Colorado with respect to the Budget Office, the operative provision of the letter applies to the pending amendment. That operative provision is stated in the single sentence at the close of the first paragraph of the letter, and it is: "Because pay raises are funded through annual appropriations, the proposal would not affect direct spending."

Mr. President, I yield the floor. I reserve the remainder of my time.

Mr. MOYNIHAN. Mr. President, in the name of 1.8 million families, who are in danger of losing their unemployment benefits, some of them starting on Saturday midnight, if this amendment should pass, I move to table the amendment and 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 motion of the Senator from New York to lay on the table the amendment of the Senator from Colorado.

On this question, the 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 New Mexico [Mr. BINGAMAN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 58, nays 41, as follows:

[Rollcall Vote No. 23 Leg.]

YEAS—58

Akaka	Ford	Mitchell
Baucus	Glenn	Moseley-Braun
Biden	Graham	Moynihan
Boren	Harkin	Murray
Boxer	Heflin	Nunn
Bradley	Hollings	Pell
Breaux	Inouye	Pryor
Bryan	Johnston	Reid
Bumpers	Kennedy	Riegle
Byrd	Kerrey	Robb
Campbell	Kerry	Rockefeller
Conrad	Kohl	Sarbanes
Daschle	Krueger	Sasser
DeConcini	Lautenberg	Shelby
Dodd	Leahy	Simon
Domenici	Levin	Stevens
Dorgan	Lieberman	Wellstone
Exon	Mathews	Wofford
Feingold	Metzenbaum	
Feinstein	Mikulski	

NAYS—41

Bennett	Faircloth	McCain
Bond	Gorton	McConnell
Brown	Gramm	Murkowski
Burns	Grassley	Nickles
Chafee	Gregg	Packwood
Coats	Hatch	Pressler
Cochran	Hatfield	Roth
Cohen	Helms	Simpson
Coverdell	Jeffords	Smith
Craig	Kassebaum	Specter
D'Amato	Kempthorne	Thurmond
Danforth	Lott	Wallop
Dole	Lugar	Warner
Durenberger	Mack	

NOT VOTING—1

Bingaman

So the motion to lay on the table the amendment (No. 69) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. SARBANES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate is not in order. The Senate will be in order.

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from New York suggests the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. 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. BYRD. Mr. President, regrettably, the Senate has before it now yet another bill to extend unemployment benefits. I say regrettably because one would expect that, nearly 2 years into an economic recovery, the problem of unemployment would have been taken care of long ago. After 22 months of economic recovery, one would expect the hardships of unemployment to be but a faint memory for those Americans who might have lost their jobs during the 1990-91 recession.

That is what one would expect. Expectations aside, however, the fact is

that unemployment continues to be a problem for millions of Americans who want to work, but cannot find a job. The fact is that, rather than being a faint memory, unemployment remains a harsh reality for the families of far too many working men and women.

Just over 9 million Americans are out of work today. The national unemployment rate has remained stuck over 7 percent for 14 consecutive months, and is higher now than it was at the trough of the recession. In West Virginia, unemployment now stands at 10.6 percent, the highest rate in the Nation.

Moreover, despite the fact that we have had nearly 2 years of economic recovery, the rate of long-term unemployment remains stubbornly high. In January of this year, more than 1.9 million Americans, or 21 percent of all those unemployed, had been without work for more than 6 months—a figure nearly 20 percent higher than a year earlier. The rate at which claimants are exhausting their regular State unemployment benefits today is comparable to the exhaustion rate experienced at the depths of the 1981-82 recession, and is 20 percent higher now than it was at the end of the most recent recession.

While it might seem to be oxymoronic to describe this as a "jobless recovery," that is an apt description of our current situation. We are in an economic recovery. In the last two quarters, we have even experienced relatively strong economic growth. Yet, job growth has been minimal, and unemployment, particularly long-term unemployment, remains a serious problem.

As a result, few, if any, in this Chamber seem prepared to argue that we should not provide for an extension of unemployment benefits one more time, or that we should not do so before the current Emergency Unemployment Compensation Program expires on March 6. On this, there appears to be little disagreement. The question before the Senate today is: Should we pay for this extension of unemployment benefits by cutting spending elsewhere or raising taxes, or should we declare an emergency, as provided for under the Budget Enforcement Act, and treat the provision of these unemployment benefits as an economic stimulus?

Given the state of the economy, I believe the latter course is the more prudent one. The very fact that there is such broad agreement that we need to extend unemployment benefits suggests that the current economic recovery is not all that we might hope it would be, and that we need to do something to stimulate the economy. If, after nearly 2 years of economic recovery, the rate of unemployment remains higher than it was at the outset of the recovery, providing the economy with a little stimulus would seem not only appropriate, but necessary.

Extending unemployment benefits through an emergency declaration will simultaneously accomplish two equally important objectives. First, by extending the soon-to-expire Emergency Unemployment Compensation Program for 7 months, through October 2, 1993, it will provide much needed assistance to those Americans who, despite nearly 2 years of economic recovery, find that their own employment situations have not yet recovered. Second, it will help stimulate the economy, thereby hopefully boosting the rate of both economic growth and job creation. To offset the cost of this extension of unemployment benefits would negate the stimulative effect of its adoption. To do so, in my view, would be penny-wise, but pound-foolish.

I urge my colleagues, therefore, to support the legislation now before us, S. 382, the Unemployment Compensation Amendments of 1993, as it has been reported from the Committee on Finance.

Mr. WELLSTONE. Mr. President, I rise in support of S. 382, legislation to provide for another extension of urgently needed emergency unemployment benefits until October 2, 1993, and to create a program which would profile new claimants for unemployment compensation, to ensure for them better and more rapid access to reemployment assistance and support services. These emergency benefits are just one part of a comprehensive Federal effort to provide support, counseling, job training, and other assistance to unemployed workers that President Clinton has proposed to streamline and expand and that the Senate Labor Committee has supported for years in the face of consistent Bush administration opposition.

Next week, over 1.8 million Americans risk losing this important shield against economic catastrophe if we do not act now to authorize release of these funds. Extending these benefits will give those Americans critical breathing room, and a chance to continue their efforts to seek employment.

While there are some modest signs that economic recovery is at last underway, unemployment is still higher now at 7.1 percent than at the depth of the recession in March 1991. At least 9 million Americans are still out of work, almost 2 million of whom have been out of work for at least 6 months. The rate at which unemployed workers are exhausting their benefits is comparable to exhaustion rates at the depths of the 1982-83 recession. The Department of Labor has estimated that 250,000 to 300,000 unemployed Americans will exhaust their benefits under State law each month for the next 6 months. We must make aid available to those people now.

Compared to the average recovery from post-World War II recessions, job growth in recent months has been

unimpressive. In past recessions, an average of 228,000 jobs had been added by this point in the recovery. By comparison, the current recovery has added only 29,000 jobs nationwide. Major companies like Sears, IBM, and GM have recently announced further huge layoffs. Unlike in past downturns, many of those who have lost their jobs will never be rehired by their former employers.

In Minnesota, where unemployed workers would get an extra 20 weeks of emergency benefits in addition to the 20 weeks of benefits under the regular program, I have heard from workers trying to hold their families together in the face of joblessness and the prolonged despair which often accompanies it. Each of us, in our own states, has heard the stories of real people, feeling real pain and facing economic catastrophe if we allow these benefits to lapse. We must not turn our backs on them now.

This proposal marries compassion with common sense. It not only provides emergency support, but provides dislocated workers with real assistance that helps to put people back to work in jobs that meet their skills and interests—good jobs, high-paying jobs. I urge my colleagues in the strongest possible terms to support this measure.

Mr. GORTON. Mr. President, today the Senate is considering legislation to extend the Emergency Unemployment Compensation Program so that workers who exhaust their regular benefits will be eligible to sign up for 20 to 26 weeks of emergency benefits until October 2, 1993. It is legislation with whose goal I wholeheartedly agree, but whose methods I question. While I have serious and profound reservations with its methods, I will vote in favor of this bill.

Voting for a bill which will increase the deficit by over \$5 billion is not, by a longshot, my preferred course of action. I believe the Republican amendment which would have funded extended benefits by making use of the President's own proposal to cut administrative costs to be the correct course of action. But the Democratic leadership said no.

They said no to paying for extended benefits by cutting items such as flights by Government bureaucrats. They, in fact, insisted that the \$5 billion price tag for this bill be added straight to the deficit. Mr. President, I strongly object to that course of action.

My viewpoint, however, lost when the Republican amendment was voted down. And I recognize that. What I am left with, then, is a situation where I must weigh the need for these benefits in my State against the pressing need to reduce the deficit. I must come to a final decision.

The decision I reluctantly reached is to vote for this bill. The reason is that

the benefits themselves are more important than the method of paying from them. I simply cannot turn my back on the people in my State while they are reeling from several severe economic blows and are in desperate need of help.

Washingtonians are suffering from a dangerously weakened economy and staggering job losses. To give just a few examples, ITT-Rayonier, a paper mill in Hoquiam, WA, recently closed, throwing its 600 workers into the unemployment line. Last year, Boeing cut some 6,000 workers from its payrolls. Recently, the company announced plans which will affect another 19,000 employees.

Mr. President, these plant closings and work force reductions make it exceedingly difficult for workers and their families in Hoquiam, Forks, Everett and Seattle to pay for mortgages and put food on the table.

It seems that the Washington State economy is lagging behind the rest of the country in recovering from the effects of this recession. It is only right that because Congress provided emergency benefits to the rest of the country when they were hurting, so too should Washingtonians expect some help how that our State is suffering.

If that means accepting a package which increases the size of the deficit, then I reluctantly accept it because the situation in my State is that grave.

Mr. President, I do not want anyone to think that this vote in any way affects my firm commitment to reducing the size of the Federal budget deficit. This particular situation is unique, and requires unique action.

I will still vote in the future against new spending and new taxes and measures which increase the deficit. I still firmly believe that unburdening our children and grandchildren from stifling debt is the most important thing Congress can do.

But, Mr. President, in this one instance, I cannot ignore the anguish and pain Washingtonians feel. I just wish the Democratic leadership would have permitted Congress to act more responsibly in this instance.

Mr. CHAFEE. Mr. President, as we all know, the recent recession was especially severe, particularly for New England and my home State of Rhode Island. Rhode Island's latest total unemployment rate or TUR is 7.9 percent—almost a full percentage point higher than the Nation's TUR. At one point, Rhode Island's rate was over 10 percent. Although I am relieved by the improvement, clearly a serious problem remains.

The legislation under consideration today is critical to the thousands of workers around the country who are having trouble making ends meet for themselves and their families because they still cannot find employment. Although economic indicators show we

are in a recovery, it is a recovery that has produced few new jobs. In few places in our country has the frustration from searching for work been more evident than in my home State.

Two days ago, I received a letter from a Rhode Islander who was laid off last January. Over the last year, he has sent out more than 300 resumes, only to be told that he is either overqualified or underqualified. With a family of five to care for, he decided to start a small restaurant, but has run into other roadblocks in obtaining credit to finance the venture.

I am pleased that we are here today to take up the case of people who, like this gentleman, cannot find work despite their best efforts. I voted earlier today that these benefits be paid for, rather than deeming the spending an emergency and directly increasing the deficit. On previous occasions we have identified revenues to offset the cost of the extension. Regrettably, the effort to pay for these benefits failed once again we are levying upon our children the bill for our actions.

Mr. President, Senator PACKWOOD's amendment gave us the opportunity to extend the program in a fiscally responsible way by directing OMB to reduce administrative and overhead spending at Federal agencies. President Clinton included such reductions in his own deficit reduction plan.

Let me also add that we cannot go on forever extending the Emergency Unemployment Program. This is the third extension of the program. Although it clearly is necessary, we really must get to the heart of this matter—the need to create jobs.

One suggestion I have is to repeal the luxury tax on boats. The burden of this tax has not fallen on the rich, as envisioned by its authors. Instead, it hit American boatbuilders who have been thrown out of work.

In total, the boatbuilding industry has lost about 25,000 to 30,000 jobs as a result of the unwillingness of people to pay this tax, and thus purchase boats. These were good, solid American jobs. Jobs are a far more enduring support to our Nation's economy and to its workers than are unemployment benefits.

Mr. COVERDELL. Mr. President, today the Senate has dealt with a very serious issue in a very insincere manner. The issue is extending unemployment compensation to those still hurting from the recession. Also at issue is how will the Federal Government pay for the estimated \$5.6 billion in added compensation.

I cannot support efforts to extend unemployment compensation that do not adequately deal with how the country will pay for such an extension. It is too easy to vote for the extension without having to face the facts on how the bill will be paid. I supported a measure by my colleague Senator PACKWOOD from

Oregon which would have required the Federal Government to fund such an increase in compensation without adding to the deficit. This measure would have been fiscally responsible. This measure, however, was defeated by the Democratic majority.

Instead the Senate has chosen a buy now, pay later approach which will simply add to the ever-increasing deficit. Reducing the deficit will stimulate growth in the economy and create new jobs. Adding to the deficit will place a greater burden on the economy and hamper growth in the jobs market.

Mr. LEVIN. Mr. President, even with some signs of economic recovery on the horizon, in many areas of the Nation, including my home State of Michigan, the suffering continues. The economy has recovered less than one-third of the jobs that were lost during the depth of the recession. Rarely a week goes by without a report of new major layoffs. The optimism that some people feel about the state of the economy has failed to be reflected in many communities in my home State of Michigan or in other areas of the country as well.

In January alone, more than 10,000 people in Michigan exhausted their regular State unemployment benefits. Unless we act on the legislation before the Senate today, 80,000 people in Michigan will have their extra unemployment benefits cut off over the next year in the face of a job market that is still not producing job opportunities quickly enough.

This bill will provide additional weeks of Federal unemployment benefits on top of the 26 weeks of regular benefits offered by the States. It will extend the Federal program from March 6 through October 2 and allow people who qualify for these benefits prior to October 2 to collect them through January 15 of 1994. For people in Michigan, the formula in this bill provides 20 weeks of Federal benefits to those who have exhausted their State benefits. It means almost \$300 million will be injected into the economy of Michigan.

I hope that we are on the verge of an economic recovery that will be translated into new jobs for the victims of the past recession. I believe that the stimulus and growth package that President Clinton has proposed will enhance our prospects of reestablishing a high wage, high growth economy. But, in the meantime, we must provide an extra measure of support to those who have not had long enough to find new employment. This legislation that we are passing today is a determined step in the right direction.

Mr. COHEN. Mr. President, today the Senate will complete consideration of an extension of the Federal Emergency Benefits Program, which provides much needed unemployment assistance to people who have lost their jobs in these difficult times.

In my regular trips back to Maine, I have heard from literally hundreds of people whose lives are being disrupted by recent economic conditions. Many of these people have told me how the Federal benefits program has helped them survive while they are looking for a job. People who are eligible for this program are not recently unemployed but have been unemployed for a long period of time. It is these long-term unemployed who, I believe, need the most assistance as they try to find jobs. As in the past, I remain committed to helping these people by working to improve the Maine economy and to promote the creation of new jobs.

Like many of my colleagues, I want to support this latest extension of the Federal program so that unemployed citizens of my State and the Nation may receive additional weeks of unemployment benefits if they are out of work for an extended period of time. Because I believe in the worth of the program, I have supported it since its creation. In February and July 1992, I wholeheartedly supported extensions of the program.

While I do not want to reduce the assistance that the long-term unemployed are receiving, I feel strongly that I have a responsibility, both to citizens in Maine and to the American people, to ensure that there is a way to pay for a program that will cost the American taxpayer approximately \$5.7 billion over the next 2 fiscal years without simply adding the cost to the Federal deficit. This is a tremendous amount of money, and at this time, sponsors of the bill have not included a way to pay for it, thus, while I recognize that many newly unemployed Americans, including people from my own State, may need additional unemployment assistance, I believe we must responsibly determine a means of paying for this assistance as we debate this legislation. Before agreeing to a third extension of this program, we must ensure that we can pay the bill.

This is not an easy decision. The unemployment rate in Maine, adjusted for seasonal effects, was 7.8 percent in January 1993. The nationwide unemployment rate is 7.1 percent. In addition, 45 percent of all individuals collecting unemployment insurance in Maine are collecting benefits under the Federal program. Furthermore, I understand that Maine will not likely meet the requirements in 1993 to provide an additional 13 weeks of unemployment benefits to unemployed Mainers under the combined Federal-State extended benefits program. Thus, without an extension of the Federal Emergency Program, unemployed Mainers will only have up to 26 weeks of regular unemployment benefits available to them.

Unfortunately, the deficit is the single most damaging problem in our economy today. It has significant nega-

tive effects on our country's economic growth and our competitiveness in the global economy. To combat this growing deficit problem, we must make some tough choices now. There is absolutely no way this country will ever reduce our deficit if new programs or extensions of temporary programs are not, in the very least, paid for by cutting Federal spending in other areas or raising revenue.

There are, of course, large wasteful programs whose elimination could provide funding for much needed programs like unemployment compensation, with money left over for deficit reduction. Just last week I, along with Senators BUMPERS, SASSER, and WARNER, introduced a bill that would save billions of dollars by terminating the proposed manned space station and the superconducting collider. I am not prepared to offer this as an amendment at this time. I simply bring this bill up to suggest that there are, in fact, ways to cut Federal spending and pay for the Federal Emergency Program. I think we owe it to our country to find ways to finance the bill.

The bill before us will provide needed assistance to a very important segment of our population. Yet, without a funding mechanism, it ignores the burden that an increased deficit will have on our children. As we consider this bill, I ask my colleagues to weigh not only the short-term relief that this extension will provide to unemployed Americans but the consequences that their votes will have on future generations. I believe we must find a way to fund this program if it is to continue.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc, the bill be considered read a third time, and that the Mitchell amendment be placed in an appropriate place in the bill; and the Senate now proceed to Calendar No. 9, H.R. 920, the House companion measure, that all after the enacting clause be stricken and the text of S. 382, as amended, be inserted in lieu thereof, that the bill be advanced to third reading and the Senate proceed to vote on final passage of H.R. 920, and that all of the above occur without intervening action or debate.

Mr. President, I further ask unanimous consent that upon disposition of H.R. 920, Calendar No. 7, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Now, Mr. President, I ask for the yeas and nays on final passage.

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 (H.R. 920), as amended, pass? The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from New Mexico [Mr. BINGAMAN] is necessarily absent.

The PRESIDING OFFICER (Ms. MOSELEY-BRAUN). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 66, nays 33, as follows:

[Rollcall Vote No. 24 Leg.]

YEAS—66

Akaka	Feinstein	Mathews
Baucus	Ford	Metzenbaum
Biden	Glenn	Mikulski
Boren	Gorton	Mitchell
Boxer	Graham	Moseley-Braun
Bradley	Gregg	Moynihan
Breaux	Harkin	Murray
Bryan	Hatfield	Nunn
Bumpers	Heflin	Pell
Byrd	Hollings	Pryor
Campbell	Inouye	Reid
Chafee	Jeffords	Riegle
Conrad	Johnston	Robb
D'Amato	Kennedy	Rockefeller
Daschle	Kerry	Sarbanes
DeConcini	Kerry	Sasser
Dodd	Kohl	Shelby
Domenici	Krueger	Simon
Dorgan	Lautenberg	Specter
Durenberger	Leahy	Stevens
Exon	Levin	Wellstone
Feingold	Lieberman	Wofford

NAYS—33

Bennett	Faircloth	McConnell
Bond	Gramm	Murkowski
Brown	Grassley	Nickles
Burns	Hatch	Packwood
Coats	Helms	Pressler
Cochran	Kassebaum	Roth
Cohen	Kempthorne	Simpson
Coverdell	Lott	Smith
Craig	Lugar	Thurmond
Danforth	Mack	Wallop
Dole	McCain	Warner

NOT VOTING—1

Bingaman

So the bill (H.R. 920), as amended, was passed.

Mr. MOYNIHAN. Madam President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MORNING BUSINESS

Mr. MOYNIHAN. Madam President, I ask unanimous consent that we might now enter a period of morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. I thank the Chair.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Wyoming.

Mr. WALLOP. Madam President, I thank the Chair.

THE REDTAPE AWARD

Mr. WALLOP. Madam President, America's business community is being strangled. The Federal Government has both hands around its throat, wrapping people in redtape, and squeezing out all

their ambition and confidence. There are so many regulations worthy of ridicule that a handful of my colleagues and I decided to periodically award "the most foolish of the foolish." The task is dismayingly easy.

When a small businessman gets fined for failing to warn employees about the dangers of a Brillo pad—the kind used to scrub pots and pans—things are out of control. What should he have cautioned? "Warning: Rubbing the eyes with a Brillo pad could scratch the cornea."

Madam President, this is not America. People all across the country are terrified of an arrogant Government running amuck. Mountains of rules and regulations have been piled on business owners, school districts, State and local governments, and ordinary citizens. Their stories are staggering, the fear they feel undeniable. "I wanted you to know," they say "but don't do anything or they will get me."

The Redtape Award spotlights the most intrusive and ludicrous Federal mandates, not to make a mockery of the situation, but to tell true tales of abuse in the hope that Federal agencies will be embarrassed into taking notice. The symbol for this award is our Statue of Liberty bound and gagged in redtape—fitting since the very freedom and opportunity for which she stands is being smothered.

The first award was presented last fall to OSHA for its ridiculous enforcement of the Hazardous Communication Standard—regulations which fine employers for failing to fill out material safety data sheets pointing out the workplace dangers of such hazardous materials as sawdust, sand, dishwashing liquid, water, and oxygen.

Madam President, the owner of a small silk screening business in Florida was fined for not having an MSDS on Joy dishwashing liquid. Is there any wonder why citizens both scorn their Government and cringe from its reach?

The second Redtape Award was given last week to the very deserving Superfund Program run by the Environmental Protection Agency. Intended to clean up chemical spills and abandoned hazardous waste sites, Superfund has proven to be cumbersome, ineffective, costly, and blatantly unfair.

We in Congress must accept a large part of the blame for writing a law with fundamental flaws, but the EPA celebrates those flaws by enforcing the most vague and intrusive provisions rather than seeking ways to make Superfund work and clean up hazardous sites.

The end result is that Superfund has accomplished practically nothing over its years but has cost both citizens and citizen taxpayers plenty. Of the 1,200 sites on the national priority list, EPA has completed cleanup of less than 10 percent at a cost of \$11 billion.

Of all the money spent by insurance companies on Superfund claims, a shocking 89 percent goes to lawyers, only 11 percent to cleanup.

Madam President, we are not such a rich country that we can give 89 percent of our money to lawyers and only 11 percent to the environment.

It is a real cleanup all right, but unfortunately, it is the lawyers who are cleaning up.

But the biggest travesty may be that we know so little about actual human health risks and environmental dangers from toxic substances. The Federal Government is frightening people out of their homes and off their property based on faulty science and stretched assumptions.

As my own constituents in Wyoming can attest, the liability provisions of Superfund are inherently unfair. Congress intended them as a tool to ensure that the polluter pays. In practice it goes far beyond Congress' intent and the results are absolutely catastrophic.

Torrington, WY, a quiet, healthy community in the southeastern part of my State, has been invaded by Chicago lawyers, California Investigators, and Federal bureaucrats whose use of Superfund tactics leave people wondering if they still live in America.

From 1972 until 1989 the owner of Torrington Hide and Metal bought used batteries from people in the area, cracked them open to recover lead for recycling and dripped battery acid into the soil.

Last July several people around Torrington received 13 pages from the EPA, including a questionnaire to determine if they had contributed to the battery-cracking operation, and to determine their ability to pay for cleanup.

The EPA wanted to see from these private citizens in the quiet town all their financial documents for the last 5 years, including their supposedly confidential Federal income tax returns and copies of bank financial statements.

Madam President, they were warned to respond truthfully within 30 days or pay a fine of \$25,000 a day in addition to facing criminal penalties. Believe me, Senators, when I say that even the most innocent American is going to run straight to an attorney when threatened by such intrusive demands.

EPA had already driven the perpetrator of the battery-cracking operation into bankruptcy. The agency then asked him who had sold or transported batteries during the time period from 1972 to 1989. Although he had very limited recall, spoke only in generalities, and many of his answers were purely speculative—no specific dates or amounts—his deposition served as the basis to drag 54 additional private citizens into the lawsuit in addition to the 6 defendants EPA had originally targeted.

The attorneys got hold of some old checks which they used against people. For example, the local Veterans of Foreign Wars chapter sold a bingo ticket to a fellow who paid with a third-party check signed over to the Veterans of Foreign Wars. The VFW since has learned that its \$1 check from Torrington Hide and Metal almost made them liable for \$25,000 worth of cleanup.

Someone may have collected old batteries to raise funds for the volunteer fire department in Custer, SD. Now that fire department faces 25,000 dollars' worth of liability.

Someone may have hauled batteries once in a yellow truck. So now the county government, which has yellow trucks, was brought into the fray, as was the local college because someone recalled that they may have tuned up cars behind the college buildings at one time.

A former employee of a construction business may have been paid \$5.60 for dropping a battery off at Torrington Hide and Metal. Therefore, the construction company was dragged into court also.

It is the same thing with the Goshen Irrigation District, which got paid \$20 for some scrap iron on nothing more than a hazy guess that a battery might have been included with the scrap metal. The Goshen District has been told that they could escape the suit if they cough up \$25,000.

All of these law-abiding, hard-working souls either did nothing at all to contribute to the waste or they did something that was perfectly legal and they thought to be wholly responsible, yet today they find themselves the target of an enormous and blindly insensitive legal machine called the EPA. The very best that can come from this situation, from their point of view, is that they get off with a bill for lawyers of several thousand dollars.

These folks are not criminal polluters. These are victims of vicious, stupid abuse from their Government.

Russ Zimmer, Torrington resident and one of the Superfund targets, recently wrote me the following of the process.

I believe we want a clean environment and we all must contribute, but action like this by Federal law will be counterproductive in the future. The people will not trust the Federal Government and will not take chances of getting into terrible financial situation with the Government and probably will dump their batteries in the barrow pits at night rather than to dispose them.

Madam President, I ask unanimous consent that Mr. Zimmer's letter be printed in the RECORD.

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

TORRINGTON, WY,  
February 14, 1993.

MALCOLM WALLOP,  
U.S. Senate, Washington, DC.

DEAR MALCOLM: Would you believe that we have a federal law that says, if you sold a

used battery in 1984 for the sum of \$2.00 you can be responsible for an EPA clean up that could cost over \$1,000,000.00 or more?

I can't really believe this is happening in Goshen County, but it is. I am sending you copies of the law suit that I received in the mail along with 53 other defendants.

To tell you a little about the history of this action as I know it, The Torrington Hide & Metal, had a place of business south of the North Platte River on Union Pacific land in Goshen County. They bought and sold scrap metal, batteries and livestock hides. This part was a legitimate business. The part that was not legal, was they had not operated this business in accordance with the Wyoming Solid Waste management Rules and Regulations. This was noted after an inspection by the Wyoming DEQ. April 7, 1983.

Several years after this inspection was conducted a disgruntled employee turned Stanley L. Smith, owner of Torrington Hide and Metal, into EPA for violation of the EPA act and that is when the Federal people got involved. As you can see from the documents that I am enclosing that there were violation by Torrington Hide and Metal. The EPA informed Stan Smith that there would be maximum fines for these violations at the rate of \$25,000.00 per day for each violation. Mr. Smith could not stand this, so took out bankruptcy and walked away from his business. He is solely responsible for this problem, but by taking bankruptcy, he avoided the bullet.

Now comes the law suits that get other people involved. The Union Pacific Land Resources Corp. owns the land that is contaminated. This law suit by the United States of America is against the Union Pacific Land Resources Corp, Sears, Roebuck, Puregro Co, Case Corporation, Panhandle Cooperative Association Inc. The EPA wants these defendants to pay for the clean up of this site, although there is not a final cost figure as no one can tell what it is. There is an estimate by the EPA of about \$1,250,000.00. These defendants are willing to pay about \$237,000.00 but no more. This amount of money is the "Response Costs" as of June 30, 1992, according to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).

Now the defendants of the first lawsuit want to involve 54 defendant in a third party lawsuit to pay for all the rest of the legal action for whatever that might be. The law firm Johnson & Bell, Ltd., Chicago, Ill. are the prosecuting attorneys for the first law suit defendants. This is the part of the federal law that is so ridiculous and unjust. It all comes from the Third-Party Defendants pursuant to Sections 107 and 113 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9607 and 9613, and amended by the Superfund Amendments and Reauthorization Act of 1986 ("CERCLA"). I can't believe that some one that sold a battery to a business that was a customary and legitimate sale and had absolutely no connection or authority of another business, could be made to pay thousands of dollars for something they had so little to do with. This law must be amended as soon as it can, to protect the innocent.

Examine the list of defendants and you will see that there are no individual defendants. They are Companies, Corporations, Municipalities, Counties, Wyoming State, School Districts and any entity that have deep pockets.

Johnson and Bell, attorneys have given these third party defendants a way out of this law suit. They must commit to a pay-

ment of \$25,000.00 each within about 30 days or be subject to the suit. They tried to tell the third party defendants in a meeting that was held in Cheyenne on the 2nd of February, that is would be better to commit the \$25,000.00 now rather than spend a lot of money for legal expenses and then pay the \$25,000.00 anyway. So far I haven't heard of anyone agreeing to pay the \$25,000.00.

I believe we all want a clean environment and we all must contribute, but action like this by federal law will be counter-productive in the future. The people will not trust the federal government and will not take chances of getting into a terrible financial situation with the government and probably will dump their batteries in the barrow pits at night.

Well enough said!

Sincerely,

RUSSELL ZIMMER.

Mr. WALLOP. The legal nightmare will continue in Torrington, but residents there can be certain of only one thing. EPA will choose the most expensive, the least efficient way of achieving the actual cleanup. Concerned citizens who do not want to live in a polluted town or a town with polluted surroundings already volunteered to do the initial work of scraping the site where the battery waste had polluted the soil, and EPA rejected that offer and instead embarked upon its own course doing the same thing at roughly 10 times the cost. Score: taxpayers nothing, environment nothing, EPA 10.

Madam President, you know what my constituents in Torrington say to me? They say that this is not America, that these are gestapo tactics. And they are right.

Unfortunately, the problems are not confined to my home State, as the Senators who joined in presenting the second Red Tape Award attested last week. My colleague from Mississippi, Senator LOTT, outlined the situation in the town of Meridan. Actually, this was the case that first inspired us to present the award to EPA.

It seems a private citizen in Meridan tried to buy a contaminated site and clean it up at his own cost, even though he had never any part in its contamination. However, because the EPA said he could never be released from liability for environmental damages which he did not cause, he had to walk away and use, guess what? Pristine ground, ground that had never been used for such a thing, rather than recycling the old site. We have an EPA that gave us a stupid, environmentally unsound application of the law.

My colleague from Oklahoma, Senator NICKLES, long an advocate of regulatory reform, outlined the situation in his State where a massive and intrusive investigation was directed at auto dealers over a long period of time. The end result was that dealers, feeling a lot of harassment, were forced to fill out forms, and as yet no cleanup has ever occurred.

My colleague, Senator BROWN, cited the case of Smuggler Mountain in

Aspen, CO. It seems that EPA is at odds with the citizens of Aspen over the method of cleanup at a 100-acre area which was once the site of mine tailing dumping, resulting in so-called heavy concentrations of lead in the soil.

Madam President, despite the fact that all of EPA's studies show that the lead levels in the blood of Aspen residents is no greater, and even lower, than the national average, and that there was no identifiable lead pollution in the air or the waters, EPA has insisted on tearing up the ground and moving the soil. Clearly, this has put the residents of Aspen at a great deal higher risk than leaving the soil alone.

It seems that EPA is incapable of making commonsense risk assessments.

I would also like the RECORD to include a statement by Congressman DELAY outlining an example of EPA where they forced a small business to use an expensive process which eventually was declared to be unsafe by, guess who? EPA.

I ask unanimous consent that be printed in the RECORD.

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

STATEMENT BY CONGRESSMAN TOM DELAY ON THE RED TAPE AWARD, PRESENTED TO EPA FOR THE SUPERFUND PROGRAM, FEBRUARY 23, 1993

Well, here we are again, a group of elected officials representing between us over 57 million people and every few years defending our right to keep our job representing them. That makes us accountable, it demands that we be responsible. And let me tell you, it just frustrates the heck out of me to watch unelected, unaccountable and irresponsible federal bureaucrats work without oversight to worsen the lives of the people I represent.

Since today's recipient of our "Red Tape Award" is the EPA's Superfund program, I'd like to tell you a quick story about bureaucratic malfeasance which, if it had occurred in any of our offices or any private company for that matter, the people responsible would have been held accountable and would have been fired.

Of course, you already know the sad ending to this story even before you hear it—there was no accountability and all the bureaucrats involved continue to live happily ever after.

There is an experimental process for remediating waste sites called in-situ vitrification or ISV. The Department of Energy came up with the idea for this process—but never tested it—as a way to deal with nuclear waste.

What you do is you sink these heat generating electrodes into the ground around the area you're trying to clean up. You get the electrodes to generate heat between themselves—the whole area gets up to about 3000 degrees until it's like molten lava and then it cools to a consistency like glass. The plan here is that all the dangerous waste is trapped and hardened inside this viscous solid.

Although the DOE never conducted any field experiments, it sold the rights to this technology to a private company while retaining royalty rights. This private company

went to work finding customers and landed the biggie. Yep, the EPA Superfund bureaucrats bought off on the process sight unseen and untested.

These EPA bureaucrats started telling companies who were cleaning sites up across the country that they had no choice but to use this technology even though it was more expensive and less documented than any remediation alternatives. (We won't even get into the conflict of interest here when the government is telling private business they have to use an expensive product for which the same government is getting royalties.)

Anyway, it was just over a year and a half ago that people, including myself, started hollering over this insanity—"Let's do some tests first," we cried. "Doesn't anyone at the EPA think it's worth knowing what happens to toxic swamps when you heat them to over 3000 degrees? Do the toxic vapors go down into the water? How much escapes into the air? Isn't there a fear of gas bubbles and explosions?"

Well, the EPA never did conduct experiments the way it did for all the other remediation technologies. After all, no one there was personally accountable if something went wrong. Thankfully though, the private company that had bought the technology did get worried because private companies are accountable and that makes them responsible.

And guess what—four different million dollar tests proved our worst fears founded. Using small sites of clean wet soil—no toxic, hazardous or flammable materials, no sealed drums of unknown substances, no abandoned sewer lines or submerged concrete—and still the test sites exploded throwing fumes in the air and soil across the boundaries of the sites. The company conducting these experiments concluded that had hazardous materials been involved, they would have been released uncontrolled into the environment.

Even then the EPA did not rescind its order that this technology be used on the targeted Superfund sites. It was not until the private company itself pulled the technology from the market that the EPA finally reversed itself.

I don't believe that federal bureaucrats should be allowed with impunity to make mistakes that risk lives. The stubborn adherence of the EPA's Superfund administrators to the experimental ISV technology in the face of rational objection from every quarter—over its unproven nature, its potential risks to health and the environment and its outrageous cost—would be unforgivable even if it were a unique, uncharacteristic event. Unfortunately, as a bureaucratic lapse, it is so typical that it warrants no more than brief mention here today as one of several anecdotes used to illustrate the dangerous nature of one agency in a huge federal bureaucracy.

Mr. WALLOP. Finally, Madam President, I submit for the RECORD a Wall Street Journal article by Robert M. Cox, Jr., which I ask to be printed in the RECORD, outlining another Superfund tragedy.

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

ANOTHER VICTIM OF SUPERFUND

(By Robert M. Cox, Jr.)

President Clinton has said he wants to re-define Superfund, the antipollution program, so that it goes after true polluters and not just deep pockets. If his word is good, that

change will be of great help to many companies—but perhaps too late for mine.

I am the third generation of my family to be connected with Gilbert Spruance Co., a Pennsylvania manufacturer of industrial coatings for wood cabinets and furniture. In 1984, while I was executive vice president, we at Spruance were notified that our former waste hauler—a Marvin Jonas of New Jersey—had told the Environmental Protection Agency that he had hauled waste for Du Pont, Hercules, Texaco and my firm. It turned out Mr. Jonas had dumped the waste at sites in New Jersey. Mr. Jonas did this without our firm's knowledge—since the 1960s and 1970s, he had in fact submitted to us what appeared to be all the proper paper work for waste haulage. The events in question actually took place in the 1960s and 1970s, but Superfund works retroactively. Under Superfund rules, we were implicated.

Spruance had been a small- to medium-sized family paint company since 1906, doing about \$5.5 million in sales in 1987. Once Mr. Jonas testified, we found ourselves under the Superfund Juggernaut, with no means of escape.

This is because the Superfund law carries "joint and several liability," along with the threat of treble damages. Mr. Jonas was using 10 to 11 sites in New Jersey. It did not matter that our records did not show our waste going to these sites; it only mattered that we used Mr. Jonas. Very little of our waste actually went to the illegal sites. But after settling over one site for more than \$200,000, we were ranked as responsible for waste at five other sites and asked to pay anywhere from \$175,000 to \$1.3 million to get out of our Superfund liability per site.

Spruance had no choice but to fight the situation. Our insurance company abandoned us—it won a declaratory judgment that freed it from paying legal costs and insuring any further Superfund issues involving Spruance.

We at Spruance countersued in New Jersey, losing in the lower court but achieving a favorable ruling at the appellate level. The insurance company, PMA, then took the case to the Superior Court of New Jersey—oral arguments were heard last November and December.

If we are vindicated, the news will come too late to spare us many costs. From 1985 on, Spruance paid approximately \$250,000 in legal fees in defense against Superfund with nothing to show for our efforts (this on top of Superfund's claims). We also invested time appealing to government leaders and visiting staffers of New Jersey Sens. Bill Bradley and Frank Lautenberg—to no avail. Our trade association, the National Paint and Coatings Association, also tried to help us, but so far it has had no luck.

Such cares threatened to drive us out of business. No bank in Philadelphia would lend working capital to us—or, I suspect, to any company with environmental problems. Preoccupied with the Superfund suit, we lost our focus on our core business. Our attempts to settle with the EPA failed. We had more files in house on Superfund than on anything else.

Our choice was to declare bankruptcy or to sell Spruance. In the end—by this time I was president—I sold the business.

For those who think I'm a "big, bad" businessman, I'd like to clarify a few things. I was born on April 22, 1947, a date now recognized as Earth Day. I campaigned for Robert Kennedy. I'm a baby boomer and, basically, an environmentalist—I thought a company like ours could work with the government.

I'm an optimist by nature, and would like to see some reasonableness in the Superfund

process. Why doesn't the system allow an environmentally sensitive paint company to coexist with Superfund? The intentions of both are similar; why does our system create so much inertia that the lawyers and administrators get rich off a manufacturing company that has been trying to do the correct thing all along?

A Superfund nightmare became a Spruance tragedy. But my hope continues to be that our new administration, with President Clinton and Vice President Gore, will be able to balance environmental concerns with small business needs.

Mr. WALLOP. Mr. Cox was born on Earth Day. He was a former campaigner for Robert Kennedy and a self-proclaimed environmentalist. He was forced to sell his business rather than declare bankruptcy as the direct result of excessive and outrageous Superfund implementation.

Federal agencies tend to run without sense either of propriety or proportion. People are being forced to appease their own Government—to serve it, if you will. In fact, did we not all grow up believing that it was the Government that was supposed to serve us?

Construction workers are required to shine their hard hats. FCC is fining people for not using bright enough paint on radio antennas. Employers cannot afford to hire teenagers.

Enough is enough. I intend to utilize and institutionalize the Red Tape Award so the public knows of the plight that they are involved in.

Madam President, I display a copy of the certificate that once went to OSHA and once went to EPA and will go in the future to regulatory agencies which cannot distinguish between their job and the America that they are supposed to serve.

We can only hope that maybe this will help.

Madam President, I yield the floor. I thank the Chair.

Mr. FORD. Madam 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. 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.

#### MESSAGES FROM THE HOUSE

At 3:49 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 617. An act to amend the Securities Exchange Act of 1934 to protect investors in limited partnerships in rollup transactions, and for other purposes.

H.R. 707. An act to establish procedures to improve the allocation and assignment of the electromagnetic spectrum, and for other purposes.

H.R. 868. An act to strengthen the authority of the Federal Trade Commission to protect consumers in connection with sales made with a telephone, and for other purposes.

H.R. 890. An act to amend the Federal Deposit Insurance Act and the Federal Credit Union Act to improve the procedures for treating unclaimed insured deposits, and for other purposes.

H.R. 904. An act to amend the Airport and Airway Safety, Capacity, Noise Improvement, and Intermodal Transportation Act of 1992 with respect to the establishment of the National Commission to Ensure a Strong Competitive Airline Industry.

#### MEASURES REFERRED

The following measures, previously received from the House of Representatives for concurrence, were read, and referred as indicated:

H.R. 617. An act to amend the Securities Exchange Act of 1934 to protect investors in limited partnerships in rollup transactions, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 707. An act to establish procedures to improve the allocation and assignment of the electromagnetic spectrum, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 868. An act to strengthen the authority of the Federal Trade Commission to protect consumers in connection with sales made with a telephone, and for other purposes; to the Committee on Commerce, Science, and Transportation.

#### MEASURES PLACED ON THE CALENDAR

The following measures were read the second time and placed on the calendar:

S.J. Res. 3. A joint resolution proposing an amendment to the Constitution of the United States restoring the right of Americans to pray in public institutions including public school graduation ceremonies and athletic events.

S. 37. A bill to amend the Civil Rights Act of 1964 to make preferential treatment an unlawful employment practice, and for other purposes.

S. 40. A bill to make it a violation of a right secured by the Constitution and laws of the United States to perform an abortion with knowledge that such abortion is being performed solely because of the gender of the fetus, and for other purposes.

S. 42. A bill to control the spread of AIDS, and for other purposes.

S. 43. A bill to amend title X of the Public Health Service Act to permit family planning projects to offer adoption services, and for other purposes.

S. 48. A bill to protect the lives of unborn human beings, and for other purposes.

S. 188. A bill to amend the Internal Revenue Code of 1986 to repeal the income taxation of corporations, to impose a 10 percent tax on the earned income (and only the earned income) of individuals, to repeal the estate and gift taxes, and for other purposes.

S. 189. A bill to prohibit the entry into the United States of items produced, grown, or manufactured in the People's Republic of China with the use of forced labor.

S. 190. A bill to repeal the mandatory 20 percent income tax withholding on eligible

rollover distributions which are not rolled over.

S. 191. A bill to provide for the full settlement of all claims of Swain County, North Carolina, against the United States under the agreement dated July 30, 1943, and for other purposes.

S. 192. A bill to require the Corps of Engineers to carry out the construction and operation of a jetty and sand transfer system, and for other purposes.

S. 414. A bill to amend title 18, United States Code, to require a waiting period before the purchase of a handgun.

#### EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-620. A communication from the President of the United States, transmitting, pursuant to law, notice of a designation relative to the emergency unemployment compensation program; to the Committee on Finance.

#### PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-41. A resolution adopted by the Senate of the State of Kansas; to the Committee on Governmental Affairs.

##### "SENATE RESOLUTION No. 1814

"Whereas, American clock and watch makers were among the most ingenious craftsmen of the 19th century; and

"Whereas, The greatest achievement of American clock and watch makers during the 19th century was the mass production of clocks and watches with completely interchangeable parts; and

"Whereas, Modern horologists have carried the skill of the 19th century craftsmen forward, refining the intricacies of clocks and watch making beyond ordinary comprehension; and

"Whereas, The National Association of Watch and Clock Collectors, a nonprofit, scientific and educational organization founded in 1943 to bring people interested in horology together, is headquartered in Columbia, Pennsylvania; and

"Whereas, The United States Postal Service has honored numerous groups and individuals for their contributions to the United States; Now, therefore,

"Be it resolved by the Senate of the State of Kansas: That we urge the Citizens Stamp Advisory Committee of the United States Postal Service to issue a stamp honoring American horology; and

"Be it further resolved: That the Secretary of the Senate be directed to send enrolled copies of this resolution to the President of the United States, to the presiding officer of each House of Congress, to each member of the Kansas Congressional Delegation and to Mr. Belmont Faries, Chairman, Citizen Stamp Advisory Committee of the United States Postal Service."

#### EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committee were submitted:

By Mr. NUNN, from the Committee on Armed Services:

Peter B. Bowman, of Maine, to be a member of the Defense Base Closure and Realignment Commission for a term expiring at the end of the first session of the 103d Congress.

Beverly Butcher Byron, of Maryland, to be a member of the Defense Base Closure and Realignment Commission for a term expiring at the end of the first session of the 103d Congress.

James A. Courter, of New Jersey, to be a member of the Defense Base Closure and Realignment Commission for a term expiring at the end of the first session of the 103d Congress.

Rebecca Gernhardt Cox, of the District of Columbia, to be a member of the Defense Base Closure and Realignment Commission for a term expiring at the end of the first session of the 103d Congress.

Hansford T. Johnson, of Texas, to be a member of the Defense Base Closure and Realignment Commission for a term expiring at the end of the first session of the 103d Congress.

Arthur Levitt, Jr., of New York, to be a member of the Defense Base Closure and Realignment Commission for a term expiring at the end of the first session of the 103d Congress.

Harry C. McPherson, Jr., of Maryland, to be a member of the Defense Base Closure and Realignment Commission for a term expiring at the end of the first session of the 103d Congress.

Robert D. Stuart, Jr., of Illinois, to be a member of the Defense Base Closure and Realignment Commission for a term expiring at the end of the first session of the 103d Congress.

James A. Courter, of New Jersey, to be Chairman of the Defense Base Closure and Realignment Commission.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

The PRESIDING OFFICER. Without objection, it is so ordered.

#### 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 (for himself, Mr. BRADLEY, Mr. KENNEDY, Mr. CHAFEE, Mr. MURKOWSKI, Mr. CONRAD, Mr. SIMON, Mrs. KASSEBAUM, Mr. DECONCINI, and Mr. AKAKA):

S. 484. A bill to amend title XIX of the Social Security Act to provide for coverage of alcoholism and drug dependency residential treatment services for pregnant women and certain family members under the Medicaid program, and for other purposes; to the Committee on Finance.

By Mr. PRESSLER:

S. 485. A bill to amend the Motor Vehicle Information and Cost Savings Act to require motor vehicle damage disclosure; to the Committee on Commerce, Science, and Transportation.

By Mr. HEFLIN:

S. 486. A bill to establish a specialized corps of judges necessary for certain Federal

proceedings required to be conducted, and for other purposes; to the Committee on the Judiciary.

By Mr. MITCHELL (for himself and Mr. DANFORTH):

S. 487. A bill to amend the Internal Revenue Code of 1986 to permanently extend and modify the low-income housing tax credit; to the Committee on Finance.

By Mr. SPECTER:

S. 488. A bill to provide Federal penalties for drive-by shootings; to the Committee on the Judiciary.

By Mr. BAUCUS (for himself and Mr. BURNS):

S. 489. A bill entitled the "Gallatin Range Consolidation and Protection Act of 1993"; to the Committee on Energy and Natural Resources.

By Mr. HATCH:

S. 490. A bill to amend title 5, United States Code, to clarify procedures for judicial review of Federal agency compliance with regulatory flexibility analysis requirements, and for other purposes; to the Committee on the Judiciary.

By Mr. WELLSTONE (for himself, Mr. METZENBAUM, Mr. SIMON, and Mr. INOUE):

S. 491. A bill to provide health care for every American and to control the cost of the health care system; to the Committee on Finance.

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. 492. A bill to provide for the protection of the Bodie Bowl area of the State of California, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. COHEN (for himself, Mr. BOND, Mr. CHAFEE, Mr. SIMPSON, Mr. COCHRAN, Mr. BINGAMAN, Mr. CRAIG, Mr. MACK, Mr. MCCAIN, Mr. GORTON, Mr. KEMPTHORNE, Mr. BURNS, Mr. DOMENICI, Mr. WARNER, Mr. STEVENS, Mr. BROWN, Mr. GREGG, and Mr. COATS):

S. 493. A bill to amend the Public Health Service Act to facilitate the entering into of cooperative agreements between hospitals for the purpose of enabling such hospitals to share expensive medical or high technology equipment or services, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DASCHLE (for himself and Mr. BROWN):

S. 494. A bill to amend the Internal Revenue Code of 1986 to provide changes in application of wagering taxes to charitable organizations; to the Committee on Finance.

By Mr. DODD (for himself, Mr. REID, Mrs. BOXER, and Mrs. MURRAY):

S. 495. A bill to establish a program to provide child care through public-private partnerships, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. SIMON (for himself, Mrs. FEINSTEIN, Mr. LAUTENBERG, and Mr. KENNEDY):

S. 496. A bill to amend chapter 44 of title 18, United States Code, to strengthen Federal standards for licensing firearms dealers and heighten reporting requirements, and for other purposes; to the Committee on the Judiciary.

By Mr. SIMON:

S. 497. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to authorize funds received by States and units of local government to be expended to improve the quality and availability of DNA records, to authorize the establishment of a DNA identification index, and for other purposes; to the Committee on the Judiciary.

By Mr. KOHL:

S. 498. A bill to amend section 365 of title 11, United States Code, relating to protection of assignees of executory contracts and unexpired leases approved by court order in cases reversed on appeal; to the Committee on the Judiciary.

By Mr. HATCH:

S.J. Res. 55. A 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"; to the Committee on the Judiciary.

By Mr. BIDEN (for himself and Mr. HATCH):

S.J. Res. 56. A joint resolution to designate the week beginning April 12, 1993, as "National Public Safety Telecommunicators Week"; to the Committee on the Judiciary.

**SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS**

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

Mr. FORD (for Mr. MITCHELL):

S. Res. 75. A resolution to extend the "Jacob K. Javits Senate Fellowship Program"; considered and agreed to.

By Mr. PELL (for himself, Mr. FORD, and Mr. STEVENS):

S. Con. Res. 13. A concurrent resolution permitting the use of the rotunda of the Capitol for a ceremony to commemorate the days of remembrance of victims of the Holocaust; to the Committee on Rules and Administration.

**STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS**

By Mr. DASCHLE (for himself, Mr. BRADLEY, Mr. KENNEDY, Mr. CHAFEE, Mr. MURKOWSKI, Mr. CONRAD, Mr. SIMON, Mrs. KASSEBAUM, Mr. DECONCINI, and Mr. AKAKA):

S. 484. A bill to amend title XIX of the Social Security Act to provide for coverage of alcoholism and drug dependency residential treatment services for pregnant women and certain family members under the Medicaid Program, and for other purposes; to the Committee on Finance.

**MEDICAID SUBSTANCE ABUSE TREATMENT ACT OF 1993**

• Mr. DASCHLE. Mr. President, today, the Senator from New Jersey [Mr. BRADLEY] and I are introducing the Medicaid Substance Abuse Treatment Act of 1993. This legislation would permit coverage of residential alcohol and drug treatment for pregnant women and certain family members under the Medicaid Program. Joining us as original sponsors of this legislation are Senators KENNEDY, CHAFEE, MURKOWSKI, CONRAD, SIMON, KASSEBAUM, JEFFORDS, DECONCINI, and AKAKA.

This bill has three primary objectives. First, it would facilitate the participation of pregnant women who are substance abusers in alcohol and drug treatment programs. Second, by in-

creasing the availability of comprehensive and effective treatment programs for pregnant women and, thus, improving a woman's chances of bearing healthy children, it would help combat the serious and evergrowing problem of drug-impaired infants and children, many of whom face life-long disabilities because of fetal exposure to alcohol and other drugs. And, third, it would address the unique situation of pregnant addicted native American and Alaska Native women in Indian Health Service areas.

My awareness of the toll substance abuse during pregnancy is having on children throughout the country was heightened by hearings I chaired several years ago on the Rosebud Reservation and in Rapid City, SD. Those hearings, which focused on the broader problem of child abuse, included discussion of the effects of maternal consumption of alcohol during pregnancy and led to a third hearing in Washington on the specific issue of alcohol-related birth defects.

At the hearings, a series of witnesses presented moving testimony about the potentially devastating consequences to the fetus associated with drinking during pregnancy and the high rate of alcohol-related birth defects for Indians. The hearings revealed the ways in which the use of alcohol and other drugs by pregnant women can cause mental retardation, physical malformations, learning disabilities, and emotional and behavioral disturbances in the babies born of these women. They also demonstrated that alcohol use and abuse during pregnancy can also cause a range of permanent birth defects, termed fetal alcohol syndrome [FAS] and fetal alcohol effect [FAE].

The hearing testimony also revealed that many pregnant substance abusers are denied treatment because facilities refuse to accept them, or the women cannot accept treatment because they lack adequate child care for their children while they receive treatment. The human consequences of excessive alcohol consumption during pregnancy and the existence of obstacles to adequate treatment are simply unacceptable.

The devastating impact of such physical and mental impairments on victims and their families is clear. What is often overlooked is their corresponding cost to society.

Birth defects caused by maternal substance abuse pose extraordinary societal costs in terms of specialized medical care and education programs, foster care, and residential and support services needed by drug-impaired individuals over their lifetimes. Even before these babies leave the hospital following birth, the financial costs can be enormous, as many of these infants are born prematurely and require specialized attention in intensive care nurseries. Alcohol-affected children are at risk for developing alcoholism them-

selves and giving birth to FAS babies, thereby compounding the problem and perpetuating this cruel cycle.

What I find particularly disturbing is that the heartbreaking impact of birth defects caused by maternal substance abuse during pregnancy is totally preventable, simply through maternal abstinence from the use of alcohol and other drugs during pregnancy. FAS is the leading identifiable cause of mental retardation in the United States and the only one that is 100 percent preventable. It is tragic that the Federal Government has not done more to combat prenatal exposure to alcohol and other drugs.

Recent studies show that the publicly funded treatment system in this Nation is structured to serve only a small minority of the pregnant alcoholic and drug-dependent women who seek treatment for their addiction. As a result, thousands of women who want to break their addictions to alcohol and other drugs are turned away from treatment centers each year. Moreover, due to fears among service providers concerning the risks pregnancies pose, pregnant women face more obstacles to treatment than do other addicts. In fact, many treatment programs specifically exclude pregnant women or women with children.

To make matters worse, while Medicaid covers some services associated with substance abuse, like outpatient treatment and detoxification, it fails to cover residential treatment, which is considered by most health care professionals to be the most effective method of overcoming addiction. The legislation we are introducing today would, for the first time, authorize Medicaid coverage of stays in residential treatment programs, thereby assuring a stable source of funding for States that wish to establish these programs.

In addition to these obstacles, many pregnant addicted women have children who need to be cared for when they enter a long-term treatment program. Unless children are allowed to accompany their mothers while they are in treatment, women are faced with a terrible dilemma—enter treatment and leave their children behind, in some cases placing them in foster care, or forgo treatment. A provision of our bill, which would enable dependent children to accompany their mothers seeking treatment at residential centers, would remove a current disincentive to seek substance abuse treatment.

Under current law, pregnant women who are Medicaid eligible only due to their pregnancy and limited income—as opposed to being eligible as an AFDC recipient—lose their Medicaid eligibility 2 to 3 months after their delivery. Our bill would extend eligibility to 12 months following delivery, thus allowing a pregnant woman who needs

long-term treatment and enters treatment late in her pregnancy to complete treatment.

Long-term residential treatment is an essential component of comprehensive services for pregnant addicted women, many of whom need long-term, intensive habilitation services that remove women from the environment that may have contributed to their substance abuse. The bill would provide important services to help women deal with problems sometimes associated with alcohol and substance abuse, such as domestic violence, incest and other sexual abuse, poor housing, poverty, unemployment, lack of education and job skills, lack of access to health care, emotional problems, chemical dependency in their family backgrounds, lack of family support and single parenthood.

While our bill would create a new Medicaid option to fill a void in Medicaid, we recognize that there are cost concerns associated with Medicaid expansions. Accordingly, our bill would cap the total beds available for funding under Medicaid for the furnishing of residential treatment programs. Over a 5-year period, the annual bed cap would increase from 1,080 beds to 6,000 beds nationwide.

While the problem of alcohol and drug use during pregnancy cuts across all races, nationalities and economic boundaries, and is indeed a national problem, the problem of FAS/FAE is especially acute on Indian reservations. Thus, the absence of appropriate and sufficient treatment measures is even more of a problem for Native Americans.

Over and above the allocation of beds to States under the nationwide bed cap, an additional 240 beds would be provided to Indian Health Service areas across the country to address the treatment needs of pregnant addicted Indian and Alaska Native women. A 100 percent Federal match would be provided to create an incentive for States with Indian Health Service [IHS] facilities to exercise this Medicaid option and to support treatment models for Native American women. The bill also would require the Indian Health Service to conduct annual training and education regarding this Indian program in each of the IHS areas for tribes, Indian organizations, interested residential treatment providers, and States.

Mr. President, there is no easy solution to addiction and the birth defects and other damage it causes in children born to pregnant addicted women. However, a prevention strategy must include increased access to comprehensive treatment programs for pregnant addicted women so that women and their children can access care.

The cost of prevention in the form of substance abuse treatment is substantially less than the downstream costs in money and human capital of caring

for children and adults who have been impaired due to prenatal exposure to alcohol and drugs. These prevention and treatment services are an investment that yields substantial long-term dividends—both on a societal level, as welfare dependence by substance abusers and their children is reduced, and on an individual level, as mothers plagued by alcohol and drug addiction are given the means to heal, for themselves and their unborn children. I urge my colleagues to support this measure to ensure that Medicaid-eligible pregnant addicted women have access to the comprehensive residential substance abuse treatment programs they need.

I ask unanimous consent that the full text of the Medicaid Substance Abuse Treatment Act of 1993 be printed in the RECORD.

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

S. 484

*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 "Medicaid Substance Abuse Treatment Act of 1993".

#### SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—  
(1) a woman's ability to bear healthy children is threatened by the consequences of alcoholism and drug addiction;

(2) an estimated 375,000 infants each year are born drug-exposed, at least 5,000 infants are born each year with fetal alcohol syndrome, and another 35,000 are born each year with fetal alcohol effect, a less severe version of fetal alcohol syndrome;

(3) drug use during pregnancy can result in low birthweight, physical deformities, mental retardation, learning disabilities, and heightened nervousness and irritability in newborns;

(4) fetal alcohol syndrome is the leading identifiable cause of mental retardation in the United States and the only cause that is 100 percent preventable;

(5) drug-impaired individuals pose extraordinary societal costs in terms of medical, educational, foster care, residential, and support services over the lifetimes of such individuals;

(6) women, in general, are underrepresented in drug and alcohol treatment programs;

(7) due to fears among service providers concerning the risks pregnancies pose, pregnant women face more obstacles to substance abuse treatment than do other addicts and many substance abuse treatment programs, in fact, exclude pregnant women or women with children;

(8) alcohol and drug treatment is an important prevention strategy to prevent low birthweight, transmission of AIDS, and chronic physical, mental, and emotional disabilities associated with prenatal exposure to alcohol and other drugs;

(9) effective substance abuse treatment must address the special needs of pregnant women who are alcohol or drug dependent, including substance-abusing women who may often face such problems as domestic violence, incest and other sexual abuse, poor housing, poverty, unemployment, lack of

education and job skills, lack of access to health care, emotional problems, chemical dependency in their family backgrounds, single parenthood, and the need to ensure child care for existing children while undergoing substance abuse treatment;

(10) nonhospital residential treatment is an important component of comprehensive and effective substance abuse treatment for pregnant addicted women, many of whom need long-term, intensive habilitation outside of their communities to recover from their addiction and take care of themselves and their families; and

(11) a gap exists under the Medicaid program for the financing of comprehensive residential care in the existing continuum of Medicaid-covered alcoholism and drug abuse treatment services for low-income pregnant addicted women.

(b) PURPOSES.—The purposes of this Act are—

(1) to increase the ability of pregnant women who are substance abusers to participate in alcohol and drug treatment;

(2) to ensure the availability of comprehensive and effective treatment programs for pregnant women, thus promoting a woman's ability to bear healthy children;

(3) to ensure that nonhospital residential treatment is available to those low-income pregnant addicted women who need long-term, intensive habilitation to recover from their addiction;

(4) to create a new optional Medicaid residential treatment service for alcoholism and drug dependency treatment; and

(5) to define the core services that must be provided by treatment providers to ensure that needed services will be available and appropriate.

#### SEC. 3. MEDICAID COVERAGE OF ALCOHOLISM AND DRUG DEPENDENCY RESIDENTIAL TREATMENT SERVICES FOR PREGNANT WOMEN, CARETAKER PARENTS, AND THEIR CHILDREN.

(a) COVERAGE OF ALCOHOLISM AND DRUG DEPENDENCY RESIDENTIAL TREATMENT SERVICES.—

(1) OPTIONAL COVERAGE.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended—

(A) in subsection (a)—  
(i) by striking "and" at the end of paragraph (21);

(ii) in paragraph (24), by striking the period at the end and inserting a semicolon;

(iii) by redesignating paragraphs (22), (23), and (24) as paragraphs (25), (22), and (23), respectively, and by transferring and inserting paragraph (25) after paragraph (23), as so redesignated; and

(iv) by inserting after paragraph (23) the following new paragraph:

"(24) alcoholism and drug dependency residential treatment services (to the extent allowed and as defined in section 1931); and"; and

(B) in the sentence following paragraph (25), as so redesignated—

(i) in subdivision (A), by striking "or" at the end;

(ii) in subdivision (B), by inserting ", who is not receiving alcoholism and drug dependency residential treatment services," after "65 years of age"; and

(iii) by inserting after subdivision (B) the following:

"(C) any such payments with respect to alcoholism and drug dependency residential treatment services under paragraph (24) for individuals not described in section 1931(d)."

(2) ALCOHOLISM AND DRUG DEPENDENCY RESIDENTIAL TREATMENT SERVICES DEFINED.—Title XIX of the Social Security Act (42

U.S.C. 1396 et seq.) is amended by adding at the end the following new section:

**"ALCOHOLISM AND DRUG DEPENDENCY RESIDENTIAL TREATMENT SERVICES**

**"SEC. 1931. (a) ALCOHOLISM AND DRUG DEPENDENCY RESIDENTIAL TREATMENT SERVICES.**—The term 'alcoholism and drug dependency residential treatment services' means all the required services described in subsection (b) which are provided—

"(1) in a coordinated manner by a residential treatment facility that meets the requirements of subsection (c) either directly or through arrangements with—

"(A) public and nonprofit private entities;

"(B) licensed practitioners or federally qualified health centers with respect to medical services; or

"(C) the Indian Health Service or a tribal or Indian organization that has entered into a contract with the Secretary under section 102 of the Indian Self-Determination Act (25 U.S.C. 450f) or section 502 of the Indian Health Care Improvement Act (25 U.S.C. 1652) with respect to such services provided to women eligible to receive services in Indian Health Facilities; and

"(2) pursuant to a written individualized treatment plan prepared for each individual, which plan—

"(A) states specific objectives necessary to meet the individual's needs;

"(B) describes the services to be provided to the individual to achieve those objectives;

"(C) is established in consultation with the individual;

"(D) is periodically reviewed and (as appropriate) revised by the staff of the facility in consultation with the individual;

"(E) reflects the preferences of the individual; and

"(F) is established in a manner which promotes the active involvement of the individual in the development of the plan and its objectives.

**"(b) REQUIRED SERVICES DEFINED.**—

"(1) **IN GENERAL.**—The required services described in this subsection are as follows:

"(A) Counseling, addiction education, and treatment provided on an individual, group, and family basis and provided pursuant to individualized treatment plans, including the opportunity for involvement in Alcoholics Anonymous and Narcotics Anonymous.

"(B) Parenting skills training.

"(C) Education concerning prevention of HIV infection.

"(D) Assessment of each individual's need for domestic violence counseling and sexual abuse counseling and provision of such counseling where needed.

"(E) Room and board in a structured environment with on-site supervision 24 hours-a-day.

"(F) Therapeutic child care or counseling for children of individuals in treatment.

"(G) Assisting parents in obtaining access to—

"(i) developmental services (to the extent available) for their preschool children;

"(ii) public education for their school-age children, including assistance in enrolling them in school; and

"(iii) public education for parents who have not completed high school.

"(H) Facilitating access to prenatal and postpartum health care for women, to pediatric health care for infants and children, and to other health and social services where appropriate and to the extent available, including services under title V, services and nutritional supplements provided under the special supplemental food program for women, infants, and children (WIC) under

section 17 of the Child Nutrition Act of 1966, services provided by federally qualified health centers, outpatient pediatric services, well-baby care, and early and periodic screening, diagnostic, and treatment services (as defined in section 1905(r)).

"(I) Ensuring supervision of children during times their mother is in therapy or engaged in other necessary health or rehabilitative activities, including facilitating access to child care services under title IV and title XX.

"(J) Planning for and counseling to assist reentry into society, including appropriate outpatient treatment and counseling after discharge (which may be provided by the same program, if available and appropriate) to assist in preventing relapses, assistance in obtaining suitable affordable housing and employment upon discharge, and referrals to appropriate educational, vocational, and other employment-related programs (to the extent available).

"(K) Continuing specialized training for staff in the special needs of residents and their children, designed to enable such staff to stay abreast of the latest and most effective treatment techniques.

**"(2) REQUIREMENT FOR CERTAIN SERVICES.**—Services under subparagraphs (A), (B), (C), and (D), of paragraph (1) shall be provided in a cultural context that is appropriate to the individuals and in a manner that ensures that the individuals can communicate effectively, either directly or through interpreters, with persons providing services.

**"(3) LIMITATIONS ON COVERAGE.**—

"(A) **IN GENERAL.**—Subject to subparagraph (B), services described in paragraph (1) shall be covered in the amount, duration, and scope therapeutically required for each eligible individual in need of such services.

"(B) **RESTRICTIONS ON LIMITING COVERAGE.**—A State plan shall not limit coverage of alcoholism and drug dependency residential treatment services for any period of less than 12 months per individual, except in those instances where a finding is made that such services are no longer therapeutically necessary for an individual.

"(c) **FACILITY REQUIREMENTS.**—The requirements of this subsection with respect to a facility are as follows:

"(1) The agency designated by the chief executive officer of the State to administer the State's alcohol and drug abuse prevention and treatment activities and programs has certified to the single State agency under section 1902(a)(5) that the facility—

"(A) is able to provide all the services described in subsection (b) either directly or through arrangements with—

"(i) public and nonprofit private entities;

"(ii) licensed practitioners or federally qualified health centers with respect to medical services; or

"(iii) the Indian Health Service or with a tribal or Indian organization that has entered into a contract with the Secretary under section 102 of the Indian Self-Determination Act (25 U.S.C. 450f) or section 502 of the Indian Health Care Improvement Act (25 U.S.C. 1652) with respect to such services provided to women eligible to receive services in Indian Health Facilities; and

"(B) except for Indian Health Facilities, meets all applicable State licensure or certification requirements for a facility of that type.

"(2)(A) The facility or a distinct part of the facility provides room and board, except that—

"(i) subject to subparagraph (B), the facility shall have no more than 40 beds; and

"(ii) subject to subparagraph (C), the facility shall not be licensed as a hospital.

"(B) The single State agency may waive the bed limit under subparagraph (A)(i) for one or more facilities subject to review by the Secretary. Waivers, where granted, must be made pursuant to standards and procedures set out in the State plan and must require the facility seeking a waiver to demonstrate that—

"(i) the facility will be able to maintain a therapeutic, family-like environment;

"(ii) the facility can provide quality care in the delivery of each of the services identified in subsection (b);

"(iii) the size of the facility will be appropriate to the surrounding community; and

"(iv) the development of smaller facilities is not feasible in that geographic area.

"(C) The Secretary may waive the requirement under subparagraph (A)(ii) that a facility not be a hospital, if the Secretary finds that such facility is located in an Indian Health Service area and that such facility is the only or one of the only facilities available in such area to provide services under this section.

"(3) With respect to a facility providing the services described in subsection (b) to an individual eligible to receive services in Indian Health Facilities, such a facility demonstrates (as required by the Secretary) an ability to meet the special needs of Indian and Native Alaskan women.

**"(d) ELIGIBLE INDIVIDUALS.**—

"(1) **IN GENERAL.**—A State plan shall limit coverage of alcoholism and drug dependency residential treatment services under section 1905(a)(24) to the following individuals otherwise eligible for medical assistance under this title:

"(A) Women during pregnancy, and until the end of the 12th month following the termination of the pregnancy.

"(B) Children of a woman described in subparagraph (A).

"(C) At the option of a State, a caretaker parent or parents and children of such a parent.

"(2) **INITIAL ASSESSMENT OF ELIGIBLE INDIVIDUALS.**—An initial assessment of eligible individuals specified in paragraph (1) seeking alcoholism and drug dependency residential treatment services shall be performed by the agency designated by the chief executive officer of the State to administer the State's alcohol and drug abuse treatment activities (or its designee). Such assessment shall determine whether such individuals are in need of alcoholism or drug dependency treatment services and, if so, the treatment setting (such as inpatient hospital, nonhospital residential, or outpatient) that is most appropriate in meeting such individual's health and therapeutic needs and the needs of such individual's dependent children, if any.

**"(e) OVERALL CAP ON MEDICAL ASSISTANCE AND ALLOCATION OF BEDS.**—

"(1) **TOTAL AMOUNT OF SERVICES AS MEDICAL ASSISTANCE.**—

"(A) **IN GENERAL.**—The total amount of services provided under this section as medical assistance for which payment may be made available under section 1903 shall be limited to the total number of beds allowed to be allocated for such services in any given year as specified under subparagraph (B).

"(B) **TOTAL NUMBER OF BEDS.**—The total number of beds allowed to be allocated under this subparagraph (subject to paragraph (2)(C)) for the furnishing of services under this section and for which Federal medical assistance may be made available under section 1903 is for calendar year—

"(i) 1994, 1,080 beds;  
 "(ii) 1995, 2,000 beds;  
 "(iii) 1996, 3,500 beds;  
 "(iv) 1997, 5,000 beds;  
 "(v) 1998, 6,000 beds; and  
 "(vi) 1999 and for calendar years thereafter, a number of beds determined appropriate by the Secretary.

**"(2) ALLOCATION OF BEDS.—**

**"(A) INITIAL ALLOCATION FORMULA.—**For each calendar year, a State exercising the option to provide the services described in this section shall be allocated from the total number of beds available under paragraph (1)(B)—

"(i) in calendar years 1994 and 1995, 20 beds;  
 "(ii) in calendar years 1996, 1997, and 1998, 40 beds; and

"(iii) in calendar year 1999 and for each calendar year thereafter, a number of beds determined based on a formula (as provided by the Secretary) distributing beds to States on the basis of the relative percentage of women of childbearing age in a State.

**"(B) REALLOCATION OF BEDS.—**The Secretary shall provide that in allocating the number of beds made available to a State for the furnishing of services under this section that, to the extent not all States are exercising the option of providing services under this section and there are beds available that have not been allocated in a year as provided in paragraph (1)(B), that such beds shall be reallocated among States which are furnishing services under this section based on a formula (as provided by the Secretary) distributing beds to States on the basis of the relative percentage of women of childbearing age in a State.

**"(C) INDIAN HEALTH SERVICE AREAS.—**In addition to the beds allowed to be allocated under paragraph (1)(B) there shall be an additional 20 beds allocated in any calendar year to States for each Indian Health Service area within the State to be utilized by Indian Health Facilities within such an area and, to the extent such beds are not utilized by a State, the beds shall be reapportioned to Indian Health Service areas in other States."

**(3) MAINTENANCE OF STATE FINANCIAL EFFORT AND 100 PERCENT FEDERAL MATCHING FOR SERVICES FOR INDIAN AND NATIVE ALASKAN WOMEN IN INDIAN HEALTH SERVICES AREAS.—**Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended by adding at the end the following new subsections:

"(x) No payment shall be made to a State under this section in a State fiscal year for alcoholism and drug dependency residential treatment services (described in section 1931) unless the State provides assurances satisfactory to the Secretary that the State is maintaining State expenditures for such services at a level that is not less than the average annual level maintained by the State for such services for the 2-year period preceding such fiscal year.

"(y) Notwithstanding the preceding provisions of this section, the Federal medical assistance percentage for purposes of payment under this section for services described in section 1931 provided to individuals residing on or receiving services in an Indian Health Service area shall be 100 percent."

**(b) PAYMENT ON A COST-RELATED BASIS.—**Section 1902(a)(13) of the Social Security Act (42 U.S.C. 1396a(a)(13)) is amended—

(1) by striking "and" at the end of subparagraph (E);

(2) by adding "and" at the end of subparagraph (F); and

(3) by adding at the end the following new subparagraph:

"(G) for payment for alcoholism and drug dependency residential treatment services

which the State finds, and makes assurances satisfactory to the Secretary, are reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities in order to provide all the services listed in section 1931(b) in conformity with applicable Federal and State laws, regulations, and quality and safety standards and to assure that individuals eligible for such services have reasonable access to such services;"

**(c) CONFORMING AMENDMENTS.—**

**(1) CLARIFICATION OF OPTIONAL COVERAGE FOR SPECIFIED INDIVIDUALS.—**Section 1902(a)(10) of the Social Security Act (42 U.S.C. 1396a(a)(10)) is amended, in the matter following subparagraph (F)—

(A) by striking "; and (XI)" and inserting "(XI)";

(B) by striking ", and (XI)" and inserting ", and (XII)"; and

(C) by inserting before the semicolon at the end the following: ", and (XIII) the making available of alcoholism and drug dependency residential treatment services to individuals described in section 1931(d) shall not, by reason of this paragraph, require the making of such services available to other individuals".

**(2) CONTINUATION OF ELIGIBILITY FOR ALCOHOLISM AND DRUG DEPENDENCY TREATMENT FOR PREGNANT WOMEN FOR 12 MONTHS FOLLOWING END OF PREGNANCY.—**Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended in subsection (e)(5) by striking "under the plan," and all through the period at the end and inserting "under the plan—

"(A) as though she were pregnant, for all pregnancy-related and postpartum medical assistance under the plan, through the end of the month in which the 60-day period (beginning on the last day of her pregnancy) ends; and

"(B) for alcoholism and drug dependency residential treatment services under section 1931 through the end of the 1-year period beginning on the last day of her pregnancy."

**(3) REDESIGNATIONS.—**Section 1902 of the Social Security Act (42 U.S.C. 1396a) is further amended—

(A) in subsection (a)(10)(C)(iv), by striking "(21)" and inserting "(24)"; and

(B) in subsection (j), by striking "(22)" and inserting "(25)".

**(d) ANNUAL EDUCATION AND TRAINING IN INDIAN HEALTH SERVICE AREAS.—**The Secretary of Health and Human Services in cooperation with the Indian Health Service shall conduct on at least an annual basis training and education in each of the 12 Indian Health Service areas for tribes, Indian organizations, residential treatment providers, and State health care workers regarding the availability and nature of residential treatment services available in such areas under the provisions of this Act.

**(e) EFFECTIVE DATE; TRANSITION.—**(1) The amendments made by this section apply to alcoholism and drug dependency residential treatment services furnished on or after July 1, 1994, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) The Secretary of Health and Human Services shall not take any compliance, disallowance, penalty, or other regulatory action against a State under title XIX of the Social Security Act with regard to alcoholism and drug dependency residential treatment services (as defined in section 1931(a) of such Act) made available under such title on or after July 1, 1994, before the date the Secretary issues final regulations to carry out the amendments made by this section, if the

services are provided under its plan in good faith compliance with such amendments.●

By Mr. HEFLIN:

S. 486. A bill to establish a specialized corps of judges necessary for certain Federal proceedings required to be conducted, and for other purposes; to the Committee on the Judiciary.

**ADMINISTRATIVE LAW JUDGE CORPS ACT**

Mr. HEFLIN. Mr. President, I rise today to again introduce legislation in the 103d Congress regarding the establishment of an independent corps of administrative law judges. I believe that this important legislation continues to be both timely and necessary, and will have a profound influence on shaping the future of the administration of justice in the United States.

During the 102d Congress, the Senate Judiciary Committee on February 5, 1992, by a vote of 9 to 5, favorably reported a predecessor bill, S. 826, but no floor action was taken due to the press of other Senate business. Also during the 102d Congress, a similar bill, H.R. 3910, was introduced in the House of Representatives and a hearing was held by the Judiciary Subcommittee on Administrative Law and Governmental Relations. H.R. 3910 was favorably reported by the full House Judiciary Committee, but no further action was taken by the House of Representatives.

Since the establishment of the Administrative Procedures Act in 1946, the number and functions of administrative law judges have changed dramatically. Today, these important dispensers of justice are being called upon to make increasingly more difficult decisions. While administrative law judges are increasingly called upon to make hard choices they are increasingly feeling the pressures to conform their decisions to the will of the administrative agency. There have been and continue to be substantial allegations of abuse and bad faith being raised by both agencies and ALJ's. This problem has continued to raise the levels of distrust by parties who find themselves before an ALJ and this distrust mandates a legislative response.

Administrative law judges are called upon to be independent actors who are not beholden to either their agencies or other parties. However, judges continue to be paid, housed, and staffed by the agencies for whom they adjudicate cases. I believe the appropriate response to this dilemma is to create an independent agency within the executive branch whose function is to House and support administrative law judges.

The concept of an independent corps of ALJ's is not new. This idea was first implemented by a number of States who recognized the utility of this type of legislation. This is a situation where the Federal Government should follow the lead of the States and establish a program which will be both successful

and be adaptable as our society advances.

Generally, this bill would establish an independent corps for administrative law judges which would operate under the executive branch of the Government. The corps would be governed by a chief administrative law judge. Further, the corps would be divided into eight divisions, with each division governed by a division chief administrative law judge. The chief and division chief ALJ's would be Presidential appointments, by and with the advice and consent of the U.S. Senate.

The chief and division chief ALJ's would form a council. The council would be the policymaking body for the corps. The council would have the authority to assign judges to divisions, appoint persons as administrative law judges, prescribe rules of practice and procedure for the corps, issue appropriate rules and regulations for the efficient conduct of the corps, and generally manage the day-to-day operations of the corps.

This bill provides explicit protection for ALJ's. The corps would continue to make appointments of administrative law judges from a register of qualified candidates maintained by the Office of Personnel Management. In order for an ALJ to be involuntarily reassigned to a new permanent duty station, an ALJ must receive a written explanation from the council stating that such a move is required in order to meet substantial changes in workloads. ALJ's would continue to hear and adjudicate the same types of cases which they presently decide. Further, ALJ's would continue to be assigned cases within their division on a rotating basis, taking into account issues of expertise and education. In addition, ALJ's would be given explicit authority to continue to act as special masters pursuant to Federal Rule of Civil Procedure 53(a). This bill also contains provisions for the removal and discipline of administrative law judges. The bill continues specific protection of ALJ's, and provides that they may not be removed, suspended, reprimanded, or disciplined except for misconduct or neglect of duty. Further, the bill provides for the removal of ALJ's due to physical or mental disability. These are protections which provide the necessary balance of independence tempered with proper administrative control.

Finally, the bill contains provisions for the smooth transition of authority, regarding ALJ's, from the agencies to the corps. A key provision of this transition is that within 2 years of enactment, the bill provides for a study and an offering of proposed legislation which would further streamline the administrative decisionmaking process.

The provisions of this bill are designated to address two critical issues which face our Nation. First, an independent corps is vital to the continued

impartial resolution of issues and decision of cases arising under the Administrative Procedures Act. Second, this bill streamlines the Federal bureaucracy in order to better meet the needs of the people of the United States.

I have listened and responded to concerns regarding this bill, and to the extent that the concerns were legislatively addressed, some changes have been made. I recognize that virtually no one will feel this legislation is a perfect solution to the problems faced by administrative law judges, but it is a response to a growing problem in our administrative system of justice.

I look forward to working with the leadership on both sides of the aisle in the Senate, as well as with the leadership in the House of Representatives and President Bill Clinton and Vice President AL GORE in securing passage of this much needed legislation whose prime goal is to protect the integrity and independence of our Federal Administrative Law Judge Corps.

I ask unanimous consent that a copy of this bill be printed in the CONGRESSIONAL RECORD at the conclusion of my remarks.

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

#### S. 486

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Administrative Law Judge Corps Act".*

#### ESTABLISHMENT OF ADMINISTRATIVE LAW JUDGE CORPS

SEC. 2. (a) Chapter 5 of title 5, United States Code, is amended by adding at the end thereof the following new subchapter:

#### "SUBCHAPTER VI—ADMINISTRATIVE LAW JUDGE CORPS

##### "§ 595. Definitions

- "For the purposes of this subchapter—
- "(1) 'agency' means an authority referred to in section 551(1) of this title;
- "(2) 'Corps' means the Administrative Law Judge Corps of the United States established under section 596 of this title;
- "(3) 'administrative law judge' means an administrative law judge appointed under section 3105 of this title on or before the effective date of the Administrative Law Judge Corps Act or under section 599a of this title after such effective date;
- "(4) 'chief judge' means the chief administrative law judge appointed and serving under section 597 of this title;
- "(5) 'Council' means the Council of the Administrative Law Judge Corps established under section 599 of this title;
- "(6) 'Board', unless otherwise indicated, means the Complaints Resolution Board established under section 599c of this title; and
- "(7) 'division chief judge' means the chief administrative law judge of a division appointed and serving under section 598 of this title.

##### "§ 596. Establishment; membership

- "(a) There is established an Administrative Law Judge Corps consisting of all administrative law judges, in accordance with the provisions of subsection (b). Such Corps shall be located in Washington, D.C.

"(b) An administrative law judge serving as such on the date of the commencement of the operation of the Corps shall be transferred to the Corps as of that date. An administrative law judge who is appointed on or after the date of the commencement of the operation of the Corps shall be a member of the Corps as of the date of such appointment.

##### "§ 597. Chief administrative law judge

"(a) The chief administrative law judge shall be the chief administrative officer of the Corps and shall be the presiding judge of the Corps. The chief judge shall be appointed by the President, by and with the advice and consent of the Senate. The chief judge shall be an administrative law judge who has served as an administrative law judge for at least five years preceding the date of appointment as chief judge. The chief judge shall serve for a term of five years or until a successor is appointed and qualifies to serve, whichever is earlier. A chief judge may be reappointed upon the expiration of his term, by and with the advice and consent of the Senate.

"(b)(1) If the office of chief judge is vacant, the division chief judge who is senior in length of service as a member of the Council shall serve as acting chief judge until such vacancy is filled.

"(2) If two or more division chief judges have the same length of service as members of the Council, the division chief judge who is senior in length of service as an administrative law judge shall serve as such acting chief judge.

"(c) The chief judge shall, within ninety days after the end of each fiscal year, submit a written report to the President and the Congress concerning the business of the Corps during the preceding fiscal year. The report shall include information and recommendations of the Council concerning the personnel requirements of the Corps.

"(d) After serving as chief judge, such individual may continue to serve as an administrative law judge unless such individual has been removed from office in accordance with section 599c of this title.

##### "§ 598. Divisions of the Corps; division chief judges

"(a) Each judge of the Corps shall be assigned to a division by the Council, pursuant to section 599. The assignment of a judge who was an administrative law judge on the date of commencement of the operation of the Corps shall be made after consideration of the areas of specialization in which the judge has served. Each division shall be headed by a division chief judge who shall exercise administrative supervision over such division.

"(b) The divisions of the Corps shall be as follows:

- "(1) Division of Communications, Public Utility, and Transportation Regulation.
- "(2) Division of Safety and Environmental Regulation.
- "(3) Division of Labor.
- "(4) Division of Labor Relations.
- "(5) Division of Health and Benefits Programs.
- "(6) Division of Securities, Commodities, and Trade Regulation.
- "(7) Division of General Programs.
- "(8) Division of Financial Services Institutions.

"(c)(1) The division chief judge of each division set forth in subsection (b) shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) To be eligible for appointment as a division chief judge, an individual shall have

served as an administrative law judge for at least five years and should possess experience and expertise in the specialty of the division to which such person is an appointee.

"(3) Division chief judges shall be appointed for five-year terms except that of those division chief judges first appointed, the President shall designate two such individuals to be appointed for five-year terms, three for four-year terms, and two for three-year terms.

"(4) Any division chief judge appointed to fill an unexpired term shall be appointed only for the remainder of such predecessor's term, but may be reappointed as provided in paragraph (5).

"(5) Any division chief judge may be reappointed upon the expiration of his term if nominated for such appointment pursuant to the provisions of this title.

"(6) Any judge, after serving as division chief judge may continue to serve as an administrative law judge unless such individual has been removed from office in accordance with section 599c of this title.

#### "§ 599. Council of the Corps

"(a) The policymaking body of the Corps shall be the Council of the Corps. The chief judge and the division chief judges shall constitute the Council. The chief judge shall preside over the Council. If the chief judge is unable to be present at a meeting of the Council, the division chief judge who is senior in length of service as a member of such Council shall preside.

"(b) One half of all of the members of the Council shall constitute a quorum for the purpose of transacting business. The affirmative vote by a majority of all the members of the Council shall be required to approve a matter on behalf of the Council. Each member of the Council shall have one vote.

"(c) Meetings of the Council shall be held at least once a month at the call of the chief judge or by the call of one-third or more of the members of the Council.

"(d) The Council is authorized—

"(1) to assign judges to divisions and transfer or reassign judges from one division to another, subject to the provisions of section 599a of this title;

"(2) to appoint persons as administrative law judges under section 599a of this title;

"(3) to file charges seeking adverse action against an administrative law judge under section 599c of this title;

"(4) subject to the provisions of subsection (e), to prescribe, after providing an opportunity for notice and comment, the rules of practice and procedure for the conduct of proceedings before the Corps, except that, with respect to a category of proceedings adjudicated by an agency before the effective date of the Administrative Law Judge Corps Act, the Council may not amend or revise the rules of practice and procedure prescribed by that agency during the two years following such effective date without the approval of that agency, and any amendments or revisions made to such rules shall not affect or be applied to any pending action;

"(5) to issue such rules and regulations as may be appropriate for the efficient conduct of the business of the Corps and the implementation of this subchapter, including the assignment of cases to administrative law judges;

"(6) subject to the civil service and classification laws and regulations, to select, appoint, employ, and fix the compensation of the employees (other than administrative law judges) that such Council determines necessary to carry out the functions, powers, and duties of the Corps and to prescribe the authority and duties of such employees;

"(7) to establish, abolish, alter, consolidate, and maintain such regional, district, and other field offices as are necessary to carry out the functions, powers, and duties of the Corps and to assign and reassign employees to such field offices;

"(8) to procure temporary and intermittent services under section 3109 of this title;

"(9) to enter into, to the extent or in such amounts as are authorized in appropriation Acts, without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5), contracts, leases, cooperative agreements, or other transactions that may be necessary to conduct the business of the Corps;

"(10) to delegate any of the chief judge's functions or powers with the consent of the chief judge, or whenever the office of such chief judge is vacant, to one or more division chief judges or other employees of the Corps, and to authorize the redelegation of any of those functions or powers;

"(11) to establish, after consulting with an agency, initial and continuing educational programs to ensure that each administrative law judge assigned to hear cases of an agency has the necessary training in the specialized field of law of that agency;

"(12) to make suitable arrangements for continuing education and training of other employees of the Corps, so that the level of expertise in the divisions of the Corps shall be maintained and enhanced; and

"(13) to determine all other matters of general policy of the Corps.

"(e) The Council shall select an official seal for the Corps which shall be officially noticed.

#### "§ 599a. Appointment and transfer of administrative law judges

"(a) After the initial establishment of the Corps, the Council shall appoint new or additional judges as may be necessary for the efficient and expeditious conduct of the business of the Corps. Appointments shall be made from a register maintained by the Office of Personnel Management under subchapter I of chapter 33 of this title. Upon request by the chief judge, the Office of Personnel Management shall certify enough names from the top of such register to enable the Council to consider five names for each vacancy. Notwithstanding section 3318 of this title, a vacancy in the Corps may be filled from the highest five eligible individuals available for appointment on the certificate furnished by the Office of Personnel Management.

"(b) A judge of the Corps may not perform or be assigned to perform duties inconsistent with the duties and responsibilities of an administrative law judge

"(c) A judge of the Corps on the date of commencement of the operation of the Corps may not thereafter be involuntarily reassigned to a new permanent duty station if such station is beyond commuting distance of the duty station which is the judge's permanent duty station on that date, unless the Council determines and submits a written explanation to the judge stating that such reassignment is required to meet substantial changes in workloads. A judge may be temporarily detailed, once in a 24-month period, to a new duty station at any location, for a period of not more than 120 days.

#### "§ 599b. Jurisdiction

"(a) All types of cases, claims, actions and proceedings held before administrative law judges before the effective date of the Administrative Law Judge Corps Act shall be referred to the Corps for adjudication on the record after an opportunity for a hearing.

"(b) An administrative law judge who is a member of the Corps shall hear and render a decision upon—

"(1) every case of adjudication subject to the provisions of section 553, 554, or 556 of this title;

"(2) every case in which hearings are required by law to be held in accordance with sections 553, 554, or section 556 of this title; and

"(3) every other case referred to the Corps by an agency or court in which a determination is to be made on the record after an opportunity for a hearing.

"(c) When a case under subsection (b) arises, it shall be referred to the Corps. Under regulations issued by the Council the case shall be assigned to a division. The appropriate division chief judge shall assign cases to judges, taking into consideration specialization, training, workload and conflicts of interest.

"(d) Federal agencies and courts are authorized to refer any appropriate case either—

"(1) to the Corps; or

"(2) to a specific administrative law judge, with the approval of the majority of the Council, to serve as a special master pursuant to the provisions of Rule 53(a) of the Federal Rules of Civil Procedure.

"(e) Compliance with this subchapter shall satisfy any requirement under section 916 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989."

#### "§ 599c. Removal and discipline

"(a) Except as provided in subsection (b) of this section—

"(1) an administrative law judge may not be removed, suspended, reprimanded, or disciplined except for misconduct or neglect of duty, but may be removed for physical or mental disability; and

"(2) an action specified in paragraph (1) of this subsection may be taken against an administrative law judge only after the Council has filed a notice of adverse action against the administrative law judge with the Merit Systems Protection Board and the Board has determined, on the record after an opportunity for a hearing before the Board, that there is good cause to take such action.

"(b) Subsection (a) shall not apply to an action initiated under section 1206 of this title.

"(c) Under regulations issued by the Council, a Complaints Resolution Board shall be established within the Corps to consider and to recommend appropriate action to be taken when a complaint is made concerning the official conduct of a judge. Such complaint may be made by any interested person, including parties, practitioners, the chief judge, and agencies.

"(d) The Board shall consist of two judges from each division of the Corps who shall be appointed by the Council. The chief judge and the division chief judges may not serve on such Board.

"(e) A complaint of misconduct by an administrative law judge shall be made in writing. The complaint shall be filed with the chief judge, or it may be originated by the chief judge on his own motion. The chief judge shall refer the complaint to a panel consisting of three members of the Board selected by the Council, none of whom may be serving in the same division as the administrative law judge who is the subject of the complaint. The administrative law judge who is the subject of the complaint shall be given notice of the complaint and the composition of the panel. The administrative law judge may challenge peremptorily not more

than two members of the panel. The Council shall replace a challenged member with another member of the Board who is eligible to serve on such panel.

"(f) The panel shall inquire into the complaint and shall render a report to the Council. A copy of the report shall be provided concurrently to the administrative law judge who is the subject of the complaint. The report shall be advisory only.

"(g) The proceedings, deliberations, and reports of the Board and the contents of complaints under this section shall be treated as privileged and confidential. Documents considered by the Board and reports of the Board are exempt from disclosure or publication under section 552 of this title. Section 552b of this title shall not apply to the Board."

(b) The table of sections for chapter 5 of title 5, United States Code, is amended by adding at the end thereof the following:

**"SUBCHAPTER VI—ADMINISTRATIVE LAW JUDGE CORPS**

- "Sec.
- "595. Definitions.
- "596. Establishment; membership.
- "597. Chief administrative law judge.
- "598. Divisions of the Corps; division chief judges.
- "599. Council of the Corps.
- "599a. Appointment and transfer of administrative law judges.
- "599b. Jurisdiction.
- "599c. Removal and discipline."

**AGENCY REVIEW STUDY AND REPORT**

SEC. 3. The chief administrative law judge of the Administrative Law Judge Corps of the United States shall make a study of the various types and levels of agency review to which decisions of administrative law judges are subject. A separate study shall be made for each division of the Corps. The studies shall include monitoring and evaluating data and shall be made in consultation with the division chief judges, the Chairman of the Administrative Conference of the United States, and the agencies that review the decisions of administrative law judges. Not later than two years after the effective date of this Act, the Council shall report to the President and the Congress on the findings and recommendations resulting from the studies. The report shall include recommendations, including recommendations for new legislation, for any reforms that may be appropriate to make review of administrative law judges' decisions more efficient and meaningful and to accord greater finality to such decisions.

**TRANSITION AND SAVINGS PROVISIONS**

SEC. 4. (a) There are transferred to the administrative law judges of the Administrative Law Judge Corps established by section 596 of title 5, United States Code (as added by section 2 of this Act), all functions performed on the day before the effective date of this Act by the administrative law judges appointed under section 3105 of such title before the effective date of this Act.

(b) With the consent of the agencies concerned, the Administrative Law Judge Corps of the United States may use the facilities and the services of officers, employees, and other personnel of agencies from which functions and duties are transferred to the Corps for so long as may be needed to facilitate the orderly transfer of those functions and duties under this Act.

(c) The personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held,

used, arising from, available or to be made available, in connection with the functions, offices, and agencies transferred by this Act, are, subject to section 1531 of title 31, United States Code, correspondingly transferred to the Corps for appropriate allocation.

(d) The transfer of personnel pursuant to subsection (b) of this section shall be without reduction in pay or classification for one year after such transfer.

(e) The Director of the Office of Management and Budget, at such time or times as the Director shall provide, may make such determinations as may be necessary with regard to the functions, offices, agencies, or portions thereof, transferred by this Act, 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 such functions, offices, agencies, or portions thereof, as may be necessary to carry out the provisions of this Act.

(f) All orders, determinations, rules, regulations, certificates, licenses, and privileges which have been issued, made, granted, or allowed to become effective in the exercise of any duties, powers, or functions which are transferred under this Act and are in effect at the time this Act becomes effective shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Administrative Law Judge Corps of the United States or a judge thereof in the exercise of authority vested in the Corps or its members by this Act, by a court of competent jurisdiction, or by operation of law.

(g) Except as provided in subsections (d)(5) and (e) of section 599 of title 5, United States Code, this Act shall not affect any proceeding before any department or agency or component thereof which is pending at the time this Act takes effect. Such a proceeding shall be continued before the Administrative Law Judge Corps of the United States or a judge thereof, or, to the extent the proceeding does not relate to functions so transferred, shall be continued before the agency in which it was pending on the effective date of this Act.

(h) No suit, action, or other proceeding commenced before the effective date of this Act shall abate by reason of the enactment of this Act.

**AUTHORIZATION OF APPROPRIATIONS**

SEC. 5. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act and subchapter VI of title 5, United States Code (as added by section 2 of this Act).

**TECHNICAL AND CONFORMING AMENDMENTS**

SEC. 6. Title 5, United States Code, is amended as follows:

(1) Section 573(b) is amended by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively, and inserting a new paragraph (4) to read as follows:

"(4) the chief administrative law judge of the Administrative Law Judge Corps of the United States;"

(2) Section 3105 is amended to read as follows:

**"§ 3105. Appointment of administrative law judges**

"Administrative law judges shall be appointed by the Council of the Administrative Law Judge Corps pursuant to section 599a of this title."

(3) Section 3344 and any references to such section are repealed.

(4) The table of sections for chapter 33 is amended by striking out the item relating to section 3344.

(5)(A) Subchapter III of chapter 75 of title 5, United States Code, is repealed.

(B) The table of sections at the beginning of chapter 75 of title 5, United States Code, is amended—

(i) by striking out the items relating to subchapter III and section 7521;

(ii) by redesignating "Subchapter IV" and all references to such subchapter as "Subchapter III"; and

(iii) by redesignating "Subchapter V" and all references to such subchapter as "Subchapter IV".

**OPERATION OF THE CORPS**

SEC. 7. Operation of the Corps shall commence on the date the first chief administrative law judge of the Corps takes office.

**CONTRACT DISPUTES ACT**

SEC. 8. Nothing in this Act or the amendments made by this Act shall be deemed to affect any agency board established pursuant to the Contract Disputes Act (41 U.S.C. 601), or any other person designated to resolve claims or disputes pursuant to such Act.

**EFFECTIVE DATE**

SEC. 9. Except as otherwise provided, this Act and the amendments made by this Act shall take effect 120 days after the date of enactment.

By Mr. MITCHELL (for himself and Mr. DANFORTH):

S. 487. A bill to amend the Internal Revenue Code of 1986 to permanently extend and modify the low-income housing tax credit; to the Committee on Finance.

**HOUSING TAX CREDIT ACT OF 1993**

Mr. MITCHELL. Mr. President, I am introducing legislation today with Senator DANFORTH to make the low-income housing tax credit permanent. The bill also includes a few miscellaneous changes to the credit program, most of which were included in H.R. 11, comprehensive tax legislation that was vetoed by President Bush last year.

The legislation we introduce today is retroactive to June 30, 1992, the date when the existing program expired. This is the same as the provision which was included in H.R. 11. Like that legislation, this bill would also make the credit a permanent program. In his economic program announced on February 17, President Clinton also called for a permanent extension of this valuable program.

Since its creation in the Tax Reform Act of 1986, the low-income housing tax credit has proven to be a great success producing almost 500,000 units of housing for low- and moderate-income families each year. Throughout the Nation, nonprofit and for profit developers are working with State and local governments using this Federal subsidy to produce needed affordable housing. The program has proven so successful because of the innovative work of the development community and the strong leadership efforts of the State housing credit agencies.

The tax credit is a valuable incentive for developers to build and rehabilitate

low-income housing. But in almost all cases other subsidies remain necessary to make these projects work. Because rents are strictly controlled under the tax-credit program, cash flow is insufficient to support high levels of debt. Since the equity that is attracted through the tax credit usually cannot make up the difference, most of these projects have a gap which must be filled in other ways.

One of the exciting aspects of the low-income housing credit is the way it is currently serving as a catalyst to bring other sources of funds to low-income housing development to bridge the gap between the amount that is necessary for project development and the amount that can be provided through tax credit equity and the primary debt on the property.

The credit has succeeded during a period of scarce housing resources because State and local governments have been working in partnership with nonprofit and for-profit developers to bring together diverse sources of funds—from charities, community funds, corporations, and governments—that enable low income housing to be built.

In addition to a permanent extension, this bill includes a number of miscellaneous changes to address some minor problems with the current statute.

The most important provision clarifies the existing credit carryover rules to permit the State housing finance agencies which administer the credit to carryover more unused allocations from year to year. This is accomplished by changing the stacking rules for carryover so that unused credits are allocated first in the succeeding calendar year. This is an important reform because it gives States greater latitude in allocating credits and enables them to avoid situations where they lose credit authority if it is not quickly allocated. This change will make it easier for States to award credits to the most deserving projects.

Another provision in this bill liberalizes the rules that permit a portion of housing that is built with credits to be used for community service areas. Currently the credit permits the construction of such services facilities if they are used exclusively for tenants. This is a rigid rule that creates problems if tenant populations change overtime. In such cases, the project either falls out of compliance or programs must be cancelled. Scarce space goes unused. The bill deals with that problem by permitting other moderate income individuals to participate in programs at such facilities as long as they otherwise meet the income test for the project. The provision is limited to housing located within census tracts. This minor change will facilitate the development of facilities to provide social services to residents of economi-

cally depressed areas. This should be particularly helpful in certain urban areas as a means of expanding the space available for the Head Start Program.

Under current law, housing projects which have been placed in service within the last 10 years can not qualify for the credit unless the Treasury Department grants a waiver designed to protect the integrity of the Federal housing insurance funds. The bill adds 221(d)(4) housing programs to the list of projects which can qualify for the waiver.

Other provisions in the bill clarify current law with respect to: First, the definition of students permitted to live in credit housing; second, the application of the at-risk rules to nonprofit qualified lenders and to low-income housing credit property that also qualifies for the historic rehabilitation credit; third, the application of non-discrimination rules to tenants receiving housing subsidies; and fourth, administrative discretion in the case of de minimis errors by project managers or credit allocating agencies.

The miscellaneous amendments included in this bill are noncontroversial, technical changes. Most were included in the Senate version of H.R. 11 that passed Congress last year.

In the last Congress, 87 Senators cosponsored legislation that Senator DANFORTH and I introduced to make the low-income housing tax credit permanent. That indicates just how much support this program has in Congress, and I am confident that it will finally be permanently extended this year.

I ask unanimous consent that a copy of the bill be included in the CONGRESSIONAL RECORD.

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

#### S. 487

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. PERMANENT EXTENSION AND MODIFICATION OF LOW-INCOME HOUSING TAX CREDIT.

##### (a) PERMANENT EXTENSION.—

(1) IN GENERAL.—Section 42 of the Internal Revenue Code of 1986 (relating to low-income housing credit) is amended by striking subsection (o).

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to periods after June 30, 1992.

##### (b) MODIFICATIONS.—

##### (1) CARRYFORWARD RULES.—

(A) IN GENERAL.—Clause (ii) of section 42(h)(3)(D) (relating to unused housing credit carryovers allocated among certain States) is amended by striking "the excess" and all that follows and inserting "the excess (if any) of the unused State housing credit ceiling for the year preceding such year over the aggregate housing credit dollar amount allocated for such year."

(B) CONFORMING AMENDMENT.—The second sentence of section 42(h)(3)(C) (relating to State housing credit ceiling) is amended by striking "clauses (i) and (iii)" and inserting "clauses (i) through (iv)".

(C) DE MINIMIS EXCEPTION FOR QUALIFICATION RULE.—Section 42(h)(3)(D)(iv) (defining qualified State) is amended by adding at the end the following new flush sentence:

"For purposes of subclause (I), unallocated amounts from a State's housing credit ceiling for the preceding calendar year which do not exceed 1 percent of such ceiling shall be disregarded."

(2) 10-YEAR ANTI-CHURNING RULE WAIVER EXPANDED.—Clause (ii) of section 42(d)(6)(B) (defining federally assisted building) is amended by inserting "221(d)(4)," after "221(d)(3)".

(3) HOUSING CREDIT AGENCY DETERMINATION OF REASONABLENESS OF PROJECT COSTS.—Subparagraph (B) of section 42 (m)(2) (relating to credit allocated to building not to exceed amount necessary to assure project feasibility) is amended—

(A) by striking "and" at the end of clause (ii),

(B) by striking the period at the end of clause (iii) and inserting "and", and

(C) by inserting after clause (iii) the following new clause:

"(iv) the reasonableness of the developmental and operational costs of the project."

(4) UNITS WITH CERTAIN FULL-TIME STUDENTS NOT DISQUALIFIED.—Subparagraph (D) of section 42(i)(3) (defining low-income unit) is amended to read as follows:

"(D) CERTAIN STUDENTS NOT TO DISQUALIFY UNIT.—A unit shall not fail to be treated as a low-income unit merely because it is occupied—

"(i) by an individual who is—

"(I) a student and receiving assistance under title IV of the Social Security Act, or

"(II) enrolled in a job training program receiving assistance under the Job Training Partnership Act or under other similar Federal, State, or local laws, or

"(ii) entirely by full-time students if such students are—

"(I) single parents and their children and such parents and children are not dependents (as defined in section 152) of another individual, or

"(II) married and file a joint return."

(5) TREASURY WAIVERS OF CERTAIN DE MINIMIS ERRORS AND RECERTIFICATIONS.—Subsection (g) of section 42 (relating to qualified low-income housing projects) is amended by adding at the end thereof the following new paragraph:

"(8) WAIVER OF CERTAIN DE MINIMIS ERRORS AND RECERTIFICATIONS.—On application by the taxpayer, the Secretary may waive—

"(A) any recapture under subsection (j) in the case of any de minimis error in complying with paragraph (1), or

"(B) any annual recertification of tenant income for purposes of this subsection, if the entire building is occupied by low-income tenants."

(6) BASIS OF COMMUNITY SERVICE AREAS INCLUDED IN ADJUSTED BASIS.—Paragraph (4) of section 42(d) (relating to special rules relating to determination of adjusted basis) is amended—

(A) by striking "subparagraph (B)" in subparagraph (A) and inserting "subparagraphs (B) and (C)",

(B) by redesignating subparagraph (C) as subparagraph (D), and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) BASIS OF PROPERTY IN COMMUNITY SERVICE AREAS INCLUDED.—The adjusted basis of any building located in a qualified census tract shall be determined by taking into account the adjusted basis of property (of a character subject to the allowance for depre-

ciation) used in functionally related and subordinate community activity facilities if—

"(i) such facilities are designed to serve individuals meeting the income requirements of subsection (g)(1)(B) and employees of the qualified low-income housing project of which the building is a part, and

"(ii) not more than 20 percent of the aggregate eligible basis of all buildings in such project is attributable to the aggregate basis of such facilities.

Such facilities the aggregate basis of which is more than 20 percent of such aggregate eligible basis shall not be disqualified under clause (ii), if not more than 20 percent of such aggregate eligible basis claimed by the taxpayer is attributable to such facilities."

(7) APPLICATION OF AT-RISK RULES.—

(A) CERTIFIED HISTORIC STRUCTURES INCLUDED.—Paragraph (1) of section 42(k) (relating to application of at-risk rules) is amended by inserting "(and, for purposes of computing the credit under section 47(a)(2), the basis of any building subject to such credit which is part of a qualified low-income housing project)" after "building".

(B) QUALIFIED NONPROFIT LENDERS EXCLUDED.—Subparagraph (A) of section 42(k)(2) (relating to special rules for determining qualified person) is amended by inserting "which is not a qualified person (as defined in section 49(a)(1)(D)(iv))" after "subsection (h)(5)".

(8) DISCRIMINATION AGAINST TENANTS PROHIBITED.—Section 42(h)(6)(B) (defining extended low-income housing commitment) is amended by redesignating clauses (iv) and (v) as clauses (v) and (vi) and by inserting after clause (iii) the following new clause:

"(iv) which prohibits the refusal to lease to a holder of a voucher or certificate of eligibility under section 8 of the United States Housing Act of 1937 because of the status of the prospective tenant as such a holder."

(9) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the amendments made by this subsection shall apply to—

(i) determinations under section 42 of the Internal Revenue Code of 1986 with respect to housing credit dollar amounts allocated from State housing credit ceilings after June 30, 1992, or

(ii) buildings placed in service after June 30, 1992, to the extent paragraph (1) of section 42(h) of such Code does not apply to any building by reason of paragraph (4) thereof, but only with respect to bonds issued after such date.

(B) CARRYFORWARD RULES.—The amendments made by paragraph (1) shall apply to calendar years beginning after December 31, 1992.

(C) WAIVER AUTHORITY AND PROHIBITED DISCRIMINATION.—The amendments made by paragraphs (2), (5), and (8) shall take effect on the date of the enactment of this Act.

(c) ELECTION TO DETERMINE RENT LIMITATION BASED ON NUMBER OF BEDROOMS.—In the case of a building to which the amendments made by section 7108(e)(1) of the Revenue Reconciliation Act of 1989 did not apply, the taxpayer may elect to have such amendments apply to such building but only with respect to tenants first occupying any unit in the building after the date of the election, and if the taxpayer has met the requirements of the procedures described in section 42(m)(1)(B)(iii) of the Internal Revenue Code of 1986. Such an election may be made only during the 180 day period beginning on the date of the enactment of this Act. Once made, the election shall be irrevocable.

Mr. DANFORTH. Mr. President, I am pleased to introduce today, along with Senator MITCHELL, a bill to extend permanently the low-income housing tax credit. Senator MITCHELL and I have been working to extend permanently and improve the tax credit program for many years. I want to commend Senator MITCHELL for his strong commitment to this program and his efforts to constantly improve upon it.

The low-income housing tax credit is the primary Federal incentive for the new construction and rehabilitation of low-income rental housing, financing virtually all low-income apartment construction. Unfortunately, this program expired on June 30, 1992.

Since its enactment in 1986, the tax-credit program has helped finance nearly 500,000 units of rental housing for families at 60 percent of the median income or less. It now produces about 110,000 units annually, about one-third of all multifamily starts. According to the National Association of State Housing Agencies [NCSHA], the 112,000 units of low-income housing financed by the credit in 1991 produced over 60,000 jobs nationwide.

The program has had a significant effect on the development of low-income housing in my home State. The Missouri Housing Development Commission estimates that the tax credit program is responsible for 882 developments and 12,413 units in Missouri.

This year we truly have the opportunity to make this program permanent, providing the stability necessary to ensure continued long-term investment in low-income housing projects. The annual process of short-term extensions has hindered program efficiency because participants are unable to rely on the program as a dependable long-term resource. A permanent extension will encourage new participants, and the increased competition for the finite pool of tax credits will increase efficiency.

I am pleased that the President has proposed a permanent extension of the program. This program has wide support in Congress as well. In the last Congress, 86 Senators sponsored a bill to extend the tax-credit program permanently. In the House of Representatives, 331 Members sponsored a similar initiative. In 1992 Congress twice approved a permanent extension of the program as part of larger tax packages last year.

Mr. President, I urge my fellow Senators to once and for all extend permanently the program this year.

By Mr. SPECTER:

S. 488. A bill to provide Federal penalties for drive-by shootings; to the Committee on the Judiciary.

DRIVE-BY SHOOTINGS ACT OF 1993

Mr. SPECTER. I introduce at this time the Drive-By Shootings Act of 1993, addressing a problem which is of

epidemic proportion in our country today where motorists, passengers passing by groups of people on street corners not only in the cities but in rural communities fire into a crowd resulting in the death or serious injury of those who are on the street or from ricocheting bullets those who may be in houses nearby.

I have observed these incidents in my home State of Pennsylvania, and I have noted reports from many other States. And recently I went to a street corner in Pittsburgh, PA, where I had a letter of complaint about the incidence of a tremendous number of drive-by shootings. That street corner was the corner of Lincoln and Lemington in Pittsburgh last February 25 where I met with the mayor, the police chief, the U.S. attorney, and other public officials from the city of Pittsburgh\* to inquire into the circumstances surrounding drive-by shootings at that street corner. The people in the neighborhood were in a state of total fright and total shock, and were desperately in need of assistance.

I believe that local law enforcement can do a great deal more than local law enforcement is doing at the present time when there are arrests made of juveniles on these drive-by shootings. Under Pennsylvania law, which I believe conforms to the laws of most jurisdictions, a juvenile under the age of 18 is treated in juvenile court with certain precautions while not disclosing identity and a less severe form of consequence or punishment following the adjudication of the delinquency which is the result as opposed technically to a conviction. But even on these juvenile incidents there is an opportunity for a juvenile court judge, under appropriate circumstances, to certify a 17-year-old, for example, to be tried as an adult.

I believe that is a result which ought to occur in counties like Allegheny County or other counties in Pennsylvania or across the country.

But there is a very, very different response, Mr. President, when the offenders are aware that there is a Federal presence, when there is a Federal prosecution which is possible.

In 1986 my legislation established a special drug task force for the Eastern District of Pennsylvania which was implemented in 1988 and has given rise to Operation Trigger Lock across the country. That brings to bear coordinated local, State, and Federal authorities where drugs are at issue. Now we find in the streets of America's big cities when juvenile hoodlums are arrested they are saying to the officer, this is a State case, this is not a Federal case. Those young hoodlums really do not understand the intricacies of State jurisdiction versus Federal jurisdiction, but they have a sense that when they are taken in the Federal court, for example, in Philadelphia

with an individual judge calendar, with preventive detention and appropriate circumstances, and with mandatory sentences, that is something they do not like. If you have Federal enforcement on these drive-by shootings, and that becomes the word of the street, there is a very significant deterrent effect in my judgment.

Before coming to the U.S. Senate I had the opportunity to serve as district attorney of Philadelphia for two terms, 8 years, and before that an assistant district attorney. And my experience convinces me that Federal involvement on this kind of an offense can have a very, very substantial deterrent effect.

There are a number of cases. There was the case of young Megan Rayes, a 6-year-old Phoenix girl, who was shot as she slept in her bedroom from a random bullet on a drive-by shooting; Donald Lamarr Davis, a 17-year-old boy, was shot and killed near his apartment in St. Petersburg, FL, while helping his family pick up trash; two Baltimore men were shot to death when occupants of a van fired with semiautomatic guns and a shotgun on a group of people. When a van carrying a driver and passengers with semiautomatic guns and a shotgun shot at a group of people near a North Baltimore carryout—and I shall not give the additional details, Mr. President, because they are set forth in a statement which I am about to have introduced.

The bill provides for the death penalty where a murder occurs in connection with the drug incident, and in the context of the bill it establishes a solid nexus for Federal jurisdiction even though this would ordinarily be considered a State crime.

The problems of law enforcement are so complicated today that we ought to look at specific incidents where Federal involvement could have a very profound effect. I suggest, Mr. President, that this is precisely such a circumstance.

Mr. President, today I am introducing a bill which addresses one of the most critical problems plaguing urban areas today and increasingly afflicting suburban and rural areas—drive-by shootings. This bill will make it a Federal crime to fire a weapon into a group of two or more persons with the intent to intimidate, harass, injure, or maim, in furtherance of, or to avoid detection of, a major drug offense. The bill provides a sentence of up to 25 years imprisonment for aggravated assault and of life imprisonment or the death penalty in the event of a homicide resulting from a drive-by shooting.

This bill is similar to H.R. 2902, the Drive-By Shooting Prevention Act of 1991, introduced in the House in the 102d Congress. That bill, however, failed to establish constitutional means by which Federal courts may impose the death penalty, making its death sentence provision meaningless.

This bill includes provisions establishing constitutional procedures for imposition of the death penalty, as provided for in S. 247, the Death Penalty Act of 1993, which I introduced earlier this year. These provisions give a Federal court the authority to impose the death penalty on a defendant who has been found guilty of a drive-by shooting, if the defendant caused the death of a person intentionally, knowingly, or through recklessness manifesting extreme indifference to human life, or caused the death of a person through the intentional infliction of serious bodily injury. If these factors are met, then a jury can determine whether imposition of a sentence of death is justified, as long as the defendant is over the age of 18 years of age at the time of the offense.

I am introducing this legislation at a time when the occurrence of drive-by shootings is no longer a rare incident confined to urban communities. The surge of this heinous offense, which hit America's largest urban areas during the late 1980's has continued, plaguing cities such as Philadelphia and Pittsburgh in Pennsylvania and Baltimore, Dallas, Chicago, Los Angeles, Phoenix, San Francisco, and the District of Columbia. As reported in a December 29, 1991, Washington Post article, however, drive-by shootings are no longer confined to these urban centers, but have "spread deep into the heartland, striking cities and towns where random killings and drive-by shootings previously were unknown outside of the nightly news."

As noted, my own State has not been spared this awful reality. A recent letter sent to me from Joseph Seabrooke, a Pittsburgh real estate executive, written in the midst of a recent rash of drive-by shootings, complains about the drug dealing and attendant violence in Pittsburgh. The Pittsburgh Department of Public Safety informs me that the incidence of aggravated assault with a gun in Pittsburgh rose from virtually none in 1991, to 52 in 1992. According to law enforcement officials, there are currently two to three drive-by shootings every week in Allegheny County. Last week I visited an inner-city area of Pittsburgh at the corner of Lincoln and Lemington with the mayor and law enforcement officials to view for myself the effects that drive-by shootings can have on a neighborhood.

While most of these shootings are drug related, the victims of such offenses come from all walks of life, all neighborhoods, and are of all ages. The majority are innocent bystanders, unfortunate to be in the wrong place at the wrong time. For example, there is the case of Megan Rayes, a 6-year-old Phoenix girl shot in the head as she slept in her bedroom. She was hit from the spray of gunshots intended to intimidate the residents of the building.

Other innocent victims include Donald Lamarr Davis, a 17-year-old boy who was shot and killed near his apartment in St. Petersburg, FL, while he was helping his family pick up trash; two Baltimore men who were shot to death when occupants of a black van fired with semiautomatic guns and a shotgun on a group of people near a North Baltimore carryout; and Marcia Williams, a mother of three, who was killed by a stray bullet as she drove home one evening in the District of Columbia.

All of the inhabitants of the areas where such shootings are prevalent who will no longer be able to receive basic services due to the widespread and understandable fear people have of going into these neighborhoods are also the victims of this numbing violence. No one should have to live in such terror. No one should have to be imprisoned in his home, afraid to walk the streets or go out in the evenings for fear of being shot. No one should feel, as do the individuals referred to in the letter by Joseph Seabrooke, forced to move from his or her neighborhood. And, no one should have to suffer the fate of a District of Columbia teenager who attended four funerals in 2 years—funerals of boyhood friends who were gunned down in the streets.

It is a fundamental responsibility of government to provide people with a safe community. We cannot allow the gun-toting hoodlums who commit these senseless acts of violence to control our neighborhoods. When cities and States cannot control this violence, the Federal Government must step in and assist them.

This bill will establish Federal penalties for those convicted in drive-by shootings. The news reports from across the Nation show that drive-by shootings are truly a national problem, which must be dealt with in a consistent manner nationally. This means providing concurrent jurisdiction to Federal authorities to play a more active role in these cases.

An increased Federal role brings several benefits. First, many State courts are simply too overwhelmed to handle such cases, so that these cases do not get the attention they deserve and the guilty are not treated as severely as they should be. A second reason for Federal involvement is that even when convicted and sent to prison on State charges, many criminals, due to the overcrowding of the State prison systems, are released before completing their sentences or are placed on probation. In either case, they are back on the streets well before they should be. Federal prisons, while overcrowded, have not been forced to release prisoners early, and Federal judges, with tough sentences established under the sentencing guidelines, hand out severe punishment when warranted. In addition, without Federal parole the de-

fendant serves the sentence called for by law and is not released early.

A third reason for having the Federal Government get involved is that there is evidence that criminals are aware that they have a better chance under State systems of avoiding meaningful jail time for the reasons I have outlined. Once the Federal Government becomes involved in enforcement, however, and word of that involvement spreads to the perpetrators on the streets, deterrence will be increased. An additional reason for having Federal enforcement is that Federal law provides for preventive detention on a showing that there is a danger to the community if the defendant is released on bail.

In advocating Federal involvement, I am not arguing that the States should no longer involve themselves with the task of preventing this most violent crime. But, the States and local communities should not have to face this task alone. Where a problem is national in scope, as the drug problem underlying much of the violence is, the national Government must take an active role in addressing the problem.

Some of my colleagues may oppose this bill due to the provision allowing for the imposition of the death penalty for a homicide resulting from a drive-by shooting which occurs in conjunction with a major drug offense. Imposition of the death penalty is not an easy matter. There are many who have conscientious scruples against the death penalty. I continue to believe, however, that the death penalty is an important weapon in the war against violent crime, especially violence connected with drug dealing. In such cases, the death penalty can serve as a significant deterrent to acts of violence. I believe that it will be a deterrent in the case of the individual who considers engaging in a drive-by shooting. For these people, the possibility of death may well enter into their minds before engaging in this senseless crime, and may well make them think twice before firing a weapon into a group of people.

As my colleagues are aware, I have long been an advocate of a more active Federal role in street crime. My Armed Career Criminal Act, the first Federal legislation targeting violent recidivists, has been extremely effective against violent recidivists. Attorney General Barr believed it highly effective, as does the Attorney General-designee, Janet Reno, a career prosecutor, who informed me of her support for the Armed Career Criminal Act during her courtesy call with me. This bill will allow for such intervention in cases involving drive-by shootings, a crime which has taken over our Nation's streets and terrorized hundreds of individuals. I urge swift consideration and enactment of this legislation.

Mr. President, I ask for unanimous consent that 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. 488

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DRIVE-BY SHOOTING IN CONNECTION WITH MAJOR DRUG OFFENSE.**

(a) OFFENSE.—

(1) IN GENERAL.—Chapter 2 of title 18, United States Code, is amended by adding at the end the following new section:

**“§ 36. Drive-by shooting**

“(a) DEFINITION.—In this section, ‘major drug offense’ means—

“(1) a continuing criminal enterprise punishable under section 403(c) of the Controlled Substances Act (21 U.S.C. 848(c));

“(2) a conspiracy to distribute controlled substances punishable under section 406 of the Controlled Substances Act (21 U.S.C. 846) or section 1013 of the Controlled Substances Import and Export Control Act (21 U.S.C. 963); and

“(3) an offense involving large quantities of drugs and punishable under section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) or section 1010(b)(1) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)).

“(b) OFFENSES AND PENALTIES.—

“(1) A person who, in furtherance of or to avoid detection of a major drug offense, with the intent to intimidate, harass, injure, or maim another person, fires a weapon into a group of 2 or more persons shall be imprisoned not more than 25 years, fined under this title, or both.

“(2) A person who, in furtherance of or to avoid detection of a major drug offense, with the intent to intimidate, harass, injure, or maim another person, fires a weapon into a group of 2 or more persons and thereby causes the death of any person shall—

“(A) if the killing is a first degree murder (as defined in section 1111(a)), be punished by death or imprisonment for any term of years or for life, fined under this title, or both; or

“(B) if the killing is a murder other than a first degree murder (as defined in section 1111(a)), be fined under this title, imprisoned for any term of years or for life, or both.”

(2) TECHNICAL AMENDMENT.—The chapter analysis for chapter 2 of title 18, United States Code, is amended by adding at the end the following new item:

“36. Drive-by shooting.”

(b) DEATH PENALTY PROCEDURES.—

(1) ADDITION OF CHAPTER TO TITLE 18, UNITED STATES CODE.—Title 18, United States Code, is amended by inserting after chapter 227 the following new chapter:

**“CHAPTER 228—DEATH PENALTY PROCEDURES**

“Sec.

“3591. Sentence of death.

“3592. Factors to be considered in determining whether a sentence of death is justified.

“3593. Special hearing to determine whether a sentence of death is justified.

“3594. Imposition of a sentence of death.

“3595. Review of a sentence of death.

“3596. Implementation of a sentence of death.

“3597. Use of State facilities.

“3598. Appointment of counsel.

“3599. Collateral attack on judgment imposing sentence of death.

**“§ 3591. Sentence of death**

“A defendant who has been found guilty of an offense under section 36, if the defendant, as determined beyond a reasonable doubt at a hearing under section 3593, caused the death of a person intentionally, knowingly, or through recklessness manifesting extreme indifference to human life, or caused the death of a person through the intentional infliction of serious bodily injury, shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified, except that no person may be sentenced to death who was less than 18 years of age at the time of the offense.

**“§ 3592. Factors to be considered in determining whether a sentence of death is justified**

“(a) MITIGATING FACTORS.—In determining whether a sentence of death is justified for any offense, the jury, or if there is no jury, the court, shall consider each of the following mitigating factors and determine which, if any, exist:

“(1) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongfulness of the defendant's conduct or to conform the defendant's conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

“(2) DURESS.—The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

“(3) PARTICIPATION IN OFFENSE MINOR.—The defendant is punishable as a principal in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

The jury, or if there is no jury, the court, shall consider whether any other aspect of the defendant's character or record or any other circumstances of the offense that the defendant may proffer as a mitigating factor exists.

“(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(1), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

“(1) PREVIOUS ESPIONAGE OR TREASON CONVICTION.—The defendant has previously been convicted of another offense involving espionage or treason for which a sentence of life imprisonment or death was authorized by statute.

“(2) RISK OF SUBSTANTIAL DANGER TO NATIONAL SECURITY.—In the commission of the offense the defendant knowingly created a grave risk to the national security.

“(3) RISK OF DEATH TO ANOTHER.—In the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

“(c) AGGRAVATING FACTORS FOR HOMICIDE AND FOR ATTEMPTED MURDER OF THE PRESIDENT.—In determining whether a sentence of death is justified for an offense described in section 3591 (2) or (6), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

“(1) DEATH OCCURRED DURING COMMISSION OF ANOTHER CRIME.—The death occurred dur-

ing the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property by explosives), section 1118 (prisoners serving life term), section 1201 (kidnapping), or section 2381 (treason) of this title, section 1826 of title 28 (persons in custody as recalcitrant witnesses or hospitalized following a finding of not guilty only by reason of insanity), or section 902 (i) or (n) of the Federal Aviation Act of 1958 (49 U.S.C. 1472 (i) and (n) (aircraft piracy)).

"(2) INVOLVEMENT OF FIREARM OR PREVIOUS CONVICTION OF VIOLENT FELONY INVOLVING FIREARM.—The defendant—

"(A) during and in relation to the commission of the offense or in escaping apprehension used or possessed a firearm (as defined in section 921); or

"(B) has previously been convicted of a Federal or State offense punishable by a term of imprisonment of more than 1 year, involving the use or attempted or threatened use of a firearm (as defined in section 921) against another person.

"(3) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(4) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of 2 or more Federal or State offenses, each punishable by a term of imprisonment of more than 1 year, committed on different occasions, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) or the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(5) GRAVE RISK OF DEATH TO ADDITIONAL PERSONS.—The defendant, in the commission of the offense or in escaping apprehension, knowingly created a grave risk of death to 1 or more persons in addition to the victim of the offense.

"(6) HEINOUS, CRUEL, OR DEPRAVED MANNER OF COMMISSION.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim.

"(7) PROCUREMENT OF OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(8) COMMISSION OF THE OFFENSE FOR PECUNIARY GAIN.—The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

"(9) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation.

"(10) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(11) TYPE OF VICTIM.—(1) The defendant committed the offense against—

"(i) the President of the United States, the President-elect, the Vice President, the Vice President-elect, the Vice President-designate, or, if there is no Vice President, the officer next in order of succession to the of-

fice of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(ii) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(iii) a foreign official described in section 1116(b)(3)(A), if the official is in the United States on official business; or

"(iv) a public servant who is a Federal judge, a Federal law enforcement officer, an employee (including a volunteer or contract employee) of a Federal prison, or an official of the Federal Bureau of Prisons—

"(I) while the public servant is engaged in the performance of the public servant's official duties;

"(II) because of the performance of the public servant's official duties; or

"(III) because of the public servant's status as a public servant.

"(B) For purposes of this paragraph—

"(i) the terms 'President-elect' and 'Vice President-elect' mean persons that are the apparent successful candidates for the offices of President and Vice President, respectively, as ascertained from the results of the general elections held to determine the electors of President and Vice President in accordance with sections 1 and 2 of title 3, United States Code;

"(ii) the term 'Federal law enforcement officer' means a public servant authorized by law or by a government agency or Congress to conduct or engage in the prevention, investigation, or prosecution of an offense;

"(iii) the term 'Federal prison' means a Federal correctional, detention, or penal facility, Federal community treatment center, or Federal halfway house, or any such prison operated under contract with the Federal Government; and

"(iv) the term 'Federal judge' means a judicial officer of the United States (including a justice of the Supreme Court and a magistrate).

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

**"§ 3593. Special hearing to determine whether a sentence of death is justified**

"(a) NOTICE BY THE GOVERNMENT.—When the Government intends to seek the death penalty for an offense described in section 3591, the attorney for the Government, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, shall sign and file with the court, and serve on the defendant, a notice—

"(1) that the Government in the event of conviction will seek the sentence of death; and

"(2) setting forth the aggravating factor or factors enumerated in section 3592 and any other aggravating factor not specifically enumerated in section 3592, that the Government, if the defendant is convicted, will seek to prove as the basis for the death penalty.

The court may permit the attorney for the Government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—When the attorney for the Government has filed a notice as required under subsection (a) of this section and the defendant is found guilty of an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to de-

termine the punishment to be imposed. Before such a hearing, no presentence report shall be prepared by the United States Probation Service, notwithstanding the Federal Rules of Criminal Procedure. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under the section is necessary; or

"(3) before the court alone, upon motion of the defendant and with the approval of the attorney for the Government.

A jury impaneled pursuant to paragraph (2) shall consist of 12 members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—At the hearing, information may be presented concerning—

"(1) any matter relating to any mitigating factor listed in section 3592 and any other mitigating factor; and

"(2) any matter relating to any aggravating factor listed in section 3592 for which notice has been provided under subsection (a)(2) and (if information is presented relating to such a listed factor) any other aggravating factor for which notice has been so provided.

Information presented may include the trial transcript and exhibits. Any other information relevant to such mitigating or aggravating factors may be presented by either the Government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The Government and the defendant shall be permitted to rebut any information received at the hearing and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor and as to the appropriateness in that case of imposing a sentence of death. The Government shall open the argument. The defendant shall be permitted to reply. The Government shall then be permitted to reply in rebuttal. The burden of establishing the existence of an aggravating factor is on the Government, and it is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and it is not satisfied unless the existence of such a factor is established by a preponderance of the evidence.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by 1 or more members of the jury, and any member of the jury who finds the existence of a mitigating

factor may consider such factor established for purposes of this section regardless of the number of jurors who concur that the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

“(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, in the case of—

“(1) an offense described in section 3591(1), an aggravating factor required to be considered under section 3592(b) is found to exist; or

“(2) an offense described in section 3591 (2) or (6), an aggravating factor required to be considered under section 3592(c) is found to exist,

the jury, or if there is no jury, the court, shall then consider whether the aggravating factor or factors found to exist outweigh any mitigating factor or factors. The jury, or if there is no jury, the court, shall recommend a sentence of death if it unanimously finds at least 1 aggravating factor and no mitigating factor or if it finds 1 or more aggravating factors which outweigh any mitigating factors. In any other case, it shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision and should make such a recommendation as the information warrants.

“(f) SPECIAL PRECAUTION TO ENSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, before the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, religious beliefs, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or any victim was not involved in reaching the juror's individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or any victim may be.

“§ 3594. Imposition of a sentence of death

“Upon the recommendation under section 3593(e), that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, authorized by law. Notwithstanding any other law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without the possibility of release or furlough.

“§ 3595. Review of a sentence of death

“(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal of the sentence must be filed within the time specified for the filing of a notice of appeal of the judgment of conviction. An appeal of the sentence under this section may be consolidated with an appeal of the judg-

ment of conviction and shall have priority over all other cases.

“(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

“(1) the evidence submitted during the trial;

“(2) the information submitted during the sentencing hearing;

“(3) the procedures employed in the sentencing hearing; and

“(4) the special findings returned under section 3593(d).

“(c) DECISION AND DISPOSITION.—

“(1) If the court of appeals determines that—

“(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

“(B) the evidence and information support the special findings of the existence of an aggravating factor or factors, it shall affirm the sentence.

“(2) In any other case, the court of appeals shall remand the case for reconsideration under section 3593 or for imposition of another authorized sentence as appropriate.

“(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of sentence of death under this section.

“§ 3596. Implementation of a sentence of death

“(a) IN GENERAL.—A person who has been sentenced to death pursuant to this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of that State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the manner prescribed by that law.

“(b) IMPAIRED MENTAL CAPACITY, AGE, OR PREGNANCY.—A sentence of death shall not be carried out upon a person who is under 18 years of age at the time the crime was committed. A sentence of death shall not be carried out upon a person who is mentally retarded. A sentence of death shall not be carried out upon a person who, as a result of mental disability—

“(1) cannot understand the nature of the pending proceedings, what the person was tried for, the reason for the punishment, or the nature of the punishment; or

“(2) lacks the capacity to recognize or understand facts that would make the punishment unjust or unlawful or lacks the ability to convey such information to counsel or to the court.

A sentence of death shall not be carried out upon a woman while she is pregnant.

“(c) EMPLOYEES MAY DECLINE TO PARTICIPATE.—No employee of any State department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section, if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term ‘partici-

pate in any execution’ includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

“§ 3597. Use of State facilities

“A United States marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such as an official employed for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

“§ 3598. Appointment of counsel

“(a) FEDERAL CAPITAL CASES.—

“(1) REPRESENTATION OF INDIGENT DEFENDANTS.—Notwithstanding any other law, this subsection shall govern the appointment of counsel for a defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, for an offense against the United States, when the defendant is or becomes financially unable to obtain adequate representation. Such a defendant shall be entitled to appointment of counsel from the commencement of trial proceedings until 1 of the conditions specified in section 3599(b) has occurred.

“(2) REPRESENTATION BEFORE FINALITY OF JUDGMENT.—A defendant within the scope of this subsection shall have counsel appointed for trial representation as provided in section 3005. At least 1 counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel.

“(3) REPRESENTATION AFTER FINALITY OF JUDGMENT.—When a judgment imposing a sentence of death has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the Government shall promptly notify the district court that imposed the sentence. Within 10 days after receipt of the notice, the district court shall proceed to make a determination whether the defendant is eligible under this subsection for appointment of counsel for subsequent proceedings. On the basis of the determination, the court shall issue an order—

“(A) appointing 1 or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel;

“(B) finding, after a hearing if necessary, that the defendant rejected appointment of counsel and made the decision with an understanding of its legal consequences; or

“(C) denying the appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation. Counsel appointed pursuant to this paragraph shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation.

“(4) STANDARDS FOR COMPETENCE OF COUNSEL.—In relation to a defendant who is entitled to appointment of counsel under this subsection, at least 1 counsel appointed for trial representation must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the trial of

felony cases in Federal district court. If new counsel is appointed after judgment, at least one counsel so appointed must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the litigation of felony cases in the Federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet these standards, but whose background, knowledge, or experience would otherwise enable counsel to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

"(5) APPLICABILITY OF CRIMINAL JUSTICE ACT.—Except as otherwise provided in this subsection, section 3006A shall apply to appointments under this subsection.

"(6) CLAIMS OF INEFFECTIVENESS OF COUNSEL.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 2255 of title 28 in a capital case shall not be a ground for relief from the judgment or sentence in any proceeding. The limitation in the preceding sentence shall not preclude the appointment of different counsel at any stage of the proceedings.

"(b) STATE CAPITAL CASES.—The laws of the United States shall not be construed to impose any requirement with respect to the appointment of counsel in any proceeding in a State court or other State proceeding in a capital case, other than any requirement imposed by the Constitution of the United States. In a proceeding under section 2254 of title 28 relating to a State capital case, or any subsequent proceeding on review, appointment of counsel for a petitioner who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Such appointment of counsel shall be governed by section 3006A.

"§ 3599. Collateral attack on judgment imposing sentence of death

"(a) TIME FOR MAKING SECTION 2255 MOTION.—In a case in which a sentence of death has been imposed and the judgment has become final under section 3598(a)(3), a motion in the case under section 2255 of title 28 shall be filed within 90 days after the issuance of the order relating to appointment of counsel under section 3598(a)(3). The court in which the motion is filed, for good cause, may extend the time for filing for a period not exceeding 60 days. A motion described in this section shall have priority over all noncapital matters in the district court and in the court of appeals on review of the district court's decision.

"(b) STAY OF EXECUTION.—The execution of a sentence of death shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 2255 of title 28. The stay shall run continuously following imposition of the sentence and shall expire if—

"(1) the defendant fails to file a motion under section 2255 of title 28, within the time specified in subsection (a) or fails to make a timely application for court of appeals review following the denial of such a motion by a district court;

"(2) upon completion of district court and court of appeals review under section 2255 of title 28, the motion under that section is denied—

"(A) the time for filing a petition for certiorari has expired and no petition has been filed;

"(B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or

"(C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a district court, in the presence of counsel and after having been advised of the consequences of the decision, the defendant waives the right to file a motion under section 2255 of title 28.

"(c) FINALITY OF THE DECISION ON REVIEW.—If 1 of the conditions specified in subsection (b) has occurred, no court shall have the authority to enter a stay of execution or grant relief in the case unless—

"(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings;

"(2) the failure to raise the claim is—

"(A) the result of governmental action in violation of the Constitution or laws of the United States;

"(B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or

"(C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed."

(c) TECHNICAL AMENDMENT.—The part analysis for part II of title 18, United States Code, is amended by inserting after the item relating to chapter 227 the following new item:

"228. Death penalty procedures ..... 3591".

By Mr. BAUCUS (for himself and Mr. BURNS):

S. 489. A bill entitled the "Gallatin Range Consolidation and Protection Act of 1993"; to the Committee on Energy and Natural Resources.

GALLATIN RANGE CONSOLIDATION AND PROTECTION ACT

Mr. BAUCUS. Mr. President, I rise today to introduce the Gallatin Range Consolidation and Protection Act. This legislation consolidates checkerboard lands in Montana and is very similar to the land exchanges that were part of the Montana Wilderness Act which passed this body last Congress.

Two weeks ago, Congressman WILLIAMS of Montana introduced the same piece of legislation in the House of Representatives. Congressman WILLIAMS has been instrumental in bringing various groups together on these exchanges and shaping a proposal that is truly in the public interest.

This act represents perhaps the last opportunity for the Federal Government to acquire and protect some of the most beautiful and pristine land left near Yellowstone National Park. If the exchanges are not signed into law by June of this year, these lands will be posted off limits to public use, subdivided, and logged by the private company that now owns them.

However, this legislation is not about preventing the subdivision and logging of land in private hands; it is about recognizing that certain areas are best held in public ownership for the pleasure and enjoyment of all Americans.

At stake are approximately 71,000 acres in the greater Yellowstone ecosystem. As you drive along Highway 191 to Yellowstone National Park, the Gallatin Range is your constant companion. Home to elk, moose, bighorn sheep, wolverines, mountain lions, and the threatened grizzly bear, the State of Montana has long recognized the upper Gallatin as one of its most diverse and important wildlife areas.

Yet the Gallatin Range is a victim of this country's policy during the 19th century which transferred millions of acres into the hands of the railroads and created checkerboard ownership throughout the West. This act would fulfill a dream that Federal and State land managers as well as Montanans have had since 1925—to bring those lands back into the public domain.

I first became involved in the Gallatin-Porcupine exchanges back in 1982. At a crowded public meeting at Big Sky Ski Resort, I listened as countless Montanans expressed to me their fear of what would happen to these lands if they remained in private ownership.

Wildlife biologists voiced concern about the fragmentation of habitat; fisherman worried about the effect of logging on the blue ribbon Gallatin River; snowmobilers, cross-country skiers, and sportsmen worried about having public access restricted; and just about everybody in that meeting wondered how the eventual subdivision of these lands would irrevocably alter the beauty of the Gallatin Range.

After that meeting, the Forest Service set to work to resolve the ownership problem, and the first land exchange plans were completed in 1987. In 1988, the exchange passed Congress as part of the Montana wilderness bill, only to be vetoed by President Reagan. In 1992, the exchanges passed the Senate again during consideration of a Montana wilderness bill.

In short, the Gallatin land exchanges have had 10 years of close public scrutiny and comment. It has been part of seven congressional hearings and two field hearings since 1987. Similar versions of this exchange have passed the Senate twice in the last 5 years.

I am introducing this legislation today because the Gallatin Range is now faced with imminent development unless decisive action is taken. The lands are currently owned by Big Sky Lumber Co. Big Sky Lumber has been a most cooperative partner so far but they are faced with a June 1, 1993, deadline to deliver timber to another lumber company in the State. Given the terms of their contract with this company, Big Sky Lumber will have no choice but to begin harvesting on these lands if the exchanges are not completed with all speed. If Congress fails to act and this deadline passes the public will lose precious recreation opportunities and scarce public access.

I am committed to see that this does not happen and am hopeful that we can

move quickly to bring these lands into public ownership. The local landowners support the exchanges, conservation organizations are in agreement, Montanans treasure this area and want to see these lands available for future enjoyment, and the Forest Service and National Park Service see the exchanges as a necessary measure.

Sound public policy overwhelmingly favors acquiring these lands. While the June 1, 1993, deadline poses a difficult hurdle, I am confident that my colleagues will see this legislation as providing a great treasure to all Americans that would help lead to passage of these exchanges.

Mr. President, I ask unanimous consent that my colleague, Senator BURNS, be added as a cosponsor to the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

As testament to the overwhelming public support for the exchanges, I ask unanimous consent to have printed in the RECORD several letters of support by local and national conservation organizations.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

MONTANA WILDERNESS ASSOCIATION,  
Helena, MT, March 1, 1993.

Senator MAX BAUCUS,  
U.S. Senate.

DEAR SENATOR BAUCUS: The Montana Wilderness Association wishes to express its wholehearted support for your introduction in the U.S. Senate of the Gallatin Range Consolidation Protection Act.

The Montana Wilderness Association is Montana's largest statewide wilderness advocacy organization, with over 2,300 members. More particular to the current topic, the organization was formed in 1958 by conservationists and sportsmen in the Bozeman area, many of whom were intent upon obtaining public ownership of the privately owned wildlands in the Gallatin Range, the same lands addressed by your current legislation.

As the largest unprotected roadless component of the greater Yellowstone ecosystem, the idea of preserving the natural wonders of the Gallatin Range enjoys broad public support of Montana conservationists. Since 1977, over 40,000 acres of the range has been part of the 155,000-acre Gallatin Range Wilderness Study Area, but legislating wilderness for the area has been hampered by large private inholdings within the area.

As we understand it, your land-trade bill would obtain several roadless sections of land in the Gallatin Range currently owned by Mr. Tim Blixseth, who has indicated his willingness to open the land to subdivision and logging if a trade with the U.S. government cannot be legislated before June 1 of this year. Thus it is imperative that your legislation be moved quickly toward a successful end.

The Gallatin land-trade issue has been addressed in the Montana media and in congressional hearings for over a decade, and the trade has been included in previous Montana wilderness bills. It is now time to combine public support for the trade with the brief window of opportunity we now have to introduce and pass this legislation.

Thank you for your attentive work on this important subject. The Gallatin Range is one

of the last great unprotected pieces of the American West. It deserves to be in public ownership, and your bill deserves prompt action by Congress.

Respectfully,

BOB DECKER,  
Executive Director.

GREATER YELLOWSTONE COALITION,  
Bozeman, MT, March 1, 1993.

Hon. MAX BAUCUS,  
U.S. Senate, Washington, DC.

DEAR MAX: The Greater Yellowstone Coalition strongly supports your introduction of the Gallatin Range Consolidation and Protection Act and urges you to do everything you can to secure its speedy passage.

Passage of this legislation will safeguard some of the finest wildlife habitat and wildlands on the North American Continent. The lands involved are crucial habitat for large elk herds, many grizzly bears, and thriving populations of bighorn sheep, moose and deer—plus pristine watersheds and productive fisheries the Federal Government has been trying to place into public ownership since 1925. These lands include the biological heart of the S.393 Hyalite-Porcupine-Buffalo Horn Wilderness Study Area (155,000 acres; established 16 years ago) which stretches from Hyalite Peak to Yellowstone National Park. These lands possess unparalleled hunting, fishing and other recreational opportunities. These world-class values will be destroyed if the land exchange bill does not pass.

We can't turn back the clock. We're running out of time and we've run out of options. The owner of the private land has given a June 1 deadline for winning approval of the land exchange. After that date, the stop-gap option agreements obtained by the Nature Conservancy will expire. We are convinced that without Congressional action, these lands will be roaded, logged and subdivided. In other words, the incredible wildlife and wildland values of the Porcupine, Gallatin Range, S. Cottonwood Canyon, and Taylor Fork areas will fall victim to an irreversible calamity. The wild heart of the Porcupine-Gallatin Range will be lost forever.

While we don't want to lose any roadless lands in our region, we feel that it is in the larger public interest to secure 70,000 acres of some of the finest wildlife habitat in the West, and let timber harvest proceed in 2,500 acres of roadless land in the North Bridger Range—which would be traded to the landowner, but are already planned for logging and roads, under the Gallatin Forest Plan.

Max, you know firsthand that the legislative struggle to secure these lands started over 10 years ago. You also are aware that support from Montanans for your legislation runs wide and deep. Local conservation groups lining up in support so far include: the Madison-Gallatin Alliance, Gallatin Wildlife Association, Concerned Citizens for Cottonwood, Citizens to Save the Gallatin Valley Face, and the Bozeman Viewshed Council. Many local government officials support your measure. The Forest Service and Montana Fish, Wildlife & Parks Dept. also strongly support it.

Finally, Max, you are completely aware of the fact that Congress has only 35 voting days left before June 1st. There is so much to gain if this bill succeeds—and way too much to lose, if it fails.

Our sincere thanks for working diligently on this,

BART KOEHLER,  
Associate Program Director.

THE WILDERNESS SOCIETY,  
Bozeman, MT, March 1, 1993.

Senator MAX BAUCUS,  
U.S. Senate, Washington, DC.

DEAR MAX: The Wilderness Society would like to thank you for support of the Gallatin land purchase/exchange package negotiated last year with Tim Blixseth. We urge you to introduce this critical legislation soon in the Senate.

Legislation to implement the Gallatin exchange/purchase package will resolve a century-old land problem on the Gallatin National Forest created by the checkerboard railroad land grants. Local citizens have worked for more than a decade on this effort.

Resolving the land patterns on the Gallatin Forest will be beneficial to sportsmen, wilderness advocates, motorized recreationists, taxpayers and those who make their living on the Forest.

Assuring the preservation of lands like the Porcupine and Taylor Fork drainages insures that the elk, moose and deer herds dependent on those lands will continue to be a hunting resource.

Removing the checkerboard pattern inside the Hyalite-Porcupine-Buffalo Horn WSA provides to Montanans the opportunity to debate future wilderness designations without having to worry about private inholdings.

Blocking up ownership of Buckhorn Ridge, Squaw Creek and Swan Creek provides snowmobilers with areas where they can continue their sport without fear of "No Trespassing" signs being erected.

Acting now will prevent checkerboard lands from being subdivided by consolidating public and private ownership. This will benefit local taxpayers by preventing "leapfrog" development which is extremely costly.

Finally, this package will maintain the jobs dependent on the outfitting industry by blocking up checkerboard lands assuring that the wildlife dependent on them will still be available to the public.

The Forest Service has stated that this package will also benefit local timber workers because it will be able to better manage consolidated lands than scattered checkerboard lands. More coherent management will result in better-planned timber sales.

The benefits of this exchange will only be realized by prompt action in the Congress.

Options that the Nature Conservancy holds to purchase the Porcupine drainage from Tim Blixseth expired in June of this year. We were unsuccessful in our efforts to secure longer options because of commitments Mr. Blixseth has to Louisiana-Pacific which now owns the timber mill in Belgrade.

If we lose the options, it may well be that the other elements of the package—protection for the WSA, Taylor Fork and the remaining roaded lands of the Gallatin—will collapse like a house of cards.

If that happens we could be faced with logging and subdivision in Porcupine Creek and the Taylor Fork. In addition to losing the benefits outlined above, this could spell doom for a good part of Yellowstone's Northern Yellowstone elk herd which depends on these lands for wintering areas. It could also set back our efforts to recover the threatened grizzly bear since much of the lands involved in the purchase/exchange package are critical for the future of the great bear.

Max, we have put together a fragile but workable package. What we need now is for the Montana delegation to pull together and make sure this legislation passes. Southwest Montana's environment, jobs and quality of

life hinge on the swift passage of the Gallatin land purchase/exchange package.

Thanks in advance for your crucial help. We look forward to working with you on this important legislation.

Sincerely,

MICHAEL D. SCOTT,  
Regional Director, Northern Region.

GREAT BEAR FOUNDATION,  
Missoula, MT, March 1, 1993.

Hon. MAX BAUCUS,  
U.S. Senate, Washington, DC.

DEAR MAX: The Great Bear Foundation (GBF) strongly endorses your introduction of the Gallatin Range Consolidation and Protection Act and urges you to move promptly to assure speedy passage.

This bill will safeguard some of the Yellowstone Ecosystem's most significant grizzly (brown) bear habitat. As well, it is also important habitat for the black bear.

While GBF is concerned about the potential for degradation of black bear habitat in the Bridgers, we would be even more troubled by the potential for increased excessive development in the Gallatin and Madison ranges, where the Big Sky area is already an enigma. Lets not allow another "Mol-Heron" to happen, and lets get the Porcupine-Taylor Fork country into public ownership while we can.

You may recall, that back in 1983 standing above Eldridge Creek on a site tour, I expressed to you the importance of the Taylors Fork to the grizzly (brown) bear. Well, if anything, the importance is even more critical now.

Thanks for your haste on this critical measure. Congratulations on your committee chairmanship.

Sincerely yours,

MATTHEW M. REID,  
Director.

Mr. BURNS. Mr. President, I rise today in support of a bill my colleague from Montana, Senator BAUCUS, and I are introducing. This bill allows for a transfer and exchange of private and public lands in the Gallatin Range of Montana.

The checkerboard ownership of this range has caused land management problems in the past for both private property owners and the Forest Service. Over the years, the parties have worked to develop a plan to consolidate their respective lands.

In addition, provisions are included to provide the Secretary of Agriculture or a conservation entity—the Nature Conservancy—to acquire properties in the Porcupine, Taylor Fork, and Gallatin areas through purchase or exchange.

In the Porcupine and Taylor Fork areas, local snowmobilers raised concerns over the loss of access to trails they have used for years. The Nature Conservancy will hold these lands until the Forest Service can complete the process of buying the property. However, I have been informed that assurances have been made by the Nature Conservancy that these trails will remain open. Also, after the Forest Service obtains these lands, they will manage the area in accordance with historical uses. Therefore, unless Congress decides in the future to manage the

area differently, it appears these trails will remain open.

In addition, the possibility exists that an amendment could be added to this bill that ensures jobs will not be lost in Livingston. Currently, the Forest Service is working out final details in a possible land trade evolving the Lost Creek area that will protect jobs at the Brand-S lumber mill and provide protection for wildlife habitat. This trade appears to be in the public interest, and I am hopeful that it might be considered as well in this bill.

In addition, I hope we will be able to consider a small land transfer in Lincoln County. This transfer of land is important to the county because special use permits will run out at the end of the year. Consideration of adding this transfer might be appropriate.

I would like to express my appreciation to all the parties involved. A great consensus has been reached. And Montana will benefit by this bill being signed into law.

I ask that a letter from the Nature Conservancy to the Forest Service be added to the RECORD.

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

THE NATURE CONSERVANCY  
OF MONTANA,  
Helena, MT, March 1, 1993.

BOB DENNEE,  
Lands Officer, Gallatin National Forest, Bozeman, MT.

DEAR BOB: In a recent conversation, you mentioned that members of the Gallatin Valley Snowmobile Association and the Montana Trail Vehicle Riders Association are concerned about the future of snowmobile and trail bike use in the Porcupine and Taylor Fork areas, in the event that The Nature Conservancy comes into ownership of these lands. Specifically, I understand that the organizations would like us to respond to the following question:

"What is the policy of The Nature Conservancy on snowmobile and trail bike use of Porcupine and Taylor Fork lands that the Conservancy may acquire and temporarily hold for transfer to the Forest Service?"

The policy of the Conservancy on these lands will be to continue to permit historic recreational uses, including snowmobile and trail bike use, in a manner consistent with the Gallatin National Forest travel plan. This policy is in accord with current management of the Gallatin National Forest, as well as the provisions of Senate Bill 393 (the Montana Wilderness Study Act), which specifically allows for historic recreational uses to continue on the Porcupine and other lands under wilderness study.

The only caveat is that, should we learn that public recreational use of the land would expose The Nature Conservancy to significant liability risk, we must retain the right to review and, if necessary, adjust this policy to reduce such a risk. Based on my knowledge at this time, I do not anticipate that this will be a problem.

As you know, the Conservancy now holds contingent options to acquire about 19,000 acres in the Porcupine and Taylor Fork drainages from Big Sky Lumber. These options come into effect only if Congress enacts the Gallatin Land Exchange.

If the options do come into effect and the Forest Service is unable to act on the purchase in a timely manner, the Conservancy may acquire and hold the lands until the Forest Services has the necessary funds to complete the purchase.

We firmly believe that wildlife habitat, as well as the recreating public, will be best served by land ownership adjustments that ensure the Taylor Fork and Porcupine are not subject to the kind of intensive subdivision and development occurring elsewhere in the region. We have made a substantial investment of time and money to serve these public goals, and we are hopeful that the ongoing legislative process will result in the acquisition and protection of these crucial lands.

Please feel free to share this letter with any individuals or groups expressing interest in this issue.

Sincerely,

BRIAN KAHN,  
State Director.

By Mr. HATCH:

S. 490. A bill to amend title 5, United States Code, to clarify procedures for judicial review of Federal agency compliance with regulatory flexibility analysis requirements, and for other purposes; to the Committee on the Judiciary.

REGULATORY FLEXIBILITY AMENDMENTS OF 1993

Mr. HATCH. Mr. President, small businesses in this country are struggling under mandates from Washington.

I know many small businessmen and women in Utah who would like someone in Washington to listen to their concerns. From high-technology manufacturing to computer software development, from the biomedical industry to the local mom and pop corner store, Utahns wonder how much regulation is enough before they are forced out of business. If Senators think I am being too dramatic, I hope they will continue to listen.

When I introduced this legislation in the last Congress, I mentioned an article in the Wall Street Journal by our former colleague, Senator George McGovern, in which he relates his own unhappy experiences with regulation and how regulation helped to close his Connecticut inn.

As Senator McGovern pointed out:

One-size-fits-all rules for business ignore the reality of the marketplace. And setting thresholds for regulatory guidelines at artificial levels—e.g., 50 employees or more, \$500,000 in sales—takes no account of other realities, such as profit margins, labor intensive vs. capital intensive business, and local market economics.

Senator McGovern asks the key question: "Where do we set the bar so that it is not too high to clear? I don't have the answer. I do know that we need to start raising these questions more often."

The purpose of the bill I am introducing today is to help make an examination of the impact of regulation on small entities by Federal agencies more meaningful.

According to the Annual Report of the Chief Counsel for Advocacy on Implementation of the Regulatory Flexibility Act, for 1991, the goals of the Regulatory Flexibility Act are to:

- (1) \* \* \* increase federal agency awareness and understanding of the impact of regulations on small entities by requiring agencies to identify and explain those impacts;
- (2) \* \* \* require that agencies communicate and explain their findings to the public, including notification beyond the traditional Federal Register notices;
- (3) \* \* \* provide regulatory relief for small entities.

The Regulatory Flexibility Act provides a practical way to meet these goals. It requires that agencies prepare a regulatory flexibility analysis which, in its final form, should examine the following:

- First, the need for the rule and objective of the rule;
- Second, a summary of public comments on the proposed rule, the agency assessment of the issues raised by public comment, and a statement detailing whatever changes the agency made to detailing whatever changes the agency made to the rule as a result of public comment; and
- Third, a listing of viable alternative to the rule which will achieve the stated objectives, yet at the same time minimize the economic impact of the new rule on small business and a reason why each alternative was rejected.

This analysis is to be published in the Federal Register and made available to the public so that small business people, local governments, and other concerned citizens can better understand the impact of regulations.

Mr. President, for 12 years we have had a mechanism in place to assess the impact of new rules on small businesses. Yet agencies have been able to circumvent congressional intent and, in essence, make the Regulatory Flexibility Act a hollow statement. Why?

Section 611 of the act states that the actions of agencies governed under this act "shall not be subject to judicial review." The Regulatory Flexibility Act allows agencies to certify that their rules do not have a significant impact on small business and, therefore, to avoid completing a regulatory flexibility analysis.

Because of section 611, we have a statute with no mechanism for enforcement. Under the act, the decisions of regulators concerning compliance with the act cannot be challenged in court; and, therefore, agencies do not satisfactorily comply. Removal of section 611 will force agencies to fully and accurately consider the impact of their rules on smaller business entities, local governments, and other small entities. Unless regulators understand that their consideration of rules under this act can be challenged, they may never fully comply with the Regulatory Flexibility Act.

Mr. President, this loophole in the law must be corrected. As we all real-

ize, small business has been the engine for economic growth not only in my own State of Utah, but nationwide. If we wish to encourage expansion of small business and American entrepreneurship, then we must bring agencies into compliance with the Regulatory Flexibility Act of 1980. Further, under these amendments, agencies would be required to document both direct and indirect effects of their regulations.

Mr. President, I believe that the Regulatory Flexibility Act of 1980 has been ignored for far too long. Too many small businesses have foundered under regulatory policies that ignore the economic realities of small enterprises. These amendments will allow Americans to look at the proposed impact of regulation and to provide the kind of input Senator McGovern noted was necessary for determining where we set the bar to make sure it "is not too high to clear." These amendments will make sure that we start raising these questions more often.

Mr. President, I ask unanimous consent that Senator McGovern's article, the full text of the bill, and a bill summary be inserted in the RECORD at this point.

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

S. 490

*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 "Regulatory Flexibility Amendments Act of 1993".

**SEC. 2. JUDICIAL REVIEW.**

(a) IN GENERAL.—Section 611 of title 5, United States Code, is repealed.

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 6 of title 5, United States Code, is amended by striking the item relating to section 611.

**SEC. 3. CONSIDERATION OF DIRECT AND INDIRECT EFFECTS OF RULES.**

(A) IN GENERAL.—Title 5, United States Code, is amended by inserting after section 610 the following new section:

**"§611. Consideration of direct and indirect effects of rules**

"In determining under this chapter whether or not a rule is likely to have a significant impact on a substantial number of small entities, an agency shall consider both the direct and indirect effects of the rule."

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 6 of title 5, United States Code, is amended by inserting after the item relating to section 610 the following:

"611. Consideration of direct and indirect effects of rules."

**SEC. 4. RULES OPPOSED BY SBA CHIEF COUNSEL FOR ADVOCACY.**

(a) IN GENERAL.—Section 612 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(d) STATEMENT OF OPPOSITION.—

"(1) TRANSMITTAL OF PROPOSED RULES AND INITIAL REGULATORY FLEXIBILITY ANALYSIS TO SBA CHIEF COUNSEL FOR ADVOCACY.—On or before the 30th day preceding the date of publication by an agency of general notice of

proposed rulemaking for a rule, of general notice of proposed rulemaking for a rule, the agency shall transmit to the Chief Counsel for Advocacy of the Small Business Administration

"(A) a copy of the proposed rule; and  
 "(B)(i) a copy of the initial regulatory flexibility analysis for the rule if required under section 603; or

"(ii) a determination by the agency that an initial regulatory flexibility analysis is not required under the proposed rule under section 603 and an explanation for the determination.

"(2) STATEMENT OF OPPOSITION.—On or before the 15th day following receipt of a proposed rule and initial regulatory flexibility analysis from an agency under paragraph (1), the Chief Counsel for Advocacy may transmit to the agency a written statement of opposition to the proposed rule.

"(3) RESPONSE.—If the Chief Counsel for Advocacy transmits to an agency a statement of opposition to a proposed rule in accordance with paragraph (2), the agency shall publish the statement in the Federal Register at the time of publication of general notice of proposed rulemaking for the rule."

(b) CONFORMING AMENDMENT.—Section 603(a) of title 5, United States Code is amended by inserting "in accordance with section 612(d)" before the period at the end of the last sentence.

**SEC. 5. SENSE OF CONGRESS REGARDING SBA CHIEF COUNSEL FOR ADVOCACY.**

It is the sense of Congress that the Chief Counsel for Advocacy of the Small Business Administration should be permitted to appear as amicus curiae in any action or case brought in a court of the United States for the purpose of reviewing a rule.

**SECTION-BY-SECTION ANALYSIS**

**Sec. 1. Short Title.**

Sec. 2. Judicial Review. Section 2 would repeal section 611 of the Regulatory Flexibility Act (RFA) which prohibits judicial review of agency compliance with the RFA. Section 611 implicitly prohibits court challenge of an agency determination of the applicability of the RFA, and prohibits court review of any regulatory flexibility analysis prepared under the Act. In practice the prohibition on judicial challenges has allowed the agencies to ignore the spirit of the RFA. Removing the barrier to judicial challenge will force agencies to comply with the RFA.

Sec. 3. Consideration of Direct and Indirect Effects of Rules. Under current practice, it is not clear whether agencies must consider the indirect effects as well as the direct effects of their rules when they are preparing Regulatory Flexibility analyses. Section 3 would require agencies to consider the indirect effects as well as the direct effects of their rules on small businesses in their Regulatory Flexibility Analyses.

Sec. 4. Rules Opposed by SBA Chief Counsel for Advocacy. It is the intention of the authors of this legislation to strengthen agency compliance with the RFA. It is also the intention of the authors to require the agencies to work more closely with the SBA Chief Counsel, who is charged with monitoring RFA compliance, during the drafting of new rules.

Sec. 4 would amend Section 612 of the RFA to require that when an agency is drafting a new rule, the agency must provide the SBA Chief Counsel with an advance copy of the rule 30 days before publishing a general notice of proposed rulemaking in the Federal Register. (General Notices of Proposed Rule-

making are required under the APA, 5 U.S.C. 553(b). At that time the agency must also provide the SBA Chief Counsel with a draft of the initial regulatory flexibility analysis for the rule or, if the agency determines that a regulatory flexibility analysis will not be necessary, the agency must provide an explanation for that determination.

Following receipt of the above information, the SBA Chief Counsel may review the proposed rule and regulatory flexibility analysis. The Chief Counsel will have 15 days to transmit, in writing, to the agency, any opposition or comments on the proposed rule or regulatory flexibility analysis.

If the SBA Chief Counsel submits such a statement, the agency shall publish that statement, together with the response of the agency, in the Federal Register at the same time the general notice of proposed rulemaking for the rule is published.

Sec. 5. The RFA currently gives the Chief Counsel authority to file amicus briefs in litigation involving federal rules, which only allows him to express the views of the Chief Counsel with respect to the effect of the rule on small business. In the history of the RFA this has only been done once, in the 1986 case of Lehigh Valley Farms. At that time, the Justice Department indicated that this was unconstitutional because it would impair the ability of the Executive to fulfill his constitutional functions. The SBA Chief Counsel countered this argument with legal arguments of his own. The DOJ also argued that Executive Order 12146, section 1-402, prevents the Chief Counsel from filing such briefs. Section 1-402 of Executive Order 12146 requires that when such a legal dispute exists between two agency heads which serve at the President's discretion, such dispute shall be submitted to the Attorney General for resolution. The SBA Chief Counsel countered with case law supporting the principle that an Executive Order cannot supersede a statute, and therefore Executive Order 12146 cannot prohibit the SBA Chief Counsel from appearing as amicus curiae.

After a great deal of wrangling between the DOJ and the SBA Chief Counsel, the Chief Counsel eventually withdrew his amicus brief filed under Lehigh Valley Farms. To the best of our understanding, that office has never attempted to file another amicus brief.

The ability to appear as amicus curiae is important to the ability of the SBA Chief Counsel to represent the interests of small businesses in the rulemaking process. Furthermore, if this Act shall become law, with its provision to permit judicial review of agency compliance with the Regulatory Flexibility Act, the importance of the SBA Chief Counsel's ability to file amicus briefs will be magnified.

Section 5 of this Act is a "sense of the Congress" resolution reaffirming what the Congress has already passed into law, that the SBA Chief Counsel should be permitted to appear as amicus curiae in cases brought for the purpose of reviewing a rule. 5 U.S.C. 612(b).

[From the Wall Street Journal, June 1, 1992]

A POLITICIAN'S DREAM IS A BUSINESSMAN'S NIGHTMARE

(By George McGovern)

"Wisdom too often never comes, and so one ought not to reject it merely because it comes late."—Justice Felix Frankfurter

It's been 11 years since I left the U.S. Senate, after serving 24 years in high public office. After leaving a career in politics, I devoted much of my time to public lectures

that took me into every state in the union and much of Europe, Asia, the Middle East and Latin America.

In 1988, I invested most of the earnings from this lecture circuit acquiring the leasehold on Connecticut's Stratford Inn. Hotels, inns and restaurants have always held a special fascination for me. The Stratford Inn promised the realization of a longtime dream to own a combination hotel, restaurant and public conference facility—complete with an experienced manager and staff.

In retrospect, I wish I had known more about the hazards and difficulties of such a business, especially during a recession of the kind that hit New England just as I was acquiring the inn's 43-year leasehold. I also wish that during the years I was in public office, I had had this first hand experience about the difficulties business people face every day. That knowledge would have made me a better U.S. Senator and a more understanding presidential contender.

Today we are much closer to a general acknowledgment that government must encourage business to expand and grow. Bill Clinton, Paul Tsongas, Bob Kerrey and others have, I believe, changed the debate of our party. We intuitively know that to create job opportunities we need entrepreneurs who will risk their capital against in expected payoff. Too often, however, public policy does not consider whether we are choking off those opportunities.

My own business perspective has been limited to that small hotel and restaurant in Stratford, Conn., with an especially difficult lease and a severe recession. But my business associates and I also lived with federal, state and local rules that were all passed with the objective of helping employees, protecting the environment, raising tax dollars for schools, protecting our customers from fire hazards, etc. While I never have doubted the worthiness of any of these goals, the concept that most often eludes legislators is: "Can we make consumers pay the higher prices for the increased operating costs that accompany public regulation and government reporting requirements with reams of red tape." It is a simple concern that is nonetheless often ignored by legislators.

For example, the papers today are filled with stories about businesses dropping health coverage for employees. We provided a substantial package for our staff at the Stratford Inn. However, were we operating today, those costs would exceed \$150,000 a year for health care on top of salaries and other benefits. There would have been no reasonable way for us to absorb or pass on these costs.

Some of the escalation in the cost of health care is attributed to patients suing doctors. While one cannot assess the merit of all these claims, I've also witnessed firsthand the explosion in blame-shifting and scapegoating for every negative experience in life.

Today, despite bankruptcy, we are still dealing with litigation from individuals who fell in or near our restaurant. Despite these injuries, not every misstep is the fault of someone else. Not every such incident should be viewed as a lawsuit instead of an unfortunate accident. And while the business owner may prevail in the end, the endless exposure to frivolous claims and high legal fees is frightening.

Our Connecticut hotel, along with many others, went bankrupt for a variety of reasons, the general economy is the Northeast being a significant cause. But that reason masks the variety of other challenges we

faced that drive operating costs and financing charges beyond what a small business can handle.

It is clear that some businesses have products that can be priced at almost any level. The price of raw materials (e.g., steel and glass) and life-saving drugs and medical care are not easily substituted by consumers. It is only competition or antitrust that tempers price increases. Consumers may delay purchases, but they have little choice when faced with higher prices.

In services, however, consumers do have a choice when faced with higher prices. You may have to stay in a hotel while on vacation, but you can stay fewer days. You can eat in restaurants fewer times per month, or forgo a number of services from car washes to shoeshines. Every such decision eventually results in job losses for someone. And often these are the people without the skills to help themselves—the people I've spent a lifetime trying to help.

In short, "one-size-fits-all" rules for business ignore the reality of the marketplace. And setting thresholds for regulatory guidelines at artificial levels—e.g., 50 employees or more, \$500,000 in sales—takes no account of other realities, such as profit margins, labor intensive vs. capital intensive businesses, and local market economics.

The problem we face as legislators is: Where do we set the bar so that it is not too high to clear? I don't have the answer. I do know that we need to start raising these questions more often.

By Mr. WELLSTONE (for himself, Mr. METZENBAUM, Mr. SIMON, and Mr. INOUE):

S. 491. A bill to provide health care for every American and to control the cost of the health care system; to the Committee on Finance.

THE AMERICAN HEALTH SECURITY ACT OF 1993

• Mr. WELLSTONE. Mr. President, with my colleagues in the Senate and the House who are cosponsoring this bill, and with the support of the growing number of community groups who endorse it, I am proud to introduce the American Health Security Act of 1993, a proposal for national health care reform.

The single-payer system I am proposing is simple. It is effective. It is equitable. It covers a comprehensive range of services for all Americans. It preserves free choice of health care providers. It is fairly, progressively financed. It saves money, while improving the quality of health care, and while putting life and death decisions back in the hands of providers and consumers, where they belong.

These are goals I know I share with President Clinton, and with most others who advocate health care reform.

When I introduced a version of this bill in 1992, as the Senate companion to the Russo bill, the crisis in our system was every bit as severe as it is today. Skyrocketing costs, 37 million uninsured, every American one layoff or one car accident away from medical catastrophe and personal bankruptcy.

In 1993, there are two important changes. The first is that we have lived through another year of steeply rising

health care costs. We now know that we spent 14 percent of our gross domestic product on health care in 1992, up from 13 percent a scant year before. This is a galloping rate that cannot continue.

The tragic human implications are all around us. I had the sad experience yesterday of attending a hearing co-chaired by my good friends, HOWARD METZENBAUM and DON RIEGLE. I listened to the testimony of retirees who have lost their health benefits recently. Their employers blamed it on new accounting rules. The truth is, retiree health costs are just too expensive. Employers no longer want to pay the cost, and the retirees simply can not. What could I say to a man like Herman Fasching from Minneapolis, MN, who had continued working after a serious illness, but accepted a written offer from Unisys to retire early, because the company promised him lifetime health care benefits—benefits gone in a heartbeat. Not yet eligible for Medicare at age 59, suffering from cancer, his premiums will go up from zero to \$2,400 in 1994, and \$8,280 in 1996. "If my benefits are not restored," he told us, "I will soon be financially bankrupt." Our laws don't protect him. As a lawmaker, I can only try to do better.

The second change is that we now have a President who has recognized that this is the time to fix our badly crippled health care system.

The American Health Security Act of 1993 sets the standard for how to achieve the goals for our system that most Americans want.

It ensures access for affordable, high-quality health care to everyone—regardless of income, regardless of where they work, or whether they are working at the moment when they need health care, regardless of whether they have a preexisting condition.

The single payer system put the tourniquet where the bleeding is—on insurance companies, providers, and the drug and hospital equipment industries.

Under the bill, one payer in each state would pay for health care. This slashes paperwork and runaway administration costs, estimated by the Congressional Budget Office at 20 percent of our health care dollar. We would eliminate the blizzard of forms that have become nightmares for many seriously ill people trying to get reimbursement from their insurance companies.

A national health board would set standards for benefits and work with states to develop budgets. States would administer the program locally. States could spend only 3 percent of budget on administrative costs.

People would continue to get care from the same private providers they use now—hospitals, clinics, doctors, and nurses. Existing public services would continue to receive support.

The bill would put hospitals on a global budget. Doctors and other professionals would be paid negotiated fees. Nationally, health care expenses overall could increase only as much as the cost of living, such as the 2.5 percent raise working Americans got in 1992 if they were lucky, instead of the 13-percent raise the hospitals got.

There would be separate budgets for capital projects, thing like new buildings and expensive equipment. States could plan on a regional basis where and how to develop centers of excellence, and how to redistribute services based primarily on need, not on the potential for reimbursement.

Drug costs would be controlled. The board would set up professional boards, like those that now exist in many hospitals, to classify prescription drugs into categories. The board would then negotiate with drug companies to arrive at a price for drugs that are in the same category.

There must be profound changes in the health care delivery system if we are going to succeed in controlling costs. We have to let health care professionals get back to worrying about how best to treat patients, and remove the backward financial incentives we have given them to become more and more specialized and order more and more expensive treatments.

I question the assumption that only managed care systems with a limited choice of providers can achieve this goal. It's not a practical panacea. Some managed care plans have done this very well. Some have not saved money, some have taken their capitated fees and taken the phone off the hook, denying services to their Members. Many underserved rural and inner-city areas are lucky to find one health care provider, to say nothing of relying on a network of them.

This bill takes up the challenge of reorienting the system, while giving people the choice of whether or not they want to be locked in to managed care systems, or whether or not they want to choose their own doctor or their own nurse practitioner.

This bill would provide front-end coverage for primary and preventive services. It establishes goals for training more primary care doctors and mid-level practitioners, and would limit the number of specialty residencies. It would greatly expand the National Health Service Corps, which both helps defray the costs of professional education and directs professionals to primary care practices in underserved communities. It also addresses funding to train nonprofessionals like community outreach workers, who have been successful in lowering the teenage birth rate, a major area of neglect, expense and human tragedy under our current system, and who have been instrumental in expanding access to prenatal care and to immunizations

The States would develop innovative programs for paying providers and encouraging the organization of services in ways that would further control costs and improve the quality of care. There are incentives to reimburse primary care providers at a higher rate than specialists. States could encourage multidisciplinary practices, an essential feature of high quality systems like Minnesota's Mayo Clinic. They would be required to involve providers in finding practical ways to use outcomes research and practice guidelines, as they are developed, to focus the community on high standards of necessary care. They would be asked to explore expanding and integrating public health data in setting service and research goals for primary care, such as reducing the rate of preventable emergency room visits for controllable conditions like hypertension and diabetes.

Consumer-oriented managed care plans, called community health service organizations, would be available. They would compete for patients based on their ability to provide a range of high quality, integrated services, in a one-stop-shopping setting.

The comprehensive benefits to be provided under the bill include primary and preventive care, hospital and practitioner care, long-term care, prescription drugs, and mental health and substance abuse services. Care coordination, combined with utilization review provided under stringent quality standards, would help provide continuity of care for some services, while limiting unnecessary care. Medicare's volume performance standards would also apply.

The single-payer proposal is a proven way to control costs, eliminate administrative waste, and offer free choice of provider. It would put decisions about health care in the hands of consumers and providers, and of publicly accountable entities in the States where they live, instead of insurance company board rooms.

Those of us who want to see successful health care reform in this Congress must insist that it live up to the highest standards for health care reform, the standards set by the single-payer proposal.

It's hard to argue with the lobbying power of the \$840 billion health care industry. But the American people will have a voice in determining the course of health care reform. They will not settle for solutions devised by those who now profit most from our inequitable and inefficient system.

Certainly it will take time to make changes of the magnitude that is required, and there will be unforeseen complications in any system we choose. But we do not have the time, and the American economy does not have the resilience, to tinker with programs destined to fail.

We can pass a reform proposal that works if we loosen the lobbyists' noose

around the beltway, and listen to the providers and consumers who are ready and eager to support reasoned health care reform.

I ask that a copy 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. 491

*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 "American Health Security Act of 1993".

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

**TITLE I—ESTABLISHMENT OF A STATE-BASED AMERICAN HEALTH SECURITY PROGRAM; UNIVERSAL ENTITLEMENT; ENROLLMENT**

Sec. 101. Establishment of a State-based American Health Security Program.

Sec. 102. Universal entitlement.

Sec. 103. Enrollment.

Sec. 104. Portability of benefits.

Sec. 105. Effective date of benefits.

Sec. 106. Relationship to existing Federal health programs.

**TITLE II—COMPREHENSIVE BENEFITS, INCLUDING PREVENTIVE BENEFITS AND BENEFITS FOR LONG TERM CARE**

Sec. 201. Comprehensive benefits.

Sec. 202. Definitions relating to services.

Sec. 203. Special rules for home and community-based long term care services.

Sec. 204. Exclusions and limitations.

**TITLE III—PROVIDER PARTICIPATION**

Sec. 301. Provider participation and standards.

Sec. 302. Qualifications for providers.

Sec. 303. Qualifications for comprehensive health service organizations.

Sec. 304. Limitation on certain physician referrals.

**TITLE IV—ADMINISTRATION**

**Subtitle A—General Administrative Provisions**

Sec. 401. American Health Security Standards Board.

Sec. 402. American Health Security Advisory Council.

Sec. 403. Professional, technical, and temporary advisory committees.

Sec. 404. American Health Security Quality Council.

Sec. 405. State health security programs.

Sec. 406. District health advisory councils.

Sec. 407. Complementary conduct of related health programs.

**Subtitle B—Control Over Fraud and Abuse**

Sec. 411. Application of Federal sanctions to all fraud and abuse under American Health Security Program.

Sec. 412. National health care fraud data base.

Sec. 413. Requirements for operation of State health care fraud and abuse control units.

Sec. 414. Assignment of unique provider and patient identifiers.

**TITLE V—QUALITY ASSESSMENT**

Sec. 501. Functions of Quality Council; development of practice guidelines and application to outliers.

Sec. 502. State quality review programs.

Sec. 503. Certification; utilization review; plans of care.

Sec. 504. Development of national electronic data base.

**TITLE VI—HEALTH SECURITY BUDGET; PAYMENTS; COST CONTAINMENT MEASURES**

**Subtitle A—Budgeting and Payments to States**

Sec. 601. American health security budget.

Sec. 602. Computation of individual and State capitation amounts.

Sec. 603. State health security budgets.

Sec. 604. Federal payments to States.

Sec. 605. Required approval process for capital expenditures.

Sec. 606. Account for health professional education expenditures.

**Subtitle B—Payments by States to Providers**

Sec. 611. Payments to hospitals and nursing facility services for operating expenses on the basis of approved global budgets.

Sec. 612. Payments for other facility-based services.

Sec. 613. Payments to health care practitioners based on prospective fee schedule.

Sec. 614. Payments to comprehensive health service organizations.

Sec. 615. Payments for community-based primary health facilities.

Sec. 616. Payments for prescription drugs.

Sec. 617. Payments for approved devices and equipment.

Sec. 618. Payments for other items and services.

Sec. 619. Role of commissions in establishing payment rates.

Sec. 620. Payment incentives for medically underserved areas.

Sec. 621. Waiver authority for alternative payment methodologies.

**Subtitle C—Mandatory Assignment and Administrative Provisions**

Sec. 631. Mandatory assignment.

Sec. 632. Procedures for reimbursement; appeals.

**TITLE VII—PROMOTION OF PRIMARY HEALTH CARE; DEVELOPMENT OF HEALTH SERVICE CAPACITY; PROGRAMS TO ASSIST THE MEDICALLY UNDERSERVED**

**Subtitle A—Promotion and Expansion of Primary Care Professional Training**

Sec. 701. Role of Board; establishment of primary care professional output goals.

Sec. 702. Establishment of Advisory Committee on Health Professional Education.

Sec. 703. Grants for health professions education, nurse education, and the national health service corps.

**Subtitle B—Direct Health Care Delivery**

Sec. 711. Setaside for public health block grants.

Sec. 712. Setaside for primary health care delivery.

Sec. 713. Primary care service expansion grants.

**Subtitle C—Primary Care and Outcomes Research**

Sec. 721. Set-aside for outcomes research.

Sec. 722. Office of Primary Care and Prevention Research.

**TITLE VIII—FINANCING PROVISIONS; AMERICAN HEALTH SECURITY TRUST FUND**

Sec. 800. Amendment of 1986 code; section 15 not to apply.

**Subtitle A—AMERICAN HEALTH SECURITY TRUST FUND**

Sec. 801. American Health Security Trust Fund.

**Subtitle B—Increases in Corporate and Individual Income Tax Rates; Health Security Premium; and Surtax on Individuals With Incomes Over \$1,000,000**

Sec. 811. Increases in regular income tax rates.

Sec. 812. Increases in minimum tax rates.

Sec. 813. Health security premium.

Sec. 814. Surtax on individuals with incomes over \$1,000,000.

**Subtitle C—Employment Tax Changes**

Sec. 821. Modifications of certain employment tax provisions.

**Subtitle D—Other Revenue Increases Primarily Affecting Individuals**

Sec. 831. Overall limitation on itemized deductions for high-income taxpayers made permanent.

Sec. 832. Phaseout of personal exemption of high-income taxpayers made permanent.

Sec. 833. Modifications to deductions for certain moving expenses.

Sec. 834. Top estate and gift tax rates made permanent.

Sec. 835. Elimination of deduction for club membership fees.

Sec. 836. Increase of Social Security benefits included in income.

Sec. 837. Long-term health care premium for the elderly.

**Subtitle E—Other Revenue Increases Primarily Affecting Businesses**

Sec. 841. Mark to market accounting method for securities dealers.

Sec. 842. Increase in recovery period for non-residential real property.

Sec. 843. Taxation of income of controlled foreign corporations attributable to imported property.

Sec. 844. Repeal of deduction for intangible drilling and development costs.

Sec. 845. Repeal of percentage depletion for oil and gas wells.

Sec. 846. Repeal of application of like-kind exchange rules to real property.

Sec. 847. Amortization of portion of advertising expenses.

**Subtitle F—Estimated Tax Provisions**

Sec. 851. Individual estimated tax provisions.

Sec. 852. Corporate estimated tax provisions.

**Subtitle G—Alternative Taxable Years**

Sec. 861. Election of taxable year other than required taxable year.

Sec. 862. Required payments for entities electing not to have required taxable year.

**Subtitle H—Deduction for Charitable Contribution of Appreciated Property Limited To Adjusted Basis**

Sec. 871. Deduction for charitable contribution of appreciated property limited to adjusted basis.

**Subtitle I—Minimum 5 Percent Rate of Tax on Interest Paid To Foreign Persons**

Sec. 881. Minimum 5 percent rate of tax on interest paid to foreign persons.

**TITLE I—ESTABLISHMENT OF A STATE-BASED AMERICAN HEALTH SECURITY PROGRAM; UNIVERSAL ENTITLEMENT; ENROLLMENT**

**SEC. 101. ESTABLISHMENT OF A STATE-BASED AMERICAN HEALTH SECURITY PROGRAM.**

(a) **IN GENERAL.**—There is hereby established in the United States a State-based

American Health Security Program to be administered by the individual States in accordance with Federal standards specified in, or established under, this Act.

(b) **STATE HEALTH SECURITY PROGRAMS.**—In order for a State to be eligible to receive payment under section 604, a State must establish a State health security program in accordance with this Act.

(c) **STATE DEFINED.**—

(1) **IN GENERAL.**—In this Act, subject to paragraph (2), the term "State" means each of the fifty States and the District of Columbia.

(2) **ELECTION.**—If the Governor of Puerto Rico, the Virgin Islands, Guam, American Samoa, or the Northern Mariana Islands certifies to the President that the legislature of the Commonwealth or territory has enacted legislation desiring that the Commonwealth or territory be included as a State under the provisions of this Act, such Commonwealth or territory shall be included as a "State" under this Act beginning January 1 of the first year beginning ninety days after the President receives the notification.

**SEC. 102. UNIVERSAL ENTITLEMENT.**

(a) **IN GENERAL.**—Every individual who is a resident of the United States and is a citizen or national of the United States or lawful resident alien (as defined in subsection (d)) is entitled to benefits for health care services under this Act under the appropriate State health security program. In this section, the term "appropriate State health security program" means, with respect to an individual, the State health security program for the State in which the individual maintains a primary residence.

(b) **TREATMENT OF CERTAIN NON-IMMIGRANTS.**—

(1) **IN GENERAL.**—The American Health Security Standards Board (in this Act referred to as the "Board") may make eligible for benefits for health care services under the appropriate State health security program under this Act such classes of aliens admitted to the United States as nonimmigrants as the Board may provide.

(2) **CONSIDERATION.**—In providing for eligibility under paragraph (1), the Board shall consider reciprocity in health care services offered to United States citizens who are nonimmigrants in other foreign states, and such other factors as the Board determines to be appropriate.

(c) **TREATMENT OF OTHER INDIVIDUALS.**—

(1) **BY BOARD.**—The Board also may make eligible for benefits for health care services under the appropriate State health security program under this Act other individuals not described in subsection (a) or (b), and regulate the nature of the eligibility of such individuals, in order—

(A) to preserve the public health of communities,

(B) to compensate States for the additional health care financing burdens created by such individuals, and

(C) to prevent adverse financial and medical consequences of uncompensated care, while inhibiting travel and immigration to the United States for the sole purpose of obtaining health care services.

(2) **BY STATES.**—Any State health security program may make individuals described in paragraph (1) eligible for benefits at the expense of the State.

(d) **LAWFUL RESIDENT ALIEN DEFINED.**—For purposes of this section, the term "lawful resident alien" means an alien lawfully admitted for permanent residence and any other alien lawfully residing permanently in the United States under color of law, includ-

ing an alien with lawful temporary resident status under section 210, 210A, or 234A of the Immigration and Nationality Act (8 U.S.C. 1160, 1161, or 1255a).

**SEC. 103. ENROLLMENT.**

(a) **IN GENERAL.**—Each State health security program shall provide a mechanism for the enrollment of individuals entitled or eligible for benefits under this Act. The mechanism shall—

(1) include a process for the automatic enrollment of individuals at the time of birth in the United States and at the time of immigration into the United States or other acquisition of lawful resident status in the United States,

(2) provide for the enrollment, as of January 1, 1995, of all individuals who are eligible to be enrolled as of such date, and

(3) include a process for the enrollment of individuals made eligible for health care services under subsections (b) and (c) of section 102.

(b) **AVAILABILITY OF APPLICATIONS.**—Each State health security program shall make applications for enrollment under the program available—

(1) at local offices of the Social Security Administration,

(2) at social services locations,

(3) at out-reach sites (such as provider and practitioner locations), and

(4) at other locations (including post offices and schools) accessible to a broad cross-section of individuals eligible to enroll.

(c) **ISSUANCE OF HEALTH SECURITY CARDS.**—In conjunction with an individual's enrollment for benefits under this Act, the State health security program shall provide for the issuance of a health security card which shall be used for purposes of identification and processing of claims for benefits under the program.

**SEC. 104. PORTABILITY OF BENEFITS.**

(a) **IN GENERAL.**—To ensure continuous access to benefits for health care services covered under this Act, each State health security program—

(1) shall not impose any minimum period of residence in the State, or waiting period, in excess of three months before residents of the State are entitled to, or eligible for, such benefits under the program;

(2) shall provide continuation of payment for covered health care services to individuals who have terminated their residence in the State and established their residence in another State, for the duration of any waiting period imposed in the State of new residency for establishing entitlement to, or eligibility for, such services; and

(3) shall provide for the payment for health care services covered under this Act provided to individuals while temporarily absent from the State, for reasons other than to obtain the services, based on the following principles:

(A) Payment for such health care services is at the rate that is approved by the State health security program in the State in which the services are provided, unless the States concerned agree to apportion the cost between them in a different manner.

(B)(i) Except as provided in clause (ii), payment for such health care services provided outside the United States is made on the basis of the amount that would have been paid by the State health security program for similar services rendered in the State, with due regard, in the case of hospital services, to the size of the hospital, standards of service, and other relevant factors.

(ii) Payment for services described under clause (i) which are elective services shall be

subject to prior consent of the agency that administers and operates the State health security program if such elective services are available on a substantially similar basis in the State.

(iii) For the purposes of this subparagraph, the term "elective services" means health care services covered under this Act other than services that are provided in an emergency or in any other circumstance in which medical care is required without delay.

(b) **CROSS-BORDER ARRANGEMENTS.**—A State health security program for a State may negotiate with such a program in an adjacent State a reciprocal arrangement for the coverage under such other program of health care services to enrollees residing in the border region.

**SEC. 105. EFFECTIVE DATE OF BENEFITS.**

Benefits shall first be available under this Act for items and services furnished on or after January 1, 1995.

**SEC. 106. RELATIONSHIP TO EXISTING FEDERAL HEALTH PROGRAMS.**

(a) **MEDICARE AND MEDICAID.**—

(1) **IN GENERAL.**—Notwithstanding any other provision of law, subject to paragraph (2)—

(A) no benefits shall be available under title XVIII of the Social Security Act for any item or service furnished after December 31, 1994,

(B) no individual is entitled to medical assistance under a State plan approved under title XIX of such Act for any item or service furnished after such date, and

(C) no payment shall be made to a State under section 1903(a) of such Act with respect to medical assistance for any item or service furnished after such date.

(2) **TRANSITION.**—In the case of inpatient hospital services and extended care services during a continuous period of stay which began before January 1, 1995, and which had not ended as of such date, for which benefits are provided under title XVIII, or under a State plan under title XIX, of the Social Security Act, the Secretary of Health and Human Services and each State plan, respectively, shall provide for continuation of benefits under such title or plan until the end of the period of stay.

(b) **FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM.**—No benefits shall be made available under chapter 89 of title 5, United States Code, for any part of a coverage period occurring after December 31, 1994.

(c) **CHAMPUS.**—No benefits shall be made available under sections 1079 and 1086 of title 10, United States Code, for items or services furnished after December 31, 1994.

(d) **TREATMENT OF BENEFITS FOR VETERANS AND NATIVE AMERICANS.**—Nothing in this Act shall affect the eligibility of veterans for the medical benefits and services provided under title 38, United States Code, or of Indians for the medical benefits and services provided by or through the Indian Health Service.

**TITLE II—COMPREHENSIVE BENEFITS, INCLUDING PREVENTIVE BENEFITS AND BENEFITS FOR LONG TERM CARE**

**SEC. 201. COMPREHENSIVE BENEFITS.**

(a) **IN GENERAL.**—Subject to the succeeding provisions of this title, individuals enrolled for benefits under this Act are entitled to have payment made under a State health security program for the following items and services if medically necessary and appropriate for the maintenance of health or for the diagnosis, treatment, or rehabilitation of a health condition:

(1) **HOSPITAL SERVICES.**—Inpatient and outpatient hospital care, including 24-hour a day emergency services.

(2) **PROFESSIONAL SERVICES.**—Professional services of health care practitioners authorized to provide health care services under State law.

(3) **COMMUNITY-BASED PRIMARY HEALTH SERVICES.**—Community-based primary health services (as defined in section 202(a)).

(4) **PREVENTIVE SERVICES.**—Preventive services (as defined in section 202(b)).

(5) **LONG-TERM AND CHRONIC CARE SERVICES.**—

(A) Nursing facility services.

(B) Home health services.

(C) Home and community-based long term care services (as defined in section 202(c)) for individuals described in section 203(a).

(D) Hospice care.

(6) **PRESCRIPTION DRUGS, BIOLOGICALS, INSULIN, MEDICAL FOODS.**—

(A) Outpatient prescription drugs and biologicals, as specified by the Board consistent with section 616.

(B) Insulin.

(C) Medical foods (as defined in section 202(d)).

(7) **MENTAL HEALTH SERVICES.**—Mental health services (as defined in section 202(e)), subject to the requirements of section 204(b).

(8) **SUBSTANCE ABUSE TREATMENT SERVICES.**—Substance abuse treatment services (as defined in section 202(f)), subject to the requirements of section 204(b).

(9) **DIAGNOSTIC TESTS.**—Diagnostic tests.

(10) **OTHER ITEMS AND SERVICES.**—

(A) **OUTPATIENT THERAPY.**—Outpatient physical therapy services, outpatient speech pathology services, and outpatient occupational therapy services in all settings.

(B) **DURABLE MEDICAL EQUIPMENT.**—Durable medical equipment.

(C) **HOME DIALYSIS.**—Home dialysis supplies and equipment.

(D) **AMBULANCE.**—Emergency ambulance service.

(E) **PROSTHETIC DEVICES.**—Prosthetic devices, including replacements of such devices.

(F) **ADDITIONAL ITEMS AND SERVICES.**—Such other medical or health care items or services as the Board may specify.

(b) **NO COST-SHARING.**—There are no deductibles, coinsurance, or copayments applicable to benefits provided under this title.

(c) **PROHIBITION OF BALANCE BILLING.**—As provided in section 631, no person may impose a charge for covered services for which benefits are provided under this Act.

(d) **NO DUPLICATE HEALTH INSURANCE.**—Each State health security program shall prohibit the sale of health insurance in the State if payment under the insurance duplicates payment for any items or services for which payment may be made under such a program.

(e) **STATE PROGRAM MAY PROVIDE ADDITIONAL BENEFITS.**—Nothing in this Act shall be construed as limiting the benefits that may be made available under a State health security program to residents of the State at the expense of the State.

(f) **EMPLOYERS MAY PROVIDE ADDITIONAL BENEFITS.**—Nothing in this Act shall be construed as limiting the additional benefits that an employer may provide to employees or their dependents, or to former employees or their dependents.

#### SEC. 202. DEFINITIONS RELATING TO SERVICES.

(a) **COMMUNITY-BASED PRIMARY HEALTH SERVICES.**—In this title, the term "community-based primary health services" means ambulatory health services furnished—

(1) by a rural health clinic;

(2) by a Federally-qualified health center, and which, for purposes of this Act, include

services furnished by State and local health agencies;

(3) in a school-based setting;

(4) by public educational agencies and other providers of services to children entitled to assistance under the Individuals with Disabilities Education Act for services furnished pursuant to a written Individualized Family Services Plan or Individual Education Plan under such Act; and

(5) public and private non-profit entities receiving Federal assistance under the Public Health Service Act.

(b) **PREVENTIVE SERVICES.**—

(1) **IN GENERAL.**—In this title, the term "preventive services" means items and services—

(A) which—

(i) are specified in paragraph (2), or

(ii) the Board determines to be effective in the maintenance and promotion of health and minimizing the effect of illness, disease, or medical condition or to be effective in preventing further deterioration due to disability; and

(B) which are provided consistent with the periodicity schedule established under paragraph (3).

(2) **SPECIFIED PREVENTIVE SERVICES.**—The services specified in this paragraph are as follows:

(A) Basic immunizations.

(B) Prenatal and well-baby care (for infants and over one year of age).

(C) Well-child care (including periodic physical examinations, hearing and vision screening, and developmental screening and examinations) for individuals under 18 years of age.

(D) Periodic screening mammography, Pap smears, and colorectal examinations and examinations for prostate cancer.

(E) Routine dental examinations and prophylaxis.

(F) Physical examinations.

(G) Family planning services.

(H) Routine eye examinations, eyeglasses, and contact lenses.

(I) Hearing aids, but only upon a determination of a certified audiologist or physician that a hearing problem exists and is caused by a condition that can be corrected by use of a hearing aid.

(3) **SCHEDULE.**—The Board shall establish, in consultation with experts in preventive medicine and public health and taking into consideration those preventive services recommended by the Preventive Services Task Force and published as the Guide to Clinical Preventive Services, a periodicity schedule for the coverage of preventive services under paragraph (1). Such schedule shall take into consideration the cost-effectiveness of appropriate preventive care and shall be revised not less frequently than once every 5 years, in consultation with experts in preventive medicine and public health.

(c) **HOME AND COMMUNITY-BASED LONG TERM CARE SERVICES.**—In this title, the term "home and community-based long term care services" means services provided to an individual and to enable the individual to function independently (to the extent possible) and to remain in such individual's place of residence within the community and includes care coordination services (as defined in subsection (g)(1)).

(d) **MEDICAL FOODS.**—In this title, the term "medical foods" means foods which are formulated to be consumed or administered enterally under the supervision of a physician and which are intended for the specific dietary management of a disease or condition for which distinctive nutritional re-

quirements, based on recognized scientific principles, are established by medical evaluation.

(e) **MENTAL HEALTH SERVICES.**—In this title, the term "mental health services" means services related to the prevention, diagnosis, treatment, and rehabilitation of mental illness and promotion of mental health, including the following services:

(1) Crisis intervention.

(2) Outpatient mental health services.

(3) Partial hospitalization and day and evening treatment programs.

(4) Psychosocial rehabilitation services.

(5) Pharmacotherapeutic interventions.

(6) Other rehabilitation services, including halfway and three-quarter-way house care.

(7) Inpatient mental health services.

(8) Care coordination services (as defined in subsection (g)(1)).

(f) **SUBSTANCE ABUSE TREATMENT SERVICES.**—In this title, the term "substance abuse treatment services" means services related to the prevention, diagnosis, treatment, and rehabilitation of dependency on alcohol or controlled substances provided through a treatment program meeting State qualification standards and includes the following services:

(1) Crisis intervention, including assessment, diagnosis, and referral.

(2) Detoxification services, in ambulatory and inpatient settings.

(3) Outpatient services, including intensive day and evening programs, continuing care, and family services.

(4) Short-term residential services in a hospital or free-standing program.

(5) Long-term residential services, including therapeutic communities and halfway houses.

(6) Pharmacotherapeutic interventions.

(7) Care coordination services (as defined in subsection (g)(1)).

(g) **CARE COORDINATION SERVICES.**—

(1) **DEFINITION.**—

(A) **IN GENERAL.**—In this title, the term "care coordination services" means services provided by care coordinators (as defined in paragraph (2))—

(i) to individuals described in paragraph (3) for the coordination and monitoring of mental health services, substance abuse treatment services, and home and community-based long term care services, and

(ii) to individuals who require services to prevent secondary disabilities for the coordination and monitoring of home and community-based long term care services and preventive services,

to ensure appropriate, cost-effective utilization of such services in a comprehensive and continuous manner, and includes the services described in subparagraph (B).

(B) **SERVICES INCLUDED.**—The services described in this subparagraph are—

(i) transition management between inpatient facilities and community-based services, including assisting patients in identifying and gaining access to appropriate ancillary services; and

(ii) evaluating and recommending appropriate treatment services, in cooperation with patients and other providers and in conjunction with any quality review program or plan of care under title V.

(2) **CARE COORDINATOR.**—

(A) **IN GENERAL.**—In this title, the term "care coordinator" means an individual or nonprofit or public agency or organization which the State health security program determines—

(i) is capable of performing directly, efficiently, and effectively the duties of a care coordinator described in paragraph (1), and

(ii) demonstrates capability in establishing and periodically reviewing and revising plans of care, and in arranging for and monitoring the provision and quality of services under any plan.

(B) INDEPENDENCE.—State health security programs shall establish safeguards to assure that care coordinators have no financial interest in treatment decisions or placements. Care coordination may not be provided through any structure or mechanism through which utilization review is performed.

(3) ELIGIBLE INDIVIDUALS.—An individual described in this paragraph is an individual—

(A) described in section 203 (relating to individuals qualifying for long term and chronic care services); or

(B) determined (in a manner specified by the Board)—

(i) to have a serious mental illness (as defined by the Board), or

(ii) to have a history of substance abuse displaying severe associated illness or previous treatment failure (as defined by the Board).

(h) NURSING FACILITY; NURSING FACILITY SERVICES.—Except as may be provided by the Board, the terms "nursing facility" and "nursing facility services" have the meanings given such terms in sections 1919(a) and 1905(f), respectively, of the Social Security Act.

(i) OTHER TERMS.—Except as may be provided by the Board, the definitions contained in section 1861 of the Social Security Act shall apply.

**SEC. 203. SPECIAL RULES FOR HOME AND COMMUNITY-BASED LONG TERM CARE SERVICES.**

(a) QUALIFYING INDIVIDUALS.—For purposes of section 201(a)(5)(C), individuals described in this subsection are the following individuals:

(1) ADULTS.—Individuals 18 years of age or older determined (in a manner specified by the Board)—

(A) to be unable to perform, without the assistance of an individual, at least 2 of the following 5 activities of daily living (or who has a similar level of disability due to cognitive impairment)—

- (i) bathing;
- (ii) eating;
- (iii) dressing;
- (iv) toileting; and
- (v) transferring in and out of a bed or in and out of a chair; or

(B) due to cognitive or mental impairments, requires supervision because the individual behaves in a manner that poses health or safety hazards to himself or herself or others.

(2) CHILDREN.—Individuals under 18 years of age determined (in a manner specified by the Board) to meet such alternative standard of disability for children as the Board develops.

(b) LIMIT ON SERVICES.—

(1) IN GENERAL.—No individual is entitled to receive benefits under a State health security program with respect to home and community-based long term care services in a period (specified by the Board) to the extent the amount of payments for such benefits exceeds 65 percent (or such alternative ratio as the Board establishes under paragraph (2)) of the average of amount of payment that would have been made under the program during the period if the individual were a resident of a nursing facility in the same area in which the services were provided.

(2) ALTERNATIVE RATIO.—The Board may establish for purposes of paragraph (1) an al-

ternative ratio (of payments for home and community-based long term care services to payments for nursing facility services) as the Board determines to be more consistent with the goal of providing cost-effective long-term care in the most appropriate and least restrictive setting.

**SEC. 204. EXCLUSIONS AND LIMITATIONS.**

(a) IN GENERAL.—Subject to section 201(e), benefits for service are not available under this Act unless the services meet the standards specified in section 201(a).

(b) MENTAL HEALTH SERVICES AND SUBSTANCE ABUSE TREATMENT SERVICES.—

(1) IN GENERAL.—Mental health services and substance abuse treatment services furnished for an individual in excess of a threshold specified in paragraph (2) are not covered services unless the services are determined under a utilization review program to meet the standards specified in section 201(a) and, with respect to inpatient or residential treatment services, to be provided in the least restrictive and most appropriate setting.

(2) UTILIZATION REVIEW THRESHOLD.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the thresholds specified in this paragraph are—

- (i) 20 outpatient visits in a year, and
- (ii) 15 days of inpatient services in a year.

(B) ALTERNATIVE NATIONAL THRESHOLDS.—The Board may specify alternative thresholds to those specified in subparagraph (A).

(C) ADDITIONAL STATE THRESHOLDS.—A State health security program may specify thresholds in addition to those established under the previous subparagraphs, which thresholds may be higher or lower than the number of outpatient visits or days of inpatient services otherwise specified.

(c) TREATMENT OF EXPERIMENTAL SERVICES.—In applying subsection (a), the Board shall make, after consultation with a technical advisory committee, national coverage determinations with respect to those services that are experimental in nature. Such determinations shall be made consistent with a process that provides for professional input and public comment.

(d) APPLICATION OF NATIONAL PRACTICE GUIDELINES.—In the case of services for which the Board has recognized national practice guidelines, the services are considered to meet the standards specified in section 201(a) only if they have been provided in accordance with such guidelines or in accordance with such exceptions process as may be established by the Board consistent with such guidelines.

(e) SPECIFIC LIMITATIONS.—

(1) LIMITATIONS ON EYEGLASSES, CONTACT LENSES, HEARING AIDS, AND DURABLE MEDICAL EQUIPMENT.—Subject to section 201(e), the Board may impose such limits relating to the costs and frequency of replacement of eyeglasses, contact lenses, hearing aids, and durable medical equipment to which individuals enrolled for benefits under this Act are entitled to have payment made under a State health security program as the Board deems appropriate.

(2) OVERLAP WITH PREVENTIVE SERVICES.—The coverage of services described in section 201(a) (other than paragraph (3)) which also are preventive services are required to be covered only to the extent that they are required to be covered as preventive services.

(3) MISCELLANEOUS EXCLUSIONS FROM COVERED SERVICES.—Covered services under this Act do not include the following:

(A) Surgery and other procedures (such as orthodontia) performed solely for cosmetic purposes (as defined in regulations) and hos-

pital or other services incident thereto, unless—

(i) required to correct a congenital anomaly;

(ii) required to restore or correct a part of the body which has been altered as a result of accidental injury, disease, or surgery; or

(iii) otherwise determined to be medically necessary and appropriate under section 201(a).

(B) Personal comfort items or private rooms in inpatient facilities, unless determined to be medically necessary and appropriate under section 201(a).

(C) The services of a professional practitioner if they are furnished in a hospital or other facility which is not a participating provider.

(f) NURSING FACILITY SERVICES AND HOME HEALTH SERVICES.—Nursing facility services and home health services (other than post-hospital services, as defined by the Board) furnished to an individual who is not described in section 203(a) are not covered services unless the services are determined to meet the standards specified in section 201(a) and, with respect to nursing facility services, to be provided in the least restrictive and most appropriate setting.

(g) SERVICES INVOLVING UNAPPROVED CAPITAL EXPENDITURES.—Benefits are not available under this Act with respect to a service which involves the use of equipment, facility, or plant if the capital expenditure for the equipment, facility, or plant was subject to, but was not approved under, the process described in section 605.

**TITLE III—PROVIDER PARTICIPATION**

**SEC. 301. PROVIDER PARTICIPATION AND STANDARDS.**

(a) IN GENERAL.—An individual or other entity furnishing any covered service under a State health security program under this Act is not a qualified provider unless the individual or entity—

(1) is a qualified provider of the services under section 302;

(2) has filed with the State health security program a participation agreement described in subsection (b); and

(3) meets such other qualifications and conditions as are established by the Board or the State health security program under this Act.

(b) REQUIREMENTS IN PARTICIPATION AGREEMENT.—

(1) IN GENERAL.—A participation agreement described in this subsection between a State health security program and a provider shall provide at least for the following:

(A) Services to eligible persons will be furnished by the provider without discrimination on the ground of race, national origin, income, religion, age, sex or sexual orientation, disability, handicapping condition, or (subject to the professional qualifications of the provider) illness. Nothing in this subparagraph shall be construed as requiring the provision of a type or class of services which services are outside the scope of the provider's normal practice.

(B) No charge will be made for any covered services other than for payment authorized by this Act.

(C) The provider agrees to furnish such information as may be reasonably required by the Board or a State health security program, in accordance with uniform reporting standards established under section 401(g)(1), for—

(i) quality assurance and utilization review by professional peers and consumers;

(ii) the making of payments under this Act (including the examination of records as

may be necessary for the verification of information on which payments are based;

(iii) statistical or other studies required for the implementation of this Act; and

(iv) such other purposes as the Board or State may specify.

(D) The provider agrees not to expend any amounts on capital expenditures (as defined in section 605(c)) relating to the provision of covered services unless the purchase of such items has been approved under section 605 and agrees not to bill the program for any services for which benefits are not available because of section 204(g).

(E) In the case of a provider that is not an individual, the provider agrees not to employ or use for the provision of health services any individual or other provider who or which has had a participation agreement under this subsection terminated for cause.

(F) In the case of a provider paid under a fee-for-service basis under section 613, the provider agrees to submit bills and any required supporting documentation relating to the provision of covered services within 30 days (or such shorter period as a State health security program may require) after the date of providing such services.

(2) **TERMINATION OF PARTICIPATION AGREEMENTS.**—

(A) **IN GENERAL.**—Participation agreements may be terminated, with appropriate notice—

(i) by the Board or a State health security program for failure to meet the requirements of this title, or

(ii) by a provider.

(B) **TERMINATION PROCESS.**—Providers shall be provided notice and a reasonable opportunity to correct deficiencies before the Board or a State health security program terminates an agreement unless a more immediate termination is required for public safety or similar reasons.

#### SEC. 302. QUALIFICATIONS FOR PROVIDERS.

(a) **IN GENERAL.**—A health care provider is considered to be qualified to provide covered services if the provider is licensed or certified and meets—

(1) all the requirements of State law to provide such services,

(2) applicable requirements of Federal law to provide such services, and

(3) any applicable standards established under subsection (b).

(b) **MINIMUM PROVIDER STANDARDS.**—

(1) **IN GENERAL.**—The Board shall establish, evaluate, and update national minimum standards to assure the quality of services provided under this Act and to monitor efforts by State health security programs to assure the quality of such services. A State health security program may also establish additional minimum standards which providers must meet.

(2) **NATIONAL MINIMUM STANDARDS.**—The national minimum standards under paragraph (1) shall be established for institutional providers of services, individual health care practitioners, and comprehensive health service organizations. Except as the Board may specify in order to carry out this title, a hospital, nursing facility, or other institutional provider of services shall meet standards (including having in effect a utilization review plan) for such a facility under the Medicare program under title XVIII of the Social Security Act. Such standards also may include, where appropriate, elements relating to—

(A) adequacy and quality of facilities;

(B) training and competence of personnel (including continuing education requirements);

(C) comprehensiveness of service;

(D) continuity of service;

(E) patient satisfaction (including waiting time and access to services); and

(F) performance standards (including organization, facilities, structure of services, efficiency of operation, and outcome in palliation, improvement of health, stabilization, cure, or rehabilitation).

(3) **TRANSITION IN APPLICATION.**—If the Board provides for additional requirements for providers under this subsection, any such additional requirement shall be implemented in a manner that provides for a reasonable period during which a previously qualified provider is permitted to meet such an additional requirement.

(4) **EXCHANGE OF INFORMATION.**—The Board shall provide for an exchange, at least annually, among State health security programs of information with respect to quality assurance and cost containment.

#### SEC. 303. QUALIFICATIONS FOR COMPREHENSIVE HEALTH SERVICE ORGANIZATIONS.

(a) **IN GENERAL.**—For purposes of this Act, a comprehensive health service organization (in this section referred to as a "CHSO") is a public or private organization which, in return for payment under section 613(a), undertakes to furnish, arrange for the provision of, or provide payment with respect to—

(1) a full range of health services (as identified by the Board), including at least hospital services and physicians services, and

(2) out-of-area coverage in the case of urgently needed services,

to an identified population which is living in or near a specified service area and which enrolls voluntarily in the organization.

(b) **ENROLLMENT.**—

(1) **IN GENERAL.**—All eligible persons living in or near the specified service area of a CHSO are eligible to enroll in the organization; except that the number of enrollees may be limited to avoid overtaxing the resources of the organization.

(2) **MINIMUM ENROLLMENT PERIOD.**—Subject to paragraph (3), the minimum period of enrollment with a CHSO shall be twelve months, unless the enrolled individual becomes ineligible to enroll with the organization.

(3) **WITHDRAWAL FOR CAUSE.**—Each CHSO shall permit an enrolled individual to disenroll from the organization for cause at any time.

(4) **BROAD MARKETING.**—Each CHSO must provide for the marketing of its services (including dissemination of marketing materials) to potential enrollees in a manner that is designed to enroll individuals representative of the different population groups and geographic areas included within its service area and meets such requirements as the Board or a State health security program may specify.

(c) **REQUIREMENTS FOR CHSOs.**—

(1) **ACCESSIBLE SERVICES.**—Each CHSO, to the maximum extent feasible, shall make all services readily and promptly accessible to enrollees who live in the specified service area.

(2) **CONTINUITY OF CARE.**—Each CHSO shall furnish services in such manner as to provide continuity of care and (when services are furnished by different providers) shall provide ready referral of patients to such services and at such times as may be medically appropriate.

(3) **BOARD OF DIRECTORS.**—In the case of a CHSO that is a private organization—

(A) **CONSUMER REPRESENTATION.**—At least one-third of the members of the CHSO's board of directors must be consumer mem-

bers with no direct or indirect, personal or family financial relationship to the organization.

(B) **PROVIDER REPRESENTATION.**—The CHSO's board of directors must include at least one member who represents health care providers.

(4) **PATIENT GRIEVANCE PROGRAM.**—Each CHSO must have in effect a patient grievance program and must conduct regularly surveys of the satisfaction of members with services provided by or through the organization.

(5) **HEALTH EDUCATION.**—Each CHSO must encourage health education of its enrollees and the development and use of preventive health services, health promotion and wellness, self-care, and, if applicable, independent living arrangements.

(6) **MEDICAL STANDARDS.**—Each CHSO must provide that a committee or committees of health care practitioners associated with the organization will promulgate medical standards, oversee the professional aspects of the delivery of care, perform the functions of a pharmacy and drug therapeutics committee, and monitor and review the quality of all health services (including drugs, education, and preventive services).

(7) **USE OF ALLIED HEALTH PROFESSIONALS.**—Each CHSO must, to the extent practicable and consistent with good medical practice, employ allied health personnel and paraprofessional persons in the furnishing of services.

(8) **PREMIUMS.**—Premiums or other charges by a CHSO for any services not paid for under this Act must be reasonable.

(9) **UTILIZATION AND BONUS INFORMATION.**—Each CHSO must—

(A) comply with the requirements of section 1876(i)(8) of the Social Security Act (relating to prohibiting physician incentive plans that provide specific inducements to reduce or limit medically necessary services), and

(B) make available to its membership utilization information and data regarding financial performance, including bonus or incentive payment arrangements to practitioners.

(10) **PROVISION OF SERVICES TO ENROLLEES AT INSTITUTIONS OPERATING UNDER GLOBAL BUDGETS.**—The organization shall arrange to reimburse for hospital services and other facility-based services (as identified by the Board) for services provided to members of the organization in accordance with the global operating budget of the hospital or nursing facility approved under section 611.

(11) **LIMITATION ON CAPITAL EXPENDITURES.**—The organization agrees—

(A) not to expend any amounts on capital expenditures (as defined in section 605(c)) relating to the provision of covered services unless the purchase of such items has been approved under section 605,

(B) that any amounts attributable to a reasonable rate of return on equity capital shall not be used for any capital expenditures, and

(C) agrees not to bill the program for any services for which benefits are not available because of section 204(g).

(12) **ADDITIONAL REQUIREMENTS.**—Each CHSO must meet—

(A) such requirements relating to minimum enrollment,

(B) such requirements relating to financial solvency,

(C) such requirements relating to quality and availability of care, and

(D) such other requirements, as the Board or a State health security program may specify.

(d) PROVISION OF EMERGENCY SERVICES TO NONENROLLEES.—A CHSO may furnish emergency services to persons who are not enrolled in the organization. Payment for such services, if they are covered services to eligible persons, shall be made to the organization unless the organization requests that it be made to the individual provider who furnished the services.

**SEC. 304. LIMITATION ON CERTAIN PHYSICIAN REFERRALS.**

(a) APPLICATION TO AMERICAN HEALTH SECURITY PROGRAM.—Section 1877 of the Social Security Act, as amended by subsections (b) and (c), shall apply under this Act in the same manner as it applies under title XVIII of the Social Security Act; except that in applying such section under this Act any references in such section to the Secretary or title XVIII of the Social Security Act are deemed references to the Board and the American Health Security Program under this Act, respectively.

(b) EXPANSION OF PROHIBITION TO CERTAIN DESIGNATED SERVICES.—Section 1877 of the Social Security Act (42 U.S.C. 1395nn) is amended—

(1) by striking "clinical laboratory services" and "CLINICAL LABORATORY SERVICES" and inserting "designated health services" and "DESIGNATED HEALTH SERVICES", respectively, each place either appears in subsections (a)(1), (b)(2)(A)(i)(I), (b)(4), (d)(1), (d)(2), and (d)(3);

(2) by adding at the end of such section the following new subsection:

"(1) DESIGNATED HEALTH SERVICES DEFINED.—In this section, the term 'designated health services' means—

- "(1) clinical laboratory services;
- "(2) physical therapy services;
- "(3) radiology services, including magnetic resonance imaging, computerized axial tomography scans, and ultrasound services;
- "(4) radiation therapy services;
- "(5) the furnishing of durable medical equipment;
- "(6) the furnishing of parenteral and enteral nutrition equipment and supplies;
- "(7) the furnishing of outpatient prescription drugs;
- "(8) ambulance services;
- "(9) home infusion therapy services;
- "(10) occupational therapy services;
- "(11) inpatient and outpatient hospital services (including services furnished at a psychiatric or rehabilitation hospital); and
- "(12) other services or technologies as defined by the American Health Security Standards Board."

(3) in subsection (d)(2), by striking "laboratory" and by inserting "entity";

(4) in subsection (g)(1), by striking "clinical laboratory service" and by inserting "designated health service"; and

(5) in subsection (h)(7)(B), by striking "clinical laboratory service" and by inserting "designated health service".

(c) CONFORMING AMENDMENTS.—Such section is further amended—

(1) in subsection (a)(1)(A), by striking "for which payment otherwise may be made under this title" and by inserting "for which a charge is imposed";

(2) in subsection (a)(1)(B), by striking "under this title";

(3) by amending paragraph (1) of subsection (g) to read as follows:

"(1) DENIAL OF PAYMENT.—No payment may be made under a State health security program for a designated health service for which a claim is presented in violation of subsection (a)(1)(B). No individual, third party payor, or other entity is liable for pay-

ment for designated health services for which a claim is presented in violation of such subsection."; and

(4) in subsection (g)(3), by striking "for which payment may not be made under paragraph (1)" and by inserting "for which such a claim may not be presented under subsection (a)(1)".

**TITLE IV—ADMINISTRATION**

**Subtitle A—General Administrative Provisions**

**SEC. 401. AMERICAN HEALTH SECURITY STANDARDS BOARD.**

(a) ESTABLISHMENT.—There is hereby established an American Health Security Standards Board.

(b) APPOINTMENT AND TERMS OF MEMBERS.—

(1) IN GENERAL.—The Board shall be composed of—

(A) the Secretary of Health and Human Services, and

(B) 6 other individuals (described in paragraph (2)) appointed by the President with the advice and consent of the Senate.

The President shall first nominate individuals under subparagraph (B) on a timely basis so as to provide for the operation of the Board by not later than January 1, 1994.

(2) SELECTION OF APPOINTED MEMBERS.—With respect to the individuals appointed under paragraph (1)(B):

(A) They shall be chosen on the basis of backgrounds in health policy, health economics, the healing professions, and the administration of health care institutions.

(B) They shall provide a balanced point of view with respect to the various health care interests and at least two of them shall represent the interests of individual consumers.

(C) Not more than three of them shall be from the same political party.

(3) TERMS OF APPOINTED MEMBERS.—Individuals appointed under paragraph (1)(B) shall serve for a term of 6 years, except that the terms of 5 of the individuals initially appointed shall be, as designated by the President at the time of their appointment, for 1, 2, 3, 4, and 5 years. During a term of membership on the Board, no member shall engage in any other business, vocation or employment.

(c) VACANCIES.—

(1) IN GENERAL.—The President shall fill any vacancy in the membership of the Board in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Board.

(2) VACANCY APPOINTMENTS.—Any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor of the member was appointed.

(3) REAPPOINTMENT.—The President may reappoint an appointed member of the Board for a second term in the same manner as the original appointment. A member who has served for two consecutive 6-year terms shall not be eligible for reappointment until two years after the member has ceased to serve.

(4) REMOVAL FOR CAUSE.—Upon confirmation, members of the Board may not be removed except by the President for cause.

(d) CHAIR.—The President shall designate one of the members of the Board, other than the Secretary, to serve at the will of the President as Chair of the Board.

(e) COMPENSATION.—Members of the Board (other than the Secretary) shall be entitled to compensation at a level equivalent to level II of the Executive Schedule, in accordance with section 5313 of title 5, United States Code.

(f) GENERAL DUTIES OF THE BOARD.—

(1) IN GENERAL.—The Board shall develop policies, procedures, guidelines, and requirements to carry out this Act, including those related to—

- (A) eligibility;
- (B) enrollment;
- (C) benefits;
- (D) provider participation standards and qualifications, as defined in title III;
- (E) national and State funding levels;
- (F) methods for determining amounts of payments to providers of covered services, consistent with subtitle B of title VI;
- (G) the determination of medical necessity and appropriateness (including the coverage of new technologies and the application of medical practice guidelines);
- (H) quality assurance;
- (I) assisting State health security programs with planning for capital expenditures and service delivery;
- (J) planning for health professional education funding (as specified in title VII);
- (K) allocating funds provided under title VII; and
- (L) encouraging States to develop regional planning mechanisms (described in section 405(a)(3)).

(2) REGULATIONS.—Regulations authorized by this Act shall be issued by the Board in accordance with the provisions of section 553 of title 5, United States Code.

(g) UNIFORM REPORTING STANDARDS; ANNUAL REPORT; STUDIES.—

(1) UNIFORM REPORTING STANDARDS.—

(A) IN GENERAL.—The Board shall establish uniform reporting requirements and standards to ensure an adequate national data base regarding health services practitioners, services and finances of State health security programs, approved plans, providers, and the costs of facilities and practitioners providing services. Such standards shall include, to the maximum extent feasible, health outcome measures.

(B) REPORTS.—The Board shall analyze regularly information reported to it, and to State health security programs pursuant to such requirements and standards.

(2) ANNUAL REPORT.—Beginning January 1, of the second year beginning after the date of the enactment of this Act, the Board shall annually report to Congress on the following:

- (A) The status of implementation of the Act.
- (B) Enrollment under this Act.
- (C) Benefits under this Act.
- (D) Expenditures and financing under this Act.
- (E) Cost-containment measures and achievements under this Act.
- (F) Quality assurance.
- (G) The planning and approval process for determining capital expenditures under this Act, and the effects of decisions made under this provision.
- (H) Health care utilization patterns, including any changes attributable to the program.
- (I) Long-range plans and goals for the delivery of health services.
- (J) Differences in the health status of the populations of the different States, including income and racial characteristics.
- (K) Necessary changes in the education of health personnel.
- (L) Plans for improving service to medically underserved populations.
- (M) Transition problems as a result of implementation of this Act.
- (N) Opportunities for improvements under this Act.

(3) STATISTICAL ANALYSES AND OTHER STUDIES.—The Board may, either directly or by contract—

(A) make statistical and other studies, on a nationwide, regional, state, or local basis, of any aspect of the operation of this Act, including studies of the effect of the Act upon the health of the people of the United States and the effect of comprehensive health services upon the health of persons receiving such services;

(B) develop and test methods of providing through payment for services or otherwise, additional incentives for adherence by providers to standards of adequacy, access, and quality; methods of consumer and peer review and peer control of the utilization of drugs, of laboratory services, and of other services; and methods of consumer and peer review of the quality of services;

(C) develop and test, for use by the Board, records and information retrieval systems and budget systems for health services administration, and develop and test model systems for use by providers of services;

(D) develop and test, for use by providers of services, records and information retrieval systems useful in the furnishing of preventive or diagnostic services;

(E) develop, in collaboration with the pharmaceutical profession, and test, improved administrative practices or improved methods for the reimbursement of independent pharmacies for the cost of furnishing drugs as a covered service; and

(F) make such other studies as it may consider necessary or promising for the evaluation, or for the improvement, of the operation of this Act.

(4) REPORT ON USE OF EXISTING FEDERAL HEALTH CARE FACILITIES.—Not later than one year after the date of the enactment of this Act, the Board shall recommend to the Congress one or more proposals for the treatment of health care facilities of the Federal Government.

(h) EXECUTIVE DIRECTOR.—

(1) APPOINTMENT.—There is hereby established the position of Executive Director of the Board. The Director shall be appointed by the Board and shall serve as secretary to the Board and perform such duties in the administration of this title as the Board may assign.

(2) DELEGATION.—The Board is authorized to delegate to the Director or to any other officer or employee of the Board or, with the approval of the Secretary of Health and Human Services (and subject to reimbursement of identifiable costs), to any other officer or employee of the Department of Health and Human Services, any of its functions or duties under this Act other than—

(A) the issuance of regulations; or

(B) the determination of the availability of funds and their allocation to implement this Act.

(3) COMPENSATION.—The Executive Director of the Board shall be entitled to compensation at a level equivalent to level III of the Executive Schedule, in accordance with section 5314 of title 5, United States Code.

(i) INSPECTOR GENERAL.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in section 11(1) by inserting after "Corporation," the following: "the Chair of the American Health Security Standards Board";

(2) in section 11(2) by inserting after "Information Agency," the following: "the American Health Security Standards Board"; and

(3) by inserting after section 8F the following:

#### "§8G. Special provisions concerning American Health Security Standards Board

"The Inspector General of the American Health Security Standards Board, in addition to the other authorities vested by this Act, shall have the same authority, with respect to the Board and the American Health Security Program under this Act, as the Inspector General for the Department of Health and Human Services has with respect to the Secretary of Health and Human Services and the medicare and medicaid programs, respectively."

(j) STAFF.—The Board shall employ such staff as the Board may deem necessary.

(k) ACCESS TO INFORMATION.—The Secretary of Health and Human Services shall make available to the Board all information available from sources within the Department or from other sources, pertaining to the duties of the Board.

#### SEC. 402. AMERICAN HEALTH SECURITY ADVISORY COUNCIL.

(a) IN GENERAL.—The Board shall provide for an American Health Security Advisory Council (in this section referred to as the "Council") to advise the Board on its activities.

(b) MEMBERSHIP.—The Council shall be composed of—

(1) the Chair of the Board, who shall serve as Chair of the Council, and

(2) twenty members, not otherwise in the employ of the United States, appointed by the Board without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

The appointed members shall include, in accordance with subsection (e), individuals who are representative of State health security programs, public health professionals, providers of health services, and of individuals (who shall constitute a majority of the Council) who are representative of consumers of such services, including a balanced representation of employers, unions, consumer organizations, and population groups with special health care needs.

(c) TERMS OF MEMBERS.—Each appointed member shall hold office for a term of four years, except that—

(1) any member appointed to fill a vacancy occurring during the term for which the member's predecessor was appointed shall be appointed for the remainder of that term; and

(2) the terms of the members first taking office shall expire, as designated by the Board at the time of appointment, five at the end of the first year, five at the end of the second year, five at the end of the third year, and five at the end of the fourth year after the date of enactment of this Act.

(d) VACANCIES.—

(1) IN GENERAL.—The Board shall fill any vacancy in the membership of the Council in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

(2) VACANCY APPOINTMENTS.—Any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor of the member was appointed.

(3) REAPPOINTMENT.—The Board may reappoint an appointed member of the Council for a second term in the same manner as the original appointment.

(e) QUALIFICATIONS.—

(1) PUBLIC HEALTH REPRESENTATIVES.—Members of the Council who are representative of State health security programs and public health professionals shall be individuals who have extensive experience in the fi-

nancing and delivery of care under public health programs.

(2) PROVIDERS.—Members of the Council who are representative of providers of health care shall be individuals who are outstanding in fields related to medical, hospital, or other health activities, or who are representative of organizations or associations of professional health practitioners.

(3) CONSUMERS.—Members who are representative of consumers of such care shall be individuals, not engaged in and having no financial interest in the furnishing of health services, who are familiar with the needs of various segments of the population for personal health services and are experienced in dealing with problems associated with the consumption of such services.

(f) DUTIES.—

(1) IN GENERAL.—It shall be the duty of the Council—

(A) to advise the Board on matters of general policy in the administration of this Act, in the formulation of regulations, and in the performance of the Board's duties under section 401; and

(B) to study the operation of this Act and the utilization of health services under it, with a view to recommending any changes in the administration of the Act or in its provisions which may appear desirable.

(2) REPORT.—The Council shall make an annual report to the Board on the performance of its functions, including any recommendations it may have with respect thereto, and the Board shall promptly transmit the report to the Congress, together with a report by the Board on any recommendations of the Council that have not been followed.

(g) STAFF.—The Council, its members, and any committees of the Council shall be provided with such secretarial, clerical, or other assistance as may be authorized by the Board for carrying out their respective functions.

(h) MEETINGS.—The Council shall meet as frequently as the Board deems necessary, but not less than four times each year. Upon request by seven or more members it shall be the duty of the Chair to call a meeting of the Council.

(i) COMPENSATION.—Members of the Council shall be reimbursed by the Board for travel and per diem in lieu of subsistence expenses during the performance of duties of the Board in accordance with subchapter I of chapter 57 of title 5, United States Code.

(j) FACIA NOT APPLICABLE.—The provisions of the Federal Advisory Committee Act shall not apply to the Council.

#### SEC. 403. PROFESSIONAL, TECHNICAL, AND TEMPORARY ADVISORY COMMITTEES.

(a) IN GENERAL.—The Board shall appoint the standing advisory committees specified in subsections (b) through (g), and such other standing professional and technical committees in order to advise it in carrying out its duties under this Act.

(b) ADVISORY COMMITTEE ON BENEFITS.—

(1) IN GENERAL.—The Board shall appoint a standing Advisory Committee on Benefits to advise it with respect to the several classes of covered services under this Act.

(2) MEMBERSHIP.—The membership of the committee shall include individuals (in such number as the Board may determine) drawn from the health professions, from consumers of health services, from providers of health services (including non-medical licensed and non-licensed providers), or from other sources, whom the Board deems best qualified to advise it with respect to the professional and technical aspects of the furnish-

ing and utilization of, and the evaluation of, a class of covered services designated by the Board, and with respect to the relationship of that class of services to other covered services. In appointing such individuals, the Board shall assure significant representation of consumers of health services and providers of health services.

(c) **ADVISORY COMMITTEE ON COST CONTAINMENT.**—

(1) **IN GENERAL.**—The Board shall appoint a standing Advisory Committee on Cost Containment to advise it with respect to the payments and cost containment measures contained in title VI of this Act.

(2) **MEMBERSHIP.**—The membership of the committee shall include individuals (in such number as the Board may determine) with national recognition for their expertise in health economics, health care financing, provider reimbursement, and related fields. In appointing individuals the Board shall assure significant representation of consumers of health services and providers of health services.

(d) **ADVISORY COMMITTEE ON PRIMARY CARE AND THE MEDICALLY UNDERSERVED.**—

(1) **IN GENERAL.**—The Board shall appoint a standing Advisory Committee on Primary Care and the Medically Underserved to advise it with respect to title VII of this Act, including with respect to the delivery of services and the education and training of health professionals, and to consider means of increasing the supply and expanding the scope of practice of mid-level professionals and the use of community health outreach workers and other non-professional health care workers.

(2) **MEMBERSHIP.**—The membership of the committee shall include individuals (in such number as the Board may determine) from the health professions and health services with expertise in—

(A) primary care services;

(B) the education and training of primary care practitioners;

(C) the special health needs of medically underserved populations;

(D) the training, educational, and financial incentives that would encourage health practitioners to serve in medically underserved areas;

(E) the delivery of health services through community-based and public facilities; and

(F) developing alternative models of delivering primary health services to medically underserved populations.

In appointing such individuals, the Board shall assure significant representation of consumers of health services and providers of health services.

(e) **ADVISORY COMMITTEE ON MENTAL HEALTH AND SUBSTANCE ABUSE TREATMENT SERVICES.**—

(1) **IN GENERAL.**—The Board shall appoint a standing Advisory Committee on Mental Health and Substance Abuse Treatment Services to advise it with respect to the manner in which the benefits under this Act for mental health services and substance abuse treatment services should be modified to best meet the objectives of this Act.

(2) **MEMBERSHIP.**—The membership of the committee shall include individuals (in such number as the Board may determine) with expertise in health care economics, who are representative of the multi-disciplinary range of providers of such services, who are consumers of such services, and who represent advocacy groups representing consumers of such services.

(3) **RESPONSIBILITIES.**—The committee shall—

(A) study changes in the utilization patterns and costs which accompany the provision of mental health services and substance abuse treatment services;

(B) study and make recommendations on any changes that may be advisable in the utilization review thresholds specified in section 204(b)(2)(A);

(C) make recommendations on ways to create a continuum of care and encourage the provision of care in the least restrictive appropriate setting;

(D) develop a standard set of practices for care coordination services, including—

(i) the range of care coordination services that should be offered for a specific target population,

(ii) the organizational structure in which care coordination services should be based,

(iii) the minimum training requirements for care coordinators, and

(iv) the standards for the clinical necessity of care coordination services,

and study (and make recommendations concerning) peer care coordination services; and

(E) report any initial recommendations to the Board by January 1, 1995.

(4) **ROLE OF SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION.**—The Board shall consult with the Administrator of the Substance Abuse and Mental Health Services Administration in the appointment of members to, and operation of, the committee.

(f) **ADVISORY COMMITTEE ON PRESCRIPTION DRUGS.**—

(1) **IN GENERAL.**—The Board shall appoint a standing Advisory Committee on Prescription Drugs to advise it with respect to the classification of prescription drugs and biologicals under section 616(a)(1) and other matters relating to the coverage of prescription drugs under this Act.

(2) **MEMBERSHIP.**—

(1) **IN GENERAL.**—The membership of the committee shall include individuals (in such number as the Board may determine) with expertise in appropriate utilization of prescription and nonprescription drug and biological therapies and of the relative safety and efficacy of prescription drugs and biologicals.

(B) **AREAS OF EXPERTISE.**—A majority of the members of the committee shall be physicians. Members of the committee shall include at least a dentist, a nurse, and a pharmacist, and individuals with special knowledge or expertise in at least the following areas: geriatric, obstetric, pediatric, psychiatric, and neurological problems associated with drug therapies; clinical pharmacology; pharmacoepidemiology; and comparative clinical trials of drugs (including statisticians and biopharmaceutical specialists).

(C) **CONFLICT OF INTEREST PROHIBITION.**—No individual who is an employee of a manufacturer of a drug or biological or who otherwise has a material financial interest directly or indirectly with respect to such a manufacturer, or who has an immediate family member (as defined by the Board) who is such an employee or has such an interest, shall serve as a member of the committee.

(3) **RESPONSIBILITIES.**—The committee shall—

(A) continuously review scientific and medical information pertaining to the relative safety and efficacy, and the comparability, of prescription drugs and biologicals approved for marketing in the United States; and

(B) recommend drug use classifications and identify, within such a classification, drugs that are therapeutic alternates for a given

indication and indications for which particular drugs are superior based on safety and efficacy.

The committee is not authorized to engage in drug price negotiations nor define acceptable costs for any product.

(4) **CONSUMER INPUT.**—In conducting its activities, the committee shall solicit advice and comments from a panel of consumer advocates.

(g) **ADVISORY COMMITTEE ON REHABILITATION AND CHRONIC CARE MANAGEMENT.**—

(1) **IN GENERAL.**—The Board shall appoint a standing Advisory Committee on Rehabilitation and Chronic Care Management to advise the Board on ways to increase the effectiveness and efficiency of rehabilitation and chronic care management in the health care system.

(2) **MEMBERSHIP.**—The membership of the committee shall include rehabilitation professionals, consumers, and health policy professionals.

(h) **TEMPORARY COMMITTEES.**—The Board is authorized to appoint such temporary professional and technical committees as it deems necessary to advise it on special problems not encompassed in the assignments of standing committees appointed under this section or to supplement the advice of standing committees.

(i) **REPORTING.**—Committees appointed under this section shall report from time to time (but not less often than biannually) to the Board, and copies of their reports shall be transmitted by the Board to the American Health Security Advisory Council and be made readily available to the public.

(j) **COMPENSATION.**—All members of the committees established under this section shall be reimbursed by the Board for travel and per diem in lieu of subsistence expenses during the performance of duties of the Board in accordance with subchapter I of chapter 57 of title 5, United States Code.

(k) **ADVICE FROM PROSPECTIVE PAYMENT ASSESSMENT COMMISSION, PRACTITIONER PAYMENT REVIEW COMMISSION, ETC.**—For provisions relating to role of certain commissions in reviewing payment rates, see section 620.

**SEC. 404. AMERICAN HEALTH SECURITY QUALITY COUNCIL.**

(a) **ESTABLISHMENT.**—There is hereby established an American Health Security Quality Council.

(b) **APPOINTMENT AND TERMS OF MEMBERS.**—

(1) **IN GENERAL.**—The Council shall be composed of 10 members appointed by the President. The President shall first appoint individuals on a timely basis so as to provide for the operation of the Council by not later than January 1, 1994.

(2) **SELECTION OF MEMBERS.**—Each member of the Council shall be a member of a health profession. Five members of the Council shall be physicians. Physician members of the Council shall be appointed to the Council on the basis of national reputations for clinical and academic excellence. In appointing individuals, the President shall assure significant representation of consumers of health services.

(3) **TERMS OF MEMBERS.**—Individuals appointed to the Council shall serve for a term of 5 years, except that the terms of 4 of the individuals initially appointed shall be, as designated by the President at the time of their appointment, for 1, 2, 3, and 4 years.

(c) **VACANCIES.**—

(1) **IN GENERAL.**—The President shall fill any vacancy in the membership of the Council in the same manner as the original appointment. The vacancy shall not affect the

power of the remaining members to execute the duties of the Council.

(2) **VACANCY APPOINTMENTS.**—Any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor of the member was appointed.

(3) **REAPPOINTMENT.**—The President may reappoint a member of the Council for a second term in the same manner as the original appointment. A member who has served for two consecutive 5-year terms shall not be eligible for reappointment until two years after the member has ceased to serve.

(d) **CHAIR.**—The President shall designate one of the members of the Council to serve at the will of the President as Chair of the Council.

(e) **COMPENSATION.**—Members of the Council who are not employees of the Federal Government shall be entitled to compensation at a level equivalent to level III of the Executive Schedule, in accordance with section 5313 of title 5, United States Code.

(f) **GENERAL DUTIES OF THE COUNCIL.**—The Council is responsible for quality review activities under title V. The Council shall report to the Board annually on the conduct of activities under such title.

#### SEC. 405. STATE HEALTH SECURITY PROGRAMS.

##### (a) SUBMISSION OF PLANS.—

(1) **IN GENERAL.**—Each State shall submit to the Board a plan for a State health security program for providing for health care services to the residents of the State in accordance with this Act.

(2) **REGIONAL PROGRAMS.**—A State may join with one or more neighboring States to submit to the Board a plan for a regional health security program instead of separate State health security programs.

(3) **REGIONAL PLANNING MECHANISMS.**—The Board shall provide incentives for States to develop regional planning mechanisms to promote the rational distribution of, adequate access to, and efficient use of, tertiary care facilities, equipment, and services.

##### (b) REVIEW AND APPROVAL OF PLANS.—

(1) **IN GENERAL.**—The Board shall review plans submitted under subsection (a) and determine whether such plans meet the requirements for approval. The Board shall not approve such a plan unless it finds that the plan (or State law) provides, consistent with the provisions of this Act, for the following:

(A) Payment for required health services for eligible individuals in the State in accordance with this Act.

(B) Establishment of a State Health Security Advisory Council, in accordance with subsection (d).

(C) Adequate administration, including the designation of a single State agency responsible for the administration (or supervision of the administration) of the program.

(D) The establishment of a State health security budget and establishment of an approval process for capital expenditures.

(E) Establishment of payment methodologies (consistent with subtitle B of title VI).

(F) Assurances that individuals have the freedom to choose practitioners and other health care providers for services covered under this Act.

(G) A procedure for carrying out long-term regional management and planning functions, including establishment of District Health Advisory Councils in accordance with section 406, with respect to the delivery and distribution of health care services that—

(i) ensures participation of consumers of health services and providers of health services,

(ii) takes into account the recommendations of District Health Advisory Councils under section 406, and

(iii) gives priority to the most acute shortages and maldistributions of health personnel and facilities and the most serious deficiencies in the delivery of covered services and to the means for the speedy alleviation of these shortcomings, and

(iv) encourages the integration of preventive public health and primary care services, incorporating epidemiologic data and community-based clinical results.

(H) The licensure and regulation of all health providers and facilities to ensure compliance with Federal and State laws and to promote quality of care.

(I) Establishment of a quality review system in accordance with section 502.

(J) Establishment of an independent ombudsman for consumers to register complaints about the organization and administration of the State health security program and to help resolve complaints and disputes between consumers and providers.

(K) Publication of an annual report on the operation of the State health security program, which report shall include information on cost, progress toward achieving full enrollment, public access to health services, quality improvement, health outcomes, health professional training, and the needs of medically underserved populations.

(L) Provision of a fraud and abuse prevention and control unit that the Inspector General determines meets the requirements of section 413(a).

(M) Provision that—

(i) all claims or requests for payment for services shall be accompanied by the unique provider identifier assigned under section 414(a) to the provider and the unique patient identifier assigned to the individual under section 414(b);

(ii) no payment shall be made under the program for the provision of health care services by any provider unless the provider has furnished the program with the unique provider identifier assigned under section 414(a);

(iii) the plan shall use the unique patient identifier assigned under section 414(b) to an individual as the identifier of the individual in the processing of claims and other purposes (as specified by the Board); and

(iv) queries made under section 412(c)(2) shall be made using the unique provider identifier specified under section 414(a).

(N) Prohibit payment in cases of prohibited physician referrals under section 304.

(O) Effective January 1, 2000, provide for use of a uniform electronic data base in accordance with section 504(a).

(2) **CONSEQUENCES OF FAILURE TO COMPLY.**—If the Board finds that a State plan submitted under paragraph (1) does not meet the requirements for approval under this section or that a State health security program or specific portion of such program, the plan for which was previously approved, no longer meets such requirements, the Board shall provide notice to the State of such failure and that unless corrective action is taken within a period specified by the Board, the Board shall place the State health security program (or specific portions of such program) in receivership under the jurisdiction of the Board.

##### (c) STATE HEALTH SECURITY ADVISORY COUNCILS.—

(1) **IN GENERAL.**—For each State, the Governor shall provide for appointment of a State Health Security Advisory Council to advise and make recommendations to the Governor and State with respect to the implementation of the State health security program in the State.

(2) **MEMBERSHIP.**—Each State Health Security Advisory Council shall be composed of at least 11 individuals. The appointed members shall include individuals who are representative of the State health security program, public health professionals, providers of health services, and of individuals (who shall constitute a majority) who are representative of consumers of such services, including a balanced representation of employers, unions and consumer organizations.

##### (3) DUTIES.—

(A) **IN GENERAL.**—Each State Health Security Advisory Council shall review, and submit comments to the Governor concerning the implementation of the State health security program in the State.

(B) **ASSISTANCE.**—Each State Health Security Advisory Council shall provide assistance and technical support to community organizations and public and private non-profit agencies submitting applications for funding under appropriate State and Federal public health programs, with particular emphasis placed on assisting those applicants with broad consumer representation.

##### (d) STATE USE OF FISCAL AGENTS.—

(1) **IN GENERAL.**—Each State health security program, using competitive bidding procedures, may enter into such contracts with qualified entities, such as voluntary associations, as the State determines to be appropriate to process claims and to perform other related functions of fiscal agents under the State health security program.

(2) **RESTRICTION.**—Except as the Board may provide for good cause shown, in no case may more than one contract described in paragraph (1) be entered into under a State health security program.

#### SEC. 406. DISTRICT HEALTH ADVISORY COUNCILS.

(a) **IN GENERAL.**—Subject to subsection (d), each State health security program shall establish district health advisory councils covering distinct geographic areas for the purposes of—

(1) advising and making recommendations to the State with respect to implementation of the program in the geographic area served by a council;

(2) receiving and investigating complaints by eligible persons and by providers of services concerning the administration of the program and of taking or recommending appropriate corrective action; and

(3) carrying out district management and planning functions with the State health security program, including—

(A) assessing the health needs of the district;

(B) assessing the quality, supply, and distribution of health resources, including acute care hospitals, specialized inpatient facilities, outpatient facilities, trained health care personnel, the availability of specialized medical equipment, and home and community-based health programs;

(C) assessing the need for services to medically underserved areas to achieve equitable access to care;

(D) advising on restructuring the health delivery system, including reductions in excess capacity, shifting from institutional to ambulatory care, and other means of achieving efficiencies;

(E) advising on funding for new and expanded programs, including capital expenditures;

(F) meeting at least biannually with representatives of the State health security program (i) to determine the goals and priorities for meeting health care needs and (ii) to plan for the efficient and effective use of health resources within the district; and

(G) establishing a strategy to implement such goals and priorities.

(b) MEMBERSHIP.—Each district health advisory council shall be composed of individuals, appointed by the Governor of the State, who include representatives of local public health programs, public health professionals, providers of health services, and of persons (who shall constitute a majority) who are representative of consumers of such services, including a balanced representation of employers, unions, and consumer organizations and population groups with special health needs. The Governor shall consult with the State Health Security Advisory Council and local officials in the appointment of district health advisory councils.

(c) GRANT ASSISTANCE.—Each district health advisory council shall provide assistance and technical support to community organizations and public and private non-profit agencies submitting applications for funding under appropriate State and Federal public health programs, with particular emphasis placed on assisting those applicants with broad consumer representation.

(d) USE OF STATE HEALTH SECURITY ADVISORY COUNCIL.—

(1) IN GENERAL.—Subject to paragraph (2), the Board may waive the requirement that a State establish district health advisory councils if the State demonstrates to the satisfaction of the Board that—

(A) the establishment of such councils in the State is unnecessary because of the State's size or population;

(B) the membership of the State Health Security Advisory Council established under section 405(d) is consistent with the requirements for membership of such a council under subsection (b); and

(C) such Council will perform the functions of a district health advisory council under subsections (a) and (c).

(2) PERFORMANCE OF COUNCIL FUNCTIONS.—If the Board waives requirements with respect to a State under paragraph (1), the State Health Security Advisory Council shall perform, with respect to the entire State, the functions of a district health advisory council under subsections (a) and (c).

**SEC. 407. COMPLEMENTARY CONDUCT OF RELATED HEALTH PROGRAMS.**

In performing functions with respect to health personnel education and training, health research, environmental health, disability insurance, vocational rehabilitation, the regulation of food and drugs, and all other matters pertaining to health, the Secretary of Health and Human Services shall direct all activities of the Department of Health and Human Services toward contributions to the health of the people complementary to this Act.

**Subtitle B—Control Over Fraud and Abuse**

**SEC. 411. APPLICATION OF FEDERAL SANCTIONS TO ALL FRAUD AND ABUSE UNDER AMERICAN HEALTH SECURITY PROGRAM.**

The following sections of the Social Security Act shall apply to State health security programs in the same manner as they apply to State medical assistance plans under title XIX of such Act (except that in applying such provisions any reference to the Secretary is deemed a reference to the Board):

(1) Section 1128 (relating to exclusion of individuals and entities).

(2) Section 1128A (civil monetary penalties).

(3) Section 1128B (criminal penalties).

(4) Section 1124 (relating to disclosure of ownership and related information).

(5) Section 1126 (relating to disclosure of certain owners).

**SEC. 412. NATIONAL HEALTH CARE FRAUD DATA BASE.**

(a) ESTABLISHMENT.—The American Health Security Standards Board, through the Inspector General, shall establish a national data base (in this section referred to as the "data base") containing information relating to health care fraud and abuse.

(b) DATA INCLUDED.—

(1) IN GENERAL.—The data base shall include such information as the Inspector General, in consultation with the Board, shall specify, and shall include at least the information described in paragraph (2).

(2) SPECIFIED INFORMATION.—The information specified in this paragraph is, with respect to providers of health care services, the identity of any provider—

(A) that has been convicted of a crime for which the provider may be excluded from participation under a health program (as defined in paragraph (3));

(B) whose license to provide health care has been revoked or suspended (as described in section 1128(b)(5) of the Social Security Act);

(C) that has been excluded or suspended from a health program under section 1128 of the Social Security Act or from any other Federal or State health care program;

(D) with respect to whom a civil money penalty has been imposed under this Act or the Social Security Act; or

(E) that otherwise is subject to exclusion from participation under a health program.

(3) HEALTH PROGRAM DEFINED.—In this section, the term "health program" means a State health security program and includes the medicare program (under title XVIII of the Social Security Act) and a State health care program (as defined in section 1128(h) of such Act).

(c) REPORTING REQUIREMENT.—

(1) REPORTING.—Each State health security program shall provide such information to the Inspector General as the Inspector General may require in order to carry out fraud and abuse control activities and for purposes of maintaining the data base.

(2) QUERYING.—In accordance with rules established by the Board (in consultation with the Inspector General), each State health security program shall query periodically (as specified by the Inspector General)—

(A) the data base to determine if providers of health services for which the program makes payment are not disqualified from providing such services; and

(B) the Secretary of Health and Human Services, concerning information obtained by the Secretary under part B of the Health Care Quality Improvement Act of 1986 relating to practitioners.

(3) COORDINATION WITH MALPRACTICE DATA BASE.—The Secretary of Health and Human Services shall provide for the coordination of the reporting and disclosure of information under this section with information under part B of the Health Care Quality Improvement Act of 1986.

(4) UNIFORM MANNER.—Information shall be reported under this subsection in a uniform manner (in accordance with standards of the Inspector General) that permits aggregation of reported information.

(5) ACCESS FOR AUDIT.—Each State health security program shall provide the Inspector General such access to information as may be required to verify the information reported under this subsection.

(6) PENALTY FOR FALSE INFORMATION.—Any person that submits false information required to be provided under this subsection or that denies access to information under paragraph (5) may be imprisoned for not

more than 5 years, or fined, or both, in accordance with title 18, United States Code.

(7) CONFIDENTIALITY.—The Board shall establish rules that protect the confidentiality of the information in the data base.

**SEC. 413. REQUIREMENTS FOR OPERATION OF STATE HEALTH CARE FRAUD AND ABUSE CONTROL UNITS.**

(a) REQUIREMENT.—In order to meet the requirement of section 405(b)(1)(L), each State health security program must establish and maintain a health care fraud and abuse control unit (in this section referred to as a "fraud unit") that meets requirements of this section and other requirements of the Board. Such a unit may be a State medicare fraud control unit (described in section 1903(q) of the Social Security Act).

(b) STRUCTURE OF UNIT.—The fraud unit must—

(1) be a single identifiable entity of the State government;

(2) be separate and distinct from the State agency with principal responsibility for the administration of the State health security program; and

(3) meet 1 of the following requirements:

(A) It must be a unit of the office of the State Attorney General or of another department of State government which possesses statewide authority to prosecute individuals for criminal violations.

(B) If it is in a State the constitution of which does not provide for the criminal prosecution of individuals by a statewide authority and has formal procedures, approved by the Board, that (i) assure its referral of suspected criminal violations relating to the State health insurance plan to the appropriate authority or authorities in the States for prosecution, and (ii) assure its assistance of, and coordination with, such authority or authorities in such prosecutions.

(C) It must have a formal working relationship with the office of the State Attorney General and have formal procedures (including procedures for its referral of suspected criminal violations to such office) which are approved by the Board and which provide effective coordination of activities between the fraud unit and such office with respect to the detection, investigation, and prosecution of suspected criminal violations relating to the State health insurance plan.

(c) FUNCTIONS.—The fraud unit must—

(1) have the function of conducting a statewide program for the investigation and prosecution of violations of all applicable State laws regarding any and all aspects of fraud in connection with any aspect of the provision of health care services and activities of providers of such services under the State health security program;

(2) have procedures for reviewing complaints of the abuse and neglect of patients of providers and facilities that receive payments under the State health security program, and, where appropriate, for acting upon such complaints under the criminal laws of the State or for referring them to other State agencies for action; and

(3) provide for the collection, or referral for collection to a single State agency, of overpayments that are made under the State health security program to providers and that are discovered by the fraud unit in carrying out its activities.

(d) RESOURCES.—The fraud unit must—

(1) employ such auditors, attorneys, investigators, and other necessary personnel,

(2) be organized in such a manner, and

(3) provide sufficient resources (as specified by the Board),

as is necessary to promote the effective and efficient conduct of the unit's activities.

(e) COOPERATIVE AGREEMENTS.—The fraud unit must have cooperative agreements (as specified by the Board) with—

- (1) similar fraud units in other States,
- (2) the Inspector General, and
- (3) the Attorney General of the United States.

(f) REPORTS.—The fraud unit must submit to the Inspector General an application and annual reports containing such information as the Inspector General determines to be necessary to determine whether the unit meets the previous requirements of this section.

**SEC. 414. ASSIGNMENT OF UNIQUE PROVIDER AND PATIENT IDENTIFIERS.**

(a) PROVIDER IDENTIFIERS.—

(1) IN GENERAL.—The Board shall provide for the assignment, to each individual or entity providing health care services under a State health security program, of a unique provider identifier.

(2) RESPONSE TO QUERIES.—Upon the request of a State health security program with respect to a provider, the Board shall provide the program with the unique provider identifier (if any) assigned to the provider under paragraph (1).

(b) PATIENT IDENTIFIERS.—The Board shall provide for the assignment, to each eligible individual, of a unique patient identifier. The identifier so assigned may be the Social Security account number of the individual.

(c) REQUIREMENT TO USE IDENTIFIERS.—Each State health security program is required under section 405(b)(1)(M) to use the unique identifiers assigned under this section.

**TITLE V—QUALITY ASSESSMENT**

**SEC. 501. FUNCTIONS OF QUALITY COUNCIL; DEVELOPMENT OF PRACTICE GUIDELINES AND APPLICATION TO OUTLIERS.**

(a) DEVELOPMENT OF PRACTICE GUIDELINES.—The American Health Security Quality Council (in this title referred to as the "Council")—

(1) shall collect data from outcomes research (whether conducted by the Federal Government or other entities), and

(2) on the basis of such data and existing clinical knowledge, shall develop practice guidelines.

Such guidelines may vary based upon the area in which the services are provided and the degree of training, specialization, or similar characteristics of providers.

(b) PROFILING OF PATTERNS OF PRACTICE; IDENTIFICATION OF OUTLIERS.—The Council shall adopt methodologies for profiling the patterns of practice of health care professionals and for identifying outliers (as defined in subsection (f)).

(c) CENTERS OF EXCELLENCE.—The Council shall develop guidelines for certain medical procedures designated by the Board to be performed only at tertiary care centers which can meet standards for frequency of procedure performance and intensity of support mechanisms that are consistent with the high probability of desired patient outcome. Reimbursement under this Act for such a designated procedure may only be provided if the procedure was performed at a center that meets such standards.

(d) REMEDIAL ACTIONS.—The Council shall develop standards for education and sanctions with respect to outliers so as to assure the quality of health care services provided under this Act.

(e) DISSEMINATION.—The Council shall disseminate to the State health security program—

- (1) the guidelines developed under subsections (a) and (c),

(2) the methodologies adopted under subsection (b), and

(3) the standards developed under subsection (d),

for use by the States under section 502.

(f) OUTLIER DEFINED.—In this title, the term "outlier" means a health care practitioner whose pattern of practice, relative to applicable practice guidelines, suggests deficiencies in the quality of health care services being provided.

**SEC. 502. STATE QUALITY REVIEW PROGRAMS.**

(a) REQUIREMENT.—In order to meet the requirement of section 405(b)(1)(L), each State health security program shall establish one or more qualified entities to conduct quality reviews of persons providing covered services under the program, in accordance with standards established under subsection (b)(1) (except as provided in subsection (b)(2)) and subsection (d).

(b) FEDERAL STANDARDS.—

(1) IN GENERAL.—The Board shall establish standards with respect to—

(A) the adoption of practice guidelines (developed under section 501(a)),

(B) the identification of outliers (consistent with methodologies adopted under section 501(b)),

(C) the development of remedial programs and monitoring for outliers, and

(D) the application of sanctions (consistent with the standards developed under section 501(d)).

(2) STATE DISCRETION.—A State may apply under subsection (a) standards other than those established under paragraph (1) so long as the State demonstrates to the satisfaction of the Council on an annual basis that the standards applied have been as efficacious in promoting and achieving quality of care as the application of the standards established under paragraph (1).

(c) QUALIFICATIONS.—

(1) IN GENERAL.—An entity is not qualified to conduct quality reviews under subsection (a) unless the entity—

(A) is administratively independent of the individual or board that administers the State health security program, and

(B) does not provide any financial incentive to reviewers to favor one pattern of practice over another.

(2) PROVIDER-SPECIFIC ENTITIES.—Subject to paragraph (1), a State may provide that an individual hospital (or other institutional provider) may serve as a qualified entity to conduct quality reviews under subsection (a).

**SEC. 503. CERTIFICATION; UTILIZATION REVIEW; PLANS OF CARE.**

(a) CERTIFICATIONS.—State health security programs may require, as a condition of payment for institutional health care services and other services of the type described in such sections 1814(a) and 1835(a) of the Social Security Act, periodic professional certifications of the kind described in such sections.

(b) REQUIREMENTS AND STANDARDS FOR UTILIZATION REVIEW.—

(1) USE OF UTILIZATION REVIEW PERMITTED.—A State health security program may—

(A) establish a utilization review program (as defined in paragraph (4)), and

(B) deny coverage (and payment) for services to the extent the services are determined under such a utilization review program not to meet the coverage standards specified in section 201(a), but only if the program meets the standards established by the Board under paragraph (2).

(2) STANDARDS FOR UTILIZATION REVIEW PROGRAMS.—

(A) IN GENERAL.—The Board shall provide, by regulation, for the establishment of Federal standards for utilization review programs conducted by State health security programs. Such standards shall be designed to assure the cost-effective and medically appropriate use of services consistent with coverage standards specified in section 201(a).

(B) TYPES OF STANDARDS.—Such standards shall be established, consistent with subparagraph (C), with respect to at least each of the following aspects of utilization review programs:

(i) The qualification of those who may perform utilization review activities.

(ii) The standards to be applied in performing utilization review.

(iii) The timeliness in which utilization review determinations (and appeals with respect to such determinations) are to be made.

(iv) An appeals (or alternative dispute resolution) process which provides a fair opportunity for individuals adversely affected by a utilization review determination (or their families or care coordinators) to have such a determination reviewed.

(v) Protection for the confidentiality of individually-identifiable information used in the process, consistent with Federal and State laws.

(C) STANDARDS.—The standards established under this paragraph shall include the following:

(i) The individuals making final determinations (and determining appeals) concerning the utilization of services provided by members of a health profession shall be members of the same profession (or in an associated field, as determined by the Board).

(ii) The utilization criteria to be applied shall be provided to patients, providers, and care coordinators upon request and a written explanation of the basis for any denial of payment based upon such a review shall be provided to the patient, provider, or care coordinator upon request.

(iii) Utilization review and appeals shall be conducted promptly in order not to disrupt a course of treatment and providers shall not deny necessary care while a review or appeal is pending.

(iv) The system may not provide a monetary incentive for those conducting utilization review activities to deny or reduce payment for services.

(v) The medical personnel performing reviews shall be accessible by telephone to the providers whose services they review.

(D) USE OF GUIDELINES.—Such standards shall be consistent with the provisions of section 204(d) (relating to application of national practice guidelines).

(3) NO REQUIREMENT FOR ROUTINE UTILIZATION REVIEW.—Nothing in this title shall be construed to require or authorize a State health security program to provide for utilization review as a routine practice in all cases.

(4) UTILIZATION REVIEW PROGRAM.—In this title, the term "utilization review program" means a system of reviewing the medical necessity and appropriateness (including the appropriateness of the setting) of patient services (which may include inpatient and outpatient services) using specified guidelines. Such a system may include preadmission certification, the application of practice guidelines, the profiling of practice patterns, continued stay review, discharge planning, preauthorization of ambulatory procedures, and retrospective review.

(c) PLAN OF CARE REQUIREMENTS.—A State health security program may require, con-

sistent with standards established by the Board, that payment for services exceeding specified levels or duration be provided only as consistent with a plan of care or treatment formulated by one or more providers of the services or other qualified professionals. Such a plan may include, consistent with subsection (b), utilization review at specified intervals as a further condition of payment for services.

**SEC. 504. DEVELOPMENT OF NATIONAL ELECTRONIC DATA BASE.**

(a) **USE BY STATES.**—In order to meet the requirement of this section, for purposes of section 405(b)(1)(D), each State health security program shall develop and use a uniform electronic data base which uses the software designated under subsection (b) and which assures confidentiality under subsection (c), for all patient records in order to enable systematic quality review and outcomes analysis. Subject to subsection (c), data in such data base shall be made available, under rules established by the Board, in order to facilitate the portability of patient records and comparative outcomes research analysis.

(b) **UNIFORM SOFTWARE.**—The Board shall designate the uniform software that shall be used by States in the operation of their electronic data bases, in order to facilitate the portability of patient records and comparative outcomes research analysis. The Board shall not grant any waiver of the requirement of the previous sentence.

(c) **CONFIDENTIALITY.**—The Board shall establish standards that are designed to protect the privacy and otherwise shield the identity of the patients whose records are included in the data base. Under such standards, government agencies shall not have access to information in the data base that will identify individual patients except in cases of quality review procedures which require that individual patients be informed of necessary changes in their treatment.

**TITLE VI—HEALTH SECURITY BUDGET; PAYMENTS; COST CONTAINMENT MEASURES**

**Subtitle A—Budgeting and Payments to States**

**SEC. 601. AMERICAN HEALTH SECURITY BUDGET.**

(a) **AMERICAN HEALTH SECURITY BUDGET.**—

(1) **IN GENERAL.**—By not later than September 1 before the beginning of each year (beginning with 1995), the Board shall establish an American health security budget, which—

(A) specifies the total expenditures (including expenditures for administrative costs) to be made by the Federal Government and the States for covered health care services under this Act, and

(B) allocates those expenditures among the States consistent with section 604.

Pursuant to subsection (b), such budget for a year shall not exceed the budget for the preceding year increased by the percentage increase in gross domestic product.

(2) **DIVISION OF BUDGET INTO COMPONENTS.**—The American health security budget shall consist of 4 components:

(A) A component for capital expenditures.

(B) A component for health professional education expenditures.

(C) A component for administrative costs.

(D) A component (in this title referred to as the "operating component") for operating and other expenditures not described in subparagraphs (A) through (C) consisting of amounts not included in the other components.

(3) **ALLOCATION AMONG COMPONENTS.**—Taking into account the State health security

budgets established and submitted under section 603, the Board shall allocate the American health security budget among the components in a manner that—

(A) assures that the capital expenditure component is sufficient to meet the need for covered health care services (consistent with the national health security spending growth limit); and

(B) assures that the health professional education expenditure component is sufficient to provide for the amount of health professional education expenditures sufficient to meet the need for covered health care services (consistent with the national health security spending growth limit under subsection (b)(2)).

(b) **BASIS FOR TOTAL EXPENDITURES.**—

(1) **IN GENERAL.**—The total expenditures specified in such budget shall be the sum of the capitation amounts computed under section 602(a) and the amount of Federal administrative expenditures needed to carry out this Act.

(2) **NATIONAL HEALTH SECURITY SPENDING GROWTH LIMIT.**—For purposes of this subtitle, the national health security spending growth limit described in this paragraph for a year is zero, or, if greater, the percentage increase in the gross domestic product (in current dollars) from the first quarter of the second previous year to the first quarter of the previous year.

(c) **DEFINITIONS.**—In this title:

(1) **CAPITAL EXPENDITURES.**—The term "capital expenditures" means expenses for the purchase, lease, construction, or renovation of capital facilities and for equipment and includes return on equity capital.

(2) **HEALTH PROFESSIONAL EDUCATION EXPENDITURES.**—The term "health professional education expenditures" means expenditures in hospitals and other health care facilities to cover operating and capital costs associated with teaching and related research activities.

**SEC. 602. COMPUTATION OF INDIVIDUAL AND STATE CAPITATION AMOUNTS.**

(a) **CAPITATION AMOUNTS.**—

(1) **INDIVIDUAL CAPITATION AMOUNTS.**—In establishing the American health security budget under section 601(a) and in computing the national average per capita cost under subsection (b) for each year, the Board shall establish a method for computing the capitation amount for each eligible individual residing in each State. The capitation amount for an eligible individual in a State classified within a risk group (established under subsection (d)(2)) is the product of—

(A) a national average per capita cost for all covered health care services (computed under subsection (b)),

(B) the State adjustment factor (established under subsection (c)) for the State, and

(C) the risk adjustment factor (established under subsection (d)) for the risk group.

(2) **STATE CAPITATION AMOUNT.**—

(A) **IN GENERAL.**—For purposes of this title, the term "State capitation amount" means, for a State for a year, the sum of the capitation amounts computed under paragraph (1) for all the residents of the State in the year, as estimated by the Board before the beginning of the year involved.

(B) **USE OF STATISTICAL MODEL.**—The Board may provide for the computation of State capitation amounts based on statistical models that fairly reflect the elements that comprise the State capitation amount described in subparagraph (A).

(C) **POPULATION INFORMATION.**—The Bureau of the Census shall assist the Board in deter-

mining the number, place of residence, and risk group classification of eligible individuals.

(b) **COMPUTATION OF NATIONAL AVERAGE PER CAPITA COST.**—

(1) **FOR 1995.**—For 1995, the national average per capita cost under this paragraph is equal to—

(A) the average per capita health care expenditures in the United States in 1993 (as estimated by the Board),

(B) increased to 1994 by the Board's estimate of the actual amount of such per capita expenditures during 1994, and

(C) updated to 1995 by the national health security spending growth limit specified in section 601(b)(2) for 1995.

(2) **FOR SUCCEEDING YEARS.**—For each succeeding year, the national average per capita cost under this subsection is equal to the national average per capita cost computed under this subsection for the previous year increased by the national health security spending growth limit (specified in section 601(b)(2)) for the year involved.

(c) **STATE ADJUSTMENT FACTORS.**—

(1) **IN GENERAL.**—Subject to the succeeding paragraphs of this subsection, the Board shall develop for each State a factor to adjust the national average per capita costs to reflect differences between the State and the United States in—

(A) average labor and nonlabor costs that are necessary to provide covered health services;

(B) any social, environmental, or geographic condition affecting health status or the need for health care services, to the extent such a condition is not taken into account in the establishment of risk groups under subsection (d);

(C) the geographic distribution of the State's population, particularly the proportion of the population residing in medically underserved areas, to the extent such a condition is not taken into account in the establishment of risk groups under subsection (d); and

(D) any other factor relating to operating costs required to assure equitable distribution of funds among the States.

(2) **MODIFICATION OF CAPITAL EXPENDITURE COMPONENT.**—With respect to the portion of the national budget allocated to capital expenditures, the Board shall modify the State adjustment factors so as to take into account—

(A) differences among States in obligations for capital expenditures entered into before the date of the enactment of this Act, and

(B) differences among States in their relative need for capital expenditures among the States and the availability of tertiary care centers and centers of excellence in neighboring States, taking into account the capital expenditures proposed in State health security budgets under section 603(a).

(3) **MODIFICATION OF HEALTH PROFESSIONAL EDUCATION COMPONENT.**—With respect to the portion of the American health security budget allocated to expenditures for health professional education, the Board shall modify the State adjustment factors so as to take into account—

(A) differences among States in health professional education programs in operation as of the date of the enactment of this Act, and

(B) differences among States in their relative need for expenditures for health professional education, taking into account the health professional education expenditures proposed in State health security budgets under section 603(a).

(4) **BUDGET NEUTRALITY.**—The State adjustment factors, as modified under paragraphs

(2) and (3), shall be applied under this subsection in a manner that results in neither an increase nor a decrease in the total amount of the Federal contributions to all State health security programs under subsection (b) as a result of the application of such factors.

(5) PHASE-IN.—In applying State adjustment factors under this subsection during the five-year period beginning with 1995, the Board shall phase-in, over such period, the use of factors described in paragraph (1) in a manner so that the adjustment factor for a State is based on a blend of such factors and a factor that reflects the relative actual average per capita costs of health services of the different States as of the time of enactment of this Act.

(6) PERIODIC ADJUSTMENT.—In establishing the national health security budget before the beginning of each year, the Board shall provide for appropriate adjustments in the State adjustment factors under this subsection.

(d) ADJUSTMENTS FOR RISK GROUP CLASSIFICATION.—

(1) IN GENERAL.—The Board shall develop an adjustment factor to the national average per capita costs computed under subsection (b) for individuals classified in each risk group (as designated under paragraph (2)) to reflect the difference between the average national average per capita costs and the national average per capita cost for individuals classified in the risk group.

(2) RISK GROUPS.—The Board shall designate a series of risk groups, determined by age, health indicators, and other factors that represent distinct patterns of health care services utilization and costs.

(3) PERIODIC ADJUSTMENT.—In establishing the national health security budget before the beginning of each year, the Board shall provide for appropriate adjustments in the risk adjustment factors under this subsection.

#### SEC. 603. STATE HEALTH SECURITY BUDGETS.

(a) ESTABLISHMENT AND SUBMISSION OF BUDGETS.—

(1) IN GENERAL.—Each State health security program shall establish and submit to the Board for each year a proposed and a final State health security budget, which specifies the following:

(A) The total expenditures (including expenditures for administrative costs) to be made under the program in the State for covered health care services under this Act, consistent with subsection (b), broken down as follows:

(i) By the 4 components (described in section 601(a)(2)), consistent with subsection (b).

(ii) Within the operating component—

(I) expenditures for operating costs of hospitals, nursing facilities, and other facility-based services in the State,

(II) expenditures for payment to comprehensive health service organizations,

(III) expenditures for payment of services provided by health care practitioners, and

(IV) expenditures for other covered items and services.

(B) The total revenues required to meet the State health security expenditures.

(2) PROPOSED BUDGET DEADLINE.—The proposed budget for a year shall be submitted under paragraph (1) not later than June 1 before the year.

(3) FINAL BUDGET.—The final budget for a year shall—

(A) be established and submitted under paragraph (1) not later than October 1 before the year, and

(B) take into account the amounts established under the national health security budget under section 601 for the year.

(4) ADJUSTMENT IN ALLOCATIONS PERMITTED.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), in the case of a final budget, a State may change the allocation of amounts among components.

(B) NOTICE.—No such change may be made unless the State has provided prior notice of the change to the Board.

(C) DENIAL.—Such a change may not be made if the Board, within such time period as the Board specifies, disapproves such change.

(b) EXPENDITURE LIMITS.—

(1) IN GENERAL.—The total expenditures specified in each State health security budget under subsection (a)(1) shall take into account Federal contributions made under section 604.

(2) LIMIT ON CLAIMS PROCESSING AND BILLING EXPENDITURES.—Each State health security budget shall provide that State administrative expenditures, including expenditures for claims processing and billing, shall not exceed 3 percent of the total expenditures under the State health security program, unless the Board determines, on a case-by-case basis, that additional administrative expenditures would improve health care quality and cost effectiveness.

(3) WORKER ASSISTANCE.—A State health security program may provide that, for budgets for years before 2000, up to 1 percent of the budget may be used for purposes of programs providing assistance to workers who are currently performing functions in the administration of the health insurance system and who may experience economic dislocation as a result of the implementation of the program.

#### SEC. 604. FEDERAL PAYMENTS TO STATES.

(a) IN GENERAL.—Each State with an approved State health security program is entitled to receive, from amounts in the American Health Security Trust Fund, on a monthly basis each year, of an amount equal to one-twelfth of the product of—

(1) the State capitation amount (computed under section 602(a)(2)) for the State for the year, and

(2) the Federal contribution percentage (established under subsection (b)).

(b) FEDERAL CONTRIBUTION PERCENTAGE.—The Board shall establish a formula for the establishment of a Federal contribution percentage for each State. Such formula shall take into consideration a State's per capita income and revenue capacity and such other relevant economic indicators as the Board determines to be appropriate. In addition, during the 5-year period beginning with 1995, the Board may provide for a transition adjustment to the formula in order to take into account current expenditures by the State (and local governments thereof) for health services covered under the State health security program. The weighted-average Federal contribution percentage for all States shall equal 86 percent and in no event shall such percentage be less than 81 percent nor more than 91 percent.

(c) USE OF PAYMENTS.—All payments made under this section may only be used to carry out the State health security program.

(d) EFFECT OF SPENDING EXCESS OR SURPLUS.—

(1) SPENDING EXCESS.—If a State exceeds its budget in a given year, the State shall continue to fund covered health services from its own revenues.

(2) SURPLUS.—If a State provides all covered health services for less than the bud-

eted amount for a year, it may retain its Federal payment for that year for uses consistent with this Act.

#### SEC. 605. REQUIRED APPROVAL PROCESS FOR CAPITAL EXPENDITURES.

(a) PROCESS.—

(1) IN GENERAL.—Consistent with standards established under subsection (b), each State health security program shall provide for a process for the approval of capital expenditures (as defined in subsection (c)) in order—

(A) to meet the need for covered health care services consistent with State budgets and the development of medical technology,

(B) to establish an efficient balance between the need for services and the delivery of services, and

(C) to expand the delivery of services in medically underserved areas.

(2) CONDITIONS FOR APPROVAL.—No expenditures (including operating costs, rent, depreciation, and interest) may be approved by a State health security program to the extent they are attributable to a capital expenditure which was subject to, but was not approved under, such process.

(3) EFFECTIVE DATE.—Such process need not apply to capital expenditures with respect to which a binding obligation was entered into before the date of the enactment of this Act.

(b) STANDARDS FOR CAPITAL APPROVAL PROCESS.—

(1) IN GENERAL.—The Board shall specify standards for the process, to be implemented under each State health security program, for the approval of capital expenditures.

(2) REQUIREMENTS.—Under such standards, such process—

(A) if there is a limit on capital expenditures, shall assure that such expenditures are distributed geographically within a State taking into account at least the factors described in paragraph (3);

(B) shall assure that health care providers and consumers are provided reasonable opportunities for involvement in the process;

(C) may provide for such special consideration as the Board specifies in the case of institutions of national repute or other institutions disproportionately serving interstate populations;

(D) may provide for the special consideration of religious and charitable organizations that have raised voluntary contributions for such capital expenditures;

(E) may provide for such priorities for comprehensive health service organizations as the Board specifies; and

(F) may provide for limits on the distribution among different types of facilities or capital projects as the Board may find necessary in order to prevent significant maldistributions while retaining the maximum flexibility of States to provide for covered health services in each State.

(3) FACTORS.—The factors to be taken into account under this paragraph in the distribution of capital expenditures are as follows:

(A) The population of the different geographic areas within the State, its dispersion, and the risk characteristics (measured by health indicators), based on the risk factors described in section 603(d).

(B) The capital needs of the different geographic areas of the State in order to ensure adequate access to general and specialty services and technologies and to ensure medical effectiveness.

(C) The need to correct for historical maldistribution in the allocation of health care capital that preceded the enactment of this Act.

(c) CAPITAL EXPENDITURES DEFINED.—

(1) IN GENERAL.—In this Act, the term "capital expenditures" means expenses for the purchase, lease, construction, or renovation of capital facilities and for equipment valued at at least an amount (specified by the Board) or of a kind specified by the Board.

(2) INCLUSION OF ADDITIONAL EXPENDITURES.—A State health security program may require approval of capital expenditures not described in paragraph (1).

**SEC. 606. ACCOUNT FOR HEALTH PROFESSIONAL EDUCATION EXPENDITURES.**

(a) SEPARATE ACCOUNT.—Each State health security program shall—

(1) include a separate account for health professional education expenditures, and

(2) specify the general manner, consistent with subsection (b), in which such expenditures are to be distributed among different types of institutions and the different areas of the State.

(b) DISTRIBUTION RULES.—The distribution of funds to hospitals and other health care facilities from the account must conform to the following principles:

(1) The disbursement of funds must be consistent with achievement of the national and program goals (specified in section 801) within the State health security program and the distribution of funds from the account must be conditioned upon the receipt of such reports as the Board may require in order to monitor compliance with such goals.

(2) The distribution of funds from the account must take into account the potentially higher costs of placing health professional students in clinical education programs in health professional shortage areas.

**Subtitle B—Payments by States to Providers**  
**SEC. 611. PAYMENTS TO HOSPITALS AND NURSING FACILITY SERVICES FOR OPERATING EXPENSES ON THE BASIS OF APPROVED GLOBAL BUDGETS.**

(a) DIRECT PAYMENT UNDER GLOBAL BUDGET.—Payment for operating expenses for hospital services and nursing facility services under State health security programs shall be made directly to each hospital or nursing facility by each State health security program under an annual prospective global budget approved under the program. Such a budget shall include payment for outpatient care and non-facility-based care that is furnished by or through the facility. In the case of a hospital that is wholly owned (or controlled) by a comprehensive health service organization that is paid under section 614 on the basis of a global budget, the global budget of the organization shall include the budget for the hospital.

(b) ANNUAL NEGOTIATIONS; BUDGET APPROVAL.—

(1) IN GENERAL.—The prospective global budget for a hospital or nursing facility shall be developed through annual negotiations between the State health security program and the hospital or nursing facility and be based on a nationally uniform system of cost accounting established under standards of the Board.

(2) CONSIDERATIONS.—In developing a budget through negotiations, there shall be taken into account at least the following:

(A) With respect to inpatient hospital services, the number, and classification by diagnosis-related group, of discharges.

(B) A hospital's or nursing facility's past expenditures.

(C) Change in the consumer price index and other price indices.

(D) The cost of reasonable compensation to health care practitioners.

(E) The compensation level of the hospital's or nursing facility's workforce.

(F) The extent to which the hospital or nursing facility is providing health care services to meet the needs of residents in the area served by the hospital or nursing facility, including the hospital's or nursing facility's occupancy level.

(G) The hospital's or nursing facility's previous financial and clinical performance, based on utilization and outcomes data provided under this Act.

(H) The type of hospital or nursing facility, including whether the hospital or nursing facility is part of a clinical education program or serves a health professional education, research or other training purpose.

(I) Technological advances or changes.

(J) Costs of the hospital or nursing facility associated with meeting Federal and State regulations.

(K) The costs associated with necessary public outreach activities.

(L) In the case of a for-profit hospital or nursing facility, a reasonable rate of return on equity capital, independent of those operating expenses necessary to fulfill the objectives of this Act, reduced (consistent with subparagraph (M)) by any operating profit.

(M) Incentives to facilities that maintain costs below previous reasonable budgeted levels without reducing the care provided.

(N) With respect to hospitals or nursing facilities that provide mental health services and substance abuse treatment services, any additional costs involved in the treatment of dually diagnosed individuals.

The portion of such a budget that relates to expenditures for health professional education shall be consistent with the State health security budget for such expenditures.

(3) APPROVAL REQUIRED OF CAPITAL EXPENDITURES.—No expenditures may be approved as part of a budget of a hospital or nursing facility under this section to the extent they are attributable to an expenditure for a capital expenditure that was subject to, but was not approved under, the process described in section 605.

(4) REVIEW BY ADVISORY COUNCILS.—A State shall not approve a budget of a hospital or nursing facility unless, prior to such approval, the State Health Security Advisory Council and the appropriate district health advisory council have had an opportunity to review and submit any comments concerning the budget.

(5) PROVISION OF REQUIRED INFORMATION; DIAGNOSIS-RELATED GROUP.—No budget for a hospital or nursing facility for a year may be approved unless the hospital or nursing facility has submitted on a timely basis to the State health security program such information as the program or the Board shall specify, including in the case of hospitals information on discharges classified by diagnosis-related group.

(c) ADJUSTMENTS IN APPROVED BUDGETS.—

(1) ADJUSTMENTS TO GLOBAL BUDGETS THAT CONTRACT WITH COMPREHENSIVE HEALTH SERVICE ORGANIZATIONS.—Each State health security program shall develop an administrative mechanism for reducing operating funds to hospitals or nursing facilities in proportion to payments made to such hospitals or nursing facilities for services contracted for by a comprehensive health service organization.

(2) AMENDMENTS.—In accordance with standards established by the Board, an operating and capital budget approved under this section for a year may be amended before, during, or after the year if there is a substantial change in any of the factors relevant to budget approval.

(d) DONATIONS PERMISSIBLE.—The Board shall promulgate regulations permitting hos-

pitals and nursing facilities to raise funds from private sources to pay for newly constructed facilities, major renovations, and equipment. The expenditure of such funds, whether for operating or capital expenditures, does not obligate the State health security program to provide for continued support for such expenditures unless included in an approved global budget and, in the case of capital expenditures, unless approved under the process described in section 605.

**SEC. 612. PAYMENTS FOR OTHER FACILITY-BASED SERVICES.**

(a) IN GENERAL.—Payments under a State health security program for home health services, hospice care, home and community-based long term care services, and facility-based outpatient services (other than those described in section 611) shall be based on—

(1) a global budget (described in section 611),

(2) a capitation amount (described in subsection (c)),

(3) a fee schedule under section 613, or

(4) an alternative prospective payment method that is approved by the State health security program.

Such payments shall not include payments for capital expenditures, except as provided in subsection (b).

(b) CONSIDERATION IN ESTABLISHMENT OF CAPITATION AMOUNTS.—A capitation amount, fee schedule, or alternative prospective payment method established under subsection (a) for facility-based services shall—

(1) take into account the payment amounts established under section 613 for any related professional services, and

(2) be consistent with section 605(a)(2).

(c) CAPITATION AMOUNT.—

(1) IN GENERAL.—The capitation amount described in this subsection for an enrollee with a provider of services described in subsection (a), with respect to such services, shall be determined by the State health security program on the basis of the average amount of expenditures that is estimated would be made under the State health security program for such an enrollee, based on actuarial characteristics (as defined by the State health security program).

(2) ADJUSTMENT FOR SPECIAL HEALTH NEEDS.—The State health security program shall adjust such average amounts to take into account the special health needs, including a disproportionate number of medically underserved individuals, of populations served by the provider.

(3) ADJUSTMENT FOR SERVICES NOT PROVIDED.—The State health security program shall adjust such average amounts to take into account the cost of services covered by such enrollment that are not provided by the provider.

**SEC. 613. PAYMENTS TO HEALTH CARE PRACTITIONERS BASED ON PROSPECTIVE FEE SCHEDULE.**

(a) FEE FOR SERVICE.—

(1) IN GENERAL.—Every independent health care practitioner is entitled to be paid, for the provision of covered health services under the State health security program, a fee for each billable covered service.

(2) GLOBAL FEE PAYMENT METHODOLOGIES.—The Board shall establish models and encourage State health security programs to implement alternative payment methodologies that incorporate global fees for related services (such as all outpatient procedures for treatment of a condition) or for a basic group of services (such as primary care services) furnished to an individual over a period of time, in order to encourage continuity and efficiency in the provision of services. Such

methodologies shall be designed to ensure a high quality of care.

(3) **BILLING DEADLINES; ELECTRONIC BILLING.**—A State health security program may deny payment for any service of an independent health care practitioner for which it did not receive a bill and appropriate supporting documentation (which had been previously specified) within 30 days after the date the service was provided. Such a program may require that bills for services for which payment may be made under this section, or for any class of such services, be submitted electronically.

(4) **DENIAL OF PAYMENT FOR CERTAIN SERVICES.**—Payment shall not be made under a State health security program for any service attributable to a capital expenditure subject to approval under section 605 which has not been approved under that section. A practitioner may not impose a charge for a service for which payment is denied under the previous sentence.

(b) **PAYMENT RATES BASED ON PROSPECTIVE FEE SCHEDULES.**—

(1) **IN GENERAL.**—With respect to any payment method for a class of services of practitioners, the State health security program shall establish, on a prospective basis, a payment schedule. The State health security program shall establish such a schedule only after negotiations with organizations representing the practitioners involved. Such a fee schedule shall be designed to provide incentives for practitioners to choose primary care medicine, including general internal medicine and pediatrics, over medical specialization.

(2) **FEE FOR SERVICE SCHEDULES BASED ON NATIONAL RELATIVE VALUE SCALE.**—The amount under the fee schedule shall—

(A) be based on a relative value scale, developed by the State consistent with the standards established under section 1848 of the Social Security Act, as in effect on the day before the date of the enactment of this Act, including such updates and modifications as the Board may undertake;

(B) be based on conversion factors established by each State consistent with the State health security budget;

(C) provide for the application of volume performance standards, in accordance with standards established by the Board, based on class of service (specified under paragraph (3)) and geographic area (as specified under the State health security program); and

(D) provide, based on such class and area, for quarterly adjustments in present or future payment rates depending on whether expenditures are below or above such performance standards.

In applying volume performance standards under subparagraphs (C) and (D), State health security programs may provide for adjustment of rates on a practitioner-specific basis to reflect utilization patterns of individual practitioners and may publicly disclose such utilization patterns for individual practitioners (but only in a manner that does not identify individual patients).

(3) **CLASS OF SERVICES.**—In paragraph (2), each of the following shall be considered to be a separate class of services:

(A) Mental health services.  
(B) Substance abuse treatment services.  
(C) Dental services.  
(D) Home and community-based long-term care services.

(E) Other practitioner services (or such classes of such services as a State may establish).

(c) **BILLABLE COVERED SERVICE DEFINED.**—In this section, the term "billable covered

service" means a service covered under section 201 for which a practitioner is entitled to compensation by payment of a fee determined under this section.

**SEC. 614. PAYMENTS TO COMPREHENSIVE HEALTH SERVICE ORGANIZATIONS.**

(a) **IN GENERAL.**—Payment under a State health security program to a comprehensive health service organization to its enrollees shall be determined by the State—

(1) based on a global budget described in section 611, or

(2) subject to subsection (c), based on the basic capitation amount described in subsection (b) for each of its enrollees plus an amount equal to the amount of capital expenditures that have been approved under section 605.

In applying paragraph (1), any reference in section 611 to a hospital shall be deemed a reference to a comprehensive health service organization.

(b) **BASIC CAPITATION AMOUNT.**—

(1) **IN GENERAL.**—The basic capitation amount described in this subsection for an enrollee shall be determined by the State health security program on the basis of the average amount of expenditures (not including expenditures attributable to capital expenditures) that is estimated would be made under the State health security program for covered health care services for an enrollee, based on actuarial characteristics (as defined by the State health security program).

(2) **ADJUSTMENT FOR SPECIAL HEALTH NEEDS.**—The State health security program shall adjust such average amounts to take into account the special health needs, including a disproportionate number of medically underserved individuals, of populations served by the organization.

(3) **ADJUSTMENT FOR SERVICES NOT PROVIDED.**—The State health security program shall adjust such average amounts to take into account the cost of covered health care services that are not provided by the comprehensive health service organization under section 303(a).

(c) **SPECIAL RULE FOR FOR-PROFIT ORGANIZATIONS.**—In the case of a for-profit comprehensive health service organization, the total amount of capitation payments under subsection (a)(2) in a period shall be reduced by operating profit for the period less a reasonable rate of return on equity capital and less such amounts as the Board determines are attributable to operating efficiencies and not to any reduction of care provided.

**SEC. 615. PAYMENTS FOR COMMUNITY-BASED PRIMARY HEALTH FACILITIES.**

(a) **IN GENERAL.**—In the case of community-based primary health facilities, subject to subsection (b), payments under a State health security program shall be based on—

(1) a global budget described in section 611,

(2) the basic primary care capitation amount described in subsection (c) for each individual enrolled with the provider of such services,

(3) a fee schedule under section 613, or

(4) an alternative prospective payment method that is approved by the State health security program.

(b) **PAYMENT ADJUSTMENT.**—Payments under subsection (a) may include, consistent with the budgets developed under this title—

(1) an additional amount, as set by the Board, to cover the costs incurred by a provider which serves persons not covered by this Act whose health care is essential to overall community health and the control of communicable disease, and for whom the cost of such care is otherwise uncompensated,

(2) an additional amount, as set by the Board, to cover the reasonable costs incurred by a provider that furnishes case management services (as defined in section 1915(g)(2) of the Social Security Act), transportation services, and translation services, and

(3) an additional amount, as set by the Board, to cover the costs incurred by a provider in conducting health professional education programs in connection with the provision of such services.

(c) **BASIC PRIMARY CARE CAPITATION AMOUNT.**—

(1) **IN GENERAL.**—The basic primary care capitation amount described in this subsection for an enrollee with a provider of community-based primary health services shall be determined by the State health security program on the basis of the average amount of expenditures that is estimated would be made under the State health security program for such an enrollee, based on actuarial characteristics (as defined by the State health security program).

(2) **ADJUSTMENT FOR SPECIAL HEALTH NEEDS.**—The State health security program shall adjust such average amounts to take into account the special health needs, including a disproportionate number of medically underserved individuals, of populations served by the provider.

(3) **ADJUSTMENT FOR SERVICES NOT PROVIDED.**—The State health security program shall adjust such average amounts to take into account the cost of community-based primary health services that are not provided by the provider.

(d) **COMMUNITY-BASED PRIMARY HEALTH SERVICES DEFINED.**—In this section, the term "community-based primary health services" has the meaning given such term in section 202(a).

**SEC. 616. PAYMENTS FOR PRESCRIPTION DRUGS.**

(a) **ESTABLISHMENT OF CLASSIFICATION.**—

(1) **IN GENERAL.**—Based upon the recommendations of the Advisory Committee on Prescription Drugs under section 403(f), the Board shall establish classifications of prescription drugs and biologicals that the Board determines are necessary for the maintenance or restoration of health or of employability or self-management and eligible for coverage under this Act.

(2) **EXCLUSIONS.**—The Board may exclude reimbursement under this Act for ineffective, unsafe, or over-priced products where better alternatives are determined to be available.

(b) **PRICES.**—For each such classified prescription drug or biological covered under this Act, for insulin, and for medical foods, the Board shall from time to time determine a product price or prices which shall constitute the maximum to be recognized under this Act as the cost of a drug to a provider thereof. The Board may conduct negotiations, on behalf of State health security programs, with product manufacturers and distributors in determining the applicable product price or prices.

(c) **CHARGES BY INDEPENDENT PHARMACIES.**—Each State health security program shall provide for payment for a prescription drug or biological or insulin furnished by an independent pharmacy based on the drug's cost to the pharmacy (not in excess of the applicable product price established under subsection (b)) plus a dispensing fee. In accordance with standards established by the Board, each State health security program, after consultation with representatives of the pharmaceutical profession, shall establish schedules of dispensing fees, designed to afford reasonable compensation to

independent pharmacies after taking into account variations in their cost of operation resulting from regional differences, differences in the volume of prescription drugs dispensed, differences in services provided, the need to maintain expenditures within the budgets established under this title, and other relevant factors.

**SEC. 617. PAYMENTS FOR APPROVED DEVICES AND EQUIPMENT.**

(a) **ESTABLISHMENT OF LIST.**—The Board shall establish a list of approved durable medical equipment and therapeutic devices and equipment (including eyeglasses, hearing aids, and prosthetic appliances), that the Board determines are necessary for the maintenance or restoration of health or of employability or self-management and eligible for coverage under this Act.

(b) **CONSIDERATIONS AND CONDITIONS.**—In establishing the list under subsection (a), the Board shall take into consideration the efficacy, safety, and cost of each item contained on such list, and shall attach to any item such conditions as the Board determines appropriate with respect to the circumstances under which, or the frequency with which, the item may be prescribed.

(c) **PRICES.**—For each such listed item covered under this Act, the Board shall from time to time determine a product price or prices which shall constitute the maximum to be recognized under this Act as the cost of the item to a provider thereof. The Board may conduct negotiations, on behalf of State health security programs, with equipment and device manufacturers and distributors in determining the applicable product price or prices.

(d) **EXCLUSIONS.**—The Board may exclude from coverage under this Act ineffective, unsafe, or overpriced products where better alternatives are determined to be available.

**SEC. 618. PAYMENTS FOR OTHER ITEMS AND SERVICES.**

In the case of payment for other covered health services, the amount of payment under a State health security program shall be established by the program—

(1) in accordance with payment methodologies which are specified by the Board after consultation with the American Health Security Advisory Council and the Board's standing Advisory Committee on Cost Containment, and

(2) consistent with the State health security budget.

**SEC. 619. ROLE OF COMMISSIONS IN ESTABLISHING PAYMENT RATES.**

(a) **ROLE OF THE PROSPECTIVE PAYMENT ASSESSMENT COMMISSION.**—The Prospective Payment Assessment Commission, instead of conducting activities described in section 1886 of the Social Security Act, shall advise the Board concerning the approval of prospective global budgets for hospitals and nursing facilities under section 611 and shall annually prepare and submit to the Congress and the Board a report containing the recommendations of the Commission concerning the most appropriate manner in which the budget approval process should be modified to best meet the objectives of this title.

(b) **ROLE OF THE PRACTITIONER PAYMENT REVIEW COMMISSION.**—

(1) **REDESIGNATION.**—The Commission established under section 1845 of the Social Security Act is renamed the "Practitioner Payment Review Commission" (hereafter referred to in this subsection as the "Commission") and is continued for purposes of carrying out this subsection.

(2) **ADDITIONAL MEMBERS.**—The Director of the Congressional Office of Technology As-

essment shall increase the membership of the Commission to such number as may be necessary to include the representation of nurses and other health care professionals whose services are paid for on the basis of a relative-value fee schedule established under section 613, and shall consult with the General Health Care Payment Review Commission and other appropriate provider organizations.

(3) **ALTERNATIVE FUNCTIONS.**—The Commission, instead of conducting activities of the type described in section 1845 of the Social Security Act, shall advise the Board concerning the fee schedules established under section 613 and shall annually prepare and submit to Congress and the Board a report containing recommendations concerning the manner in which payment schedules under subsection (b) of such section should be modified to best meet the objectives of this title.

(c) **GENERAL HEALTH CARE PAYMENT REVIEW COMMISSION.**—

(1) **ESTABLISHMENT.**—

(A) **IN GENERAL.**—The Director of the Congressional Office of Technology Assessment shall provide for the appointment of a General Health Care Payment Review Commission (hereafter referred to in this subsection as the "Commission"), to be composed of individuals with national recognition for their expertise in health care economics and related fields for items and services for which payment is made under section 616, 617, 618, or 620(a), representatives of providers and manufacturers of such items and services, and representatives of consumers of these items and services.

(B) **APPOINTMENTS.**—Members of the Commission shall first be appointed not later than January 1, 1994, for a term of 3 years, except that the Director may provide initially for such shorter terms as will insure that (on a continuing basis) the terms of no more than one-third of the number of members expire in any year. Appointments shall be made without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

(C) **MEMBERSHIP.**—Membership on the Commission shall include health care economists, representatives of providers and manufacturers of such items and services, and representatives of consumers of these items and services.

(2) **FUNCTIONS.**—The Commission shall advise the Board concerning the payment amounts established under sections 616, 617, 618, and 620(a) and shall annually prepare and submit to Congress and the Board a report containing recommendations on the manner in which such payment amounts should be modified to best meet the objectives of this title.

(d) **LONG-TERM CARE PAYMENT REVIEW COMMISSION.**—

(1) **ESTABLISHMENT.**—

(A) **IN GENERAL.**—The Director of the Congressional Office of Technology Assessment shall provide for the appointment of a Long-Term Care Payment Review Commission (hereafter referred to in this subsection as the "Commission") to be composed of individuals with national recognition for their expertise in health care economics and related fields for nursing facility services, home health services, hospice care, and home and community-based long-term care services.

(B) **APPOINTMENTS.**—Members of the Commission shall first be appointed not later than January 1, 1994, for a term of 3 years, except that the Director may provide initially for such shorter terms as will insure

that (on a continuing basis) the terms of no more than one-third of the number of members expire in any year. Appointments shall be made without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

(C) **MEMBERSHIP.**—Members of the Commission shall include health care economists, representatives of providers and manufacturers of such services, and consumers of such services.

(2) **FUNCTIONS.**—The Commission shall advise the Board concerning the payment amounts for long-term care established under this subtitle and shall annually prepare and submit to Congress and the Board an annual report containing the recommendations of the Commission concerning the manner in which global budgets and payment methodologies should be modified to best meet the objectives of this title.

**SEC. 620. PAYMENT INCENTIVES FOR MEDICALLY UNDERSERVED AREAS.**

(a) **MODEL PAYMENT METHODOLOGIES.**—In addition to the payment amounts otherwise provided in this title, the Board shall establish model payment methodologies and other incentives that promote the provision of covered health care services in medically underserved areas, particularly in rural and inner-city underserved areas.

(b) **CONSTRUCTION.**—Nothing in this title shall be construed as limiting the authority of State health security programs to increase payment amounts or otherwise provide additional incentives, consistent with the State health security budget, to encourage the provision of medically necessary and appropriate services in underserved areas.

**SEC. 621. WAIVER AUTHORITY FOR ALTERNATIVE PAYMENT METHODOLOGIES.**

(a) **IN GENERAL.**—Upon application of a State health security program as part of its plan under section 405(a), the Board may waive a required payment methodology under this subtitle as it may be necessary to allow alternative payment methodologies or to conduct experiments and demonstration projects, consistent with the State health security budget.

(b) **CONDITIONS FOR APPROVAL.**—The Board may not approve a request for such a waiver unless the Board determines that such payment methodology does not adversely affect the entitlement of individuals to coverage, the benefits covered under the program, the quality of services provided under the program, the ability of individuals to choose among qualified providers, the weighting of fee schedules to encourage an increase in the number of primary care practitioners, or the compliance of the program with the State health security budget under subtitle A.

(c) **PERIODIC REPORTS.**—The continued approval of such a waiver is conditioned upon the program submitting periodic reports to the Board showing the operation and effectiveness of the alternative methodology, in order for the Board to evaluate the appropriateness of the alternative methodology.

**Subtitle C—Mandatory Assignment and Administrative Provisions**

**SEC. 631. MANDATORY ASSIGNMENT.**

(a) **NO BALANCE BILLING.**—Payments for benefits under this Act shall constitute payment in full for such benefits and the entity furnishing an item or service for which payment is made under this Act shall accept such payment as payment in full for the item or service and may not accept any payment or impose any charge for any such item or service other than accepting payment from the State health security program in accordance with this Act.

(b) ENFORCEMENT.—If an entity knowingly and willfully bills for an item or service or accepts payment in violation of subsection (a), the Board may apply sanctions against the entity in the same manner as sanctions could have been imposed under section 1842(j)(2) of the Social Security Act for a violation of section 1842(j)(1) of such Act. Such sanctions are in addition to any sanctions that a State may impose under its State health security program.

**SEC. 632. PROCEDURES FOR REIMBURSEMENT; APPEALS.**

(a) PROCEDURES FOR REIMBURSEMENT.—In accordance with standards issued by the Board, a State health security program shall establish a timely and administratively simple procedure to assure payment within 60 days of the date of submission of clean claims by providers under this Act.

(b) APPEALS PROCESS.—Each State health security program shall establish an appeals process to handle all grievances pertaining to payment to providers under this title.

**TITLE VII—PROMOTION OF PRIMARY HEALTH CARE; DEVELOPMENT OF HEALTH SERVICE CAPACITY; PROGRAMS TO ASSIST THE MEDICALLY UNDERSERVED**

**Subtitle A—Promotion and Expansion of Primary Care Professional Training**

**SEC. 701. ROLE OF BOARD; ESTABLISHMENT OF PRIMARY CARE PROFESSIONAL OUTPUT GOALS.**

(a) IN GENERAL.—The Board is responsible for—

(1) coordinating health professional education policies and goals, in consultation with the Secretary of Health and Human Services (in this title referred to as the "Secretary"), to achieve the national goals specified in subsection (b);

(2) overseeing the health professional education expenditures of the State health security programs from the account established under section 602(c);

(3) developing and maintaining, in cooperation with the Secretary, a system to monitor the number and specialties of individuals through their health professional education, any postgraduate training, and professional practice; and

(4) developing, coordinating, and promoting other policies that expand the number of primary care practitioners.

(b) NATIONAL GOALS.—The national goals specified in this subsection are as follows:

(1) GRADUATE MEDICAL EDUCATION.—By not later than 5 years after the date of the enactment of this Act, at least 50 percent of the residents in medical residency education programs (as defined in subsection (e)(1)) are primary care residents (as defined in subsection (e)(2)).

(2) MIDLLEVEL PRIMARY CARE PRACTITIONERS.—To assure an adequate supply of primary care practitioners, there shall be a number, specified by the Board, of midlevel primary care practitioners (as defined in subsection (e)(3)) employed in the health care system as of January 1, 2000.

(c) METHOD FOR ATTAINMENT OF NATIONAL GOAL FOR GRADUATE MEDICAL EDUCATION; PROGRAM GOALS.—

(1) IN GENERAL.—The Board shall establish a method of applying the national goal in subsection (b)(1) to program goals for each medical residency education program or to medical residency education consortia.

(2) CONSIDERATION.—The program goals under paragraph (1) shall be based on the distribution of medical schools and other teaching facilities within each State health security program, and the number of positions for graduate medical education.

(3) MEDICAL RESIDENCY EDUCATION CONSORTIUM.—In this subsection, the term "medical residency education consortium" means a consortium of medical residency education programs in a contiguous geographic area (which may be an interstate area) if the consortium—

(A) includes at least one medical school with a teaching hospital and related teaching settings, and

(B) has an affiliation with qualified community-based primary health service providers described in section 202(a) and with at least one comprehensive health service organization established under section 303.

(4) ENFORCEMENT THROUGH STATE HEALTH SECURITY BUDGETS.—The Board shall develop a formula for reducing payments to State health security programs (that provide for payments to a medical residency education program) that failed to meet the goal for the program established under this subsection.

(d) METHOD FOR ATTAINMENT OF NATIONAL GOAL FOR MIDLLEVEL PRIMARY CARE PRACTITIONERS.—To assist in attaining the national goal identified in subsection (b)(2), the Board shall—

(1) advise the Public Health Service on allocations of funding under titles VII and VIII of the Public Health Service Act, the National Health Service Corps, and other programs in order to increase the supply of midlevel primary care practitioners, and

(2) commission a study of the potential benefits and disadvantages of expanding the scope of practice authorized under State laws for any class of midlevel primary care practitioners.

(e) DEFINITIONS.—In this title:

(1) MEDICAL RESIDENCY EDUCATION PROGRAM.—The term "medical residency education program" means a program that provides education and training to graduates of medical schools in order to meet requirements for licensing and certification as a physician, and includes the medical school supervising the program and includes the hospital or other facility in which the program is operated.

(2) PRIMARY CARE RESIDENT.—The term "primary care resident" means (in accordance with criteria established by the Board) a resident being trained in a distinct program of family practice medicine, general practice, general internal medicine, or general pediatrics.

(3) MIDLLEVEL PRIMARY CARE PRACTITIONER.—The term "midlevel primary care practitioner" means a clinical nurse practitioner, certified nurse midwife, physician assistant, or other non-physician practitioner, specified by the Board, as authorized to practice under State law.

**SEC. 702. ESTABLISHMENT OF ADVISORY COMMITTEE ON HEALTH PROFESSIONAL EDUCATION.**

(a) IN GENERAL.—The Board shall provide for an Advisory Committee on Health Professional Education (in this section referred to as the "Committee") to advise the Board on its activities under section 701.

(b) MEMBERSHIP.—The Committee shall be composed of—

(1) the Chair of the Board, who shall serve as Chair of the Committee, and

(2) 12 members, not otherwise in the employ of the United States, appointed by the Board without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

The appointed members shall provide a balanced point of view with respect to health professional education, primary care disciplines, and health care policy and shall in-

clude individuals who are representative of medical schools, other health professional schools, residency programs, primary care practitioners, teaching hospitals, professional associations, public health organizations, State health security programs, and consumers.

(c) TERMS OF MEMBERS.—Each appointed member shall hold office for a term of five years, except that—

(1) any member appointed to fill a vacancy occurring during the term for which the member's predecessor was appointed shall be appointed for the remainder of that term; and

(2) the terms of the members first taking office shall expire, as designated by the Board at the time of appointment, two at the end of the second year, two at the end of the third year, two at the end of the fourth year, and three at the end of the fifth year after the date of enactment of this Act.

(d) VACANCIES.—

(1) IN GENERAL.—The Board shall fill any vacancy in the membership of the Committee in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Committee.

(2) VACANCY APPOINTMENTS.—Any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor of the member was appointed.

(3) REAPPOINTMENT.—The Board may reappoint an appointed member of the Committee for a second term in the same manner as the original appointment.

(e) DUTIES.—It shall be the duty of the Committee to advise the Board concerning graduate medical education policies under this title.

(f) STAFF.—The Committee, its members, and any committees of the Committee shall be provided with such secretarial, clerical, or other assistance as may be authorized by the Board for carrying out their respective functions.

(g) MEETINGS.—The Committee shall meet as frequently as the Board deems necessary, but not less than 4 times each year. Upon request by four or more members it shall be the duty of the Chair to call a meeting of the Committee.

(h) COMPENSATION.—Members of the Committee shall be reimbursed by the Board for travel and per diem in lieu of subsistence expenses during the performance of duties of the Board in accordance with subchapter I of chapter 57 of title 5, United States Code.

(i) FACA NOT APPLICABLE.—The provisions of the Federal Advisory Committee Act shall not apply to the Committee.

**SEC. 703. GRANTS FOR HEALTH PROFESSIONS EDUCATION, NURSE EDUCATION, AND THE NATIONAL HEALTH SERVICE CORPS.**

(a) TRANSFERS TO PUBLIC HEALTH SERVICE.—From the amounts provided under subsection (c), the Board shall make transfers from the American Health Security Trust Fund to the Public Health Service under subpart II of part D of title III, title VII, and title VIII of the Public Health Service Act for the support of the National Health Service Corps, health professions education, and nursing education, including education of clinical nurse practitioners, certified registered nurse anesthetists, certified nurse midwives, and physician assistants. Of the amounts so transferred in each year, not less than 50 percent shall be expended for the support of the National Health Service Corps.

(b) RANGE OF FUNDS.—The amount of transfers under subsection (a) for any fiscal

year shall be an amount (specified by the Board each year) not less than 1/100 percent and not to exceed 1/10 percent of the amounts the Board estimates will be expended from the Trust Fund in the fiscal year.

(c) FUNDS SUPPLEMENTAL TO OTHER FUNDS.—The funds provided under this section with respect to provision of services are in addition to, and not in replacement of, funds made available under the provisions referred to in subsection (a) and shall be administered in accordance with the terms of such provisions. The Board shall make no transfer of funds under this section for any fiscal year for which the total appropriations for the programs authorized by such provisions are less than the total amount appropriated for such programs in fiscal year 1993.

**Subtitle B—Direct Health Care Delivery**

**SEC. 711. SET-ASIDE FOR PUBLIC HEALTH BLOCK GRANTS.**

(a) TRANSFERS TO PUBLIC HEALTH SERVICE.—From the amounts provided under subsection (c), the Board shall make transfers from the American Health Security Trust Fund to the Public Health Service for the following purposes:

- (1) For payments to States under the maternal and child health block grants under title V of the Social Security Act.
- (2) Preventive health block grants under part A of title XIX of the Public Health Service Act.
- (3) Grants to States for community mental health services under subpart I of part B of title XIX of the Public Health Service Act.
- (4) Grants to States for prevention and treatment of substance abuse under subpart II of part B of title XIX of the Public Health Service Act.
- (5) Grants for HIV health care services under parts A, B, and C of title XXVI of the Public Health Service Act.

(b) RANGE OF FUNDS.—The amount of transfers under subsection (a) for any fiscal year shall be an amount (specified by the Board each year) not less than 1/10 percent and not to exceed 1/100 percent of the amounts the Board estimates will be expended from the Trust Fund in the fiscal year.

(c) FUNDS SUPPLEMENTAL TO OTHER FUNDS.—The funds provided under this section with respect to provision of services are in addition to, and not in replacement of, funds made available under the programs referred to in subsection (a) and shall be administered in accordance with the terms of such programs. The Board shall make no transfer of funds under this section for any fiscal year for which the total appropriations for such programs are less than the total amount appropriated for such programs in fiscal year 1993.

**SEC. 712. SET-ASIDE FOR PRIMARY HEALTH CARE DELIVERY.**

(a) TRANSFERS TO PUBLIC HEALTH SERVICE.—From the amounts provided under subsection (c), the Board shall make transfers from the American Health Security Trust Fund to the Public Health Service for the program of primary care service expansion grants under subpart V of part D of title III of the Public Health Service Act (as added by section 713 of this Act).

(b) RANGE OF FUNDS.—The amount of transfers under subsection (a) for any fiscal year shall be an amount (specified by the Board each year) not less than 1/100 percent and not to exceed 1/10 percent of the amounts the Board estimates will be expended from the Trust Fund in the fiscal year.

(c) FUNDS SUPPLEMENTAL TO OTHER FUNDS.—The funds provided under this section with respect to provision of services are in addition to, and not in replacement of, funds made available to the Agency for

Health Care Policy and Research under section 926 of the Public Health Service Act. The Board shall make no transfer of funds under this section for any fiscal year for which the total appropriations for such sections are less than the total amount appropriated under such sections in fiscal year 1993.

**SEC. 713. PRIMARY CARE SERVICE EXPANSION GRANTS.**

Part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) is amended by adding at the end thereof the following new subpart:

**“Subpart V—Primary Care Expansion**

**“SEC. 340D. EXPANDING PRIMARY CARE DELIVERY CAPACITY IN URBAN AND RURAL AREAS.**

“(a) GRANTS FOR PRIMARY CARE CENTERS.—From the amounts described in subsection (c), the American Health Security Standards Board shall make grants to public and non-profit private entities for projects to plan, develop, and operate primary care centers which will serve medically underserved populations (as defined in section 330(b)(3)) in urban and rural areas and to deliver primary care services to such populations in such areas. The funds provided under such a grant may be used for the same purposes for which a grant may be made under subsection (c) or (d) of section 330.

“(b) PROCESS OF AWARDING GRANTS.—The provisions of subsection (e)(1) of section 330 shall apply to a grant under this section in the same manner as they apply to a grant under subsection (c) of such section. The provisions of subsection (g)(3) of such section shall apply to grants for projects to plan and develop primary care centers under this section in the same manner as they apply to grants under such section.

“(c) FUNDING AS SET-ASIDE FROM TRUST FUND.—Funding to carry out this section is provided from the American Health Security Trust Fund in accordance with section 712 of the American Health Security Act.

“(d) PRIMARY CARE CENTER DEFINED.—In this section, the term ‘primary care center’ means—

- “(1) a migrant health center (as defined in section 329(a)(1)),
- “(2) a community health center (as defined in section 330(a)),
- “(3) an entity qualified to receive a grant under section 340, 340A, 1001, or 2655, or
- “(4) a Federally-qualified health center (as defined in section 1905(1)(2)(B) of the Social Security Act).”

**Subtitle C—Primary Care and Outcomes Research**

**SEC. 721. SET-ASIDE FOR OUTCOMES RESEARCH.**

(a) GRANTS FOR OUTCOMES RESEARCH.—From the amounts provided under subsection (c), the Board shall make transfers from the Trust Fund to the Agency for Health Care Policy and Research under title IX of the Public Health Service Act for the purpose of carrying out activities under such title.

(b) RANGE OF FUNDS.—The amount of transfers under subsection (a) for any fiscal year shall be an amount (specified by the Board each year) not less than 1/100 percent and not to exceed 1/100 percent of the amounts the Board estimates will be expended from the Trust Fund in the fiscal year.

(c) FUNDS SUPPLEMENTAL TO OTHER FUNDS.—The funds provided under this section with respect to provision of services are in addition to, and not in replacement of, funds made available to the Agency for

Health Care Policy and Research under section 926 of the Public Health Service Act. The Board shall make no transfer of funds under this section for any fiscal year for which the total appropriations under such section are less than the total amount appropriated under such section and title in fiscal year 1993.

(d) CONFORMING AMENDMENT.—Section 926(a) of the Public Health Service Act (42 U.S.C. 299c-5(a)) is amended by striking “\$35,000,000” and all that follows through the end and inserting “for each fiscal year (beginning with fiscal year 1994) such sums as may be necessary.”

**SEC. 722. OFFICE OF PRIMARY CARE AND PREVENTION RESEARCH.**

(a) IN GENERAL.—Title IV of the Public Health Service Act, as amended by section 2 of Public Law 101-613, is amended—

- (1) by redesignating section 486 as section 485A;
- (2) by redesignating parts F through H as parts G through I, respectively; and
- (3) by inserting after part E the following new part:

**“PART F—RESEARCH ON PRIMARY CARE AND PREVENTION**

**“SEC. 486. OFFICE OF PRIMARY CARE AND PREVENTION RESEARCH.**

“(a) ESTABLISHMENT.—There is established within the Office of the Director of NIH an office to be known as the Office of Primary Care and Prevention Research (in this part referred to as the ‘Office’). The Office shall be headed by a director, who shall be appointed by the Director of NIH.

“(b) PURPOSE.—The Director of the Office shall—

- “(1) identify projects of research on primary care and prevention that should be conducted or supported by the national research institutes, with particular emphasis on—
  - “(A) clinical patient care,
  - “(B) diagnostic effectiveness,
  - “(C) primary care education,
  - “(D) health and family planning services,
  - “(E) medical effectiveness outcomes of primary care procedures and interventions, including effects on populations within the community, district, State, or the United States, and
  - “(F) the use of multidisciplinary teams of health care practitioners;
- “(2) identify multidisciplinary research related to primary care and prevention that should be so conducted;
- “(3) promote coordination and collaboration among entities conducting research identified under any of paragraphs (1) and (2);
- “(4) encourage the conduct of such research by entities receiving funds from the national research institutes;
- “(5) recommend an agenda for conducting and supporting such research;
- “(6) promote the sufficient allocation of the resources of the national research institutes for conducting and supporting such research; and
- “(7) prepare the report required in section 486B.

“(c) COORDINATING COMMITTEE.—

- “(1) In carrying out subsection (b), the Director of the Office shall establish a committee to be known as the Coordinating Committee on Research on Primary Care and Prevention Research (in this subsection referred to as the ‘Coordinating Committee’).
- “(2) The Coordinating Committee shall be composed of the Directors of the national research institutes (or the designees of the Directors).

"(3) The Director of the Office shall serve as the chair of the Coordinating Committee.

"(4) With respect to research on primary care and prevention, the Coordinating Committee shall assist the Director of the Office in—

"(A) identifying the need for such research, and making an estimate each fiscal year of the funds needed to adequately support the research; and

"(B) identifying needs regarding the coordination of research activities, including intramural and extramural multidisciplinary activities.

"(d) ADVISORY COMMITTEE.—

"(1) In carrying out subsection (b), the Director of the Office shall establish an advisory committee to be known as the Advisory Committee on Research on Primary Care and Prevention Research (in this subsection referred to as the 'Advisory Committee').

"(2) The Advisory Committee shall be composed of 14 individuals who are not officers or employees of the Federal Government. The Director of the Office shall make appointments to the Advisory Committee from among physicians, practitioners, scientists, and other health professionals whose clinical practice, research specialization, or professional expertise includes a significant focus on research on primary care and prevention.

"(3) The Director of the Office shall serve as the chair of the Advisory Committee.

"(4) The Advisory Committee shall—

"(A) advise the Director of the Office on appropriate research activities to be undertaken by the national research institutes with respect to—

"(i) primary care and prevention, and

"(ii) research on primary care and prevention which requires a multidisciplinary approach;

"(B) report to the Director of the Office on such research; and

"(C) provide recommendations to such Director regarding activities of the Office (including recommendations on priorities in carrying out research described in subparagraph (A)).

"(5)(A) The Advisory Committee shall prepare a biennial report describing the activities of the Committee, including findings made by the Committee regarding—

"(i) the extent of expenditures made for research on primary care and prevention by the agencies of the National Institutes of Health; and

"(ii) the level of funding needed for such research.

"(B) The report required in subparagraph (A) shall be submitted to the Director of NIH for inclusion in the report required in section 403.

"(e) PRIMARY CARE AND PREVENTION RESEARCH DEFINED.—For purposes of this part, the term 'primary care and prevention research' means research on improvement of the practice of family medicine, general internal medicine, and general pediatrics, and includes research relating to—

"(1) obstetrics and gynecology, dentistry, or mental health or substance abuse treatment when provided by a primary care physician or other primary care practitioner, and

"(2) primary care provided by multidisciplinary teams.

**"SEC. 486A. NATIONAL DATA SYSTEM AND CLEARINGHOUSE ON PRIMARY CARE AND PREVENTION RESEARCH.**

"(a) DATA SYSTEM.—The Director of NIH, in consultation with the Director of the Office, shall establish a data system for the collection, storage, analysis, retrieval, and dissemination of information regarding pri-

mary care and prevention research that is conducted or supported by the national research institutes. Information from the data system shall be available through information systems available to health care professionals and providers, researchers, and members of the public.

"(b) CLEARINGHOUSE.—The Director of NIH, in consultation with the Director of the Office and with the National Library of Medicine, shall establish, maintain, and operate a program to provide, and encourage the use of, information on research and prevention activities of the national research institutes that relate to primary care and prevention research.

**"SEC. 486B. BIENNIAL REPORT.**

"(a) IN GENERAL.—With respect to primary care and prevention research, the Director of the Office shall, not later than one year after the date of the enactment of this part, and biennially thereafter, prepare a report—

"(1) describing and evaluating the progress made during the preceding two fiscal years in research and treatment conducted or supported by the National Institutes of Health;

"(2) summarizing and analyzing expenditures made by the agencies of such Institutes (and by such Office) during the preceding two fiscal years; and

"(3) making such recommendations for legislative and administrative initiatives as the Director of the Office determines to be appropriate.

"(b) INCLUSION IN BIENNIAL REPORT OF DIRECTOR OF NIH.—The Director of the Office shall submit each report prepared under subsection (a) to the Director of NIH for inclusion in the report submitted to the President and the Congress under section 403."

(b) REQUIREMENT OF SUFFICIENT ALLOCATION OF RESOURCES OF INSTITUTES.—Section 402(b) of the Public Health Service Act (42 U.S.C. 282(b)) is amended—

(1) in paragraph (10), by striking "and" after the semicolon at the end;

(2) in paragraph (11), by striking the period at the end and inserting "; and"; and

(3) by inserting after paragraph (11) the following new paragraph:

"(12) after consultation with the Director of the Office of Primary Care and Prevention Research, shall ensure that resources of the National Institutes of Health are sufficiently allocated for projects on primary care and prevention research that are identified under section 486(b)."

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 408 of the Public Health Service Act (42 U.S.C. 284(a)) is amended by adding at the end the following new paragraph:

"(3) For the Office of Primary Care and Prevention Research, there are authorized to be appropriated \$150,000,000 for fiscal year 1994, \$180,000,000 for fiscal year 1995, and \$216,000,000 for fiscal year 1996."

(d) CONFORMING AMENDMENT.—Section 485(g) of the Public Health Service Act (42 U.S.C. 287c-2(g)) is amended by striking "section 486" and inserting "section 485A".

#### TITLE VIII—FINANCING PROVISIONS; AMERICAN HEALTH SECURITY TRUST FUND

**SEC. 800. AMENDMENT OF 1986 CODE; SECTION 15 NOT TO APPLY.**

(a) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title 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.

(b) SECTION 15 NOT TO APPLY.—The amendments made by subtitle B shall not be treat-

ed as a change in a rate of tax for purposes of section 15 of the Internal Revenue Code of 1986.

#### Subtitle A—American Health Security Trust Fund

**SEC. 801. AMERICAN HEALTH SECURITY TRUST FUND.**

(a) IN GENERAL.—There is hereby created on the books of the Treasury of the United States a trust fund to be known as the American Health Security Trust Fund (in this section referred to as the "Trust Fund"). The Trust Fund shall consist of such gifts and bequests as may be made and such amounts as may be deposited in, or appropriated to, such Trust Fund as provided in this Act.

(b) APPROPRIATIONS INTO TRUST FUND.—

(1) TAXES.—There are hereby appropriated to the Trust Fund for each fiscal year (beginning with fiscal year 1995), out of any moneys in the Treasury not otherwise appropriated, amounts equivalent to 100 percent of the aggregate increase in tax liabilities under the Internal Revenue Code of 1986 which is attributable to the application of the amendments made by this title. The amounts appropriated by the preceding sentence shall be transferred from time to time (but not less frequently than monthly) from the general fund in the Treasury to the Trust Fund, such amounts to be determined on the basis of estimates by the Secretary of the Treasury of the taxes paid to or deposited into the Treasury; and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or were less than the amounts that should have been so transferred.

(2) CURRENT PROGRAM RECEIPTS.—Notwithstanding any other provision of law, there are hereby appropriated to the Trust Fund for each fiscal year (beginning with fiscal year 1995) the amounts that would otherwise have been appropriated to carry out the following programs (and any other Federal program identified by the Board, in consultation with the Secretary of the Treasury, as providing for payment for health services the payment of which may be made under this Act):

(A) The medicare program, under parts A and B of title XVIII of the Social Security Act (other than amounts attributable to any premiums under such parts).

(B) The medicaid program, under State plans approved under title XIX of such Act.

(C) The Federal employees health benefit program, under chapter 89 of title 5, United States Code.

(D) The CHAMPUS program, under chapter 55 of title 10, United States Code.

(c) INCORPORATION OF PROVISIONS.—The provisions of subsections (b) through (i) of section 1817 of the Social Security Act shall apply to the Trust Fund under this Act in the same manner as they applied to the Federal Hospital Insurance Trust Fund under part A of title XVIII of such Act, except that the American Health Security Standards Board shall constitute the Board of Trustees of the Trust Fund.

(d) TRANSFER OF FUNDS.—Any amounts remaining in the Federal Hospital Insurance Trust Fund or the Federal Supplementary Medical Insurance Trust Fund after the settlement of claims for payments under title XVIII have been completed, shall be transferred into the American Health Security Trust Fund.

**Subtitle B—Increases in Corporate and Individual Income Tax Rates; Health Security Premium; Surtax on Individuals With Incomes Over \$1,000,000**

**SEC. 811. INCREASES IN REGULAR INCOME TAX RATES.**

(a) INCREASE IN TOP CORPORATE INCOME TAX RATE.—Subparagraph (C) of section 1(b)(1) (relating to tax imposed on corporations) is amended by striking "34 percent" and inserting "38 percent".

(b) INCREASE IN INDIVIDUAL INCOME TAXES.—Section 1 (relating to tax imposed) as amended by striking subsections (a) through (e) and inserting the following:

"(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—There is hereby imposed on the taxable income of—

"(1) every married individual (as defined in section 7703) who makes a single return jointly with his spouse under section 6013, and

"(2) every surviving spouse (as defined in section 2(a)), a tax determined in accordance with the following table:

<b>"If taxable income is:</b>	<b>The tax is:</b>
Not over \$38,000 .....	15% of taxable income.
Over \$38,000 but not over \$91,900 .....	\$5,700, plus 31% of the excess over \$38,000.
Over \$91,900 but not over \$200,000 .....	\$22,409, plus 34% of the excess over \$91,900.
Over \$200,000 .....	\$59,163, plus 38% of the excess over \$200,000.

"(b) HEADS OF HOUSEHOLDS.—There is hereby imposed on the taxable income of every head of a household (as defined in section 2(b)) a tax determined in accordance with the following table:

<b>"If taxable income is:</b>	<b>The tax is:</b>
Not over \$30,500 .....	15% of taxable income.
Over \$30,500 but not over \$78,750 .....	\$4,575, plus 31% of the excess over \$30,500.
Over \$78,750 but not over \$172,000 .....	\$19,532.50, plus 34% of the excess over \$78,750.
Over \$172,000 .....	\$51,237.50, plus 38% of the excess over \$172,000.

"(c) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 770) a tax determined in accordance with the following table:

<b>"If taxable income is:</b>	<b>The tax is:</b>
Not over \$22,750 .....	15% of taxable income.
Over \$22,750 but not over \$55,150 .....	\$3,412.50, plus 31% of the excess over \$22,750.
Over \$55,150 but not over \$120,000 .....	\$13,456.50, plus 34% of the excess over \$55,150.
Over \$120,000 .....	\$35,505, plus 38% of the excess over \$120,000.

"(d) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—There is hereby imposed on the taxable income of every married individual (as defined in section 7703) who does not make a single return jointly with his spouse under section 6013, a tax determined in accordance with the following table:

<b>"If taxable income is:</b>	<b>The tax is:</b>
Not over \$19,000 .....	15% of taxable income.
Over \$19,000 but not over \$45,950 .....	\$2,850, plus 31% of the excess over \$19,000.
Over \$45,950 but not over \$100,000 .....	\$11,204.50, plus 34% of the excess over \$45,950.
Over \$100,000 .....	\$29,581.50, plus 38% of the excess over \$100,000.

"(e) ESTATES AND TRUSTS.—There is hereby imposed on the taxable income of—

- "(1) every estate, and
- "(2) every trust,

taxable under this subsection a tax determined in accordance with the following table:

<b>"If taxable income is:</b>	<b>The tax is:</b>
Not over \$3,000 .....	15% of taxable income.
Over \$3,000 but not over \$5,000 .....	\$450, plus 31% of the excess over \$3,000.
Over \$5,000 but not over \$7,000 .....	\$1,070, plus 34% of the excess over \$5,000.
Over \$7,000 .....	\$1,750, plus 38% of the excess over \$7,000."

(c) CONFORMING AMENDMENTS.—  
(1) Section 541 is amended by striking "28 percent" and inserting "38 percent".

(2)(A) Subsection (f) of section 1 is amended—

- (i) by striking "1990" in paragraph (1) and inserting "1995", and
- (ii) by striking "1989" in paragraph (3)(B) and inserting "1994".

(B) Subparagraph (B) of section 32(i)(1) is amended by striking "1989" and inserting "1994".

(C) Subparagraph (C) of section 41(e)(5) is amended by striking "1989" each place it appears and inserting "1994".

(D) Subparagraph (B) of section 63(c)(4) is amended by striking "1989" and inserting "1994".

(E) Subparagraph (B) of section 68(b)(2) is amended by striking "1989" and inserting "1994".

(F) Subparagraphs (A)(ii) and (B)(ii) of section 151(d)(4) are each amended by striking "1989" and inserting "1994".

(G) Clause (ii) of section 513(h)(2)(C) is amended by striking "1989" and inserting "1994".

(H) Subsection (a) of section 1201 is amended by striking "34 percent" each place it appears and inserting "38 percent".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1994.

**SEC. 812. INCREASES IN MINIMUM TAX RATES.**

(a) IN GENERAL.—Subparagraph (A) of section 55(b)(1) (relating to tentative minimum tax) is amended by striking "20 percent (24 percent)" and inserting "25 percent (28 percent)".

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 897(a) is amended by striking "21" in the heading of such paragraph and in subparagraph (A) and inserting "28".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1994.

**SEC. 813. HEALTH SECURITY PREMIUM.**

(a) GENERAL RULE.—Subchapter A of chapter 1 (relating to determination of tax liability) is amended by adding at the end thereof the following new part:

**"PART VIII—HEALTH SECURITY PREMIUM**

"Sec. 59B. Imposition of premium.

**"SEC. 59B. IMPOSITION OF PREMIUM.**

"(a) GENERAL RULE.—In the case of an individual—

"(1) the amount of the tax imposed under section 1 for such taxable year shall be increased by 7.5 percent of the tax imposed under section 1 for such taxable year (determined without regard to this paragraph and section 59C), and

"(2) the amount of the tentative minimum tax determined under section 55 for such taxable year shall be increased by 7.5 percent of the amount of the tentative minimum tax for such taxable year (determined without regard to this paragraph and 59D).

"(b) SPECIAL RULES.—

"(1) SURTAX TO APPLY TO ESTATES AND TRUSTS.—For purposes of this section, the term "individual" includes any estate or trust taxable under section 1.

"(2) COORDINATION WITH OTHER PROVISIONS.—The provisions of this section shall be applied—

"(A) shall be applied after the application of section 1(h), but

"(B) before the application of any other provision of this title which refers to the amount of tax imposed by section 1 or 55, as the case may be."

(b) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 1 is amended by adding at the end the following new item:

"Part VIII. Health security premium."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

**SEC. 814. SURTAX ON INDIVIDUALS WITH INCOMES OVER \$1,000,000.**

(a) GENERAL RULE.—Subchapter A of chapter 1 (relating to determination of tax liability) is amended by adding at the end thereof the following new part:

**"PART IX—SURTAX ON INDIVIDUALS WITH INCOMES OVER \$1,000,000**

"Sec. 59C. Surtax on section 1 tax.

"Sec. 59D. Surtax on minimum tax.

"Sec. 59E. Special rules.

**"SEC. 59C. SURTAX ON SECTION 1 TAX.**

"In the case of an individual who has taxable income for the taxable year in excess of \$1,000,000, the amount of the tax imposed under section 1 for such taxable year shall be increased by 10 percent of the amount which bears the same ratio to the tax imposed under section 1 (determined without regard to this section and section 59B) as—

"(1) the amount by which the taxable income of such individual for such taxable year exceeds \$1,000,000, bears to

"(2) the total amount of such individual's taxable income for such taxable year.

**"SEC. 59D. SURTAX ON MINIMUM TAX.**

"In the case of an individual who has alternative minimum taxable income for the taxable year in excess of \$1,000,000, the amount of the tentative minimum tax determined under section 55 for such taxable year shall be increased by 2.8 percent of the amount by which the alternative minimum taxable income of such taxpayer for the taxable year exceeds \$1,000,000.

**"SEC. 59E. SPECIAL RULES.**

"(a) SURTAX TO APPLY TO ESTATES AND TRUSTS.—For purposes of this part, the term "individual" includes any estate or trust taxable under section 1.

"(b) TREATMENT OF MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—In the case of a married individual (within the meaning of section 7703) filing a separate return for the taxable year, sections 59C and 59D shall be applied by substituting "\$500,000" for "\$1,000,000".

"(c) COORDINATION WITH OTHER PROVISIONS.—The provisions of this part—

"(1) shall be applied after the application of sections 1(h) and 59B, but

"(2) before the application of any other provision of this title which refers to the amount of tax imposed by section 1 or 55, as the case may be."

(b) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 1 is amended by adding at the end the following new item:

"Part IX. Surtax on individuals with incomes over \$1,000,000."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1994.

**Subtitle C—Employment Tax Changes**

**SEC. 821. MODIFICATIONS OF CERTAIN EMPLOYMENT TAX PROVISIONS.**

(a) INCREASE IN EMPLOYER HOSPITAL INSURANCE TAX; REPEAL OF DOLLAR LIMITATION ON

**AMOUNT OF WAGES SUBJECT TO EMPLOYEE AND EMPLOYER HOSPITAL INSURANCE TAXES.—**

(1) **EMPLOYEE TAX.**—Subsection (b) of section 3101 is amended by striking "equal to" and all that follows and inserting "equal to 1.45 percent of the wages (as defined in section 3121(a) without regard to paragraph (1) thereof) received by him with respect to employment (as defined in section 3121(b))".

(2) **EMPLOYER TAX.**—Subsection (b) of section 3111 is amended by striking "equal to" and all that follows and inserting "equal to 7.9 percent of the wages (as defined in section 3121(a) without regard to paragraph (1) thereof) paid by him with respect to employment (as defined in section 3121(b))".

(3) **SELF-EMPLOYMENT TAX.**—Subsection (b) of section 1401 is amended by striking "a tax as follows:" and all that follows and inserting "a tax equal to 8.35 percent of the amount of the self-employment income (as defined in section 1402(b) without regard to paragraph (1) thereof) for such taxable year".

(4) **RAILROAD RETIREMENT TAXES.**—Subparagraph (A) of section 3231(e)(2) is amended by adding at the end thereof the following new clause:

"(iii) **LIMITATION NOT TO APPLY TO TAXES EQUIVALENT TO HOSPITAL INSURANCE TAXES.**—Clause (i) shall not apply to—

"(I) so much of the rate applicable under section 3201(a) or 3221(a) (as the case may be) as does not exceed the rate of tax in effect under section 3101(b), and

"(II) so much of the rate of tax applicable under section 3211(a)(1) as does not exceed the rate of tax in effect under section 1401(b)."

**(5) TECHNICAL AMENDMENTS.—**

(A) Subsection (b) of section 1402 is amended by striking "the applicable contribution base (as determined under subsection (k))" and inserting "the contribution and benefit base (as determined under section 231 of the Social Security Act)".

(B) Section 1402 is amended by striking subsection (k).

(C) Paragraph (1) of section 3121(a) is amended—

(i) by striking "applicable contribution base (as determined under subsection (x))" each place it appears and inserting "contribution and benefit base (as determined under section 230 of the Social Security Act)", and

(ii) by striking "such applicable contribution base" and inserting "such contribution and benefit base".

(D) Section 3121 is amended by striking subsection (x).

(E) Clause (1) of section 3231(e)(2)(B) is amended to read as follows:

"(i) **TIER 1 TAXES.**—Except as provided in clause (ii), the term 'applicable base' means for any calendar year the contribution and benefit base determined under section 230 of the Social Security Act for such calendar year."

(F) Paragraph (3) of section 6413(c) is amended to read as follows:

"(3) **SEPARATE APPLICATION FOR HOSPITAL INSURANCE TAXES.**—Paragraphs (1) and (2) shall not apply to—

"(A) the tax imposed by section 3101(b) (or any amount equivalent to such tax), and

"(B) so much of the tax imposed by section 3201 as is determined at a rate not greater than the rate in effect under section 3101(b)."

(G) Sections 3122 and 3125 are each amended—

(i) by striking "section 3111" each place it appears and inserting "section 3111(a)", and

(ii) by striking "applicable contribution base limitation" and inserting "contribution and benefit base limitation".

(6) **EFFECTIVE DATE.**—The amendments made by this subsection shall apply to 1994 and later calendar years.

**(b) ADDITIONAL STATE AND LOCAL EMPLOYEES SUBJECT TO HOSPITAL INSURANCE TAX.—**

(1) **IN GENERAL.**—Paragraph (2) of section 3121(u) is amended by striking subparagraphs (C) and (D).

(2) **EFFECTIVE DATE.**—The amendment made by this subsection shall apply to remuneration paid after December 31, 1994.

**Subtitle D—Other Revenue Increases  
Primarily Affecting Individuals****SEC. 831. OVERALL LIMITATION ON ITEMIZED DEDUCTIONS FOR HIGH-INCOME TAXPAYERS MADE PERMANENT.**

Subsection (f) of section 68 (relating to overall limitation on itemized deductions) is hereby repealed.

**SEC. 832. PHASEOUT OF PERSONAL EXEMPTION OF HIGH-INCOME TAXPAYERS MADE PERMANENT.**

Section 151(d)(3) (relating to phaseout of personal exemption) is amended by striking subparagraph (E).

**SEC. 833. MODIFICATIONS TO DEDUCTIONS FOR CERTAIN MOVING EXPENSES.**

(a) **REPEAL OF DEDUCTION FOR QUALIFIED RESIDENCE SALE, ETC., EXPENSES.—**

(1) **IN GENERAL.**—Paragraph (1) of section 217(b) (defining moving expenses) is amended by inserting "or" at the end of subparagraph (C), by striking ", or" at the end of subparagraph (D) and inserting a period, and by striking subparagraph (E).

(2) **CONFORMING AMENDMENTS.—**

(A) Subsection (b) of section 217 is amended by striking paragraph (2) and redesignating paragraph (3) as paragraph (2).

(B) Section 217 is amended by striking subsection (e).

(b) **DEDUCTION DISALLOWED FOR MEAL EXPENSES.**—Paragraph (1) of section 217(b) is amended—

(1) by striking "meals and lodging" in subparagraphs (B), (C) and (D) and inserting "lodging", and

(2) by adding at the end thereof the following new sentence:

"Such term shall not include any expenses for meals."

(c) **OVERALL LIMITATION.—**

(1) **IN GENERAL.**—Subparagraph (A) of section 217(b)(2) (as redesignated by subsection (a)) is amended to read as follows:

"(A) **DOLLAR LIMITS.**—The aggregate amount allowable as a deduction under subsection (a) in connection with a commencement of work shall not exceed \$5,000. The aggregate amount allowable as a deduction under subsection (a) in connection with a commencement of work which is attributable to expenses described in subparagraphs (C) or (D) of paragraph (1) shall not exceed \$1,500."

(2) **CONFORMING AMENDMENTS.—**

(A) Subparagraph (B) of section 217(b)(2) (as so redesignated) is amended by striking the second sentence and inserting the following: "In the case of a husband and wife filing separate returns, subparagraph (A) shall be applied by substituting '\$750' for '\$1,500', and by substituting '\$2,500' for '\$5,000'."

(B) Paragraph (1) of section 217(h) is amended by striking subparagraphs (B) and (C) and inserting the following:

"(B) subsection (b)(2)(A) shall be applied by substituting '\$4,500' for '\$1,500', and

"(C) appropriate adjustments to the application of the last sentence of subsection (b)(2)(B) shall be made to take into account the provisions of subparagraph (B) of this paragraph."

(d) **INCREASE IN MILEAGE REQUIREMENTS.**—Paragraph (1) of section 217(c) is amended by

striking "35 miles" each place it appears and inserting "60 miles".

(e) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 1994.

**SEC. 834. TOP ESTATE AND GIFT TAX RATES MADE PERMANENT.**

(a) **GENERAL RULE.**—The table contained in paragraph (1) of section 2001(c) is amended by striking the last item and inserting the following new items:

"Over \$2,500,000 but not over \$3,000,000.	\$1,025,800, plus 53% of the excess over \$2,500,000.
Over \$3,000,000	\$1,290,800, plus 55% of the excess over \$3,000,000."

(b) **CONFORMING AMENDMENTS.—**

(1) Subsection (c) of section 2001 is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(2) Paragraph (2) of section 2001(c), as redesignated by paragraph (1), is amended by striking "\$18,340,000 in the case of decedents dying, and gifts made, after 1992)".

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply in the case of decedents dying, and gifts made, after December 31, 1994.

**SEC. 835. ELIMINATION OF DEDUCTION FOR CLUB MEMBERSHIP FEES.**

(a) **IN GENERAL.**—Subsection (a) of section 274 (relating to disallowance of certain entertainment, etc., expenses) is amended by adding at the end thereof the following new paragraph:

"(3) **DENIAL OF DEDUCTION FOR CLUB DUES.**—Notwithstanding the preceding provisions of this subsection, no deduction shall be allowed under this chapter for amounts paid or incurred for membership in any club organized for business, pleasure, recreation, or other social purpose."

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to amounts paid or incurred after December 31, 1994.

**SEC. 836. INCREASE OF SOCIAL SECURITY BENEFITS INCLUDED IN INCOME.**

(a) **IN GENERAL.**—Subsections (a) and (b) of section 86 are each amended by striking "one-half" each place it appears and inserting "85 percent".

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to taxable years beginning after December 31, 1994.

**SEC. 837. LONG-TERM HEALTH CARE PREMIUM FOR THE ELDERLY.**

(a) **IN GENERAL.**—Except as provided in subsection (b), each individual who at any time in a month is 65 years of age or older and is eligible for benefits under title XXI of the Social Security Act in the month shall pay a long-term care/health care premium for the month of \$65.

(b) **EXCEPTION FOR LOW-INCOME ELDERLY.**—The Secretary of Health and Human Services shall provide a process whereby individuals with an adjusted gross income which does not exceed \$8,500 (or \$10,700 in the case of joint adjusted gross income in the case of a married individual) are not liable for the premium imposed under paragraph (1).

(c) **COLLECTION OF PREMIUM.**—The premium imposed under this section shall be collected in the same manner (including deduction from Social Security checks) as the premium imposed under part B of title XVIII of the Social Security Act was collected under section 1840 of such Act as of the date of the enactment of this Act.

(d) **DEPOSIT INTO NATIONAL HEALTH TRUST FUND.**—Premiums collected under this section shall be transferred to and deposited into the National Health Trust Fund in the same manner as premiums collected under section 1840 of the Social Security Act were

transferred and deposited into the Federal Supplementary Medical Insurance Trust Fund.

(e) COST-OF-LIVING ADJUSTMENT OF PREMIUM.—In the case of months beginning in any calendar year after 1996, the dollar amount contained in paragraph (1) shall be increased by an amount equal to such dollar amount, multiplied by the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the month begins.

(f) APPLICATION OF SECTION.—This section shall apply to months beginning after December 31, 1994.

Subtitle E—Other Revenue Increases Primarily Affecting Businesses

SEC. 841. MARK TO MARKET ACCOUNTING METHOD FOR SECURITIES DEALERS.

(a) GENERAL RULE.—Subpart D of part II of subchapter E of chapter 1 (relating to inventories) is amended by adding at the end thereof the following new section:

“SEC. 475. MARK TO MARKET ACCOUNTING METHOD FOR DEALERS IN SECURITIES.

“(a) GENERAL RULE.—Notwithstanding any other provision of this subpart, the following rules shall apply to securities held by a dealer in securities:

“(1) Any security which is inventory in the hands of the dealer shall be included in inventory at its fair market value.

“(2) In the case of any security which is not inventory in the hands of the dealer and which is held at the close of any taxable year—

“(A) the dealer shall recognize gain or loss as if such security were sold for its fair market value on the last business day of such taxable year, and

“(B) any gain or loss shall be taken into account for such taxable year.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence. The Secretary may provide by regulations for the application of this paragraph at times other than the times provided in this paragraph.

“(b) EXCEPTIONS.—

“(1) IN GENERAL.—Subsection (a) shall not apply to—

“(A) any security held for investment,

“(B)(i) any security described in subsection (c)(2)(C) which is acquired (including originated) by the taxpayer in the ordinary course of a trade or business of the taxpayer and which is not held for sale, and (ii) any obligation to acquire a security described in clause (i) if such obligation is entered into in the ordinary course of such trade or business and is not held for sale, and

“(C) any security which is a hedge with respect to—

“(i) a security to which subsection (a) does not apply, or

“(ii) a position, right to income, or a liability which is not a security in the hands of the taxpayer.

To the extent provided in regulations, subparagraph (C) shall not apply to any security held by a person in its capacity as a dealer in securities.

“(2) IDENTIFICATION REQUIRED.—A security shall not be treated as described in subparagraph (A), (B), or (C) of paragraph (1), as the case may be, unless such security is clearly identified in the dealer's records as being described in such subparagraph before the close of the day on which it was acquired, originated, or entered into (or such other time as the Secretary may by regulations prescribe).

“(3) SECURITIES SUBSEQUENTLY NOT EXEMPT.—If a security ceases to be described in

paragraph (1) at any time after it was identified as such under paragraph (2), subsection (a) shall apply to any changes in value of the security occurring after the cessation.

“(4) SPECIAL RULE FOR PROPERTY HELD FOR INVESTMENT.—To the extent provided in regulations, subparagraph (A) of paragraph (1) shall not apply to any security described in subparagraph (D) or (E) of subsection (c)(2) which is held by a dealer in such securities.

“(c) DEFINITIONS.—For purposes of this section—

“(1) DEALER IN SECURITIES DEFINED.—The term ‘dealer in securities’ means a taxpayer who—

“(A) regularly purchases securities from or sells securities to customers in the ordinary course of a trade or business; or

“(B) regularly offers to enter into, assume, offset, assign or otherwise terminate positions in securities with customers in the ordinary course of a trade or business.

“(2) SECURITY DEFINED.—The term ‘security’ means any—

“(A) share of stock in a corporation;

“(B) partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust;

“(C) note, bond, debenture, or other evidence of indebtedness;

“(D) interest rate, currency, or equity notional principal contract;

“(E) evidence of an interest in, or a derivative financial instrument in, any security described in subparagraph (A), (B), (C), or (D), or any currency, including any option, forward contract, short position, and any similar financial instrument in such a security or currency; and

“(F) position which—

“(i) is not a security described in subparagraph (A), (B), (C), (D), or (E),

“(ii) is a hedge with respect to such a security, and

“(iii) is clearly identified in the dealer's records as being described in this subparagraph before the close of the day on which it was acquired or entered into (or such other time as the Secretary may by regulations prescribe).

Subparagraph (E) shall not include any contract to which section 1256(a) applies.

“(3) HEDGE.—The term ‘hedge’ means any position which reduces the dealer's risk of interest rate or price changes or currency fluctuations, including any position which is reasonably expected to become a hedge within 60 days after the acquisition of the position.

“(d) SPECIAL RULES.—For purposes of this section—

“(1) COORDINATION WITH CERTAIN RULES.—The rules of sections 263(g), 263A, and 1256(a) shall not apply to securities to which subsection (a) applies, and section 1091 shall not apply (and section 1092 shall apply) to any loss recognized under subsection (a).

“(2) IMPROPER IDENTIFICATION.—If a taxpayer—

“(A) identifies any security under subsection (b)(2) as being described in subsection (b)(1) and such security is not so described, or

“(B) fails under subsection (c)(2)(F)(iii) to identify any position which is described in subsection (c)(2)(F) (without regard to clause (ii) thereof) at the time such identification is required,

the provisions of subsection (a) shall apply to such security or position, except that any loss under this section prior to the disposition of the security or position shall be recognized only to the extent of gain previously recognized under this section (and not pre-

viously taken into account under this paragraph) with respect to such security or position.

“(3) CHARACTER OF GAIN OR LOSS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B) or section 1236(b)—

“(i) IN GENERAL.—Any gain or loss with respect to a security under subsection (a)(2) shall be treated as ordinary income or loss.

“(ii) SPECIAL RULE FOR DISPOSITIONS.—If—

“(I) gain or loss is recognized with respect to a security before the close of the taxable year, and

“(II) subsection (a)(2) would have applied if the security were held as of the close of the taxable year,

such gain or loss shall be treated as ordinary income or loss.

“(B) EXCEPTION.—Subparagraph (A) shall not apply to any gain or loss which is allocable to a period during which—

“(i) the security is described in subsection (b)(1)(C) (without regard to subsection (b)(2)),

“(ii) the security is held by a person other than in connection with its activities as a dealer in securities, or

“(iii) the security is improperly identified (within the meaning of subparagraph (A) or (B) of paragraph (2)).

“(e) REGULATORY AUTHORITY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including rules—

“(1) to prevent the use of year-end transfers, related parties, or other arrangements to avoid the provisions of this section, and

“(2) to provide for the application of this section to any security which is a hedge which cannot be identified with a specific security, position, right to income, or liability.”

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 988(d) is amended—

(A) by striking “section 1256” and inserting “section 475 or 1256”, and

(B) by striking “1092 and 1256” and inserting “475, 1092, and 1256”.

(2) The table of sections for subpart D of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

“Sec. 475. Mark to market accounting method for dealers in securities.”

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to all taxable years ending on or after December 31, 1994.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by this section to change its method of accounting for any taxable year—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over the 4-taxable year period beginning with the first taxable year ending on or after December 31, 1994.

SEC. 842. INCREASE IN RECOVERY PERIOD FOR NONRESIDENTIAL REAL PROPERTY.

(a) GENERAL RULE.—Paragraph (1) of section 168(c) (relating to applicable recovery period) is amended by striking the item relating to nonresidential real property and inserting the following:

“Nonresidential real property ..... 40 years.”

**(b) EFFECTIVE DATE.—**

(1) **IN GENERAL.**—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to property placed in service by the taxpayer after December 31, 1994.

(2) **EXCEPTION.**—The amendments made by this section shall not apply to property placed in service by the taxpayer before January 1, 1996, if—

(A) the taxpayer or a qualified person entered into a binding written contract to purchase or construct such property before December 31, 1994, or

(B) the construction of such property was commenced by or for the taxpayer or a qualified person before December 31, 1994.

For purposes of this paragraph, the term "qualified person" means any person who transfers his rights in such a contract or such property to the taxpayer but only if the property is not placed in service by such person before such rights are transferred to the taxpayer.

**SEC. 843. TAXATION OF INCOME OF CONTROLLED FOREIGN CORPORATIONS ATTRIBUTABLE TO IMPORTED PROPERTY.**

(a) **GENERAL RULE.**—Subsection (a) of section 954 (defining foreign base company income) is amended by striking "and" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(6) imported property income for the taxable year (determined under subsection (h) and reduced as provided in subsection (b)(5))."

(b) **DEFINITION OF IMPORTED PROPERTY INCOME.**—Section 954 is amended by adding at the end thereof the following new subsection:

"(h) **IMPORTED PROPERTY INCOME.**—

"(1) **IN GENERAL.**—For purposes of subsection (a)(6), the term 'imported property income' means income (whether in the form of profits, commissions, fees, or otherwise) derived in connection with—

"(A) manufacturing, producing, growing, or extracting imported property,

"(B) the sale, exchange, or other disposition of imported property, or

"(C) the lease, rental, or licensing of imported property.

Such term shall not include any foreign oil and gas extraction income (within the meaning of section 907(c)) or any foreign oil related income (within the meaning of section 907(c)).

"(2) **IMPORTED PROPERTY.**—For purposes of this subsection—

"(A) **IN GENERAL.**—Except as otherwise provided in this paragraph, the term 'imported property' means property which is imported into the United States by the controlled foreign corporation or a related person.

"(B) **IMPORTED PROPERTY INCLUDES CERTAIN PROPERTY IMPORTED BY UNRELATED PERSONS.**—The term 'imported property' includes any property imported into the United States by an unrelated person if, when such property was sold to the unrelated person by the controlled foreign corporation (or a related person), it was reasonable to expect that—

"(i) such property would be imported into the United States, or

"(ii) such property would be used as a component in other property which would be imported into the United States.

"(C) **EXCEPTION FOR PROPERTY SUBSEQUENTLY EXPORTED.**—The term 'imported property' does not include any property which is imported into the United States and which—

"(i) before substantial use in the United States, is sold, leased, or rented by the controlled foreign corporation or a related person for direct use, consumption, or disposition outside the United States, or

"(ii) is used by the controlled foreign corporation or a related person as a component in other property which is so sold, leased, or rented.

"(3) **DEFINITIONS AND SPECIAL RULES.**—

"(A) **IMPORT.**—For purposes of this subsection, the term 'import' means entering, or withdrawal from warehouse, for consumption or use. Such term includes any grant of the right to use an intangible (as defined in section 936(b)(3)(B)) in the United States.

"(B) **UNRELATED PERSON.**—For purposes of this subsection, the term 'unrelated person' means any person who is not a related person with respect to the controlled foreign corporation.

"(C) **COORDINATION WITH FOREIGN BASE COMPANY SALES INCOME.**—For purposes of this section, the term 'foreign base company sales income' shall not include any imported property income."

(c) **SEPARATE APPLICATION OF LIMITATIONS ON FOREIGN TAX CREDIT FOR IMPORTED PROPERTY INCOME.**—

(1) **IN GENERAL.**—Paragraph (1) of section 904(d) (relating to separate application of section with respect to certain categories of income) is amended by striking "and" at the end of subparagraph (H), by redesignating subparagraph (I) as subparagraph (J), and by inserting after subparagraph (H) the following new subparagraph:

"(I) imported property income, and"

(2) **IMPORTED PROPERTY INCOME DEFINED.**—Paragraph (2) of section 904(d) is amended by redesignating subparagraphs (H) and (I) as subparagraphs (I) and (J), respectively, and by inserting after subparagraph (G) the following new subparagraph:

"(H) **IMPORTED PROPERTY INCOME.**—The term 'imported property income' means any income received or accrued by any person which is of a kind which would be imported property income (as defined in section 954(h))."

(3) **LOOK-THRU RULES TO APPLY.**—Subparagraph (F) of section 904(d)(3) is amended by striking "or (E)" and inserting "(E), or (H)".

(d) **TECHNICAL AMENDMENTS.**—

(1) Clause (iii) of section 952(c)(1)(B) (relating to certain prior year deficits may be taken into account) is amended by inserting the following subclause after subclause (II) (and by redesignating the following subclauses accordingly):

"(III) imported property income."

(2) Paragraph (5) of section 954(b) (relating to deductions to be taken into account) is amended by striking "and the foreign base company oil related income" and inserting "the foreign base company oil related income, and the imported property income".

(e) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1994, and to taxable years of United States shareholders within which or with which such taxable years of such foreign corporations end.

(2) **SUBSECTION (c).**—The amendments made by subsection (c) shall apply to taxable years beginning after December 31, 1994.

**SEC. 844. REPEAL OF DEDUCTION FOR INTANGIBLE DRILLING AND DEVELOPMENT COSTS.**

(a) **IN GENERAL.**—Subsection (c) of section 263 (relating to capital expenditures) is hereby repealed.

(b) **CONFORMING AMENDMENT.**—Section 57 (relating to items of tax preference) is amended by striking subsections (a)(2) and (b).

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to costs paid or incurred after December 31, 1994, in taxable years ending after such date.

**SEC. 845. REPEAL OF PERCENTAGE DEPLETION FOR OIL AND GAS WELLS.**

(a) **IN GENERAL.**—Section 613A is hereby repealed.

(b) **CONFORMING AMENDMENTS.**—

(1) Subsection (d) of section 613 (relating to percentage depletion) is amended by striking "Except as provided in section 613A, in" and inserting "In".

(2) Paragraph (1) of section 57(a) is amended by striking the last sentence.

(3) The table of sections for part I of subchapter I of chapter 1 is amended by striking the item relating to section 613A.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 1994.

**SEC. 846. REPEAL OF APPLICATION OF LIKE-KIND EXCHANGE RULES TO REAL PROPERTY.**

(a) **IN GENERAL.**—Paragraph (2) of section 1031(a) (relating to exchange of property held for productive use or investment) is amended by striking "or" at the end of subparagraph (E), by striking the period at the end of subparagraph (F) and inserting ", or", and by adding at the end thereof the following new subparagraph:

"(G) real property."

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to transfers after December 31, 1994.

**SEC. 847. AMORTIZATION OF PORTION OF ADVERTISING EXPENSES.**

(a) **IN GENERAL.**—Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by inserting after section 263A the following new section:

**"SEC. 263B. CAPITALIZATION OF PORTION OF ADVERTISING EXPENSES.**

"(a) 20 PERCENT OF ADVERTISING EXPENSES REQUIRED TO BE CAPITALIZED.—

"(1) **DISALLOWANCE.**—Except as provided in paragraph (2), no deduction shall be allowed for 20 percent of the advertising expenses paid or incurred by the taxpayer during the taxable year.

"(2) **AMORTIZATION OF DISALLOWED AMOUNT.**—The amount not allowed as a deduction under paragraph (1) for any taxable year—

"(A) shall be treated as chargeable to capital account with respect to the trade or business (or activity described in section 212) in which incurred, and

"(B) shall be allowed as a deduction ratably over the 48-month period beginning with the 1st month of the following taxable year.

"(b) **ADVERTISING EXPENSES.**—For purposes of this section—

"(1) **IN GENERAL.**—The term 'advertising expense' means any amount—

"(A) which (without regard to this section) is allowable as a deduction under section 162 or 212 for the taxable year in which paid or incurred, and

"(B) which is paid or incurred in connection with an attempt to encourage the purchase or sale, lease, or use of any product or service for the benefit of the taxpayer or a related person by means of any media.

"(2) **AMOUNTS DEDUCTIBLE AS DEPRECIATION OR AMORTIZATION TREATED AS EXPENSES.**—The amount allowable as a deduction under this chapter for the taxable year for depreciation

or amortization shall be treated for purposes of this section as an expense paid or incurred during such year which is described in paragraph (1)."

(b) CLERICAL AMENDMENT.—The table of sections for such part IX is amended by inserting after the item relating to section 263A the following new item:

"Sec. 263B. Capitalization of portion of advertising expenses."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 1994, in taxable years ending after such date.

**Subtitle F—Estimated Tax Provisions**

**SEC. 851. INDIVIDUAL ESTIMATED TAX PROVISIONS.**

(a) GENERAL RULE.—Paragraph (1) of section 6654(d) (relating to amount of required installment) is amended—

(1) by striking "100 percent" in subparagraph (B)(i) and inserting "120 percent", and

(2) by striking subparagraphs (C), (D), (E), and (F).

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 6654(i)(1) is amended by striking "and without regard to subparagraph (C) of subsection (d)(1)".

(2) Subparagraph (A) of section 6654(j)(3) is amended by striking "and subsection (d)(1)(C)(iii) shall not apply".

(3) Paragraph (4) of section 6654(l) is amended by striking "paragraphs (1)(C)(iv) and (2)(B)(i) of subsection (d)" and inserting "subsection (d)(2)(B)(i)".

(c) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1994.

**SEC. 852. CORPORATE ESTIMATED TAX PROVISIONS.**

(a) INCREASE IN ESTIMATED TAX.—

(1) IN GENERAL.—Subsection (d) of section 6655 (relating to amount of required installments) is amended—

(A) by striking "91 percent" each place it appears in paragraph (1)(B)(i) and inserting "100 percent",

(B) by striking "91 PERCENT" in the heading of paragraph (2) and inserting "100 PERCENT", and

(C) by striking paragraph (3).

(2) CONFORMING AMENDMENTS.—

(A) Clause (i) of section 6655(e)(2)(B) is amended by striking the table contained therein and inserting the following new table:

<b>"In the case of the following required installments:</b>	<b>The applicable percentage is:</b>
1st .....	25
2nd .....	50
3rd .....	75
4th .....	100."

(B) Clause (i) of section 6655(e)(3)(A) is amended by striking "91 percent" and inserting "100 percent".

(b) MODIFICATION OF PERIODS FOR APPLYING ANNUALIZATION.—

(1) Clause (i) of section 6655(e)(2)(A) is amended—

(A) by striking "or for the first 5 months" in subclause (II),

(B) by striking "or for the first 8 months" in subclause (III), and

(C) by striking "or for the first 11 months" in subclause (IV).

(2) Paragraph (2) of section 6655(e) is amended by adding at the end thereof the following new subparagraph:

"(C) ELECTION FOR DIFFERENT ANNUALIZATION PERIODS.—

"(i) If the taxpayer makes an election under this clause—

"(I) subclause (II) of subparagraph (A)(i) shall be applied by substituting '4 months' for '3 months',

"(II) subclause (III) of subparagraph (A)(i) shall be applied by substituting '7 months' for '6 months', and

"(III) subclause (IV) of subparagraph (A)(i) shall be applied by substituting '10 months' for '9 months'.

"(ii) If the taxpayer makes an election under this clause—

"(I) subclause (II) of subparagraph (A)(i) shall be applied by substituting '5 months' for '3 months',

"(II) subclause (III) of subparagraph (A)(i) shall be applied by substituting '8 months' for '6 months', and

"(III) subclause (IV) of subparagraph (A)(i) shall be applied by substituting '11 months' for '9 months'.

"(iii) An election under clause (i) or (ii) shall apply to the taxable year for which made and such an election shall be effective only if made on or before the date required for the payment of the second required installment for such taxable year."

(3) The last sentence of section 6655(f)(3)(A) is amended by striking "and subsection (e)(2)(A)" and inserting "and, except in the case of an election under subsection (e)(2)(C), subsection (e)(2)(A)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1994.

**Subtitle G—Alternative Taxable Years**

**SEC. 861. ELECTION OF TAXABLE YEAR OTHER THAN REQUIRED TAXABLE YEAR.**

(a) LIMITATIONS ON TAXABLE YEARS WHICH MAY BE ELECTED.—Subsection (b) of section 444 (relating to limitations on taxable years which may be elected) is amended to read as follows:

"(b) TAXABLE YEAR MUST BE SAME AS REPORTING PERIOD.—If an entity has annual reports or statements—

"(1) which ascertain income, profit, or loss of the entity, and

"(2) which are—

"(A) provided to shareholders, partners, or other proprietors, or

"(B) used for credit purposes,

the entity may make an election under subsection (a) only if the taxable year elected covers the same period as such reports or statements."

(b) PERIOD OF ELECTION.—Section 444(d)(2) (relating to period of election) is amended to read as follows:

"(2) PERIOD OF ELECTION.—

"(A) IN GENERAL.—An election under subsection (a) shall remain in effect until the partnership, S corporation, or personal service corporation terminates the election and adopts the required taxable year.

"(B) CHANGE NOT TREATED AS TERMINATION.—For purposes of subparagraph (A), a change from a taxable year which is not a required taxable year to another such taxable year shall not be treated as a termination."

(c) EXCEPTION FOR TRUSTS.—Section 444(d)(3) (relating to tiered structures) is amended by adding at the end thereof the following new subparagraph:

"(C) EXCEPTION FOR CERTAIN STRUCTURES THAT INCLUDE TRUSTS.—An entity shall not be considered to be part of a tiered structure to which subparagraph (A) applies solely because a trust owning an interest in such entity is a trust all of the beneficiaries of which use a calendar year for their taxable year."

(d) REGULATIONS.—Subsection (g) of section 444 (relating to regulations) is amended to read as follows:

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section, including regulations—

"(1) to prevent the avoidance of the provisions of this section through a change in entity or form of an entity,

"(2) to prevent the carryback to any preceding taxable year of a net operating loss (or similar item) arising in any short taxable year created pursuant to an election or termination of an election under this section, and

"(3) to provide for the termination of an election under subsection (a) if an entity does not continue to meet the requirements of subsection (b)."

**SEC. 862. REQUIRED PAYMENTS FOR ENTITIES ELECTING NOT TO HAVE REQUIRED TAXABLE YEAR.**

(a) ADDITIONAL REQUIRED PAYMENT.—

(1) IN GENERAL.—Section 7519(b) (defining required payment) is amended to read as follows:

"(b) REQUIRED PAYMENT.—For purposes of this section—

"(1) IN GENERAL.—The term 'required payment' means, with respect to any applicable election year of a partnership or S corporation, an amount equal to the excess (if any) of—

"(A) the adjusted highest section 1 rate, multiplied by the net base year income of the entity, over

"(B) the net required payment balance.

For purposes of paragraph (1)(A), the term 'adjusted highest section 1 rate' means the highest rate of tax in effect under section 1 as of the close of the first required taxable year ending within such year, plus 2 percentage points.

"(2) ADDITIONAL PAYMENT FOR NEW APPLICABLE ELECTION YEARS.—

"(A) IN GENERAL.—In the case of a new applicable election year, the required payment shall include, in addition to any amount determined under paragraph (1), the amount determined under subparagraph (C).

"(B) NEW APPLICABLE ELECTION YEAR.—For purposes of this section, the term 'new applicable election year' means any applicable election year—

"(i) with respect to which the preceding taxable year was not an applicable election year, or

"(ii) which covers a different period than the preceding taxable year by reason of a change described in section 444(d)(2)(B).

If any year described in the preceding sentence is a short taxable year which does not include the last day of the required taxable year, the new applicable election year shall be the taxable year following the short taxable year.

"(C) ADDITIONAL AMOUNT.—For purposes of subparagraph (A), the amount determined under this subparagraph shall be—

"(i) in the case of a year described in subparagraph (B)(i), 75 percent of the required payment for the year, and

"(ii) in the case of a year described in subparagraph (B)(ii), 75 percent of the excess (if any) of—

"(I) the required payment for the year, over

"(II) the required payment for the year which would have been computed if the change described in subparagraph (B)(ii) had not occurred.

"(D) REQUIRED PAYMENT.—For purposes of this paragraph, the term 'required payment' means the payment required by this section (determined without regard to this paragraph)."

(2) DUE DATE.—Paragraph (2) of section 7519(f) (defining due date) is amended to read as follows:

“(2) DUE DATE.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the amount of any required payment for any applicable election year shall be paid on or before May 15 of the calendar year following the calendar year in which the applicable election year begins.

“(B) SPECIAL RULE WHERE NEW APPLICABLE ELECTION YEAR ADOPTED.—In the case of a new applicable election year, the portion of any required payment determined under subsection (b)(2) shall be paid on or before September 15 of the calendar year in which the applicable election year begins.”

(3) PENALTIES.—

(A) IN GENERAL.—Section 7519(f)(4) (relating to penalties) is amended by adding at the end thereof the following new subparagraph:

“(D) FAILURE TO PAY ADDITIONAL AMOUNT.—In the case of any failure by any entity to pay on the date prescribed therefore the portion of any required payment described in subsection (b)(2) for any applicable election year—

“(i) subparagraph (A) shall not apply, but

“(ii) the entity shall, for purposes of this title, be treated as having terminated the election under section 444 for such year and changed to the required taxable year.”

(B) CONFORMING AMENDMENT.—Section 7519(f)(4)(A) is amended by striking “In” and inserting “Except as provided in subparagraph (D), in”.

(4) REFUNDS.—Section 7519(c)(2)(A) (relating to refund of payments) is amended to read as follows:

“(A) an election under section 444 is not in effect for any year but was in effect for the preceding year, or”.

(5) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 7519(c) is amended—

(i) by striking “subsection (b)(2)” and inserting “subsection (b)(1)(B)”, and

(ii) by striking “subsection (b)(1)” and inserting “subsection (b)(1)(A)”.

(B) Subsection (d) of section 7519 is amended by striking paragraph (4) and redesignating paragraph (5) as paragraph (4).

(b) OTHER DEFINITIONS AND SPECIAL RULES.—

(1) REFUND.—Paragraph (3) of section 7519(c) (relating to date on which refund is payable) is amended in the matter preceding subparagraph (A) by striking “on the later of” and inserting “by the later of”.

(2) DEFERRAL RATIO.—The last sentence of paragraph (1) of section 7519(d) is amended to read as follows: “Except as provided in regulations, the term ‘deferral ratio’ means the ratio which the number of months in the deferral period of the applicable election year bears to the number of months in the applicable election year.”

(3) NET INCOME.—Paragraph (2) of section 7519(d) is amended by adding at the end the following new subparagraph:

“(D) EXCESS APPLICABLE PAYMENTS FOR BASE YEAR.—In the case of any new applicable election year, the net income for the base year shall be increased by the excess (if any) of—

“(i) the applicable payments taken into account in determining net income for the base year, over

“(ii) 120 percent of the average amount of applicable payments made during the first 3 taxable years preceding the base year.”

(4) DEFERRAL PERIOD.—Paragraph (1) of section 7519(e) (defining deferral period) is amended to read as follows:

“(1) DEFERRAL PERIOD.—Except as provided in regulations, the term ‘deferral period’ means, with respect to any taxable year of the entity, the months between—

“(A) the beginning of such year, and

“(B) the close of the first required taxable year (as defined in section 444(e)) ending within such year.”

(5) BASE YEAR.—

(A) IN GENERAL.—Paragraph (2)(A) of section 7519(e) (defining base year) is amended to read as follows:

“(A) BASE YEAR.—The term ‘base year’ means, with respect to any applicable election year, the first taxable year of 12 months (or 52-53 weeks) of the partnership or S corporation preceding such applicable election year.”

(B) CONFORMING AMENDMENT.—Paragraph (2) of subsection (g) of section 7519 is amended to read as follows:

“(2) there is no base year described in subsection (e)(2)(A) or no preceding taxable year described in section 280H(c)(1)(A)(i).”

(c) INTEREST.—Section 7519(f)(3) (relating to interest) is amended to read as follows:

“(3) INTEREST.—For purposes of determining interest, any payment required by this section shall be treated as a tax, except that interest shall be allowed with respect to any refund of a payment under this section only for the period from the latest date specified in subsection (c)(3) for such refund to the actual date of payment of such refund.”

**Subtitle H—Deduction for Charitable Contribution of Appreciated Property Limited To Adjusted Basis**

**SEC. 871. DEDUCTION FOR CHARITABLE CONTRIBUTION OF APPRECIATED PROPERTY LIMITED TO ADJUSTED BASIS.**

(a) IN GENERAL.—The first sentence of section 170(e) (relating to contributions of ordinary income and capital gain property) is amended to read as follows: “The amount of any charitable contribution of property otherwise taken into account under this section shall be reduced by the amount which would have been gained had the property been sold by the taxpayer at its fair market value (determined at the time of such contribution).”

(b) CONFORMING AMENDMENTS.—

(1) Subsection (e) of section 170 is amended by striking paragraphs (3), (4), and (5).

(2) Subsection (a) of section 57 is amended by striking paragraph (7).

(3) Subsection (c) of section 642 is amended by adding at the end thereof the following new paragraph:

“(7) LIMITATION ON DEDUCTION FOR CONTRIBUTION OF APPRECIATED PROPERTY.—

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions and gifts made after December 31, 1994.

**Subtitle I—Minimum 5 Percent Rate of Tax on Interest Paid To Foreign Persons**

**SEC. 881. MINIMUM 5 PERCENT RATE OF TAX ON INTEREST PAID TO FOREIGN PERSONS.**

(a) INDIVIDUALS.—

(1) Paragraph (1) of section 871(a) is amended by adding at the end thereof the following new sentence: “Notwithstanding any treaty obligation of the United States, the rate of tax imposed under paragraph (1)(A) or (1)(C) shall not be less than 5 percent.”

(2)(A) Paragraph (1) of section 871(h) (relating to repeal of tax on interest of non-resident alien individuals received from certain portfolio debt investments) is amended by striking “no tax shall be imposed under paragraph (1)(A) or (1)(C) of subsection (a).” and inserting “the rate of tax imposed under paragraph (1)(A) or (1)(C) of subsection (a) shall be 5 percent. The preceding sentence

shall apply notwithstanding any treaty obligation of the United States.”

(B) Paragraph (2) of section 861(h) is amended by striking “which would be subject to tax under subsection (a) but for this subsection and” and inserting “subject to tax under subsection (a)”.

(C) The heading of section 871(h) is amended by striking “REPEAL OF TAX” and inserting “5 PERCENT RATE OF TAX”.

(b) CORPORATIONS.—

(1) Subsection (a) of section 881 is amended by adding at the end thereof the following new sentence: “Notwithstanding any treaty obligation of the United States, the rate of tax imposed under paragraph (1) or (2) shall not be less than 5 percent.”

(2)(A) Paragraph (1) of section 881(c) (relating to repeal of tax on interest of foreign corporations received from certain portfolio debt investments) is amended by striking “no tax shall be imposed under paragraph (1) or (3) of subsection (a).” and inserting “the rate of tax imposed under paragraph (1) or (3) of subsection (a) shall be 5 percent. The preceding sentence shall apply notwithstanding any treaty obligation of the United States.”

(B) Paragraph (2) of section 881(c) is amended by striking “which would be subject to tax under subsection (a) but for this subsection and” and inserting “subject to tax under subsection (a)”.

(C) The heading of section 881(c) is amended by striking “REPEAL OF TAX” and inserting “5 PERCENT RATE OF TAX”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interest received after December 31, 1994, in taxable years ending after such date.

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. 492. A bill to provide for the protection of the Bodie Bowl area of the State of California, and for other purposes; to the Committee on Energy and Natural Resources.

BODIE PROTECTION ACT OF 1993

● Mrs. FEINSTEIN. Mr. President, on behalf of myself and Senator BOXER, I introduce for appropriate reference a bill to provide for the protection of the Bodie Bowl area of the State of California. This legislation is identical to H.R. 240 sponsored in the House by Congressman LEHMAN of California.

The historic Bodie gold mining district in Mono County, CA, is the largest and best preserved authentic ghost town in the Western United States. In recognition of its important natural, historic, and aesthetic resources, the town of Bodie was designated a national historic landmark in 1961 and a California State historic park in 1962. Bodie is also listed on the National Register of Historic Places and included on the Federal Historic American Buildings Survey. Nearly 200,000 persons visit Bodie each year to see this outdoor museum and savor a part of California's early history.

Today, however, the historic town of Bodie is threatened by new interest in gold mining on Federal lands surrounding Bodie State Park. In 1988 Galactic Resources, a Canadian mining company, began exploration just outside Bodie State Park on lands owned and

managed by the Federal Bureau of Land Management [BLM]. The Bodie Bowl encompasses about 6,000 acres of BLM land, 450 acres of State historic park, and about 800 acres of patented land. The BLM estimates that 4,800 acres of the 6,000 acres of public land in the Bodie Bowl have mining claims, all of which are owned or controlled by Galactic Resources. Although the company filed for bankruptcy last month, the mining threat to Bodie is still very real. If the claims lapse, a number of speculators might re-stake the claims, greatly complicating efforts to protect the historical integrity, cultural values, and ghost town character of the national historic landmark and State historic park.

There is strong public support for protection of Bodie. The California State Legislature, on September 4, 1990, requested the President and the Congress to direct the Secretary of the Interior to protect the ghost town character, ambience, historic buildings, and scenic attributes of the town of Bodie and nearby areas. The California State Legislature also requested the Secretary, if necessary to protect the Bodie Bowl area, to withdraw the Federal lands within the area from all forms of mineral entry and patent. The California Department of Parks and Recreation and the California State Park Rangers Association have also called for Federal legislation to protect Bodie.

The legislation I am introducing today responds to these requests for action and provides the needed protection for the Federal lands in the Bodie Bowl. Under the bill approximately 6,000 acres of BLM land in the Bodie Bowl would no longer be open to mining activity, except for existing valid mining rights. In addition, the bill provides that existing mining claims could not be patented in the Bodie Bowl area. Finally, the bill requires that mining activities in the Bodie Bowl be conducted in an environmentally sound manner under regulations developed by the Secretary of the Interior in consultation with the Governor of California.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

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

S. 492

*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 "Bodie Protection Act of 1993".

#### SEC. 2. FINDINGS.

The Congress finds that—

(1) the historic Bodie gold mining district in the State of California is the site of the largest and best preserved authentic ghost town in the western United States;

(2) the Bodie Bowl area contains important natural, historical, and aesthetic resources;

(3) Bodie was designated a National Historic Landmark in 1961 and a California State Historic Park in 1962, is listed on the National Register of Historic Places, and is included in the Federal Historic American Buildings Survey;

(4) nearly 200,000 persons visit Bodie each year, providing the local economy with important annual tourism revenues;

(5) the town of Bodie is threatened by proposals to explore and extract minerals; mining in the Bodie Bowl area may have adverse physical and aesthetic impacts on Bodie's historical integrity, cultural values, and ghost town character as well as on its recreational values and the area's flora and fauna;

(6) the California State Legislature, on September 4, 1990, requested the President and the Congress to direct the Secretary of the Interior to protect the ghost town character, ambience, historic buildings, and scenic attributes of the town of Bodie and nearby areas;

(7) the California State Legislature also requested the Secretary, if necessary to protect the Bodie Bowl area, to withdraw the Federal lands within the area from all forms of mineral entry and patent;

(8) the National Park Service listed Bodie as a priority one endangered National Historic Landmark in its fiscal year 1990 and 1991 report to Congress entitled "Threatened and Damaged National Historic Landmarks" and recommended protection of the Bodie area; and

(9) it is necessary and appropriate to provide that all Federal lands within the Bodie Bowl area are not subject to location, entry, and patent under the mining laws of the United States, subject to valid existing rights, and to direct the Secretary to consult with the Governor of the State of California before approving any mining activity plan within the Bodie Bowl.

#### SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) The term "Bodie Bowl" means the Federal lands and interests in lands within the area generally depicted on the map referred to in section 4(a).

(2) The term "mining" means any activity involving mineral prospecting, exploration, extraction, milling, beneficiation, processing, and reclamation.

(3) The term "Secretary" means the Secretary of the Interior.

#### SEC. 4. APPLICABILITY OF MINERAL MINING, LEASING AND DISPOSAL LAWS.

(a) RESTRICTION.—Subject to valid existing rights, after the date of enactment of this Act Federal lands and interests in lands within the area generally depicted on the map entitled "Bodie Bowl" and dated June 12, 1992, shall not be—

(1) open to the location of mining and mill site claims under the general mining laws of the United States;

(2) subject to any lease under the Mineral Leasing Act (30 U.S.C. 181 and following) or the Geothermal Steam Act of 1970 (30 U.S.C. 100 and following), for lands within the Bodie Bowl; and

(3) available for disposal of mineral materials under the Act of July 31, 1947, commonly known as the Materials Act of 1947 (30 U.S.C. 601 and following).

Such map shall be on file and available for public inspection in the Office of the Secretary, and appropriate offices of the Bureau of Land Management and the National Park Service. As soon as practicable after the date of enactment of this Act, the Secretary shall publish a legal description of the Bodie Bowl area in the Federal Register.

(b) VALID EXISTING RIGHTS.—As used in this subsection, the term "valid existing rights" in reference to the general mining laws means that a mining claim located on lands within the Bodie Bowl was properly located and maintained under the general mining laws prior to the date of enactment of this Act, was supported by a discovery of a valuable mineral deposit within the meaning of the general mining laws on the date of enactment of this Act, and that such claim continues to be valid.

(c) VALIDITY REVIEW.—The Secretary shall undertake an expedited program to determine the validity of all unpatented mining claims located within the Bodie Bowl. The expedited program shall include an examination of all unpatented mining claims, including those for which a patent application has not been filed. If a claim is determined to be invalid, the Secretary shall promptly declare the claim to be null and void, except that the Secretary shall not challenge the validity of any claim located within the Bodie Bowl for the failure to do assessment work for any period after the date of enactment of this Act. The Secretary shall make a determination with respect to the validity of each claim referred to under this subsection within 2 years after the date of enactment of this Act.

#### (d) LIMITATION ON PATENT ISSUANCE.—

(1) MINING CLAIMS.—(A) After March 8, 1992, no patent shall be issued by the United States for any mining claim located under the general mining laws within the Bodie Bowl unless the Secretary determines that, for the claim concerned—

(i) a patent application was filed with the Secretary on or before such date; and

(ii) all requirements established under sections 2325 and 2326 of the Revised Statutes (30 U.S.C. 29 and 30) for vein or lode claims and sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36, 37) for placer claims were fully complied with by that date.

(B) If the Secretary makes the determinations referred to in subparagraph (A) for any mining claim, the holder of the claim shall be entitled to the issuance of a patent in the same manner and degree to which such claim holder would have been entitled to prior to the enactment of this Act, unless and until such determinations are withdrawn or invalidated by the Secretary or by a court of the United States.

(2) MILL SITE CLAIMS.—(A) After March 8, 1992, no patent shall be issued by the United States for any mill site claim located under the general mining laws within the Bodie Bowl unless the Secretary determines that, for the claim concerned—

(i) a patent application was filed with the Secretary on or before March 8, 1992; and

(ii) all requirements applicable to such patent application were fully complied with by that date.

(B) If the Secretary makes the determinations referred to in subparagraph (A) for any mill site claim, the holder of the claim shall be entitled to the issuance of a patent in the same manner and degree to which such claim holder would have been entitled to prior to the enactment of this Act, unless and until such determinations are withdrawn or invalidated by the Secretary or by a court of the United States.

#### SEC. 5. MINERAL ACTIVITIES.

(a) IN GENERAL.—Mineral exploration, mining, beneficiation, and processing activities on unpatented mining claims within the Bodie Bowl shall be subject to such regulations prescribed by the Secretary, in con-

sultation with the Governor of the State of California, as the Secretary deems necessary to ensure that such mineral activities are conducted—

(1) in accordance with the rules and regulations promulgated under Public Law 94-429 (16 U.S.C. 1901 et seq.) as they relate to plan of operations, reclamation requirements, and bonding; and

(2) in a manner that does not cause any adverse effect on the historic, cultural, recreational and natural resource values of the Bodie Bowl area.

(b) RESTORATION OF EFFECTS OF MINING EXPLORATION.—As soon as possible after the date of enactment of this Act, visible evidence or other effects of mining exploration activity within the Bodie Bowl conducted on or after September 1, 1988, shall be reclaimed by the operator in accordance with regulations prescribed pursuant to subsection (a).

(c) ANNUAL EXPENDITURES; FILING.—The requirements for annual expenditures on unpatented mining claims imposed by Revised Statute 2324 (30 U.S.C. 28) shall not apply to any such claim located within the Bodie Bowl. In lieu of filing the affidavit of assessment work referred to under section 314(a)(1) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(a)(1)), the holder of any unpatented mining or mill site claim located within the Bodie Bowl shall only be required to file the notice of intention to hold the mining claim referred to in such section 314(a)(1).

(d) REGULATIONS.—The Secretary shall promulgate the regulations referred to in this section within 90 days after the date of enactment of this Act. For the purposes of this Act, the Bureau of Land Management shall promulgate and administer the rules and regulations referred to in section 5(a).

#### SEC. 6. STUDY.

Beginning as soon as possible after the date of enactment of this Act, the Secretary of the Interior, through the Director of the National Park Service, shall review possible actions to preserve the scenic character, historical integrity, cultural and recreational values, flora and fauna, and ghost town characteristics of lands and structures within the Bodie Bowl. No later than 3 years after the date of such enactment, the Secretary shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a report that discusses the results of such review and makes recommendations as to which steps (including but not limited to acquisition of lands or valid mining claims) should be undertaken in order to achieve these objectives.●

By Mr. COHEN (for himself, Mr. BOND, Mr. CHAFEE, Mr. SIMPSON, Mr. COCHRAN, Mr. BINGAMAN, Mr. CRAIG, Mr. MACK, Mr. MCCAIN, Mr. GORTON, Mr. KEMPTHORNE, Mr. BURNS, Mr. DOMENICI, Mr. WARNER, Mr. STEVENS, Mr. BROWN, Mr. GREGG, and Mr. COATS):

S. 493. A bill to amend the Public Health Service Act to facilitate the entering into of cooperative agreements between hospitals for the purpose of enabling such hospitals to share expensive medical or high technology equipment or services, and for other services.

#### HOSPITAL COOPERATIVE AGREEMENT ACT

● Mr. COHEN, Mr. President, the U.S. health care system is the most innovative and most technologically advanced in the world. It is also the most expensive. Advances in medical technology have dramatically improved methods for diagnosing and treating disease, saving millions of lives, and dazzling health care professionals and consumers alike.

Unfortunately, however, this proliferation of expensive medical gadgetry and high technology machinery has also contributed to an equally dazzling explosion in health care expenditures. Total health care costs, which were earlier expected to top the trillion dollar mark by the turn of the century now appear likely to hit that level as early as next year, and the Institute of Medicine estimates that the use of new technologies and the overuse of existing technologies account for as much as 50 percent of our annual increase in health care costs.

More health care is not necessarily better health care, and we need to find a more efficient and cost-effective way to deliver these important but costly high technology services.

America's health care providers are currently engaged in what amounts to a high technology medical arms race. Every hospital in America wants to have the latest in high technology machinery and sophisticated hardware, and then must make sure that the equipment is in constant use in order to pay for it.

This high technology arms race has been a boon to Wall Street and the medical industrial complex that manufactures and supplies the equipment. However, it has done no favors for the consumer who must ultimately foot the bill for the services.

The legislation I am introducing today is intended to encourage hospitals to call a halt to the high technology arms race and work together to build down their medical arsenals.

Entitled the "Hospital Cooperative Agreement Act," the bill is intended to encourage hospitals to collaborate in order to develop more rational health care delivery systems built around the needs of the community, not the needs of the provider. It is also intended to demonstrate the extent to which co-operation between hospitals cannot only help to contain costs, but also increase access and improve the quality of health care available in the community.

The Hospital Cooperative Agreement Act authorizes the Secretary of Health and Human Services, working in consultation with the Administrator of the Agency for Health Care Policy and Research, to award 10 5-year demonstration grants to hospitals wishing to enter into cooperative agreements to share expensive medical equipment or services.

Such agreements have the potential not only to reduce health care costs by eliminating unnecessary duplication of high technology services or equipment, but also to enable smaller hospitals to share expensive equipment that couldn't be supported by one hospital alone—for instance a mobile CAT-scan or lithotripter, which uses shock waves to dissolve kidney stones—thus increasing access to such services in rural areas. At least three of the demonstration grants authorized by my legislation are to be used to improve access or quality of care in rural areas.

The legislation also specifies that the grant funding may only be used to facilitate the cooperative agreements, not to purchase equipment. Finally, the bill provides an exemption from Federal antitrust law for each of the demonstrations so that hospitals will be able to enter freely into the cooperative agreements, as set out in the legislation.

Mr. President, hospitals across the country have begun to recognize that we simply cannot afford to sustain the 1980's era of cutthroat competition that promised a CAT-scan in every clinic and an MRI in every community hospital.

In my home State, the Maine Hospital Association has embarked upon a future directions project to determine how hospitals throughout the State can work together to share services and contain costs. In addition, last year the State legislature enacted legislation which established a public process for the review and approval of cooperative projects and which removed some of the barriers in antitrust law that have traditionally discouraged hospitals from pursuing cooperative agreements. As a result, the past 2 years have witnessed an increasing number of cooperative arrangements across the State. For example:

A new \$1.25 million Coastal Cancer Treatment Center recently opened in Bath, ME. The new facility was developed by six midcoast hospitals and will serve patients from Freeport to Camden, ME. Previously, cancer patients living along the coast have had to travel many miles to Portland or Augusta—many as often as once or twice a week—to receive their chemotherapy or radiology treatments.

Patients are referred to the linear accelerator—a cancer treatment device that produces high-energy x rays to treat tumors with minimal damage to surrounding tissues—at Eastern Maine Medical Center [EMMC] in Bangor by 20 hospitals in northern and southern Maine. Because of the shortage of similar technology in Canada, the regional hospital in St. John, NB, also refers patients to Bangor for this service. In addition, EMMC also sends oncologists out to smaller hospitals in the area to handle the chemotherapy needs of patients. Cancer screening and other

treatment needs are handled by the local physician and hospital, but the expensive, high-technology activity is handled by the regional referral center, thus making the system more cost efficient.

A lithotripter unit mounted on an 18-wheel tractor trailer operates out of two Maine sites—St. Joseph's Hospital in Bangor and Maine Medical Center in Portland—to serve patients from throughout the State. Up until 3 or 4 years ago, there were no lithotripters—which use shock waves to disintegrate kidney stones without invasive surgery—in Maine. Patients had to travel to New Hampshire or undergo more traditional surgical treatment, which is painful and requires weeks of recovery time. This shared arrangement allows patients from throughout the State to have reasonable access to technology their community hospitals simply could not afford.

A new neonatal transfer system using a specially equipped ambulance and trained crew now links community hospitals throughout southern Maine to the neonatal care unit at Maine Medical Center in Portland. Maine Medical Center [MMC] has entered into partnership with Medcu—the Portland city-owned ambulance company—to provide the service. MMC expects about 220 transfers each year, linking infants born prematurely in the region to the advanced care available at MMC and returning them to less intensive nurseries in their local hospitals when appropriate. The transfer service will also make about 30 trips to and from Boston with those patients who require even more highly specialized care.

Interest in these kinds of cooperative arrangements is not unique to Maine. Seven hospitals in Denver have formed a consortium to study the feasibility of collaborating on the provision of cardiology services for the region. Ten hospitals in Rhode Island have created a network to share the costs and services of four MRI units, and several hospitals in Montana have joined forces to develop a mobile lithotripsy network.

However, while there is growing support for such efforts, hospitals still face significant obstacles to successful collaboration. Cautious administrators are fearful of antitrust implications, and collaboration on even the simplest of projects requires months of negotiation and trust-building to overcome such problems as turf battles and bruised institutional egos.

Enactment of my bill will help encourage hospitals to engage in cooperative agreements by clearly demonstrating the potential that collaboration holds not only for containing health care costs, but also for increasing access and improving quality of care. It will also facilitate the development of models or prototypes, making it easier for hospitals wishing to enter into such agreements in the future.

Mr. President, I urge my colleagues to join Senators BOND, CHAFFEE, SIMPSON, COCHRAN, BINGAMAN, CRAIG, MACK, MCCAIN, GORTON, KEMPTHORNE, and BURNS in cosponsoring the Hospital Cooperative Agreement Act, and ask unanimous consent to include the text of the legislation and a summary in the RECORD.

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

S. 493

*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 "Hospital Cooperative Agreement Act".

**SEC. 2. PURPOSE.**

It is the purpose of this Act to encourage cooperation between hospitals in order to contain costs and achieve a more efficient health care delivery system through the elimination of unnecessary duplication and proliferation of expensive medical or high technology services or equipment.

**SEC. 3. HOSPITAL TECHNOLOGY AND SERVICES SHARING DEMONSTRATION PROGRAM.**

Part D of title VI of the Public Health Service Act (42 U.S.C. 291k et seq.) is amended by adding at the end thereof the following new section:

**"SEC. 647. HOSPITAL TECHNOLOGY AND SERVICES SHARING DEMONSTRATION PROGRAM.**

**"(a) ESTABLISHMENT.**—The Secretary shall establish a demonstration program under which the Secretary shall award not to exceed 10 grants to eligible applicants to facilitate collaboration among two or more hospitals with respect to the provision of expensive, capital-embodied medical technology or other highly resource-intensive services. Such program shall be designed to demonstrate the extent to which such agreements result in a reduction in costs, an increase in access to care, and improvements in the quality of care with respect to the hospitals involved.

**"(b) ELIGIBLE APPLICANTS.**—

**"(1) IN GENERAL.**—To be eligible to receive a grant under subsection (a), an entity shall be a hospital and shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

**"(A)** a statement that such hospital desires to negotiate and enter into a voluntary cooperative agreement with at least one other hospital operating in the State or region of the applicant hospital for the sharing of medical technology or services;

**"(B)** a description of the nature and scope of the activities contemplated under the cooperative agreement and any consideration that may pass under such agreement to any other hospital that may elect to become a party to the agreement; and

**"(C)** any other information determined appropriate by the Secretary.

**"(2) DEVELOPMENT OF EVALUATION GUIDELINES.**—The Administrator of the Agency for Health Care Policy and Research shall develop evaluation guidelines with respect to applications submitted under paragraph (1).

**"(3) EVALUATIONS OF APPLICATIONS.**—The Secretary, in consultation with the Administrator of the Agency for Health Care Policy and Research, shall evaluate applications

submitted under paragraph (1). In determining which applications to approve for purposes of awarding grants under subsection (a), the Secretary shall consider whether the cooperative agreement described in each such application meets guidelines developed under paragraph (2) and is likely to result in—

**"(A)** the enhancement of the quality of hospital or hospital-related care;

**"(B)** the preservation of hospital facilities in geographical proximity to the communities traditionally served by such facilities;

**"(C)** improvements in the cost-effectiveness of high-technology services by the hospitals involved;

**"(D)** improvements in the efficient utilization of hospital resources and capital equipment; or

**"(E)** the avoidance of duplication of hospital resources.

**"(c) USE OF AMOUNTS.**—

**"(1) IN GENERAL.**—Amounts provided under a grant awarded under this section shall be used only to facilitate collaboration among hospitals and may not be used to purchase facilities or capital equipment. Such permissible uses may include reimbursements for the expenses associated with specialized personnel, administrative services, support services, and instructional programs.

**"(2) CARE IN RURAL AREAS.**—

**"(A) IN GENERAL.**—Not less than three of the grants awarded under subsection (a), shall be used to demonstrate the manner in which cooperative agreements of the type described in such subsection may be used to increase access to or quality of care in rural areas.

**"(B) DEFINITION.**—As used in subparagraph (A), the term 'rural areas' means those areas located outside of metropolitan statistical areas.

**"(d) MEDICAL TECHNOLOGY AND SERVICES.**—

**"(1) IN GENERAL.**—Cooperative agreements facilitated under this section shall provide for the sharing of medical or high technology equipment or services among the hospitals which are parties to such agreements.

**"(2) MEDICAL TECHNOLOGY.**—For purposes of this section, the term 'medical technology' shall include the drugs, devices, and medical and surgical procedures utilized in medical care, and the organizational and support systems within which such care is provided.

**"(3) ELIGIBLE SERVICES.**—With respect to services that may be shared under an agreement entered into under this section, such services shall—

**"(A)** either have high capital costs or extremely high annual operating costs; and

**"(B)** be services with respect to which there is a reasonable expectation that shared ownership will avoid a significant degree of the potential excess capacity of such services in the community or region to be served under such agreement.

Such services may include mobile clinic services.

**"(e) TERM.**—The demonstration program established under this section shall continue for a term of 5 years.

**"(f) REPORT.**—On the date that occurs 5 years after the establishment of the demonstration program under this section, the Secretary shall prepare and submit to the appropriate committees of Congress, a report concerning the potential for cooperative agreements of the type entered into under this section to—

**"(1)** contain health care costs;

**"(2)** increase the access of individuals to medical services; and

**"(3)** improve the quality of health care.

Such report shall also contain the recommendations of the Secretary with respect to future programs to facilitate cooperative agreements.

**"(g) RELATION TO OTHER LAWS.—**

**"(1) IN GENERAL.—**Notwithstanding any provision of the antitrust laws, it shall not be considered a violation of the antitrust laws for a hospital to enter into, and carry out activities under, a cooperative agreement in accordance with this section.

**"(2) DEFINITION.—**For purposes of this subsection, the term "antitrust laws" means—

**"(A)** the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890, commonly known as the "Sherman Act" (26 Stat. 209; chapter 647; 15 U.S.C. 1 et seq.);

**"(B)** the Federal Trade Commission Act, approved September 26, 1914 (38 Stat. 717; chapter 311; 15 U.S.C. 41 et seq.);

**"(C)** the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914, commonly known as the "Clayton Act" (38 Stat. 730; chapter 323; 15 U.S.C. 12 et seq.; 18 U.S.C. 402, 660, 3285, 3691; 29 U.S.C. 52, 53); and

**"(D)** any State antitrust laws that would prohibit the activities described in paragraph (1).

**"(h) AUTHORIZATION OF APPROPRIATIONS.—**There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of the fiscal years 1994 through 1998."

**SUMMARY OF HOSPITAL COOPERATIVE AGREEMENT ACT**  
**GOAL**

The Hospital Cooperative Agreement Act is intended to encourage cooperation between hospitals in order to contain costs and achieve a more cost-effective health care delivery system by eliminating unnecessary duplication and proliferation of expensive medical or high technology services or equipment.

**DESCRIPTION OF LEGISLATION**

The legislation authorizes ten 5-year demonstration projects to develop prototypes for collaboration between two or more hospitals to provide expensive medical or high technology equipment. These projects should demonstrate the extent to which cooperative agreements between hospitals can: 1) reduce costs; 2) increase access; and 3) improve quality of care. At least three of the ten projects should be in rural areas.

The Agency for Health Care Policy and Research within the Department of Health and Human Services is to review the applications, select the grantees, and monitor the projects. In evaluating the applications, consideration will be given to whether one or more of the following benefits is likely to result from the cooperative agreement:

- (1) the enhancement of the quality of hospital and/or hospital related care;
- (2) the preservation of hospital services in geographical proximity to the communities traditionally served by the hospitals involved;
- (3) improvements in the cost-effectiveness of high-technology services by the hospitals involved;
- (4) improvements in the efficient utilization of hospital resources and capital equipment;
- (5) the provision of services that would not otherwise be available; or
- (6) the avoidance of duplication of hospital resources.

Grant funds provided may only be used to facilitate collaboration between hospitals and may not be used to purchase facilities or capital equipment.

A waiver of federal antitrust law will be provided for the demonstration projects.

At the conclusion of the demonstration, the Agency for Health Care Policy and Research will report to Congress on the potential for such cooperative agreements to: 1) contain health costs; 2) increase access to services; and 3) improve quality of care. The Agency's report should also contain recommendations for further action.

By Mr. DASCHLE (for himself and Mr. BROWN):

S. 494. A bill to amend the Internal Revenue Code of 1986 to provide changes in application of wagering taxes to charitable organizations; to the Committee on Finance.

**CHARITABLE ORGANIZATION WAGERING TAXES**  
**ACT OF 1993**

• Mr. DASCHLE. Mr. President, I rise to introduce legislation to repeal two taxes that interfere with the charitable activities of nonprofits. I am joined by my respected colleague, Senator HANK BROWN, who introduced similar legislation when he was a Member of the House of Representatives.

Nonprofit organizations perform badly needed services that government is often ill-equipped to provide. Through use of local and private funds, these organizations mobilize volunteers to assist in providing temporary shelter to the homeless, soup kitchens, rape counseling, educational services, suicide hot-lines, transportation to the elderly and disabled, and much more.

The work of charitable organizations is essential to the national effort to grapple with many of these vital social needs. Congress has recognized this fact by exempting charitable groups from the Federal income tax. This policy has never been questioned.

Yet, two taxes tucked into the tax code are threatening the ability of certain nonprofits to raise funds and pursue their charitable goals. The first, found in section 4411, is an annual occupational tax of \$50 imposed with respect to each volunteer who helps with activities like pull-tabs and jar raffles. The second, set forth in section 4401, is a wagering excise tax of .25 percent on the gross income raised from these activities.

For many charitable organizations, such as the Knights of Columbus, the Elks, and numerous veterans groups, wagering games are central to their fundraising activities. The occupational tax creates a strong incentive to limit the number of volunteers who help with fundraising activities. And the wagering excise tax directly reduces the amounts raised that would otherwise be used to support the organization's charitable goals.

While these taxes have been on the books for some time, they have not been collected by the Internal Revenue Service—until recently. In the past few years, the IRS has initiated regional audits to collect these taxes.

The legislation I am introducing today would repeal both the special occupational tax and the wagering excise tax. Except for the effective date, my bill is identical to legislation passed in the 102d Congress as part of H.R. 11 but vetoed by President Bush.

The proposal would limit the repeal of the wagering excise tax only to the extent the nonprofit demonstrates that funds raised by wagering games have been directed towards the organization's charitable goals. Thus, if funds from wagering games conducted by nonprofits inure to the benefit of the members of the organization, then they would still be subject to the wagering excise tax.

Mr. President, whatever rationale there may be for imposing the occupational and excise taxes on wagering in other contexts, they do not make sense as applied to nonprofits. For those who may be concerned that nonprofits are engaging in activities unrelated to their tax-exempt purposes, the nonprofits are already subject to the Unrelated Business Income Tax.

Nonprofits in a number of States already have faced substantial financial and administrative difficulties as a result of the retroactive enforcement of these taxes. We must take action now to prevent further interference with the legitimate fundraising activities of nonprofit organizations. I urge my colleagues to support this legislation.

I ask unanimous consent that the full text of the bill be printed in the RECORD following my remarks.

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

S. 494

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. CHANGES IN APPLICATION OF WAGERING TAXES TO CHARITABLE ORGANIZATIONS.**

(a) EXEMPTION FROM OCCUPATIONAL TAX FOR CHARITABLE ORGANIZATIONS.—Section 4411 of the Internal Revenue Code of 1986 (relating to occupational tax on wagering) is amended by adding at the end thereof the following new subsection:

**"(c) EXCEPTION FOR CHARITABLE ORGANIZATIONS, ETC.—**No tax shall be imposed by subsection (a) on—

**"(1)** any organization exempt from tax under section 501 or 521, and

**"(2)** any person who is engaged in receiving wagers only for or on behalf of such an organization,

if the only wagers accepted by such organization (and such person) are authorized under the law of the State in which accepted."

(b) EXCEPTION FROM WAGERING TAX FOR CHARITABLE ORGANIZATIONS.—Section 4402 of such Code (relating to exemptions from tax on wagers) is amended by inserting "(a) IN GENERAL.—" before "No tax" and by adding at the end thereof the following new subsection:

**"(b) CHARITABLE ORGANIZATIONS, ETC.—**

**"(1) EXEMPTION WHERE CHARITABLE EXPENDITURES EXCEED WINNINGS.—**If the amount of charitable expenditures of any organization

described in section 4411(c) for any calendar quarter equals or exceeds the amount of wagering winnings of such organization for such quarter, no tax shall be imposed by this subchapter on wagers placed during such calendar quarter with such organization or with any person described in section 4411(c)(2) with respect to such organization.

**"(2) REDUCTION OF TAX WHERE WINNINGS EXCEED CHARITABLE EXPENDITURES.—**

**"(A) IN GENERAL.—**If paragraph (1) does not apply to an organization or person described in section 4411(c) for any calendar quarter, the tax imposed by this subchapter on wagers placed with such organization or person during such quarter shall be the applicable percentage of the tax which would (but for this paragraph) be imposed on such wages during such quarter.

**"(B) APPLICABLE PERCENTAGE.—**For purposes of subparagraph (A), the applicable percentage for any calendar quarter is the excess of 100 percent over the percentage which the charitable expenditures of such organization for such quarter is of the wagering winnings of such organization for such quarter.

**"(3) DEFINITIONS AND SPECIAL RULE.—**For purposes of this subsection—

**"(A) CHARITABLE EXPENDITURES.—**The term 'charitable expenditures' means, for any calendar quarter, the sum of—

**"(i)** the amount paid by such organization during such quarter to accomplish 1 or more of the purposes described in section 170(c)(2)(B) or to acquire an asset used (or held for use) directly in carrying out 1 or more of such purposes, and

**"(ii)** the amount permanently set-aside by such organization during such quarter for 1 or more of such purposes.

**"(B) WAGERING WINNINGS.—**The term 'wagering winnings' means, with respect to any calendar quarter, the excess of the wagers which would (but for this subsection) be subject to tax under this subchapter and which are placed with the organization during such calendar quarter over the winnings paid on such wagers.

**"(C) SPECIAL RULE.—**Wagers received by any person for or on behalf of an organization shall be treated as received by such organization."

**(c) EFFECTIVE DATES.—**

**(1) SUBSECTION (a).—**The amendment made by subsection (a) shall apply to taxes imposed for periods beginning after the date of the enactment of this Act.

**(2) SUBSECTION (b).—**The amendment made by subsection (b) shall apply to wagers placed in calendar quarters beginning after the date of the enactment of this Act.●

By Mr. DODD (for himself, Mr. REID, Mrs. BOXER, and Mrs. MURRAY):

S. 495. A bill to establish a program to provide child care through public-private partnerships, and for other purposes; to the Committee on Labor and Human Resources.

CHILD CARE PUBLIC-PRIVATE PARTNERSHIP ACT  
OF 1993

● Mr. DODD. Mr. President, it is increasingly apparent that in building a strong work force and a sound economy, we must address critical issues related to work and family. In the Family and Medical Leave Act, we recognized the need for workers to take leave to be with their children or other family members in items of crisis.

There is another need important to both parents and their employers—more of a quiet crisis because it is present day in and day out—and that is the availability of quality child care. Today, I am introducing the Child Care Public-Private Partnership Act, which offers a creative approach to help meet this need.

No other work and family issue has the magnitude of American workers' child care needs. Today, two-thirds of women with children under age 18 are in the labor force—including more than 15 million women with children under the age of 6. An increasing number of households are headed by women, and more than half of all single mothers are in the work force. Most of these women work outside the home because they are trying to make ends meet for their families. Single parents often are the sole breadwinner.

Finding quality child care is a task about which parents all over America agonize. In my own State of Connecticut, more than 300,000 children need child care. Forty percent of children under age 3 need care outside the home. Added to that burden, parents must search for quality care that is also convenient and affordable. It is a source of frustration to parents everywhere. And parents are not alone in their frustration.

In 1990, Congress responded to the child care crisis with the landmark child care and development block grant. This program now provides significant funds to States to assist families with the costs of child care and to improve the quality of child care services. That block grant is a solid foundation upon which we must build further, given the tremendous need of working parents.

Mr. President, child care is not just a parental concern or a Government concern, it is also a business concern. Certainly, businesses are demonstrating a real and increasing recognition of the relationship of work and family and its effect on their own productivity. Companies now view corporate policies that address work and family issues as essential to attracting and keeping employees, to improving productivity and their competitiveness within the industry, and to competing successfully in a global economy. The legislation I am introducing today encourages businesses to become even more involved.

In the past few years, we have seen a growth in creative efforts by businesses to meet their workers' needs. For example, companies have provided on-site child care, revolving loan funds used to create, expand, and improve child care centers, and business-funded training to child care providers. My own State of Connecticut has been the site of many such innovations.

A year ago, I chaired a hearing of the Subcommittee on Children, Family, Drugs, and Alcoholism, on innovative

partnerships between businesses and the public sector to address a variety of human service needs. I am encouraged by the power of such public-private partnerships to fashion community-based solutions working toward the common good. I believe we should create more opportunities for this approach to work. In particular, we ought to harness it to address the compelling issue of inadequate child care resources. For this reason, I am introducing the Child Care Public-Private Partnership Act.

This bill would authorize the Secretary of Health and Human Services to make grants to businesses for start-up costs for child care services to their employees. Grants also could be made to nonprofit organizations to provide technical assistance to such businesses. Grantees must provide \$2 for every \$1 in Federal money, thus leveraging significant private sector contributions. The Federal Government would be providing \$25 million annually in much-needed seed money to spur private investment—investment with clear pay-offs for all concerned.

Child care services funded through this bill must be affordable and available to low- and moderate-income employees. These are the employees with the fewest options for child care and, accordingly, resources should be steered in their direction. In addition, the bill gives priority to businesses with fewer than 100 full-time employees, because small businesses often do not have the resources available to larger businesses.

Mr. President, this legislation is a small but important piece of the child care puzzle. I should add that today Representative NITA LOWEY is introducing a companion measure in the other body, and I appreciate her hard work on this issue. Public-private partnerships are a proven way to combine the strengths of Government with those of the private sector. Low- to moderate-income parents benefit by having more child care options. Government benefits by increased private contributions to ensure the well-being of children and a viable work force. Businesses benefit by being better able to offer competitive work and family programs which attract and keep good employees, and increase their productivity. In short, the child care public-private partnership is a small step that can make a big difference.

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. 495

*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 "Child Care Public-Private Partnership Act of 1993".

**SEC. 2. ESTABLISHMENT OF BUSINESS INCENTIVE GRANT PROGRAM.**

The Secretary shall establish a program to make grants to—

(1) businesses and consortia—  
(A) to pay start-up costs incurred to provide child care services needed by the employees of such businesses; or

(B) to provide additional child care services needed by the employees of such businesses, other than services provided prior to the period for which the grant is made; and

(2) nonprofit business organizations to provide technical information and assistance to enable businesses to provide child care services.

**SEC. 3. ELIGIBILITY TO RECEIVE GRANTS.**

To be eligible to receive a grant under section 2, a business, nonprofit business organization, or consortium shall submit an application to the Secretary in accordance with section 4.

**SEC. 4. APPLICATION.**

In submitting an application referred to in section 3, a business, nonprofit business organization, or consortium shall submit the application at such time, in such form, and containing such information as the Secretary may require by rule, except that such application shall contain—

(1) an assurance that the applicant shall make available, with respect to the costs to be incurred by the applicant in carrying out the activities for which such grant is made, non-Federal contributions in an amount equal to not less than \$2 for every \$1 of Federal funds provided under the grant;

(2) an assurance that such applicant will expend such grant for the use specified in paragraph (1) or (2) of section 2, as the case may be;

(3) an assurance that such applicant will employ strategies to ensure that child care services provided by such applicant, or provided with the technical information and assistance made available by such applicant, are provided at affordable rates, and on an equitable basis, to low- and moderate-income employees;

(4) an assurance that such applicant—  
(A) in the case of a business or consortium, will comply with all State and local licensing requirements applicable to such business or consortium concerning the provision of child care services; or

(B) in the case of a nonprofit business organization, will employ procedures to ensure that technical information and assistance provided under this Act by such business organization will be provided only to businesses that comply with the requirements described in subparagraph (A); and

(5) in the case of a business or consortium, an assurance that if the employees of such applicant do not require all the child care services for which such grant and the funds required by paragraph (1) are to be expended by such applicant, the excess of such child care services shall be made available to families in the community in which such applicant is located.

**SEC. 5. SELECTION OF GRANTEES.**

For purposes of selecting applicants to receive grants under this Act, the Secretary shall give priority to businesses that have fewer than 100 full-time employees. To the extent practicable, the Secretary shall—

(1) make grants equitably under this Act to applicants located in all geographical regions of the United States; and

(2) give priority to applicants for grants under section 2(a).

**SEC. 6. DEFINITIONS.**

As used in this Act:

(1) **BUSINESS.**—The term "business" means a person engaged in commerce whose primary activity is not providing child care services.

(2) **CHILD CARE SERVICES.**—The term "child care services" means care for a child that is—

(A) provided on the site at which a parent of such child is employed or at a site nearby in the community; and

(B) subsidized at least in part by the business that employs such parent.

(3) **CONSORTIUM.**—The term "consortium" means—

(A) two or more businesses acting jointly; or

(B) two or more businesses and a non-profit private organization, acting jointly.

(4) **SECRETARY.**—The term "Secretary" means the Secretary of Health and Human Services.

**SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated to carry out this Act, \$25,000,000 for each of the fiscal years 1994, 1995, 1996, and 1997.●

By Mr. SIMON (for himself, Mrs. FEINSTEIN, Mr. LAUTENBERG, and Mr. KENNEDY):

S. 496. A bill to amend chapter 44 of title 18, United States Code, to strengthen Federal standards for licensing firearms dealers and heighten reporting requirements, and for other purposes; to the Committee on the Judiciary.

**GUN DEALERS LICENSING REFORM ACT**

● Mr. SIMON. Mr. President, today, Senators FEINSTEIN, LAUTENBERG, KENNEDY, and I introduce the Gun Dealer Licensing Reform Act. The purpose of this legislation is to strengthen Federal standards for licensing firearms dealers and heighten reporting requirements.

Over the past 2 years, firearms have killed 60,000 Americans, more than the number of United States soldiers killed in the Vietnam war. A recent Atlantic Monthly article noted that: "Handguns terrorize more than they kill. Department of Justice statistics also show that every 24 hours handgun-wielding assailants rape 33 women, rob 575 people, and assault another 1,116." Unfortunately, my home State of Illinois is not immune from this gun violence. In 1992, in Chicago alone, the number of homicides was 938. In the first 11 months of 1992, there were 13,751 nonfatal shootings—an all-time record for Chicago. In contrast, a Chicago Tribune story noted that "Toronto, which like Chicago has 3 million people and tough handgun laws, notched only 17 firearm deaths in all of 1991."

Also disturbing is the fact that the Bureau of Alcohol, Tobacco and Firearms [ATF] estimates that there are potentially 200 million firearms in civilian hands—with nearly 4 million new firearms added each year.

Hard as it is to believe with all this violence, the number of licensed gun dealers in this country has increased dramatically since 1980 to a total of 276,000—an increase of 59 percent since 1980. There are 9,182 federally licensed

firearm dealers in Illinois alone. These numbers mean that there is 1 firearm dealer for every 1,000 Americans, or 1 dealer for approximately every 290 firearm owners. The Violence Policy Center put it into perspective when they noted that there are more gun dealers in our country than there are gas stations.

Unfortunately, in contrast to the 59 percent increase in the number of gun dealers, the number of investigators assigned to inspect these dealers has decreased by 13 percent. Something is obviously wrong.

A few more statistics help to put this issue in sharp focus. In 1991 ATF issued 270 licenses a day, for a grand total of 91,000 new and renewed licenses that year. Only 37 of the 34,000 requests for new licenses that year were denied (Washington Post). Amazingly, fewer than 10 percent of dealer applicants undergo an actual inspection in the form of a personal interview or on-site visit.

Bureau spokesman Jack Killorin noted: "There is no question that illegal activity by [dealers] is a threat to the community. The volume of licenses has outstripped our ability to keep up." (Washington Post, December 12, 1992.)

Type I dealers—the basic Federal license needed to sell guns in the United States—fall into two categories: those who operate storefront businesses, called stocking dealers; and those who operate out of their homes, called kitchen-table dealers. ATF estimates that only about 20 percent of all federally licensed dealers are actually storefront operations. In addition, ATF estimates that a majority of these kitchen-table dealers acquire a license for the purpose of buying guns in bulk at special prices and in order to skirt State and local laws, such as waiting periods and other restrictions.

How much damage can one dealer do? At least 600 federally licensed dealers have been arrested on criminal charges in the last 5 years. A few examples:

"More than a dozen federally licensed dealers in Detroit alone have been charged with providing more than 2,000 firearms to criminals in the city." (Washington Post.)

"From February to June in 1990, Detroit kitchen-table dealer McClinton Thomas ordered hundreds of handguns. All of the guns were sold off the books, including 90 guns to a 'big-time dope dealer'" (Violence Policy Center.)

"Carroll Brown was a federally licensed dealer in Baltimore, who sold weapons from his home and car. Fewer than half of his gun sales were properly recorded and some were not recorded at all. When he did bother to write down names and addresses, they were often bogus. Of the approximately 300 weapons Brown sold, most have not been recovered, including more than 100 Brown is believed to have sold to a single buyer. At least 14 of the weapons he

sold have turned up at Baltimore crime scenes." (Washington Post.)

Obviously, something must be done to ensure that gun licenses are not used for improper purposes.

The bill Senators FEINSTEIN, LAUTENBERG, KENNEDY, and I are introducing today takes a number of important steps in this direction.

Specifically the bill would:

Raise the license fee for gun dealers. This provision would raise the license fee for firearm dealers to \$750. The current fees, \$50 per year for pawnbrokers who deal in firearms and \$10 per year for all other dealers, has remained unchanged since enactment of the Gun Control Act of 1968. The proposed new fees will help absorb the increasing costs of processing and investigating license applications and renewals. In addition, it will help to discourage individuals from obtaining a dealer's license merely to obtain personal firearms at wholesale prices or to skirt State and local laws.

Require dealers to certify that they are in compliance with State and local laws before receiving a new license. This provision, which Senator MOYNIHAN introduced earlier this year, would strengthen the licensing provisions of the Gun Control Act by requiring, as a prerequisite to the issuance of a new license, that the business to be conducted would not be prohibited by any State or local law applicable in the jurisdiction where the applicant's premises are located. For example, to receive a Federal firearm license, a dealer would need to be in compliance with local zoning laws. This provision would further one of the major congressional objectives of the act which is to coordinate Federal, State, and local laws into an effective system of firearm regulation and to provide support to State and local law enforcement officials.

Drop the 45-day requirement for action on firearm dealer license applications. Current law requires the Secretary of the Treasury to approve or deny applications for Federal firearms licenses within 45 days of receipt of such applications. Further, if action is not taken within such period, an applicant may seek mandamus to compel the Secretary to act. The 45-day period has proven to be unrealistic since the time needed to conduct a thorough background check of an applicant, and to determine whether the applicant meets all of the eligibility requirements for licensing routinely takes longer than 45 days. In order to ensure that licenses are only issued to qualified applicants, this bill would omit the 45-day review period requirement from the act.

Allow the Bureau of Alcohol, Tobacco and Firearms to investigate a dealer more than once a year, if necessary. Under existing law, a warrant is required to conduct more than one in-

spection of a Federal firearms licensee to ensure compliance with the record-keeping provisions of the act during any 12-month period. This restriction against unannounced inspections enables unscrupulous licensees to conceal violations of the law and is too infrequent to ensure compliance with the act's restriction. It should be noted that prior to the amendment of the Gun Control Act in 1986, there was no limit on the number and types of warrantless inspections which could be conducted of firearms licensees, and such inspections had been upheld by the Supreme Court, *U.S. v. Biswell*, 406 U.S. 311 (1972). Furthermore, the Bureau, which also has jurisdiction over Federal alcohol regulations, has unlimited authority to inspect liquor wholesalers. The laws for gun dealers should be consistent with that standard.

Require dealers to report a shortage in a firearm shipment, or lost or stolen inventory to the Bureau. Under current law, ATF has the responsibility for enforcing 18 U.S.C. §922(j) which makes it unlawful to receive, conceal, store, or dispose of any stolen firearm. There is not, however, a requirement for licensees to report thefts of firearms to ATF. The bill to require theft reports will enable ATF to make more timely investigations of violations of the statute.

Require dealers to comply with the Bureau's firearm trace requests. The Bureau of Alcohol, Tobacco and Firearms has statutory access to licensee records by physical inspection. The Bureau may also require written reports of licensees upon request. However, effective gun tracing often necessitates that licensees submit information on firearm sales by phone. While most licensees cooperate with ATF's phone requests, some licensees have refused to respond to such requests. This bill would resolve the problem by requiring licensees to provide trace information by telephone.

Require common carriers, UPS for example, to obtain identification from individuals who receive a firearm shipment. Persons acquiring firearms for illegal purposes and for illegal firearms trafficking are known to receive shipments of firearms away from their place of residence. Taking delivery of firearms in this manner helps conceal the identity of the recipient. The proposed legislation would help resolve the problem by requiring carriers to identify persons who take delivery of firearms.

Require identification, fingerprints and photograph, for individuals applying for a license to sell machineguns. Current law requires individuals to whom National Firearms Act weapons, for example, machineguns, are transferred to be identified by photographs and fingerprints to ensure that the weapons may be lawfully received and possessed. Ironically, there is no simi-

lar requirement for individuals engaged in the firearms business of selling such weapons. This legislation would impose such a requirement on individuals doing business in these types of weapons prior to commencing such business.

Criminalize the sale of firearms or ammunition when there is reasonable cause to believe the weapon will be used in a crime of violence. Dealers must be held responsible for selling guns to individuals who are likely to commit crimes of violence. This bill would make it unlawful for a dealer to sell or otherwise dispose of a firearm if that dealer has reasonable cause to believe that the firearm will be used in such a crime.

We believe that these provisions will make an enormous difference in law enforcement's ability to control the use of weapons for illegitimate purposes. It is time for us to take back control of our streets, our playgrounds, our schools, and our homes from gun wielding criminals. The Gun Dealer Licensing Reform Act can help make that goal a reality. I urge my colleagues to carefully review this legislation and join us in this effort.

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. 496

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. IDENTIFICATION OF RECIPIENT OF FIREARM.**

Section 922(e) of title 18, United States Code, is amended—

(1) by inserting "(1)" after "(e)"; and

(2) in paragraph (1), as designated by paragraph (1), by striking ", to persons other than licensed importers, licensed manufacturers, licensed dealers, or licensed collectors,"; and

(3) by adding at the end the following new paragraph:

"(2) It shall be unlawful for a common or contract carrier knowingly to deliver in interstate or foreign commerce a firearm to a licensed importer, licensed manufacturer, licensed dealer, or licensed collector unless the carrier or other person identifies the person to whom the firearm is delivered and makes and maintains a record of the identity of the person in such a manner as the Secretary may prescribe by regulation."

**SEC. 2. SALE OF FIREARMS OR AMMUNITION HAVING REASONABLE CAUSE TO BELIEVE THAT IT WILL BE USED TO KILL A PERSON.**

Section 922 of title 18, United States Code, is amended by adding at the end the following new subsection.

"(s) It shall be unlawful for a person to sell or otherwise dispose of a firearm or ammunition to another person if the person who sells or otherwise disposes of it has reasonable cause to believe that the person is acquiring the firearm or ammunition with the intent that it will be used by that person or any other person to commit a crime of violence (as defined in section 924(c)(3))."

**SEC. 3. LICENSE APPLICATION FEES FOR DEALERS IN FIREARMS.**

Section 923(a)(3) of title 18, United States Code, is amended—

- (1) in subparagraph (B) by striking "\$25" and inserting "\$750"; and
- (2) in subparagraph (C) by striking "\$10" and inserting "\$750".

**SEC. 4. ACTION ON APPLICATION FOR LICENSE.**

Section 923(d) of title 18, United States Code, is amended—

- (1) by striking "(1)" after "(d)";
- (2) by redesignating subparagraphs (A), (B), (C), (D), and (E) as paragraphs (1), (2), (3), (4), and (5), respectively; and
- (3) by striking paragraph (2).

**SEC. 5. COMPLIANCE WITH STATE AND LOCAL LAW AS CONDITION TO LICENSE.**

Section 923(d) of title 18, United States Code, as amended by section 4, is amended—

- (1) by striking "and" at the end of paragraph (4);
- (2) by striking the period at the end of paragraph (5) and inserting "; and"; and
- (3) by adding at the end the following new paragraphs

"(6)(A) the business to be conducted under the license is not prohibited by State or local law in the place where the licensed premises is located; and

"(B) the applicant has complied with all requirements of State and local law applicable to the conduct of such a business."

**SEC. 6. INSPECTIONS OF FIREARMS LICENSEES.**

Section 923(g)(1) of title 18, United States Code, is amended—

- (1) in subparagraph (B)(ii) by striking "not more than once during any twelve-month period";
- (2) in subparagraph (C)(i) by striking "not more than once during any twelve-month period"; and
- (3) in subparagraph (D) by striking "the annual inspection of records and inventory permitted under this paragraph" and inserting "an inspection under subparagraph (C)(1)".

**SEC. 7. REPORTS OF THEFT OR LOSS OF FIREARMS.**

Section 923(g) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(6) Each licensee shall report the theft or loss of a firearm from the licensee's inventory or collection, within 24 hours after the theft or loss is discovered, to the Secretary and to appropriate local authorities."

**SEC. 8. RESPONSES TO REQUESTS FOR INFORMATION.**

Section 923(g) of title 18, United States Code, as amended by section 7, is amended by adding at the end the following new paragraph:

"(7) Each licensee shall respond immediately to, and in no event later than 24 hours after receipt of, a request by the Secretary for information contained in the records required to be kept by this chapter as may be required for determining the disposition of one or more firearms. The requested information shall be provided orally or in writing, as the Secretary may require."

**SEC. 9. REGISTRATION TO REQUIRE A PHOTOGRAPH AND FINGERPRINTS.**

Section 5802 of the Internal Revenue Code of 1986 is amended by inserting after the first sentence the following: "An individual required to register under this section shall include a photograph and fingerprints of the individual with the initial application."•

By Mr. SIMON:

S. 497. A bill to amend title I of the Omnibus Crime Control and Safe

Streets Act of 1968 to authorize funds received by States and units of local government to be expended to improve the quality and availability of DNA records, to authorize the establishment of a DNA identification index, and for other purposes; to the Committee on the Judiciary.

**DNA IDENTIFICATION ACT OF 1993**

• Mr. SIMON. Mr. President, I introduce legislation to encourage the use and databanking of forensic DNA fingerprints.

DNA is the basic genetic material that gives every individual in the world a distinct identity. DNA fingerprinting is a scientific test which can analyze blood, hair, saliva, semen, or skin left at the scene of a crime to determine if it matches samples provided by a defendant or suspect. These tests, when properly performed and analyzed are considered nearly foolproof. They are a powerful new crime-fighting tool that may conclusively implicate or exonerate an individual accused or suspected of a crime.

In 1989, I held the first ever congressional hearings on DNA tests. The testimony received at that hearing convinced me of the scientific soundness of these tests and their undeniable crime-fighting potential. DNA fingerprinting has been hailed as the most important technological breakthrough in law enforcement since the inception of conventional fingerprinting. I have strongly supported the FBI's efforts to advance the use of this technology in State and local crime laboratories.

DNA fingerprinting is beginning to have a significant impact on criminal prosecutions by enhancing the ability of U.S. attorneys and local prosecutors to obtain convictions. To date DNA test results have been accepted into evidence in criminal trials in most States.

But the Office of Technology Assessment, in an August 1990 report on forensic uses of DNA tests, concluded that standards are essential to the performance of high quality forensic DNA analysis. According to the report, "setting standards for forensic DNA analysis is the most urgent policy issue and needs to be resolved without further delay."

I agree. Standards will ensure that forensic DNA laboratories are performing high-quality work and will give guidance to the courts and others in judging the reliability of individual test results. It will also pave the way to creation of a DNA databank accessible to State and local criminal justice agencies nationwide—a vital step in assuring that this technology achieves its full crime-fighting potential.

During the 102d Congress, I cochaired with Congressman DON EDWARDS, a joint hearing of the Senate Subcommittee on the Constitution and the House Subcommittee on Civil and Con-

stitutional Rights on the issue of forensic DNA tests and the need for standards. The legislation I rise to introduce is informed by testimony received in that hearing. The bill fosters the adoption of forensic DNA testing standards and encourages the proliferation of this important technology while addressing the legitimate privacy considerations involved with its use.

In furtherance of that goal, the DNA Identification Act of 1993 directs the Director of the FBI to appoint an advisory board on DNA quality assurance methods and, after taking its recommendations into account, to issue quality assurance standards including standards for proficiency testing of forensic labs and analysts.

Mr. President, I believe that working together, the law enforcement and scientific communities can ensure the integrity and increased acceptance of forensic DNA tests. The DNA Identification Act will further 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. 497

*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 "DNA Identification Act of 1993".

**SEC. 2. DNA IDENTIFICATION.**

(a) FUNDING TO IMPROVE THE QUALITY AND AVAILABILITY OF DNA ANALYSES FOR LAW ENFORCEMENT IDENTIFICATION PURPOSES.—

(1) DRUG CONTROL AND SYSTEM IMPROVEMENT GRANT PROGRAM.—Section 501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751(b)) is amended—

(A) by striking "and" at the end of paragraph (20);

(B) by striking the period at the end of paragraph (21) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(23) developing or improving in a forensic laboratory a capability to analyze deoxyribonucleic acid (referred to in this title as 'DNA') for identification purposes."

(2) STATE APPLICATIONS.—Section 503(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)) is amended by adding at the end the following new paragraph:

"(12) If any part of a grant made under this part is to be used to develop or improve a DNA analysis capability in a forensic laboratory, a certification that—

"(A) DNA analyses performed at the laboratory will satisfy or exceed then current standards for a quality assurance program for DNA analysis issued by the Director of the Federal Bureau of Investigation under section 2(b) of the DNA Identification Act of 1993;

"(B) DNA samples obtained by and DNA analyses performed at the laboratory will be made available only—

"(i) to criminal justice agencies, for law enforcement identification purposes;

"(ii) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which the defendant is charged; and

"(iii) to others, if personally identifiable information is removed, for a population statistics database, for identification research and protocol development purposes, or for quality control purposes; and

"(C) the laboratory and each analyst performing DNA analyses at the laboratory will undergo, at regular intervals not exceeding 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under section 2(b) of the DNA Identification Act of 1993."

(3) AUTHORIZATION OF APPROPRIATIONS.—For each of fiscal years 1994, 1995, 1996, 1997, and 1998 there are authorized to be appropriated \$10,000,000 for grants to the States for DNA analysis.

(b) QUALITY ASSURANCE AND PROFICIENCY TESTING STANDARDS.—

(1) PUBLICATION OF QUALITY ASSURANCE AND PROFICIENCY TESTING STANDARDS.—(A) Not later than 180 days after the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall appoint an advisory board on DNA quality assurance methods. The Director shall appoint members of the board from among nominations proposed by the head of the National Academy of Sciences and professional societies of crime laboratory officials. The advisory board shall include as members scientists from State and local forensic laboratories, molecular geneticists and population geneticists not affiliated with a forensic laboratory, and a representative from the National Institute of Standards and Technology. The advisory board shall develop, and if appropriate, periodically revise, recommended standards for quality assurance, including standards for testing the proficiency of forensic laboratories, and forensic analysts, in conducting analyses of DNA.

(B) The Director of the Federal Bureau of Investigation, after taking into consideration such recommended standards, shall issue (and revise from time to time) standards for quality assurance, including standards for testing the proficiency of forensic laboratories, and forensic analysts, in conducting analyses of DNA.

(C) The standards described in subparagraphs (A) and (B) shall specify criteria for quality assurance and proficiency tests to be applied to the various types of DNA analyses used by forensic laboratories. The standards shall also include a system for grading proficiency testing performance to determine whether a laboratory is performing acceptably.

(D) Until such time as the advisory board has made recommendations to the Director of the Federal Bureau of Investigation and the Director has acted upon those recommendations, the quality assurance guidelines adopted by the technical working group on DNA analysis methods shall be deemed the Director's standards for purposes of this section.

(2) ADMINISTRATION OF THE ADVISORY BOARD.—For administrative purposes, the advisory board appointed under paragraph (1) shall be considered to be an advisory board to the Director of the Federal Bureau of Investigation. Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the advisory board appointed under subsection (a). The board shall cease to exist on the date that is 5 years after the date on which initial appointments

are made to the board, unless the existence of the board is extended by the Director of the Federal Bureau of Investigation.

(c) INDEX TO FACILITATE LAW ENFORCEMENT EXCHANGE OF DNA IDENTIFICATION INFORMATION.—

(1) IN GENERAL.—The Director of the Federal Bureau of Investigation may establish an index of—

(A) DNA identification records of persons convicted of crimes;

(B) analyses of DNA samples recovered from crime scenes; and

(C) analyses of DNA samples recovered from unidentified human remains.

(2) CONTENTS.—The index established under paragraph (1) shall include only information on DNA identification records and DNA analyses that are—

(A) based on analyses performed in accordance with publicly available standards that satisfy or exceed the guidelines for a quality assurance program for DNA analysis, issued by the Director of the Federal Bureau of Investigation under subsection (b);

(B) prepared by laboratories and DNA analysts that undergo, at regular intervals not exceeding 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under subsection (b); and

(C) maintained by Federal, State, and local criminal justice agencies pursuant to rules that allow disclosure of stored DNA samples and DNA analyses only—

(i) to criminal justice agencies, for law enforcement identification purposes;

(ii) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which the defendant is charged; or

(iii) to others, if personally identifiable information is removed, for a population statistics database, for identification research and protocol development purposes, or for quality control purposes.

(3) FAILURE TO MEET REQUIREMENTS.—The exchange of records authorized by this subsection is subject to cancellation if the quality control and privacy requirements described in paragraph (2) are not met.

(d) FEDERAL BUREAU OF INVESTIGATION.—

(1) PROFICIENCY TESTING REQUIREMENTS.—(A) Personnel at the Federal Bureau of Investigation who perform DNA analyses shall undergo, at regular intervals not exceeding 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under subsection (b). Not later than 1 year after the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall arrange for periodic blind external tests to determine the proficiency of DNA analysis performed at the Federal Bureau of Investigation laboratory. As used in this subparagraph, the term "blind external test" means a test that is presented to the laboratory through a second agency and appears to the analysts to involve routine evidence.

(B) For each of the 5 years following the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate an annual report on the results of each of the tests described in subparagraph (A).

(2) PRIVACY PROTECTION STANDARDS.—(A) Except as provided in subparagraph (B), the results of DNA tests performed for a Federal law enforcement agency for law enforcement purposes may be disclosed only—

(i) to criminal justice agencies for law enforcement identification purposes; or

(ii) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which the defendant is charged.

(B) If personally identifiable information is removed, test results may be disclosed for a population statistics database, for identification research and protocol development purposes, or for quality control purposes.

(3) CRIMINAL PENALTIES.—(A) Whoever—

(i) by virtue of employment or official position, has possession of, or access to, individually identifiable DNA information indexed in a database created or maintained by any Federal law enforcement agency; and

(ii) willfully discloses such information in any manner to any person or agency not entitled to receive it,

shall be fined not more than \$100,000.

(B) Whoever, without authorization, willfully obtains DNA samples or individually identifiable DNA information indexed in a database created or maintained by any Federal law enforcement agency shall be fined not more than \$100,000.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Bureau of Investigation \$2,000,000 for each of fiscal years 1994, 1995, 1996, 1997, and 1998 to carry out subsections (b), (c), and (d).\*

By Mr. KOHL:

S. 498. A bill to amend section 365 of title 11, United States Code, relating to protection of assignees of executory contracts and unexpired leases approved by court order in cases reversed on appeal; to the Committee on the Judiciary.

RELATING TO ASSIGNEES OF EXECUTORY CONTRACTS

Mr. KOHL. Mr. President, I rise today to introduce legislation addressing a bankruptcy problem threatening the value of real estate lease agreements. Following the 1990 third circuit court opinion in *In re Joshua Slocum, Ltd.*, (922 F.2d. 1081) it is unclear whether the sale of a real estate lease by a chapter 11 debtor/tenant is permanent or not. Amending the Bankruptcy Code as this bill does will eliminate lease purchasers' fears that their purchases might be revoked without notice, long after a bankruptcy court approves the initial sale, and after they have invested their time and money in reliance on that approval.

Under current law, a purchaser of a bankrupt tenant's lease may lose those purchased leasing rights without notice if someone other than the bankrupt tenant—for example, a landlord with an interest in a lease—subsequently tries to prevent the purchase. By amending the code to make sure that courts do not block sales of executory contracts and unexpired leases without first requiring proper notice, this bill protects the interests of a good faith lease purchaser.

In the case of *In re Slocum* the third circuit considered the finality of orders under section 365 lease assignments. There the court held that a landlord's appeal of a bankruptcy court's order

authorizing a chapter 11 tenant's sale of a real estate lease was not moot, and that the sale could be reversed on appeal. This ruling came even though the sale of the lease was completed, and the purchaser took possession of the premises almost 2 years prior to the third circuit's opinion. In reaching its decision, the Slocum court refused to apply mootness principles specifically stated in sections 363(m) and 364(e), which would have protected the purchaser's interests.

Section 363(m) and 364(e) of the Bankruptcy Code require that a party appealing an authorized sale, lease of property, or issuing of trustee credit must first acquire a court order stopping the sale, lease, or issuing before mounting a court challenge to the validity of the underlying sale, lease, or issuing. Section 365, which addresses lease assignments, has no similar requirement for a party challenging the sale of a lease. Consequently, by requiring a party appealing a sale of a lease to first seek a court order blocking the sale, this measure provides notice to purchasers of section 365 leases.

Unless section 365 is amended, court decisions will continue to undermine the Bankruptcy Code's policies of favoring finality of judicial orders and fully informing purchasers of the status of their purchase, as found in sections 363 and 364. Furthermore, failure to act will thwart the code's policy of promoting lease sales to reduce the financial responsibilities of a bankrupt debtor. The uncertainty surrounding chapter 11 lease purchases existing after Slocum diminishes the value of section 365 leases and the desirability of purchasing such leases. Purchasers of these types of leases now fear losing their purchase rights long after a bankruptcy court approves the sale. This lowers the value of such leases, which then limits a debtor's financial resources, and thus reduces the dollars available to satisfy creditors.

Mr. President, it seems only fair that someone who buys a lease should know what they are getting. Given the Slocum decision and the language of section 365, that is not the case. Amending section 365, as this proposal does, ensures that innocent purchasers of unexpired leases know the status of their purchase, and can then act accordingly. I urge my colleagues to support this measure, and assist in its swift passage.

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. 498

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. PROTECTION OF ASSIGNEES OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES APPROVED BY COURT ORDER IN CASES REVERSED ON APPEAL.**

Section 365 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(p) If the assignment of an executory contract or unexpired lease under this section is approved by the court, the reversal or modification on appeal of the approval or of the assignment does not affect the validity of the assignment to an entity that obtained the assignment in good faith, whether or not the entity knew of the pendency of the appeal, unless the assignment was stayed pending appeal."•

By Mr. HATCH:

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"; to the Committee on the Judiciary.

**NATIONAL HOME CARE WEEK**

Mr. HATCH. Mr. President, I rise today to introduce a resolution to designate the weeks of November 28, 1993, through December 4, 1993, and November 27, 1994, through December 3, 1994, as "National Home Care Week." This resolution serves several purposes. First, it acknowledges that home care allows a patient to retain a sense of dignity and independence and the ability to enjoy the familiar and comforting surroundings of his or her own home. Second, it recognizes that home care is an effective and economical alternative to unnecessary institutionalization. And, third, it commemorates the organizations and professionals who provide this vital health care service to millions of Americans.

Of the more than 12,000 home care agencies, some 6,100 are Medicare certified and employ 147,000 health care professionals. These, and all other home care professionals deserve to be recognized for the vital role they play in maintaining the health of our Nation.

This resolution is timely in light of our vigorous debate on health care reform and how to decrease expenditures while ensuring access. Home care can provide a partial solution to the problem of long-term care for seniors, chronically ill children, and disabled citizens in America. Indeed, home care is a proven alternative to unnecessary institutionalization and its resulting high costs.

This can be illustrated by the following: Aetna Life & Casualty has reported a \$78,000 per-case saving from its individual care management program by using home care for victims of catastrophic accidents. Also, New Mexico's waiver program for people with AIDS estimates a savings of \$1,000 a month for patients using home care rather than skilled nursing facility care. In addition, home care provides cost effective treatment of injuries and illnesses

that, left untreated, often lead to more costly acute care and long-term institutionalization.

Home health care can also be the most humane and compassionate form of health care. Whether the individual is a child or an aging adult, home care allows that patient to receive care in his or her own home. According to a national poll conducted by Louis Harris & Associates, 78 percent of those polled preferred to receive care in their home instead of a nursing home.

There are countless families who could benefit from home care services. For example, there is a 14-year-old girl in Utah who, at 2½ years old, was a near-drowning victim and since that time has been semicomatose. After spending 9 years in an Air Force base hospital in California, and another 6 months at a semiacute long-term care facility in Utah, her mother brought her home in April 1992.

With the help of a home care nurse, the girl is now in her own home with those who love her. The results are heartwarming: The girl's mental condition and morale have shown great improvement; she now communicates using her eyes to signal "yes/no" to questions; she participates in family activities and travels in the family van and regularly attends church services; and, finally, her parents, who had been divorced, were recently remarried and the family was reunited.

Mr. President, this is but one example of the value of home care services. The quality of the lives of this young girl and her family have been improved, and, in addition, the financial burdens of institutionalization have been diminished. We should recognize the benefits of home care and encourage its use for this very purpose.

In closing, the exposure that this resolution gives to home care helps to heighten public awareness and acceptance of this humane and sensible alternative health care option. I urge my colleagues to cosponsor this joint resolution.

By Mr. BIDEN (for himself and Mr. HATCH):

S.J. Res. 56. Joint resolution to designate the week beginning April 12, 1993, as "National Public Safety Telecommunicators Week"; to the Committee on the Judiciary.

**NATIONAL PUBLIC SAFETY TELECOMMUNICATORS WEEK**

• Mr. BIDEN. Mr. President, there are over one-half million people who serve our Nation as public safety dispatchers. These dispatchers respond to our telephone calls requesting emergency assistance from police, firefighting, and emergency medical services [EMS]. These men and women are the unsung heroes that protect our homes and families and ensure swift response to emergencies. Today, I rise to introduce a joint resolution to designate the week

beginning April 12, 1993, as "National Public Safety Dispatchers Week."

Police, fire, and EMS communication officers rank among our most committed public servants—and rarely do they receive their due praise. Working behind the scenes, all hours of the day and night, these professionals form the vital link between citizens in need of assistance and emergency personnel. Undoubtedly, their expertise saves lives that might otherwise be lost in those critical minutes before emergency officers arrive on the scene.

Though we are all familiar with programs such as 911 emergency service, the individual behind the phone is seldom noticed. At some point, each American will probably be touched with an emergency and will depend on those men and women who operate the emergency response system. However, for far too long we have failed to show gratitude to public safety telecommunicators. This resolution honors the dedication and professionalism of these invaluable public servants.

Last year, by passing this same resolution, the Congress finally gave the public safety telecommunicators the recognition they so richly deserve. In fact, this measure was supported by a bipartisan coalition of 53 Senators and I hope we can achieve the same sweeping support again this year. Once again, we must show our sincere appreciation to the public safety telecommunicators for dedicating their careers to the protection of our lives.

I would also like to thank Congressman MARKEY for once again introducing this important resolution in the House of Representatives. I look forward to working with him to guarantee the passage of this legislation and I encourage all of my colleagues to cosponsor this important measure.●

#### ADDITIONAL COSPONSORS

S. 15

At the request of Mr. ROTH, the names of the Senator from Kansas [Mrs. KASSEBAUM] and the Senator from Maine [Mr. COHEN] were added as cosponsors of S. 15, a bill to establish a Commission on Government Reform.

S. 20

At the request of Mr. ROTH, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 20, a bill to provide for the establishment, testing, and evaluation of strategic planning and performance measurement in the Federal Government, and for other purposes.

S. 55

At the request of Mr. METZENBAUM, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 55, a bill to amend the National Labor Relations Act and the Railway Labor Act to prevent discrimination based on participation in labor disputes.

S. 67

At the request of Mrs. KASSEBAUM, the names of the Senator from Nebraska [Mr. EXON] and the Senator from Wyoming [Mr. WALLOP] were added as cosponsors of S. 67, a bill to regulate interstate commerce by providing for uniform standards of liability for harm arising out of general aviation accidents.

S. 70

At the request of Mr. COCHRAN, the names of the Senator from Ohio [Mr. METZENBAUM], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Hawaii [Mr. AKAKA], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 70, a bill to reauthorize the National Writing Project, and for other purposes.

S. 88

At the request of Mr. LUGAR, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 88, a bill to amend the National School Lunch Act to remove the requirement that schools participating in the school lunch program offer students specific types of fluid milk, and for other purposes.

S. 155

At the request of Mr. DASCHLE, the names of the Senator from South Dakota [Mr. PRESSLER], the Senator from Montana [Mr. BURNS], the Senator from South Carolina [Mr. THURMOND], and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of S. 155, a bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain amounts received by a cooperative telephone company.

S. 173

At the request of Mr. DECONCINI, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 173, a bill to amend title II of the Social Security Act to provide for a more gradual period of transition (under a new alternative formula with respect to such transition) to the changes in benefit computation rules enacted in the Social Security Amendments of 1977 as such changes apply to workers born in the years after 1916 and before 1927 (and related beneficiaries) and to provide for increases in such worker's benefits accordingly, and for other purposes.

S. 182

At the request of Mr. MCCONNELL, the name of the Senator from Idaho [Mr. KEMPTHORNE] was added as a cosponsor of S. 182, a bill to authorize Federal departments, agencies, and instrumentalities to retain revenues from the sale of materials collected for the purpose of recycling, and for other purposes.

S. 239

At the request of Mr. SIMON, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 239, a bill to provide

grants to States for the establishment of community works progress programs.

S. 266

At the request of Mr. SIMON, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 266, a bill to provide for elementary and secondary school library media resources, technology enhancement, training and improvement.

S. 277

At the request of Mr. SIMON, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 277, a bill to authorize the establishment of the National African American Museum within the Smithsonian Institution.

S. 335

At the request of Mr. INOUE, the name of the Senator from Wisconsin [Mr. FEINGOLD] was added as a cosponsor of S. 335, a bill to require the Secretary of Commerce to make additional frequencies available for commercial assignment in order to promote the development and use of new telecommunications technologies, and for other purposes.

S. 376

At the request of Mr. LAUTENBERG, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 376, a bill to prohibit the transfer of 2 or more handguns to an individual in any 30-day period.

S. 382

At the request of Mr. MOYNIHAN, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 382, a bill to extend the emergency unemployment compensation program, and for other purposes.

S. 384

At the request of Mr. D'AMATO, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 384, a bill to increase the availability of credit to small businesses by eliminating impediments to securitization and facilitating the development of a secondary market in small business loans, and for other purposes.

S. 402

At the request of Mr. DURENBERGER, the names of the Senator from Alabama [Mr. SHELBY] and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of S. 402, a bill to amend the Social Security Act to increase the domestic service wage exclusion, and for other purposes.

S. 403

At the request of Mr. BREAUX, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 403, a bill to amend the Internal Revenue Code of 1986 to allow a tax credit for fuels produced from offshore deep-water projects.

S. 455

At the request of Mr. HATFIELD, the names of the Senator from New Mexico

[Mr. BINGAMAN], the Senator from Wyoming [Mr. WALLOP], and the Senator from New Mexico [Mr. DOMENICI] were added as cosponsors of S. 455, a bill to amend title 31, United States Code, to increase Federal payments to units of general local government for entitlement lands, and for other purposes.

S. 458

At the request of Mr. SMITH, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 458, a bill to restore the Second Amendment Rights of all Americans.

## SENATE JOINT RESOLUTION 38

At the request of Mrs. KASSEBAUM, the names of the Senator from Mississippi [Mr. COCHRAN], the Senator from Kansas [Mr. DOLE], the Senator from Illinois [Mr. SIMON], the Senator from Connecticut [Mr. LIEBERMAN], and the Senator from Hawaii [Mr. INOUE] were added as cosponsors of Senate Joint Resolution 38, a joint resolution designating March 20, 1993, as "National Quilting Day".

## SENATE JOINT RESOLUTION 41

At the request of Mr. SIMON, the name of the Senator from New Hampshire [Mr. GREGG] was added as a cosponsor of Senate Joint Resolution 41, a joint resolution proposing an amendment to the Constitution of the United States to require a balanced budget.

## SENATE JOINT RESOLUTION 47

At the request of Mr. JOHNSTON, the names of the Senator from Nevada [Mr. REID], the Senator from Mississippi [Mr. COCHRAN], and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of Senate Joint Resolution 47, a joint resolution to designate the week beginning on November 21, 1993, and the week beginning on November 20, 1994, each as "National Family Week".

## SENATE CONCURRENT RESOLUTION 9

At the request of Mr. EXON, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of Senate Concurrent Resolution 9, a concurrent resolution urging the President to negotiate a comprehensive nuclear weapons test ban.

## SENATE RESOLUTION 64

At the request of Mr. LUGAR, the names of the Senator from Minnesota [Mr. DURENBERGER] and the Senator from Virginia [Mr. WARNER] were added as cosponsors of Senate Resolution 64, a resolution expressing the sense of the Senate that increasing the effective rate of taxation by lowering the estate tax exemption would devastate homeowners, farmers, and small business owners, further hindering the creation of jobs and economic growth.

## SENATE RESOLUTION 68

At the request of Mr. D'AMATO, the names of the Senator from Illinois [Ms. MOSELEY-BRAUN] and the Senator from Maine [Mr. COHEN] were added as cosponsors of Senate Resolution 68, a res-

olution urging the President of the United States to seek an international oil embargo through the United Nations against Libya because of its refusal to comply with United Nations Security Council Resolutions 731 and 748 concerning the bombing of Pan Am Flight 103.

## AMENDMENT NO. 66

At the request of Mr. PACKWOOD the names of the Senator from New Hampshire [Mr. SMITH], the Senator from North Carolina [Mr. FAIRCLOTH], and the Senator from Delaware [Mr. ROTH] were added as cosponsors of amendment No. 66 proposed to S. 382, a bill to extend the emergency unemployment compensation program, and for other purposes.

## SENATE CONCURRENT RESOLUTION 13—PERMITTING THE USE OF THE ROTUNDA OF THE CAPITOL FOR A CEREMONY TO COMMEMORATE THE DAYS OF REMEMBRANCE OF VICTIMS OF THE HOLOCAUST

Mr. PELL (for himself, Mr. FORD, and Mr. STEVENS) submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

## S. CON. RES. 13

Whereas, pursuant to such Act, the United States Holocaust Memorial Council has designated April 18, through April 25, 1993, and April 3 through April 10, 1994, as "Days of Remembrance of Victims of the Holocaust"; and

Whereas the United States Holocaust Memorial Council has recommended that a one-hour ceremony be held at noon on April 20, 1993, and at noon on April 6, 1994, consisting of speeches, readings, and musical presentations as part of the days of remembrance activities: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring).* That the rotunda of the United States Capitol is hereby authorized to be used on April 20, 1993 from 8 o'clock ante meridian until 3 o'clock post meridian and on April 6, 1994, from 8 o'clock ante meridian until 3 o'clock post meridian for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust. Physical preparations for the conduct of the ceremony shall be carried out in accordance with such conditions as may be prescribed by the Architect of the Capitol.

● Mr. PELL. Mr. President, today I submit a concurrent resolution to reserve the Capitol rotunda for a ceremony to commemorate the victims of the Holocaust.

Sunday, April 18, marks the start of this year's Days of Remembrance for the Victims of the Holocaust. For 8 days, thousands of survivors of the Holocaust will gather in Washington to honor the memory of the martyred Jews and non-Jews who were killed by the Nazis and to remember the suffering, the pain, and the lessons of the Holocaust. The concurrent resolution that I am introducing today authorizes

the use of the Capitol rotunda on Tuesday, April 20, 1993, and Tuesday, April 6, 1994, for the national civic commemoration of the 1993 and 1994 Days of Remembrance.

The Holocaust stands out as one of the darkest periods in the history of mankind. Six million Jews were the victims of the Nazi's evil plan. The coldblooded and brutal extermination of those innocent people is a constant reminder of man's inhumanity to man and of his capacity to be cruel.

The Holocaust is also a painful reminder of the failure of the United States and other civilized nations to act in the face of evil. We allowed our cherished commitment to the principles of life, liberty, and equality for all human beings to falter. Even when the horror and extent of the German atrocities became evidence, our Government made little effort to stop the killings and rescue the victims of Nazi oppression from their tragic fate.

I believe, as Dante once wrote, that "He who sees, stands by and does nothing as evil is performed, is just as guilty as he who performs it." Can there be any doubt that the guilt is ours as well?

We must never repeat the crime of silence or forget our commitment to freedom and human dignity. We must be at the forefront of international efforts to bring perpetrators of genocide of justice. We took a step in that direction through the long-overdue ratification of the Genocide Convention. More recently, we reaffirmed our commitment to this principle when we created a safe haven to protect the Kurds in Iraq and when we established a war crimes tribunal to address the atrocities in Bosnia. However, our duty has not ended. We must continue our efforts to keep the memories and lessons of the Holocaust alive in order that history may never again repeat itself.●

## SENATE RESOLUTION 75—TO EXTEND THE JACOB K. JAVITS SENATE FELLOWSHIP PROGRAM

Mr. FORD (for Mr. MITCHELL for himself, Mr. DOLE, and Mr. PELL) submitted the following resolution; which was considered and agreed to:

## S. RES. 75

*Resolved.* That this resolution may be cited as the "Jacob K. Javits Senate Fellowship Program Extension Resolution".

## FELLOWSHIP PROGRAM EXTENDED; ELIGIBLE PARTICIPANTS

SEC. 2. (a) In order to encourage increased participation by outstanding students in a public service career, the Jacob K. Javits Senate Fellowship Program is hereby extended for five years.

(b) The Jacob K. Javits Foundation, Incorporated, New York, New York, shall select Senate Fellowship participants. Each such participant shall complete a program of graduate study in accordance with criteria agreed upon by the Jacob K. Javits Foundation, Incorporated.

SENATE COMPONENT OF FELLOWSHIP PROGRAM.

SEC. 3. (a) The Secretary of the Senate (hereinafter "Secretary") is authorized from funds made available under section 4, to appoint and fix the compensation of each eligible participant selected under section 2 for a period determined by the Secretary. The period of employment for each participant shall not exceed 1 year. Compensation paid to participants under this resolution shall not supplement stipends received from the Secretary of Education under the Fellowship Program.

(b) For any fiscal year no more than ten fellowship participants shall be so employed.

(c) The Secretary, after consultation with the Majority Leader and the Minority Leader of the Senate, shall place eligible participants in positions in the Senate that are, within practical considerations, supportive of the fellowship participants' academic programs.

FUNDS

SEC. 4. The funds necessary to compensate any such eligible participant shall be made available for five years to the Secretary and paid from the contingent fund of the Senate. For the succeeding five years of this program such funds shall not exceed \$250,000 each year.

PROGRAM EXTENSION

SEC. 5. This program shall terminate September 30, 1998. Three months prior to such expiration the Secretary shall submit a report evaluating the program to the Majority Leader and the Senate along with recommendations concerning the program's extension and continued funding level.

AMENDMENTS SUBMITTED

EMERGENCY UNEMPLOYMENT COMPENSATION PROGRAM ACT

DOMENICI AMENDMENT NO. 67

Mr. DOMENICI (for himself, Mr. DOLE, Mr. PACKWOOD, Mr. GRAMM, and Mr. SPECTER) proposed an amendment to the bill (S. 382) to extend the emergency unemployment compensation program, and for other purposes, as follows:

At the appropriate place, add the following:

It is hereby the sense of the Senate that until the President of the United States has submitted the budget required by section 300 of the Congressional Budget Act of 1974, no concurrent resolution on the budget should be considered.

MITCHELL (AND OTHERS) AMENDMENT NO. 68

Mr. MITCHELL (for himself, Mr. DOLE, Mr. BROWN, Mr. WELLSTONE, Mr. ROBB, Mr. DORGAN, Mr. DECONCINI, Mr. WOFFORD, Mr. CHAFEE, Mrs. BOXER, and Mr. BAUCUS) proposed an amendment to the bill (S. 382), supra, as follows:

At the end of the amendment add the following:

(A) 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) SEVERABILITY.—If any provision of this Act, or an amendment made by this Act, or the application of such provision to any person or circumstance, is held to be invalid, the remainder of this Act, or an amendment made by this Act, or the application of such provision to other persons or circumstances, shall not be affected.

BROWN (AND HELMS) AMENDMENT NO. 69

Mr. BROWN (for himself and Mr. HELMS) proposed an amendment to the bill (S. 382), supra, as follows:

At the end of the amendment add the following new section:

SEC. . LIMITATION ON FEDERAL COST OF LIVING ADJUSTMENTS IN CALENDAR YEAR 1994.

(a) FEDERAL EMPLOYEES.—

(1) IN GENERAL.—The rates of basic pay for each statutory pay system shall not be adjusted under section 5303 of title 5, United States Code, during calendar year 1994.

(2) CONFORMING AMENDMENT.—Section 633 of the Treasury, Postal Service and General Government Appropriations Act, 1991 (Public Law 101-509; 104 Stat. 1481) is repealed.

(b) MEMBERS OF CONGRESS.—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 (if not for the provisions of this subsection) shall not take effect.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON RULES AND ADMINISTRATION

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, March 3, 1993, at 9:30 a.m., to hold a hearing on legislation pertaining to the financing of congressional election campaigns: S. 3, S. 7, S. 62, S. 87, S. 94, and Senate amendment No. 65. The following Members will testify: Senator MITCHELL, Senator BOREN, Senator DOMENICI, Senator NICKLES, Senator DECONCINI, Senator KERRY, Senator BIDEN, Senator BRADLEY, Senator PELL, Senator SIMON, Senator WELLSTONE, and Senator DORGAN.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 2:30 p.m. on Wednesday, March 3, 1993, in open session, to receive testimony on U.S. Government facilitation of private business investment in the former Soviet Union.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on

Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., March 3, 1993, to consider pending calendar business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EMPLOYMENT AND PRODUCTIVITY

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Employment and Productivity of the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Wednesday, March 3, 1993, at 1:30 p.m., for a hearing on Career Pathways.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

HONORING THE ORGANIZATION OF CHINESE-AMERICANS ON ITS 20TH ANNIVERSARY

• Mr. SIMON. Mr. President, later this week at a dinner at the National Press Club, the Organization of Chinese-Americans will celebrate its 20th anniversary. I rise today to commend OCA for two decades of service and representation of Chinese-Americans in my home State of Illinois and throughout the United States. Recently, OCA organized its first chapter in Hong Kong to go along with 41 chapters around the country.

Over the last 20 years, OCA has left an important mark on the work that we do here in the U.S. Senate affecting the lives of Chinese and other Asian-Americans. Chinese Americans, even though they have been in the United States since the early 1800's, have often been voiceless in public affairs. That is no surprise since, by law, they were barred from naturalization until after the start of World War II. Despite their noted accomplishments in architecture, medicine, engineering, and the arts, Chinese-Americans, in our Nation's history, have had the doors closed to them for many occupations. OCA and other organizations have worked to open those doors of opportunity through advocacy and through leadership development and training of Chinese-Americans.

The Organization of Chinese-Americans in concert with others took strong leadership against the anti-Asian violence that erupted in Detroit in 1982 with the beating death of Vincent Chin. Vincent Chin was mistaken for being Japanese by an unemployed auto worker who hit him fatally with a baseball bat. Since that time, OCA has worked closely on anti-Asian violence concerns and monitored numerous cases around the country, giving advice both to law enforcement officials and to local Asian communities.

OCA has also worked in coalition with other Asian-American advocacy

organizations and representatives of Hispanic, African-American, women's and religious organizations on behalf of voting and civil rights, immigrant protection, and spreading Chinese culture.

Mr. President, I know my colleagues will join me in commending OCA and its founders whose mission 20 years ago says it best, "To Embrace the Hopes and Dreams of Chinese-Americans in the United States."•

#### DEFENSE CONVERSION AND SAVING THE DEFENSE INDUSTRIAL BASE

• Mr. MCCAIN. Mr. President, there is no question that we need to pay careful attention to the overall health of our economy, and reducing the budget deficit. At the same time, we cannot afford to ignore the problem of preserving our industrial base, and making defense conversion effective.

The current Clinton program leaves these critical issues unaddressed, and make ambiguous spending proposals that could undermine both our security and our technological competitiveness. This does not address the critical tasks we face. There is no point in talking about economic stimulus, competitiveness, and technology and forgetting about defense industry—the area where we are the proven leader of the world.

#### THE IMPORTANCE OF DEFENSE INDUSTRY TO OUR ECONOMY AND SECURITY

Defense industry still makes up roughly 5 percent of all the manufacturing jobs in the United States. It employs some 6 million Americans in defense-related jobs. In fact, Data Resources Inc. [DRI] estimated that some 3.4 million of these Americans worked in defense industry in 1989, the year that defense outlays peaked at some \$304 billion.

Equally important, DRI estimates that defense related jobs have employed some 17 percent of all the engineers in the United States, 7 percent of all scientists, roughly 10 percent of all technicians, 8 percent of all computer workers, 9 percent of all craftsmen, and some 18 percent of all administrative support managers. It is impossible to talk about economic recovery, employment, competitiveness, or American technology without talking about the defense industrial base and defense conversion.

Such statistics become even more impressive when we look at the structure of American industry. We tend to forget that macro-economic models of our economy generally have no sensitivity to the complex sectoral details that actually determine our economic place in the world, and the future of our economy.

Defense employs over 20 percent of the workers in 15 critical industries. These include some obvious areas like military construction and the manufacture of guided missiles—where de-

fense employs over 90 percent of the Nation's workers. They also include, however, more than 80 percent of the Nation's shipbuilders, 50 percent of all workers in electronics like radio and television systems, more than 45 percent of all aircraft and aircraft parts workers, more than 40 percent of all workers on scientific instruments, more than 30 percent of all aircraft engine workers, and more than 20 percent of all jobs relating to nonferrous forgings, key electrical parts, and industrial trucks and tractors.

We also know how important these industries and workers are to our national security. It was our lead in technology that forced the Soviet Union to give up its arms race, and helped lead to the break up of the Soviet Union and the Warsaw Pact. It was our lead in technology that won Desert Storm with an absolute minimum of casualties. It is our lead in technology that keeps the peace in the gulf today, that contains North Korea, and which confronts every aggressor with the fact America can project force throughout the world.

The United States can never afford to match a potential enemy who possess equal or superior weapons and technology. Unless our industrial base gives us the tools to dominate a crisis or conflict, and to sustain that dominance in combat, we will face casualties and risks that will paralyze our efforts to bring regional stability, preserve and restore peace, check aggression, and deter and contain military build-ups. The defense industrial base is the foundation on which American military power rests, and it is all too clear that democracy cannot be secure in the world without that power.

#### THE NEED FOR EFFECTIVE PLANNING AND MANAGEMENT OF DEFENSE CONVERSION

No proposal to shape the future of the American economy, or the future of American security, can safely ignore these realities. The fact remains, however, that we seem to be acting in ignorance.

Although previous defense budgets and economic plans have indicated that 1.4 million defense jobs could be lost between 1991 and 1995, we still do not have a clear plan for defense conversion, we do not have clear points of contact to administer the defense conversion program that is part of the fiscal year 1993 Defense Authorization Act, and the Department of Defense has not successfully completed even one of the defense industrial base reports that has been required for over 3 years.

President Clinton's new budget proposals talk about conversion, but they raise far more issues than they resolve, and they risk wasting billions of dollars on the wrong efforts. They do not seem to be based on a clear analysis of the programs that already exist, and they may well involve wasteful spend-

ing on new activities that will lead to further cuts in defense jobs and defense industry.

Last year, we added nearly \$1.7 billion in new defense conversion programs and funds to the fiscal year 1993 defense budget. These funds were added to some \$7.1 billion worth of existing programs in the fiscal year 1992 and fiscal year 1993 budgets.

Many of these programs may prove to be highly productive, but most have been funded at the direct expense of our industrial base and jobs in defense industry. They are funded by re-programming defense and other Federal dollars from proven requirements and high technology jobs into unproven and experimental efforts. Further, this mix of programs has been developed by different elements of the Congress and executive branch, and has often been legislated and funded with little overall planning, analysis, criteria for program awards, or measures of effectiveness.

President Clinton has now proposed to spend \$17 billion more on technology and business reinvestment, and defense conversion programs during fiscal years 1994-1998. The source of many of these funds is uncertain, but much seems to come from cuts in defense. He also seems to have added some \$2.3 billion in new conversion programs to the activities of the Department of Defense, requiring that same amount to be reprogrammed out of existing defense activities.

It is unclear how much of this total of \$19.3 billion will be funded by further cuts in the defense industrial base, in defense jobs, and in defense spending but the total could be significant. There are also major gaps in the material the President has provided on his program that raise warning flags about its impact.

The Department of Defense, for example, has said that President Clinton's program will cut military strength to 1.4 million men, rather than the 1.6 million men called for in President Bush's program. This statement, however, only covers the period through fiscal year 1997, and ignores the fact that President Clinton plans to cut the defense budget by a further \$39.2 billion in fiscal year 1998. This indicates future force levels below 1.2 million. It also indicates a much smaller defense industrial base than any U.S. experts have yet examined.

#### THE NEED FOR EFFECTIVE PLANNING AND MANAGEMENT OF THE DEFENSE INDUSTRIAL BASE

We cannot afford the luxury of expensive new programs that are not based on careful planning. Far too many of our existing defense conversion efforts are faltering and lack central direction and coordination. Our efforts to preserve the defense industrial base are little more than rhetoric, lacking substance, an analytic foundation, and a clear policy. We are spending more ef-

fort on reforming defense procurement legislation than we are spending on ensuring that defense procurement can continue on a basis that will preserve our security.

I find this extremely disturbing. This is why I have written Secretary of Defense Les Aspin, asking him to investigate why we still do not have meaningful Department of Defense reporting on the defense industrial base, to appoint a single coordinator within the Department of Defense to manage defense conversion programs, and to produce the kind of plain English handbook that will allow communities, industries, States, and academic institutions to take advantage of the programs we already have.

It is also why I have written the Inspector General of the Department of Defense to ask him to investigate why the Department of Defense has failed to comply with the legislation requiring reporting on the defense industrial base.

#### THE NEED FOR EFFECTIVE PLANNING AND MANAGEMENT OF THE DEFENSE INDUSTRIAL BASE

It is even more important, however, to have an adequate plan for the defense industrial base. This does not require that we give up reliance on private industry or market forces. It does require us to ensure that at least one group of industrial capabilities is preserved in the private sector in every sector that is critical to our national defense.

It requires us to develop new approaches to development and procurement in those areas of the defense industrial base where we cannot afford competition, areas like the construction of tanks and attack submarines. It requires us to ensure that defense industry remains profitable as it downsizes, and that we provide the proper incentives so that industry keeps critical research and development activities. It requires that we be able to actually produce combat equipment that is reliable, proven to have military effectiveness, and has been tested in large scale exercises.

We cannot rely on a mix of upgraded existing platforms and new exotic systems that are only brought to final development. We know from past experience that no amount of test and evaluation can get the "bugs" out of production and operation in the field. We know that technical capability is no substitute for field and exercise experience, and that extensive trials and training are required to translate technology into effective war fighting capability in combined arms and combined operations warfare.

President Clinton's State of the Union Address, his recent defense cuts, and his statements about economic policy make the need for such planning and management far more critical. We now have to cope with \$126.7 billion in new cuts in budget authority during

fiscal years 1994-98, and \$11.8 billion in budget outlays.

Looking at work done by the Office of Technology Assessment and the Congressional Research Service, I see indications that President Clinton is placing us on a path that could lead to the loss of as many as 2.5 million defense-related jobs by the year 2000, many of which will come out of defense research, development, and procurement. I see indications that we may be talking about 40 percent cuts in our forces, rather than the 25 percent cuts called for by President Bush.

I see no plan, however, to either preserve the critical elements of our defense industrial base or to ensure that high technology jobs and industries convert successfully to civil or civil-military production. I see a great deal of rhetoric, but virtually no substance.

To understand the dangers of this situation, it is important to understand that in fiscal year 1985, we authorized \$118 billion for defense procurement. In fiscal year 1993, we authorized \$56 billion, only 47 percent of the total in fiscal year 1985. If we look at all of defense investment—including research and development, procurement, and construction—we authorized \$178 billion in fiscal year 1985 and only \$97 billion in fiscal year 1993, a cut of 46 percent.

Long before President Clinton's new economic proposals and defense budget cuts, we were on a path that promised to cut our defense industrial base by roughly 50 percent. We are now on a path which will impose new cuts of 20-25 percent, and where such cuts could exceed 30 percent if we do not fund defense industry by making additional force cuts of a kind which could threaten our security.

#### DEALING WITH NEW KINDS OF DEFENSE CUTS

Some respond to these trends by arguing that we also made drastic cuts in our defense industrial base after World War II, Korea, and Vietnam. They argue that employment recovered and our industrial base survived. Such arguments, however, are oversimplistic and do not reflect current realities.

At the peak of World War II, some 40 percent of our GNP was spent on defense. At the peak of Korea we spent roughly 20 percent, and at the peak of Vietnam we spent nearly 10 percent. This ensured a vast amount of pent up civilian demand, and our technology base was very different. Military technology was far less sophisticated, and the defense industry's share of the economy remained relatively large.

In the last few years, however, we have seen defense shrink from 6.3 percent of the GNP at the peak of President Reagan's defense build-up to around 5.2 percent. It now may well be on the path to shrinking to below 3.5 percent. Unplanned and unstructured cuts cannot take place when defense shrinks to this small a portion of our

economy without threatening vital defense capabilities, and it is far from clear that the civil economy can replace high technology defense jobs with anything like the level of technology and economic importance of the jobs that are lost.

We already are at the point where we do not know how to preserve our submarine industrial base efficiently. We are watching defense airframe manufacturers merge or become subcontractors at a time our civil aviation manufacturing industry faces a major downturn.

We have no tank in production, and have major shortfalls in many of the precision guided weapons that Desert Storm showed are critical to our military success, and are funding new ship construction at a rate so low it will only sustain a 200-ship Navy. President Clinton's new proposals threaten our entire defense industrial base with crisis, as well as the future of some of the highest technology industries and jobs in our economy.

#### THE NEED FOR URGENT ACTION

I want to be fair. It may be that President Clinton and Secretary Aspin have a plan. It may be that our knowledge of this plan has been delayed because of their concentration on other issues. If so, however, we need to know those plans soon. We need to know that we are not trading highly skilled jobs and industrial capabilities that are critical to our security for programs that are little more than sophisticated welfare. We need to know what is planned to preserve each critical sector of the defense industrial base, and we need to see urgent and coherent action on defense conversion.

I hope that President Clinton will act immediately to make his views known on this issue, and that Secretary Aspin will provide a full and prompt response to my letter. Prompt and timely action are critical to every worker that now has a defense related job, to the economic future of Arizona and every other State, and to the security of our Nation.

Mr. President, I respectfully request that my letters to Secretary Aspin and to the Inspector General of the Department of Defense be entered into the RECORD at the conclusion of my remarks.

The material follows:

U.S. SENATE,

Washington, DC, February 9, 1993.

Mr. DEREK J. VANDER SCHAAF,  
Deputy Inspector General, Department of Defense, Arlington, VA.

DEAR MR. VANDER SCHAAF: I appreciate your office's past responsiveness and cooperation in assuring proper compliance with the statutory requirements for the Department of Defense. As the transition into the new Administration progresses, I look forward to working with you to resolve any issues that arise within the jurisdiction of the DoD.

With this letter I would like to register a complaint regarding the DoD's 1991 Defense

Industrial Base Report (hereinafter "DIB Report") submitted in November, 1991, and the Department's failure to submit a subsequent annual report as required by law. The report was required under Section 825 of the fiscal 1991 National Defense Authorization Act (hereinafter "the 1991 Act"). Under Title XLII, Chapter 148, of the 1993 National Defense Authorization Act (hereinafter "the 1993 Act"), the section of the 1991 Act mandating the report was replaced with a more stringent standard for future industrial base assessments due to the Department's failure to comply fully with the previous law.

The Department's actions with respect to the DIB Reports merit an immediate investigation by your office as to the reasons for failing to comply with Congressional mandates.

#### I. MAJOR DEFICIENCIES WITH THE 1991 REPORT.

The 1991 Act and subsequent amendments require the DoD to submit a detailed and comprehensive report to Congress on our nation's defense industrial base which would enable the Department and Congressional leaders to make informed judgments about the ability of the defense industrial base to meet the national security needs of the U.S., and to make decisions regarding appropriate courses of action. Unfortunately the 1991 report wholly fails to meet these straight-forward requirements, and raises serious doubts about whether management possesses the data or the analytical tools to achieve its objectives. The report suffers from at least five major deficiencies.

A. The initial report is superficial and conclusory. The initial report does not comply with the legislative requirements. First, the report gives short shrift to complex subject matter and does not provide the detailed analysis contemplated by the 1991 Act and which is necessary for policy makers to be adequately informed about future courses of action. The main body of the report is a mere 39 pages in length, not counting an 8-page executive summary and 11-page financial appendix. Within those 39 pages, subjects of great importance and complexity are "analyzed" in a few pages. Trends within the \$400 billion electronics industry, for example, are addressed in three pages; the "missiles and space" industry is disposed of in five paragraphs.

Second, the general tone of the report is descriptive, the quality of the descriptive content is unsatisfactory, and the judgments are conclusory rather than analytical. The text is replete with judgments that are not supported by data or explanation. For example, the report states (on page ES-3) that planned aircraft procurements will be "sufficient to sustain an adequate military aircraft industry," although the report contains no criteria for determining adequacy other than the circular definition, "adequate at the procurement levels for which funds are available" (page ES-2). In effect, the report says that planned levels of procurement will be adequate to support planned levels of procurement.

B. The initial report's focus is too narrow. The basic focus of the report is on the ability of prime contractors to satisfy projected levels of demand for major military systems. The report does not address the subtler contractors and suppliers that support the primes nor does it confront the possibility of a crisis requiring a surge in production of military items. With regard to subcontractors and suppliers, the report essentially dismisses the problem of subtler erosion by stating that "the large number and diversity" of defense firms "preclude this report

from addressing the condition of the entire industrial base in detail" (page ES-1). Nine pages later, the report concedes that "planned budget cuts will have a significant impact on some subcontractors and vendors, particularly those which are small, more highly specialized, and heavily dependent on defense sales" (page 1-2). Despite that admission, no effort is made to determine what impact this will have on the industrial base.

The problem of surge capability also receives no attention. For instance, the report's discussion of combat vehicle production concludes that "the existing level of capacity will not be required in the 1990's," and argues that "layaway or mothballing portions of the base is more cost effective than retention of private facilities at low, less efficient rates of production" (page ES-5). Cost effective it may well be, but in a national emergency this strategy might cause serious problems. The report offers no analysis of how quickly the work force or supplier base necessary to manufacture combat vehicle could be reconstituted in a crisis.

C. The initial report does not provide key data. The report says in the second paragraph of its executive summary that "the flexibility, vitality, and responsiveness of the industrial base should not be underestimated" (ES-1). Regrettably, the authors seem to take the view that it should not be estimated at all; the report fails to provide a framework of data that would enable Congress to determine how resilient the industrial base actually is. For example, the report states that, in assessing defense companies' financial health, "DoD is primarily concerned with the capability and responsiveness of their defense-oriented segments" (page 3-2). However, it does not report segment data for most of the companies it examines, instead relying on corporate-level data that says little about the viability of key defense operations. The report is full of such omissions:

On page 3-20, it states that "the ability of military aircraft companies to adjust to budget reductions will depend increasingly on the health of the commercial transport market." The report says nothing about that market's future development, despite the ready availability of projections.

On page 3-6, it states "the helicopter sector will be able to support DoD's production needs, and continued participation by the four domestic producers in the DoD industrial base is expected." No data supporting this statement are provided.

On page 5-4, it states that "if the goals of the civil-military integration are achieved, a defense-unique industrial base would be necessary only in those areas where specialized defense capabilities are required." No estimate of how extensive or critical said areas are is provided.

These statements reflect more than mere superficiality. They suggest that DoD lacks the data to conduct credible analyses on important issues such as financial trends, subtler erosion, economic impacts, surge capability, and so on. The report thus seems to confirm the fear of critics that DoD is making major policy decisions without knowing their long-term consequences.

D. The initial report employs poor methodology. The 1991 Act mandating the DIB Report specified that the report should include an analysis of the financial ability of defense companies to meet future DoD needs for critical technologies and end-use items. As a result, much of the report is an attempt to determine the profitability of defense contractors and assess the impact of program termi-

nations on their future capabilities. Unfortunately, lack of necessary data and analytical sophistication result in a methodologically primitive assessment that does not yield meaningful results.

The report's authors do not appear to be conversant with any of the recent literature on how to calculate and compare corporate profits. At the very least, such calculations should determine companies' returns on investment (assets and/or equity) and compare them with those of alternative investments. They should also evaluate the relative risk involved in defense activities as opposed to alternatives, and adjust profit comparisons to account for the impact of different risk levels on companies' cost of capital. None of this has been done in the report. Instead it offers misleading comparisons of revenues, earnings, and debt over a limited time period, for the most part using corporate-level data that thoroughly obscures the actual profitability of defense activities. Furthermore, it fails to compare the returns from defense activities with those available from alternative investments to determine whether companies have an incentive to remain in the defense business. The report's financial analysis is thus methodologically inadequate and does not yield useful results.

E. The initial report is not candid. The executive summary of the DIB Report asserts that defense agencies "are collating industrial base data and assessing the industrial impacts of their decisions so that critical capabilities are not lost during this period of downsizing." However, on October 10, 1991, one month before the report was issued, DoD director of procurement Eleanor Spector told a technical symposium in Washington that: "The department will continue to award to the contractor who offers the best value for the procurement in question. Such decisions are already complex enough. We will not further complicate them by trying to factor in the consequences of the selection of a contractor for the overall structure of the industry."

The seeming contradiction between these two statements underscores yet another deficiency in the industrial base report. The tone of the report suggests that in addition to the many things about the industrial base that DoD managers do not know, there are some things they do not want to know—i.e. things that would require them to become involved in shoring up declining sectors of the economy. For example, the report's discussion of the shipbuilding industry contains (on page 3-15) the following nonsequitur:

The loss of suppliers and vendors has led to a number of sole-source items, including large diesel engines. Other key components such as crankshafts and turbochargers for large diesel engines, now are available only from overseas. Despite these trends, an adequate industrial base is now in place to support DoD demands.

This passage in effect says the U.S. cannot build certain classes of ships without foreign support, but denies that poses serious consequences for the industrial base. The report is full of similarly questionable statements about the aircraft industry, the electronics industry, and various other sectors of the industrial base. The author seems intent on avoiding discussion of issues that would raise uncomfortable economic policy questions.

#### II. THE DIB REPORTS HAVE NOT BEEN SUBMITTED ON A TIMELY BASIS.

The 1991 Act mandated that the report be submitted to Congress by March, 1991. The DoD did not submit the first report until No-

vember, 1991, thus violating the statutory requirements regarding timeliness for the report. Furthermore, the Act required that DoD provide DIB Reports on an annual basis. However, the Department has failed to submit any subsequent reports as required by law. Receipt of these reports on a timely basis is necessary in order for the Armed Services Committee and other Congressional Committees to perform their respective functions. Future delays in assessment and Congressional reporting requirements simply cannot be tolerated.

### III. RECOMMENDATIONS.

The 1991 DIB Report is wholly inadequate to enable legislators to assess the ability of the U.S. defense industrial base to meet the national security needs of the U.S. Its treatment of key issues is superficial, its analytical focus is too narrow, its data are incomplete, its methods are unsophisticated and its conclusions are unwarranted. This was communicated to the officials involved, and they responded by failing to provide the second annual report in any form. The Defense Department's senior managers should have considered the concerns that led Congress to mandate the preparation of an annual industrial base assessment. They should have taken the following steps to improve the report's informational value and policy relevance for present and future reporting requirements:

A. Broader focus. DoD needs to develop a method for monitoring the health of key subcontractors and suppliers. Until it extends its inquiry below the level of prime contractors, it will not be able to draw meaningful conclusions about surge capability, foreign dependence, trends in innovation and the like.

B. Better data. DoD needs to establish a program for routinely collecting segment data on major defense contractors and evaluating their returns according to standard financial measures. A suitable model for such an effort is set forth in General Accounting Office publication NSIAD-87-175, "A Proposal for a Program to Study the Profitability of Government Contractors."

C. Improved methodology. In the absence of a carefully conceived profit analysis such as that set out in the GAO publication, the Defense Department will not be able to offer definitive judgments on the adequacy of profit levels. However, even using existing public sources it is possible to collect much more segment data than the current report contains, and apply much more sophisticated measures of comparative profitability.

D. Greater objectivity. The 1991 DIB Report carefully avoids addressing problems that might require extensive government intervention in the economy. This is certainly understandable, but as long as DoD's inquiries on the industrial base are limited by its policy preferences, it will be impossible to fully understand the condition of the defense industrial base.

The latter problem suggests that responsibility for the annual industrial base report might be more usefully vested in an agency that is insulated from political currents. If DoD is to remain the responsible agent for preparing the report, it may be necessary for Congress to provide the Pentagon with a far more detailed road map of what it wants, to prevent a repetition of the 1991 deficiencies.

Although I understand that general analyses may sometimes be helpful, the Defense Department assessment and report on the industrial base is not the place for anything less than in-depth data and analytical presentations. I hope that you recognize the in-

adequacies of the DoD report, and agree that a lowest common denominator bureaucratic response to a clear legal requirement is an intolerable failure on the part of the DoD.

The Senate Armed Services Committee and other Congressional Committees needed the report as an essential element in formulating defense strategies and plans. Indeed, this paramount need was the impetus behind placing the reporting requirements in the 1991 Act. By not fulfilling the statutory requirements, the DoD denied the Senate Armed Services Committee, and other Congressional members, of the information necessary to properly perform its function. Worse, it denied the American people the kinds of authoritative reporting that this report was intended to provide. The DoD's difficulties with lack of data, wholly-inadequate analyses, and timeliness must be corrected.

I have enclosed several pages from the Congressional Record from Tuesday, March 3, 1992, in which I and others addressed the deficiencies of this report in greater detail. As this Record shows, my fellow members of the Senate Armed Services Committee and many others agree as to the seriousness of the DoD's failure to meet Congressional requirements.

As mentioned, the 1993 Act has imposed more stringent standards for periodic defense capability assessments, plans, and reports. However, since the inadequacies of the past report indicate problems well beyond that report, I would be grateful if you could investigate these issues, determine what steps have been taken to ensure that future reports will be issued on time and will meet all of the requirements of Congress, and let me know the result of such efforts as soon as possible.

Sincerely,

JOHN MCCAIN,  
U.S. Senator.

U.S. SENATE,  
Washington, DC, February 5, 1993.

Hon. LES ASPIN,  
Secretary of Defense, The Pentagon, Washington, DC.

DEAR SECRETARY ASPIN: I know that we both share a common interest in last year's legislation to aid defense conversion and preserve our industrial base. This represented a bipartisan effort by both Houses of Congress, and one in which we both played an active role.

I am concerned, however, that this legislation can only be effective if it is rapidly transformed into implementing regulations and if communities, industry, research centers and other potential users of the funds can obtain rapid and effective assistance in understanding how to compete for the programs we have authorized.

I believe that the Department of Defense needs to take three immediate steps to make this possible:

Appoint a single point of contact: We need an office like the Office of Economic Adjustment that will act as the single point of contact that will provide help and advice for all programs to aid defense conversion and the defense industrial base. It should be staffed by people who can provide plain English advice, and who are able to expedite grant applications throughout the Department and on an Interagency basis.

Provide a regularly updated plain English user handbook: We need a single comprehensive handbook for users written in language ordinary people and businessmen can understand that explains all programs, cites the

funding available and precedents, and has names, addresses, and phone numbers that people outside Washington can access. Given the rapid changes taking place, this should be updated regularly—perhaps every two months during the coming year.

We need the annual report on the industrial base mandated by law. I will be writing you separately to request an investigation by the Inspector General of why the annual report on the industrial base that was legislated over three years ago has not been provided on a timely basis. As I am sure you and your staff already know, there has been one bureaucratic excuse and delay after another in spite of the fact that a long series of hearings and demands by defense industry for such data have confirmed the need for such a product. There is a vital need for some reliable overview of the problems faced by defense industry and incompetence and infighting within the Pentagon can no longer be tolerated.

I strongly suspect you are already working to implement at least some of these suggestions. I would be grateful, however, if you could let me know your thoughts and plans as soon as possible. I believe that the need for such steps should be the focus of all confirmation hearings dealing with senior procurement and R&D officials, and I would like to have a clear idea of the steps you contemplate before such hearings begin.

Sincerely,

JOHN MCCAIN,  
United States Senator. •

### INTERIM PROCEDURES FOR REQUESTS FOR REVIEW UNDER SECTION 308 OF THE GOVERNMENT EMPLOYEE RIGHTS ACT OF 1991

• Mr. BRYAN. Mr. President, the Senate Select Committee on Ethics here-with publishes in the CONGRESSIONAL RECORD its interim procedures for requests for review under section 308 of the Government Employee Rights Act of 1991.

The interim procedures follow:

#### ETHICS COMMITTEE INTERIM PROCEDURES UNDER TITLE III OF PUBLIC LAW 102-166, THE GOVERNMENT EMPLOYEE RIGHTS ACT OF 1991

##### RULE 1. AUTHORITY

The Senate Select Committee on Ethics (the Committee) is authorized by section 308(a) of the Government Employee Rights Act of 1991 (the Act), Title III of the Civil Rights Act of 1991, Pub. L. No. 102-166, 105 Stat. 1088, to review hearing board decisions in employment discrimination cases filed with the Office of Senate Fair Employment Practices (the Office) under the Act, and by section 307(f) (2) and (3) of the Act to receive referrals for rulings on testimonial objections arising in connection with such cases, and to recommend to the Senate civil or criminal enforcement of hearing board subpoenas.

##### RULE 2. TIME

###### 2.1 Computation of Time.

(a) *Counting days.* A day means calendar day. In computing the time for taking any action required or permitted under these rules to be taken within a specified time, the first day counted shall be the day after the event from which the time period begins to run and the last day counted is the last day for taking the action. When the last day falls on a Saturday, Sunday, or federal govern-

ment holiday or any other day, other than a Saturday or a Sunday, when the Office is closed, the last day for taking the action shall be the next day that is not a Saturday, Sunday, or federal government holiday or a day when the Office is closed. Where a prescribed time period is less than seven days, then Saturdays, Sundays, and federal government holidays shall be excluded from the computation of the time period. Federal government holiday means New Year's Day, Birthday of Martin Luther King, Jr., Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, Christmas Day, any other day appointed as a holiday by the President or Congress of the United States.

(b) *Added days for mail.* Whenever a party or the Office has the right or is required to do some act within a prescribed period after the date of service of a notice or other paper and the notice or other paper is served upon the party by mail through the United States Postal Service, 3 days shall be added to the prescribed period. This additional 3 days does not apply to the request for Committee review under Rule 3.

2.2 *Service and filing.* Except as otherwise provided in Rule 3.1, a document required under these rules to be submitted to or filed with the Committee or the Office, or served on a party or the Office within a specified time shall be deemed timely submitted, filed, or served if it is received by the Committee, the Office or the party, or if mailed, it is postmarked, on or before the last day of the applicable time period.

2.3 *Extension of time.* Upon written request of the Office or a party, the Committee may extend the time for taking action under these rules, except that the Committee may not extend the time for taking any action for which the Act specifies a time limit.

2.4 *Where to file.* Documents required to be filed with the Committee shall be filed at the offices of the Senate Select Committee on Ethics, Hart Senate Office Building, Room 220, Washington, D.C. 20510. Documents required to be filed with or served on the Office shall be filed or served at the Office of Senate Fair Employment Practices, Hart Senate Office Building, Suite 103, Washington, D.C. 20510.

#### RULE 3. REQUESTS FOR COMMITTEE REVIEW OF HEARING BOARD DECISION

##### 3.1 *Requirements for Filing a Request for Review.*

(a) *Who May Request Review of a Hearing Board Decision.* An employee or the head of an employing office with respect to whom a hearing board decision was issued is a party entitled to request Committee review of that decision. The Office may also request review of a decision.

(b) *Request by a party.* Not later than 10 days after receipt of a decision of a hearing board, including any decision following a remand of the case as provided in Rule 4.2(c), a party may file with the Office a request that the Committee review the decision. A request for review shall specify the party requesting review, and shall designate the decision, or part thereof, for which review is requested. A request for review must be received in the Office not later than the 10th day after the date of receipt of the hearing board decision [a postmark on the 10th day will not satisfy this timeliness requirement.] Within 24 hours after receipt of a request for review, the Office shall transmit a copy of such request to the Committee and serve a copy on any other party.

(c) *Request by the Office.* The Office, at the discretion of its Director, on its own initia-

tive and for good cause, may file with the Committee a request for review of a hearing board decision, including any decision following a remand of the case as provided in Rule 4.2(c), not later than 5 days after the time for the parties to file a request for review with the Office has expired. A request for review shall specify that the Office is requesting review, shall designate the decision, or part thereof, for which review is requested, and shall specify the circumstances which the Office asserts constitute good cause for the request. A request for review by the Office must be received in the Committee's office not later than the 5th day after the time for the parties to file a request for review with the Office has expired [a postmark on the 5th day will not satisfy this timeliness requirement.] Within 24 hours after filing a request for review with the Committee, the Office shall serve a copy of such request on all parties.

3.2 *Transmittal of Record.* As soon as possible, and in no event later than 10 days after receipt by the Office of a request for review or the Office's filing of a request for review with the Committee, the Office shall transmit to the Committee the full and complete record of the hearing board connected with the decision for which review has been requested. The Chief Clerk of the Committee shall promptly serve notice of the Committee's receipt of the record on all parties.

#### RULE 4. PROCEDURES UPON RECEIPT OF A REQUEST FOR REVIEW OF A HEARING BOARD DECISION

##### 4.1 *Briefs and Arguments.*

(a) *Petitioner brief.* A party who filed a request for review, or the Office if it requested review, may file a brief in support of its position. The brief shall be filed with the Committee and a copy served on any other party and the Office, if it requested review, within 10 days of the filing of the request for review with the Office, or the Committee if the Office requested review.

(b) *Respondent brief.* A party may file a brief in response to a petitioner's brief. Such respondent brief shall be filed with the Committee and a copy served on any other party and the Office, if the Office filed a request for review, within 15 days after service of the petitioner brief. If no petitioner brief is filed, such respondent brief shall be filed within 20 days of filing of the request for review. The Office may file a respondent brief only if it failed a request for review.

(c) *Reply brief.* Any reply brief shall be filed with the Committee and served on all parties and the Office if it requested review, within 5 days after service of the respondent brief to which it replies. No one may file a reply brief who did not file a petitioner brief.

(d) *Alternative briefing schedule.* With notice to all parties and the Office, if it requested review, the Committee may specify a different briefing schedule than that prescribed by subsections 4.1 (a), (b) and (c).

(e) *Additional briefs.* At its discretion, the Committee may direct or permit additional written briefs.

(f) *Requirements for briefs.* Briefs shall be on 8½ inch by 11 inch paper, one side only, and 15 copies shall be provided. No brief shall exceed 50 typewritten double spaced pages, excluding any table of contents, list of authorities, or attached copies of statutes, rules, or regulations. Footnotes shall not be used excessively to evade this limitation. All references to evidence or information in the record must be accompanied by notations indicating the page or pages where such evidence or information appears in the record.

(g) *Oral argument.* At the request of a party or the Office, the Committee may permit

oral argument in exceptional circumstances. A request for oral argument must specify the circumstances which are asserted to be exceptional.

##### 4.2 *Remand.*

(a) *Only one Remand.* There are two kinds of remand. The Committee may remand the record respecting a decision, or it may remand the case respecting a decision, but in no event can there be more than one remand with respect to a decision of a hearing board. If the Committee remands the record respecting a decision, there can be no further remand of any kind with respect to such decision. If the Committee remands the case respecting a decision, there can be no remand of any kind with respect to a hearing board decision issued following remand. A Committee decision remanding to the hearing board shall contain a written statement of the reasons for the Committee decision.

(b) *Remand of the Record.* Within the time for a decision under subsection 308(d) of the Act, the Committee may remand the record of a decision to the hearing board for the purpose of supplementing the record. After the hearing board has supplemented the record as directed by the Committee, the hearing board shall transmit the record to the Office, and the Office shall immediately notify the parties of the hearing board's action and transmit the supplemented record to the Committee. The Committee retains jurisdiction over a request for review during remand of the record, and no new request for review is needed for further Committee consideration under section 308 of the Act. A record shall be deemed remanded to the hearing board until the day the Committee receives the supplemented record from the Office, and the Committee shall transmit a written final decision to the Office not later than 60 calendar days during which the Senate is in session after receipt of the record as supplemented on remand. The Committee may extend the 60-day period for 15 days during which the Senate is in session.

(c) *Remand of the Case.* Within the time for a decision under subsection 308(d) of the Act, the Committee may remand the case to the hearing board for the purpose of further consideration. After further consideration, the hearing board shall issue a new written decision with respect to the matter as provided in section 307 of the Act. If the Committee remands the case to the hearing board, the Committee does not retain jurisdiction, and a new request for review, filed in accordance with Rule 3, will be necessary if a party or the Office seeks review of a decision issued following remand.

4.3 *Final Written Decision.* All final decisions shall include a statement of the reasons for the Committee's decision, together with dissenting views of Committee members, if any, and shall be transmitted to the Office not later than 60 calendar days during which the Senate is in session after filing of a request for review. The period for transmission to the Office of a final decision may be extended by the Committee for 15 calendar days during which the Senate is in session. A final written decision of the Committee with respect to a request for review may affirm, modify, or reverse the hearing board decision in whole or in part. The Committee may decide not to grant a request for review of a hearing board decision. The Committee will serve a copy of any final decision on all parties.

#### RULE 5. HEARING BOARD REFERRAL OF TESTIMONIAL OBJECTIONS

5.1 *Procedure for Ruling on Testimonial Objections.* If any witness to a hearing board

proceeding appearing by subpoena objects to a question and refuses to testify, or refuses to produce a document, a hearing board may refer the objection to the Committee for a ruling. Such referrals may be made by telephone or otherwise to the Chairman or Vice Chairman of the Committee who may rule on the objection or refer the matter to the Committee for decision. If the Chairman or Vice Chairman, or the Committee upon referral, overrules the objection, the Chairman or Vice Chairman, or the Committee as the case may be, may direct the witness to answer the question or produce the document. The Committee, or the Chairman or Vice Chairman, shall rule on objections as expeditiously as possible.

**5.2 Enforcement.** The Committee may make recommendations to the Senate, including recommendations for criminal or civil enforcement, with respect to the failure or refusal of any person to appear or produce documents in obedience to a subpoena or order of a hearing board, or for the failure or refusal of any person to answer questions during his or her appearance as a witness in a proceeding under section 307 of the Act. The Office shall be deemed a Senate committee for purposes of section 1365 of Title 28 of the United States Code.

#### RULE 6. MEETINGS AND VOTING

**6.1 Quorum, Proxies, Recorded Votes.** A majority of the members of the Committee shall constitute a quorum for purposes of issuing a decision under section 308 of the Act, and for purposes of hearing oral argument if such argument is permitted. Proxy votes shall not be considered for the purpose of establishing a quorum, nor for purposes of decisions under section 308 (c) and (d) of the Act. Decisions of the Committee under section 308 (c) or (d) of the Act shall be by recorded vote.

**6.2 Meetings.** Meetings to consider matters before the Committee pursuant to the Act may be held at the call of the Chairman or Vice Chairman, if at least 48 hours notice is furnished to all Members. If all Members agree, a meeting may be held on less than 48 hours notice.

#### RULE 7. CONFIDENTIALITY OF PROCEEDINGS

**Confidentiality.** The final written decision of the Committee shall be made public if the decision is in favor of a Senate employee who filed a complaint or if the decision reverses a decision of the hearing board which had been in favor of the employee. The Select Committee may decide to release any other decision at its discretion. All testimony, records, or documents received by the Committee in the course of any review under these rules shall otherwise be deemed "Committee Sensitive Information" and subject to the "Non-Disclosure Policy and Agreement" as prescribed in Rule 9 of the Committee's Supplemental Rules of Procedure.

#### RULE 8. AUTHORITY TO DISCIPLINE

**Official Misconduct.** None of the provisions of the Act or these rules limit the authority of the Committee under S. Res. 338, 88th Cong., 2d Sess. (1964), as amended, to otherwise review, investigate, and report to the Senate with respect to violations of the Senate Code of Official Conduct, or any other rule or regulation of the Senate relating to the conduct of individuals in the performance of their duties as members, officers, or employees of the Senate.

#### TRIBUTE TO CHAD MEMMEL

• Mr. GORTON. Mr. President, today I would like to recognize a constituent

of mine, Chad Memmel. Chad is one of eight students, nationwide, to receive the AAU/Mars/Milky Way High School All-American Award.

Chad is truly a remarkable individual and deserving of this prestigious award. Anyone who looks at all that he has achieved in his life will be amazed at his commitment, tenacity, and intellect. What is even more impressive, to this Senator, is the fact that Chad Memmel is not even 20 years old and only a senior in high school.

First and foremost, Chad's dedication to academics deserves much praise. In his class of 360 students at Bothell's Inglemoor High School, Chad ranks first and is diligently working to achieve his ultimate goal of becoming an astronaut. In addition, his participation in summer seminars at the U.S. Air Force Academy, Naval Academy, and West Point clearly demonstrates his willingness to make the most of his education.

Chad's talents are not limited solely to academics. A gifted saxophonist, Chad is a member of Inglemoor's concert and jazz bands. Realizing the value of community service, Chad is active in Eagle Scouts and his church youth group. He has spent two summers serving food and building houses for families in Tijuana, Mexico.

Serving as cocaptain of the cross-country team provides Chad with the opportunity to demonstrate his leadership skills, spirit of competition, and athletic ability. In addition, his work as a Ski Acres Ski School instructor and member of the Chief's soccer team show his ability to excel in a variety of athletic activities.

I take pride in knowing Washington State and our Nation will benefit from Chad's knowledge and talents. It is my belief he will continue to be an active member of his community and I wish him the best for an even more successful future. •

#### A TRIBUTE TO ASHLAND

• Mr. McCONNELL. Mr. President, I rise today to pay tribute to the city of Ashland in Boyd County.

Ashland is Kentucky's 10th largest city and is located in the northeastern corner of the State along the Ohio River. The city sits on a flat plain which evolves into rolling hillsides at the city limits.

Ashland was founded in 1854 and incorporated in 1876. The city quickly became a commercial hub, serving as the entry point for businessmen traveling through the eastern Kentucky mountains.

Ashland gained national prominence during this century when Paul Blazer, a local entrepreneur, formed Ashland Oil. Today, Ashland Oil is recognized as one of the Nation's largest independent petroleum companies. The company also serves as one of the major employers in the city.

Currently, Ashland's city administrators are diligently working to bring new industry to a town once dominated by steel and oil. Community leaders cite good schools, a sophisticated medical complex, and a relatively low cost of living as strong incentives to bring industry to the area.

I applaud Ashland's efforts to bring new industry and jobs to this thriving community, while maintaining strong relationships with existing corporations.

President, I ask that a recent article from Louisville's Courier-Journal be submitted in today's CONGRESSIONAL RECORD.

The article follows:

[From the Courier-Journal, Jan. 18, 1993]

#### ASHLAND

(By Richard Wilson)

Throughout much of its 139-year history this river town has been Eastern Kentucky's commercial hub and a place where the good times rolled.

A young Paul Blazer built Ashland Oil, one of the nation's largest independent petroleum companies, an effort that probably did more than anything to give Ashland national prominence. The sprawling Armco Steel works, while now downsizing like many other large manufacturers, gave the area an unprecedented shot in the arm in the early 1920s, when the company bought two local iron companies.

Earlier in the century, Ashland was a destination for timber shipped down the Big Sandy River from the Kentucky and West Virginia mountains, and railroads carried coal and timber from the region.

Labor and jobs were plentiful, and several generations of young people immediately walked into good-paying Ashland Oil or Armco jobs after high school. Those who went to college often returned and worked their way up the Ashland Oil executive ladder or became professionals. Paul Chelgren, Ashland's president and chief operating officer, is a hometown guy.

For decades, Ashland was also the entry point for businessmen headed into the mountains. The Ventura and Henry Clay hotels, both closed years ago, were usually full.

"There weren't any places to stay in most places in Eastern Kentucky back then," says G.B. Johnson, a retired banker who came to Ashland as a young lawyer in 1947.

The city's major growth came in the 1920s, when the population doubled from 14,729 to 29,074 residents. Population peaked in the mid-'60s at nearly 34,000 and has been dropping since. Opinions differ on when the "boom town" atmosphere began to recede and what the causes were. If there's a consensus, it is that the main cause was fluctuation in the world economy and intense competition in the oil, coal and iron industries.

Other factors include Ashland's demise as a railroad center and changing patterns in area highways, Interstate 64, several miles south of Ashland, replaced U.S. 60—a major route through the city—as the region's major east-west artery.

"One of the real things that hurt was the building of the Mountain Parkway, which carried away to Lexington a traditional customer base from the Big Sandy region," says George Wolfford, a reporter for the Ashland Daily Independent for nearly 35 years.

"The worst thing that happened to Ashland may turn out to be the best thing to

happen to Ashland," says Mayor Rudy Dunnigan, a native who returned in 1977 to practice dentistry.

"We sat up here for over 100 years, and we had all the jobs we needed, the high-paying industrial jobs, with great benefits. It was a great place to work, but all of a sudden the steel industry ran into trouble, the oil industry ran into trouble, big business ran into trouble, and suddenly we've learned we're not insulated from the real world. We can't depend on these jobs anymore."

The giant Armco plant, which straddles the Boyd-Greenup County line, best represents the area's dwindling industrial base. In 1970 the company had 5,100 employees. Earlier this month the total was 2,738, about 1,000 fewer than a year ago.

Dunnigan and others acknowledge that new jobs, especially jobs to replace those lost at Armco and Ashland Oil, are the area's top priority. But they are also realistic enough to know that such success isn't likely anytime soon.

"We've got to start attracting things here to diversify our economy," Dunnigan said.

Dunnigan and others also contend that the city's once-vibrant downtown is slowly undergoing change after a slump that began years ago when Ashland Oil moved its headquarters to nearby Bellefonte and several downtown businesses, including Parsons Department Store, closed. The Ashland Town Center, one of two new area malls, opened three years ago, and renovation of the First American Bank building has provided upscale office space.

Some residents mark the beginning of the central city's turnaround to the 1980 approval of liquor-by-the-drink sales in downtown and the 1985 opening of a modern hotel, now the Ashland Plaza. Dunnigan also believes that city-owned property along the Ohio River can be developed to enhance Ashland's future.

"Downtown's never going to be like it was, with people just lined up coming up the streets," says merchant John P. Walters.

Others say several blocks along Winchester Avenue will continue changing from a regional retail center into an office and small-retail center.

Anyone looking for the old Ashland can still find vestiges of it a few blocks west of downtown, where large old homes stand along Lexington, Montgomery and Bath avenues. All three avenues run into the 47-acre Central Park, which includes walking and jogging trails.

Despite the city's economic woes, most residents interviewed say they are pleased with the town. "Quality of life" is a term used frequently. It appears to apply to the town's reasonable cost of living, good schools, an ever-growing sophisticated medical complex and a low crime rate.

While Ashland has no local university, residents can now earn a four-year college degree by combining work at the University of Kentucky's Ashland Community College and Morehead State University's junior- and senior-year offerings.

John Gatling, executive director of the Economic Development Corp., says these offerings, as well as those of area vocational schools and nearby Ohio colleges, give the city a well-trained work force that should be an incentive for new companies and businesses to locate in the area.

Ashland has one of Kentucky's largest concentrations of organized labor, which some say may impede the search for new industry. But David Welch, a lawyer and former mayor, says this "meshing" of blue-collar

workers and white-collar managers has given the town "a certain amount of sophistication, but still a respect for the real world."

Welch was a leader in November's unsuccessful attempt to merge city-county government, a move he calls essential for growth.

While some residents bemoan a lack of cultural activities, they acknowledge that offerings are plentiful in nearby Huntington, W.Va., or Cincinnati, Lexington, Louisville and Columbus, Ohio.

But Ashland is not a cultural wasteland. While it has a few small museums and art galleries, its 1,300-seat Paramount Arts Center offers a variety of events, including a concert and symphony series. The 62-year-old building, originally a motion-picture showcase, was closed in 1971. But citizens, through a non-profit foundation, purchased the building for \$400,000 and spent several years and \$1.2 million to renovate it. The Paramount is now on the National Register of Historical Places, and more than 106,000 people attended performances there last year.

While volunteers formed the backbone of Paramount restoration, their labor and money have gone into a YMCA, a tennis center, the Kentucky Highlands Museum, which is seeking a permanent home, and two art galleries.

"People here are very generous with their time and their money," said Kathy Timmons, the Paramount's executive director.

Besides the Paramount, another landmark dear to the heart of local residents is the Blue Grass Grill, a 46-year-old drive-in restaurant where carhops still serve customers. Many adults who "cruised the Blue Grass" as youngsters and dined on its tasty hamburgers and hot dogs now return with children and grandchildren.

Rannie Cooper, who has owned the Blue Grass since 1971, began working there as a carhop in 1955.

"It's the only job I've ever had," he says.

Cooper said the restaurant has been a stopping point for years for Eastern Kentucky families who migrated north for jobs but periodically return to the mountains.

"There's a family from Dayton whose children we watched grow up. When their daughter enrolled at Kentucky Christian College (in nearby Grayson), the parents stopped to ask if she could call us if she had an emergency," he added.

Another commercial landmark is Star's Fashion World, a downtown clothing store that opened in 1931 and is the oldest continuing business under the same ownership in downtown Ashland. Bob Simons, the current president and son-in-law of founder Saul Kaplan, says its employees' personal touch is the key to the store's success.

"Our employees have personal rapport with practically everyone who walks in here," Simons says.

While Ashland may be shaking its complacency, it retains some traits that catch an outsider's attention. A businessman who moved here several years ago recalls that his wife once asked why many motorists open their car doors to check their tires at stoplights or stop signs.

Puzzled by the question, he did some checking and later told her what she mistook for tire-checking was a different ritual. "They were spitting tobacco juice," he said.

Education: Ashland Independent Schools, 3,680 pupils; Boyd County Schools, 4,038; Fairview Independent, 757; Holy Family

School, (K-8), 151; Rose Hill Christian School, (K-12), 322; Ashland Community College, 3,267; others include Ohio University's Ironton Campus, Shawnee State University in Portsmouth, Ohio and Marshall University in Huntington, W. Va. Vocational classes are available at the Ashland State Vocational-Technical School and the Boyd County Area Vocational Education Center.

Transportation: Highways—Interstate 64, U.S. 23 and U.S. 60 and Ky. 168 either go through or near Ashland. Rail—Amtrak provides passenger service and CSX Transportation provides main-line rail service. Bus—Greyhound, Truck—34 common carriers serve the city. Air—Ashland Regional Airport has a 5,600-foot paved runway. Nearest commercial service is at the Tri-State Airport, 14 miles southeast of Ashland near Huntington, W. Va. Water—Barge traffic is extensive on the Ohio and Big Sandy rivers.

Population (1990): Ashland 23,622; Boyd County, 51,150.

Per-capita income (1989): \$15,442, or \$1,619 above the state average.

Media: Newspaper—The Daily Independent. The Sunday Independent, Television—WTSF. Radio—WCMI-AM and FM (classic rock); WOKT-AM (religious).

Topography: Ashland is located along the Ohio River, where the terrain evolves from a flat plain to rolling hillsides.

#### FAMOUS FACTS AND FIGURES

Ashland was first known as Poage Settlement for settlers of the Poage family of Virginia. The city was named in 1854 for the Lexington home of Henry Clay, and incorporated in 1876. It is Kentucky's 10th largest city, dropping two places between the 1980 and 1990 censuses.

Boyd County, created in 1860 from parts of Carter, Greenup and Lawrence counties, is named for Linn Boyd, a Paducahan and former congressman who died in 1859 shortly after being elected lieutenant governor.

Famous citizens include Simeon Willis, the governor from 1943-47; Paul G. Blazer, founder of Ashland Oil; Harry King Lowman, a powerful Democratic member of the state House of Representatives from 1942-62 and two time House speaker; and Ben M. Williamson, a businessman who served a short stint in the U.S. Senate in the early 1930s. The city's two bridges across the Ohio River are named for Williamson and Willis.

The city's Winchester and Greenup avenues, both four lanes wide, make it one of the easiest Kentucky cities to get through. Martin Toby Hilton, the engineer who layed out the town, designed streets running parallel to the Ohio River to be 100 feet wide and those at right angles to be 80 feet.

During the 1920s, Ashland was one of the state's fastest growing cities. Its greatest growth occurred between 1920 and 1930 when population soared from 14,729 to 29,074.●

#### DR. LIONEL BORDEAUX'S 20TH ANNIVERSARY AT SINTE GLESKA UNIVERSITY

● Mr. DASCHLE, Mr. President, today I want to express my heartfelt congratulations to Dr. Lionel Bordeaux on the occasion of his 20th anniversary as president of Sinte Gleska University on the Rosebud Sioux Reservation in South Dakota. I have had the privilege of working with Dr. Bordeaux through the years on his efforts to enhance the educational opportunities of Indian people. I am honored to be able to

share my thoughts about this man, my friend, and Sinte Gleska University, with my esteemed colleagues in the U.S. Senate.

Dr. Bordeaux, as president of Sinte Gleska University since 1973, has served the people of Rosebud Reservation, and native Americans throughout the Nation. Lionel's life is inspiring in itself. It is a story of an emissary of a vision born over 100 years ago in the life of Chief Spotted Tail—for whom the university is named.

During the late 1800's, as western society continued its encroachment on Indian land and culture, Chief Spotted Tail spoke to his people about the importance of education. His vision of education was one of survival of a people and way of life that had endured for centuries. Then, almost 100 years later, a group of tribal citizens, led by Stanley Red Bird, began to revive Spotted Tail's vision. Their work and determination to bring new opportunities to their people, and prepare their people for the next battle for survival, established Sinte Gleska College. Those founding fathers of Sinte Gleska also had the insight to bring one of their own tribal members forward to carry this vision into the 21st century. That man was Lionel Bordeaux.

Under Lionel's leadership, Sinte Gleska University has been at the forefront of Indian controlled education. Sinte Gleska has established itself as the model for over 24 tribally controlled colleges throughout the United States. Lionel's personal vision for the institution has kept the founding fathers in high regard, and has kept Sinte Gleska dynamic, thriving, and innovative for these many years. His expertise is well known across the country and was evident when he co-chaired last year's White House Conference on Indian Education.

As a primary avenue to development and prosperity for Indian people, Lionel's commitment to tribal colleges has instilled a new commitment on the part of the United States to provide the resources for carrying their mission forward. I am sad to report that Congress and the Federal Government have not always responded favorably, but, today, I emphasize my own continued commitment to adequate funding for tribal colleges when appropriations for fiscal year 1994 are under consideration. It is time Congress matches the response of Sinte Gleska University to tribal people.

The consistent response of the academic programs at Sinte Gleska University to the economic and social concerns of the Rosebud Reservation serves as a monument to self-determination and resolve. If knowledge is power, Sinte Gleska University, under Lionel's leadership, brings empowerment to the Sicangu Lakota or Rosebud Sioux.

Lionel speaks directly, forcefully, and openly on contemporary Indian is-

sues, without regard to the short-term popularity of his views. His intellect, candor, and fortitude have brought him national recognition as a compassionate advocate for Indian people. His voice is heard with respect, in congressional hearing rooms, in foundation board rooms, in the tribal council chambers, and in community halls across Indian country. I look forward to continuing to work with my visionary friend, Lionel Bordeaux, to further the cause of enhanced educational opportunities for all native Americans. ●

#### TRIBUTE TO C.M. NEWTON, OUTSTANDING KENTUCKY SPORTSMAN

● Mr. McCONNELL. I rise today to pay tribute to a gentleman all Kentuckians can be proud of, University of Kentucky athletic director C.M. Newton.

C.M. began his involvement with college athletics as a player under the legendary UK coach, Adolph Rupp. In the 1960's he was the head basketball coach for Transylvania University in Lexington, KY. Another legend called in 1968, Paul "Bear" Bryant asked C.M. to come to Alabama and head up the basketball program. He did so, and shortly after integrating the team, turned the tide into perennial winners.

C.M. left Alabama in 1980 to become associate commissioner of the Southeastern Conference. The chance arose to get back into college basketball in 1982 and he quickly jumped at the opportunity to take over the program at Vanderbilt University. In fact, Mr. President, C.M. thought he would stay at Vandy until retirement, but an opportunity arose that he was unable to pass up.

In 1989, the University of Kentucky called and C.M. returned to help lead it out of the abyss in which the basketball program found itself mired. His first accomplishment, as athletic director, was hiring Rick Pitino to head the basketball office. In the 4 years since these two gentlemen have been at the helm, the Kentucky team has come farther than even the most ardent fan dreamed possible. They brought fun back to a program that had been beaten down and ridiculed throughout the Nation. Mr. President, these days, as the Wildcats tear through their schedule and head for the NCAA tournament, there isn't anyone mocking the University of Kentucky.

Mr. President, it is more than wins and losses that define C.M.'s success. He has made an effort to always remember that the student athlete is the most important and central aspect of any college program. C.M. understands that because the athletic department is so visible, many people identify with the university through the teams; therefore, it is crucial that he runs a class organization as well as be successful.

His efforts have clearly paid off. As proof of the wide-ranging respect C.M. has earned, he was asked to help run USA basketball. Under his and others' direction, America was treated this past summer to the Dream Team at the Barcelona Olympics. Additionally, Indiana University coach Bobby Knight, no pushover by any means, has called C.M. the finest gentleman in all of college athletics. Just last weekend C.M. was inducted to the Alabama Sports Hall of Fame, and at Kentucky he has overseen a department which has had five of its varsity teams ranked among the Nation's elite this year.

Perhaps, C.M.'s own words best describe what he hopes to achieve at his current post, "A program that is a cut above. If the expectation is to be compliant to the letter of the rule, then you take it a cut above and become compliant to the spirit and intent of the rule as well as the letter." Mr. President, I know my colleagues join me in applauding these guidelines under any circumstances. He has accomplished all of this while keeping to his prime objective of maintaining a class program at the University of Kentucky, one that Kentuckians across the Commonwealth can take pride in.

Mr. President, I ask my colleagues to join me in honoring this outstanding example of class, hard work, and dedication to values. I also request that an article from the March edition of the Lane Report be included in the RECORD.

#### The article follows: COMPLIANT WITH THE SPIRIT AND INTENT OF THE RULE

(By Alan I. Kirschenbaum)

In retrospect, University of Kentucky Director of Athletics Charles Martin (C.M.) Newton "facetiously" says, after 34 years of coaching collegiate sports, one of the things he is most proud of is that he has never been fired. "I got out ahead of the posse in each instance," he laughs.

To survive in today's competitive and political world—whether it be in business or collegiate sports—like an old tree in the forest, one must weather the storms inherent to each season. But as a clear horizon meets the new day, what separates the men from the boys (or women from the girls) is one's ability to cautiously sift through the aftermath, go onto the next season and positively build, regardless.

Few would disagree that C.M. Newton's strength as a leader, his comprehension of the role that collegiate athletics plays within the university system, mixed with his sheer skill are what led to the rebuilding of a Kentucky basketball program, now in connection to be the nation's best, that was a short while ago restricted by NCAA sanctions.

While some might argue that success in the world of sports, either collegiate or professional, has much to do with luck, this consummate diplomat of the athletic world modestly attributes his success to simplistic "longevity."

But a long-lived career in any business usually indicates one who has probably done something right, consistently. Those who know Newton concur; his proliferation is a

result of his persistence to not only be compliant with the letter of the rule, but compliant with the "spirit" and "intent" of the rule.

#### MAKING DIFFICULT CAREER DECISIONS

Making the right career move is the dilemma for everyone in the business world. Newton, who has made some tough decisions during his successful career, feels that he is not "real good" at analyzing such decisions for other people. However, when recalling decisions that felt "right" to him throughout his 34-year career, of which 21 years were at the NCAA Division 1 level, he admits that some were not easy to make.

If he were to give advice, however, Newton recommends to always welcome challenge. For example, he said his move from Transylvania University to the University of Alabama after the 1968 season, was a difficult career choice. "Yet it was a logical and professional move from the college level to the Division 1 level. That is something that I did not want to sit on the back porch later in life and wonder what it would have been like to try. And we all face that in career decisions," he said.

While the move to Alabama was for upward mobility, others, Newton said, were difficult decisions based on personal principles and ethics. "Knowing when to leave a program is an important thing," he said.

Prompted by "things" that bothered him with the Alabama program, Newton chose to leave as its head basketball coach, and take on the job as associate commissioner of the Southeastern Conference (SEC) in 1980. Again, he recalls this move as a difficult one.

Newton pointed out that at Alabama, despite "doing so much winning," they could not sell out the arena without help from a visiting team like UK or Louisiana State University.

But what "bothered" Newton more, he said, were criticisms after Alabama had racially integrated its program. "During the big winning years (opinion was) we didn't have too many black players, but in a little bit of a down year, which was third in the conference incidentally, suddenly we had too many blacks. I thought we were passed that. Those kinds of things really started bothering me," he said.

After his service with the SEC, in what Newton believed was his last career move, he took on the head coach's spot with the Vanderbilt University basketball program in 1982.

After eight seasons at Vandy, he said, "There was no place that I was going to leave Vanderbilt for . . . I was going to coach there until retirement . . . It didn't make sense to go anywhere else."

But destiny and duty called, and Newton's next move from Vanderbilt to UK was a very tough decision.

In a sincerely justifying tone, Newton said that he firmly believes in his wife Evelyn's theory, which states: "You've got to leave when you're still in love." And in the "Kentucky situation," he recalled he was not only "convinced" that he was wanted, but "needed. Otherwise I would have never come back here," he said.

#### HIS MOST IMPORTANT DECISION

Shortly after arriving at UK in 1989, Newton would choose who would be the next head coach for UK basketball after the departure of Eddie Sutton, amidst scandal and NCAA sanctions. This decision, he said without hesitation, would be the most important that he would make since the start of his career as UK's director of athletics.

"I really felt that if we got the right person, then we could rebuild and regain the stature of the program—with some hard work and a given time period—but if we got the wrong person, I really thought we might go the way of UCLA, where we may stumble and struggle through several coaches . . ." Newton said.

Why Rick Pitino? Newton replied: "First, I wanted somebody who I thought could really coach. He certainly filled that bill. I wanted somebody who wanted to be here, while understanding how difficult the job was going to be. He (Pitino) understood that it wasn't going to be any cupcake coming in here. It wasn't a typical Kentucky, talent-wise or otherwise. But then I wanted someone who could handle the visibility—from the media, the fans, the 'boosters.' I just felt Rick filled the bill on all of them. And what he has done is just phenomenal."

Newton continued, ". . . It's remarkable to me to see how Rick has put the fun back into Kentucky basketball, the competitiveness back and the sanity back in it."

The true spirit of collegiate athletics had gotten lost at UK, Newton said. "This thing had gotten out of kilter. I felt that as a visiting coach and as an alumnus of the university coaching against them, nobody (at UK) was having any fun with it. It had reached that level where the fans didn't really enjoy it, the players didn't enjoy it, the coaches didn't seem to enjoy it. It was just that 'Oh my God we're not gonna lose' attitude, instead of looking at it as a chance to compete," he commented.

Also, Newton believes that Rick Pitino brought back the fun because he loves the college game. But will Pitino stay in Kentucky? The director of athletics replied, "I don't know."

While some feel it is always a possibility that Pitino may go back to the NBA, Newton disagrees. "He had offers to go back to the Knicks or the Nets. If he doesn't go back to one of those, where is he going to go? He showed that he could coach and win in the professional game, but I don't think that he loved it the way he loves the college player, working with them and developing them . . . I think Rick will be here for a long run, but if he left yesterday he would have done this university a service that we could never repay him for."

#### ON SUCCESSFUL COACHING

If you are going to be successful at anything, especially coaching, "You've got to win," Newton said. But there are other ingredients to success, he added. "You have got to give an honest day's work. I don't think anybody is going to have any respect for anybody who doesn't really lay it on the line for them. That's where the old ego comes in, particularly in coaching, where you become bigger than the game or the university and don't give the honest day's work and the recognition who you work for."

The people who Newton has seen fail in the collegiate athletics business, he said, are those who lose sight of who is most important in the program—the student athlete.

"The student athlete is really the heart of the program. Not the coach, not the game itself. That is why we are here and that is what it is all about. People who I see who are successful always have kept that in pretty good focus—whether you're talking about Rupp or Bryant, Bob Knight, Dean Smith."

Providing psychological support to the student athletes is a big part of successful coaching, too, Newton said. There is a lot more to coaching than keeping score and winning, he said. A coach will spend a great

deal of time "motivating athletes not only academically, but to help them get their priorities straight." With the help of their staffs, both Bill Curry and Rick Pitino, do maximal jobs in this area, the UK director of athletics claims.

#### CEO OF AN \$18.4 MILLION COMPANY?

While he recognizes his role, as well as the role that athletics plays at UK, Newton does not consider himself the CEO of a company with an \$18.4 million annual budget. "The only CEO we've got here is Dr. (Charles) Wethington as far as I'm concerned. I'm very clear as to where we fit in and as to what we are within this university," Newton said.

The athletics department, by definition, is a self-supporting auxiliary enterprise of UK, according to Newton. "In fact, \$1.2 million of the \$18.4 million budget goes directly to the university, and I'm happy and proud that we can do that," he said.

Taking part in Dr. Wethington's cabinet has served as "an eye opener" for Newton. "It really makes you realize the scope of the total budget of this university; the total programming and the services offered by the university and what we're (UK) all about. We're (athletics) just a speck over there."

Newton agrees, though, that his department is a rather "visible" speck to the general public. "Many people associate and identify a lot of the university through athletics. That is why we have to be a class organization and that is why we need to be successful," he said.

And they are successful. With the exception of the last few years, because of funds used for the building of the football field house and other projects, Newton said that the UK Athletics Department had been able to build up some cash reserves. Bottom line, he said, the athletics department, by the rules at UK, must break even.

Besides its two revenue producing sports (basketball and football), UK has several other nationally ranked sports that include women's basketball (#25), men's tennis (#12), women's tennis (#18), and women's gymnastics (#11). Newton said that UK Athletics has "tried very hard" to market and promote these sports in the hope that they will become revenue producing, but without success. He believes, however, "If we could ever get baseball moved to the summer and played at night, we could have another revenue producing sport, which means income exceeds expenditures."

For Newton, profit is not only measured by dollars and cash reserves. "Personally, these three years have been a very profitable experience for me from the standpoint of feeling satisfaction of getting the thing (basketball) back. We make that next jump with the football program."

#### BUILDING THE FOOTBALL PROGRAM

Building a football team is a "whole different ballgame" than basketball, according to UK's director of athletics. "In basketball, you can bring in a Jamal Mashburn, and two or three other players, and if you can get the right players, the numbers are not the factor. Football is strictly a numbers factor," Newton said.

While the SEC is a tough basketball conference, "We happen to be in the toughest football conference. You look at the traditional (football) program in this league, they all have one thing in common—numbers of quality athletes. If Georgia loses a Garrison Hearst, you can bet that they have another running back. That's just the nature of it. Kentucky has not had that luxury. If we have two or three injuries, it knocks us out," he said.

Newton has told Bill Curry that it may take as many as five recruiting classes of Curry's own people and instituting Curry's system before Kentucky gets competitive in the SEC.

"Time becomes a critical part of football, because there is no quick way to do it . . . basketball is not easier, it's just quicker," Newton said. It is not easy to get a Jamal Mashburn during a sanctioned or probationary period, he said. "That was a great thing that Rick did. . . . With football it takes more time."

UK football is not on the schedule that Bill Curry wants. "He wanted to do it in two or three years," Newton said. "And we're certainly not on the schedule our fans want." Yet despite the criticism, the director of athletics feels that the program is on a good schedule. "And if we can get a break here or there and get up and win six or seven games next year, we will be over that hump," he said.

Also, despite the criticism, Newton said, "I would be very surprised if I am not accurate that 99 percent of the Kentucky fans are tickled to death to have Bill Curry as our football coach—from every standpoint . . . but that's not important."

What is most important, Newton added, "Is what Bill believes first, what Dr. Wethington believes and what I believe. We think that we are as solid as we can be. There is not anybody in this country that I would rather have coaching our football team than Bill Curry. He is a proven winner. He's going to do it right. We'll get there. . . . I know there are disappointed people out there . . . but the most disappointed of them all is Bill."

#### COLLEGIATE SPORTS: A SEMI-PRO LEAGUE?

While Newton understands how collegiate sports can be perceived as a semi-professional minor league for both basketball and football, he stressed that inter-collegiate athletics is less semi-professional now than it was years ago. For example, he said, "Years ago an athlete could move from school to school without discretion or any transfer rules."

But Newton admits that both inter-collegiate Division 1 football and basketball seem to serve as minor leagues because there are none for the National Football League or National Basketball Association. And he sees how the "logical train of thought" would lead to the conclusion that it should be. However, he stresses that "it is really not a semi-professional thing in my thinking."

What has more seriously entrenched the semi-professional train of thought is the entertainment force that Division 1 collegiate football and basketball has become. "With television, we went from a regional or institutional program to a national and international program at all universities at the Division 1 level. The good is that it has provided tremendous funding for the non-revenue (collegiate) sports," Newton said.

But what about the players who generate the revenue? Newton replied: "People talk to me all of the time and say, 'You have got these few basketball players who are making all that money for the university, you ought to give some of it back.' With this semi-pro thinking, they lose sight of the fact that at this program we deal with an \$18.4 million budget to run 21 sports."

Newton said those who subscribe to paying collegiate athletes because they bring in revenue, lose focus of the broad-based program. The UK director of athletics emphasizes that these "few basketball players" are not being exploited. Funds generated from revenue

producing sports are utilized for the university education and development of some 300 athletes at UK

#### GOING PROFESSIONAL BEFORE GRADUATION

A collegiate athlete who makes the decision to turn professional before graduation is no different than any college student who decides to postpone or not complete their education because of a business opportunity, according to Newton.

Throughout the entire college world, many different types of students leave school and go into business for a variety of reasons, Newton pointed out. And in the case of stellar athletes like Shaquille O'Neal, former All-American center for LSU, who now plays for the Orlando Magic; or Jamal Mashburn, the All-American forward now at UK, but expected to go to the NBA next season, "I think it is perfectly legitimate," he said.

"College is not for everyone. College athletics are not for everyone. Yet it's that tremendous life experience that if you have the chance at you have got to seize and see where it goes from there," Newton said.

What concerns him most in the case of a student athlete going professional before graduation, is whether or not they have enough emotional maturity to handle the lifestyle. "That is the key," Newton said.

Regarding Mashburn, Newton added, "In talking with Rick (Pittino), he feels that he (Mashburn) does (have the emotional maturity). My guess is that in most cases of a person like that, they'll come back and finish school."

#### ANOTHER GOAL

While Newton believes that the university has the responsibility to try and graduate every student who enrolls, he agrees that it is an "unrealistic expectation" to have for every student who enters UK, as well as those on athletic scholarships.

Despite it being unrealistic, Newton's ideal for all UK athletes is for each of them to maintain eligibility for competition, and to graduate. "I think that is a much more legitimate expectation for a student on an athletic scholarship than it is for a student who enrolls in the university," he emphatically said.

For example, student athletes are afforded the discipline of the program, other support services at the Cats Center, and eligibility rules that ensure satisfactory progress—all services that the "normal student" is not afforded, Newton pointed out. "We expect them to take the athletic-academic experience and become the best person they can become during this time. It is a unique experience."

Also separating them from the normal university student, student athletes have additional goals. At UK that is to "compete at an SEC and national level in a 21 sports broad-based program." Putting it in more simple terms, "Win, and we make no apologies for that," Newton added.

UK wants a program that wins while being totally compliant with NCAA and SEC rules, Newton said. The object, he said, is to have "a class program."

How does Newton define class? "A program that is a cut above. If the expectation is to be compliant to the letter of the rule, then you take it a cut above and become compliant to the spirit and intent of the rule as well as the letter."

He added that a "class" program has vision to go beyond graduation, and offers career planning and job placement. "That to me is what a college program is all about," Newton said.

"We want to win by putting the student athlete totally at the heart of the program. That concept of the student athlete is a very critical one to me and to all of us . . . With that comes some real responsibility and expectations," Newton added.

#### THE FANS HAVE EXPECTATIONS, TOO

The fans have expectations of the student athletes that are sometimes unrealistic. And Newton feels that some of media's coverage of collegiate sports today is responsible, in part, for the overly serious attitude toward collegiate athletics today.

While any university wants the attention, the enthusiasm and the interest from the public, Newton said when the media reach toward "digging" at a player for some "perceived" or "accurate" assessment of bad playing, "I have a problem with that. You are still dealing with 18-, 19- and 20-year-olds," who are not professionals.

For example, Newton said the print media, which have become secondary to television today, no longer report just the facts of the game, but serve more as an investigative arm of the media with the need to be controversial. He added, "When you add to that this phenomenon which has developed of the radio call-in sports shows . . . all of a sudden you have got a lot of people who really, in many instances, don't know what the hell is going on in terms of really understanding the game, hosting these things . . . It almost seems they have to be controversial."

Newton feels that such reporting and radio call-in shows are phenomena that do not serve to "keep people's heads on straight about what college athletics is really all about."

He continued, "They miss the point that you are dealing with 18- and 20-year-olds that are not going to play well every night. And sure there are guys who make coaching mistakes. There are people who make business mistakes every day. That's part of athletics . . . But I kind of sense that at times everybody gets caught up in it."

#### OTHER EFFECTS ON THE COMMUNITY—BUSINESS

While Newton cannot put a dollar figure on the effect UK basketball and football have on the local economy, he knows that both sports bring a lot of people into the Lexington area who spend their money here; people who otherwise may have never set foot on the UK campus.

Newton elaborates: "That is easy to document and easy to see. The thing that is not so easy to document or easy to see is the thing that makes the program unique—this program truly is the University of Kentucky—it truly reflects the whole state. For example, there are people who have never set foot on this campus from Eastern Kentucky, Western Kentucky and different parts of Kentucky who are not alumni of the university, but identify with this university through its athletics program in a very strong and meaningful way. They take great pride in it when the Cats win. . . . They're that grassroots guy or gal out there that if they ever have a son or daughter they hope he or she will come to the university. The uniqueness is that this is true throughout the whole Commonwealth."

Coach Adolph Rupp recognized this phenomenon, Newton said. "He taught me very early when I was a student here . . . you have got to realize that the University of Kentucky represents all of Kentucky, not just Lexington or our alumni."

The UK Athletics Department, through the statewide identity and administration that sports can bring, helps the university in

many ways, Newton said, noting "the subtle pressure it puts on the legislature to fund the university and the attention the university gets." He added, "As long as we don't become the tail wagging the dog, I think it does something positive for the university."

#### COACHES AND ENDORSEMENTS

Despite the public's desire for a high-profile coach, it is natural, "and it goes with the territory," for some of the public to react negatively to a coach endorsing a product.

From a businessperson's standpoint, however, many people want to see these advertisements, "Otherwise they (businesspeople) wouldn't spend the money on the endorsements," Newton commented.

"You can't please everybody," Newton said. "What you better do is please yourself. Be honest with yourself and true to what you truly believe in." He emphasized that both Rick Pitino's and Bill Curry's code of ethics and character is "beyond reproach."

Newton continued: "It sounds almost trite . . . criticism hurts, everybody wants to be liked . . . but if you get involved with wearing your feelings on your sleeve, as visible as these jobs are, you are just going to constantly be fighting windmills, and that's a lose-lose. . . . For whatever reason, people are jealous, envious, they think that athletics is too big or whatever, they are going to take those kind of shots."

Newton turns down most endorsement opportunities, because "I'm responsible for the total program, not just to coach a basketball team or a football team." Also, it is his responsibility to help the coaches with endorsement opportunities. "I see that as a positive thing that we can do. . . . I don't need to be getting in the middle of that—trying to come up with endorsements for me and sorting it out." Besides, he added, "I've had my day, and the one or two I've done, I've done for very good reasons. I've taken a lot of criticism over them, I might add, even though from one I gave all of the money to the library and to the field house. But I was satisfied with myself in that regard."

#### SUCCESS AND SURVIVING

According to Newton, in order to survive and achieve success in today's business of collegiate sports, one must be cognizant that athletics is only part of, not bigger than the university itself.

While he believes that athletics is an important part of the university structure: as a means to educate and develop the student athlete; to boost alumni and student pride, as well as the pride of grassroots folks in Kentucky; and serve as a source of revenue, Newton is abundantly clear that the UK Athletics Department "is not what the University of Kentucky is all about."

Newton emphasizes: "I've seen more coaches and administrators lose jobs and not survive because they forget that the purpose of a university is education, not athletics."

People fall in all walks of life for a variety of reasons, as well as in collegiate athletics, Newton has observed. And those who he has seen falter, are those who simply, "let their egos get in the way."

In any business, to succeed "you must have skill, both technical skills and people skills," Newton said. There are few professions or businesses "in which we are not in the people business," he pointed out.

"Our ability to succeed depends on our ability to work with people—whether we are talking about the student athlete, the faculty member on campus or the alumnus that is disgruntled. . . . But a lot of time we get

so wrapped up in the game or the product that we forget that's what we are all about. You can't lose sight of that. . . . People are important. You have got to care about them. This is true in business, parenting, everything," Newton added, with emphasis.

To achieve success, Newton believes there are also the intangibles—that "we talk about, but we have trouble putting a handle on. . . . Whatever you call it, character, ethics, I don't know. . . . I don't think in such philosophical terms. You see a job to do and you do it, I don't know. . . ."

Well, don't struggle too hard for the word C.M. Newton, just take a look at the man in the mirror—the word is class.

#### BOBBY KNIGHT CALLS NEWTON THE FINEST GENTLEMAN IN ALL OF COLLEGE ATHLETICS

University of Kentucky Associate Athletics Director Gene DeFilippo said that many people disagree with some of the things that Indiana University Men's Basketball Coach Bobby Knight says and does. "But we are all in agreement with a statement that Bobby made recently when he said, 'C.M. Newton is the finest gentleman in all of college athletics.'"

Elaborating on what makes Newton "stand out," DeFilippo quotes Phil Cox, a Kentuckian, who played basketball for Vanderbilt under Newton. "Coach Newton always said the right thing at the right time."

DeFilippo, a former assistant football coach for Vanderbilt University, said that Newton is the kind of boss who defines one's job, keeps one informed and provides access. "He really gives you the freedom to go ahead and to grow. He helps you, coaches you and does all of the things that a good leader should do," he said. "Coach Newton has an unbelievable wisdom, particularly about life. He doesn't preach to you. He helps you and lets you think it's your idea. And there is real knack to that, one that I am beginning to acquire. Coach Newton always gives credit to people. His ego never gets in the way."

Newton's long-lived career, DeFilippo said, is a testament to his honesty, sincerity, hard-work ethic and "most importantly that he knows how to deal with people." In several intimate conversations, DeFilippo recalls Newton saying that wins and losses do not normally get a coach fired. "The way he treats people does. They only use the wins and losses as an excuse to fire you."

Through Newton, DeFilippo said, he has learned the right way to treat people; to be honest and sincere and follow the rules, "as well as carry out your life," not just to the letter of the rule, but to the spirit and intent of the rule.●

#### EXTENDING THE JACOB K. JAVITS SENATE FELLOWSHIP PROGRAM

Mr. FORD. Madam President, on behalf of the majority leader, Senator MITCHELL, Senator DOLE, and Senator PELL, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 75) to extend the "Jacob K. Javits Senate Fellowship Program."

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 75) was agreed to, as follows:

#### S. RES. 75

Resolved, That this resolution may be cited as the "Jacob K. Javits Senate Fellowship Program Extension Resolution".

#### FELLOWSHIP PROGRAM EXTENDED; ELIGIBLE PARTICIPANTS

SEC. 2. (a) In order to encourage increased participation by outstanding students in a public service career, the Jacob K. Javits Senate Fellowship Program is hereby extended for five years.

(b) The Jacob K. Javits Foundation, Incorporated, New York, New York, shall select Senate Fellowship participants. Each such participant shall complete a program of graduate study in accordance with criteria agreed upon by the Jacob K. Javits Foundation, Incorporated.

#### SENATE COMPONENT OF FELLOWSHIP PROGRAM

SEC. 3. (a) The Secretary of the Senate (hereinafter "Secretary") is authorized from funds made available under section 4, to appoint and fix the compensation of each eligible participant selected under section 2 for a period determined by the Secretary. The period of employment for each participant shall not exceed one year. Compensation paid to participants under this resolution shall not supplement stipends received from the Secretary of Education under the Fellowship Program.

(b) For any fiscal year no more than ten fellowship participants shall be so employed.

(c) The Secretary, after consultation with the majority leader and the minority leader of the Senate, shall place eligible participants in positions in the Senate that are, within practical considerations, supportive of the fellowship participants' academic programs.

#### FUNDS

SEC. 4. The funds necessary to compensate any such eligible participant shall be made available for five years to the Secretary and paid from the contingent fund of the Senate. For the succeeding five years of this program such funds shall not exceed \$250,000 each year.

#### PROGRAM EXTENSION

SEC. 5. This program shall terminate September 30, 1998. Three months prior to such expiration the Secretary shall submit a report evaluating the program to the majority leader and the Senate along with recommendations concerning the program's extension and continued funding level.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. WALLOP. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### NATIONAL VOTER REGISTRATION ACT OF 1993

Mr. FORD. Madam President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 8, S. 460, a bill to establish voter registration procedures.

Mr. WALLOP. Madam President, I object.

The PRESIDING OFFICER. Objection is heard.

