HOUSE OF REPRESENTATIVES—*Tuesday, May 4, 1993*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We admit, gracious God, that our spirit of thankfulness and praise often comes slowly, and we are so busy with all that must be accomplished. We confess that we turn to spiritual matters when we face the difficulties and uncertainties of life and then we apply to faith for solace and comfort. Teach us, O loving God, to live lives of gratitude and thanksgiving and praise in all the days of our lives and thus nurture our faith day by day. So we begin this day with thanksgiving for all the wonderful blessings we have been given—for faith and hope and love and for friends and family and colleagues and for Your good spirit that is ever with us. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The Chair will ask the gentleman from California [Mr. KIM] if he would kindly come forward and lead the membership in the Pledge of Allegiance.

Mr. KIM led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 127. Joint resolution to authorize the President to proclaim the last Friday of April 1993 as "National Arbor Day."

The message also announced that, pursuant to Public Law 102-581, as amended by Public Law 103-13, the Chair, on behalf of the Republican leader, announces the appointment of Mr. DANFORTH and Mr. GORTON as nonvoting members and Russell W. Meyer, Jr., of Kansas and Abraham D. Sofaer of Washington, DC, as voting members to the National Commission To Ensure a Strong and Competitive Airline Industry.

APPOINTMENT AS MEMBERS OF THE JAPAN-UNITED STATES FRIENDSHIP COMMISSION

The SPEAKER. Pursuant to the provisions of section 4(a) of Public Law 94-118, the Chair appoints to the Japan-United States Friendship Commission the following Members of the House: Mr. WISE of West Virginia; and Mr. PETRI of Wisconsin.

FOCUS ON THE BTU

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, while the headlines of the last several weeks have focused on health care because it touches all of us in some way or another, they have ignored another issue that will also have an impact on every single American citizen. This issue is the President's plan to levy a Btu tax.

Not too many people know what this acronym means. It sounds harmless enough. But I am reminded of a meeting a couple of weeks ago with an elderly woman, and she asked, "What is this Btu thing?" I said, "Well, that stands for British thermal unit." She said, "I always thought those British ought to be taxed more than they are."

It sounds, as I said, harmless enough. But let me tell you what it really stands for: big trouble for you. I like to call it the middle-class energy tax that will both kill jobs and hurt consumers.

The National Association of Manufacturers has estimated that this proposal will directly result in the loss of over 600,000 jobs. I thought all of the stimulus talk was on how do we create jobs.

According to J.D. Foster of the Tax Foundation, the Btu tax would cost the typical American family $471 per year.

When President Clinton called for shared sacrifice, I did not think he meant shared economic suicide. But with this so-called Btu tax, I am starting to wonder.

THE DEMOCRATS WILL LEAD THE WAY

(Mr. BARLOW asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARLOW. Mr. Speaker, for an unfortunate number of years now, we have heard a chorus from the Republicans which we should have turned away from sooner: Keep spending in deficit and times would get better; keep letting the S&L's run wild, free of regulators, ripping off the taxpayers with their thievery; let the junk-bond raiders have their whim with American commerce, throwing hundreds of thousands of people out of jobs. And with this all would get better, so said the Republicans.

Well, it has not gotten better. It has gotten worse. The American people are tired of hearing this Republican litany.

We are up to our eyeballs in debt. We have got to get medical costs under control.

The Democrats have been selected to lead the way, and we are going to do it.

CLINTON'S BEST SELLER

(Mr. LINDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LINDER. Mr. Speaker, the headline of the Washington Post reads, "Clinton's Instant Best Seller: The Tax Bill Text." I guess this tome will be placed in the horror section of the bookstore.

Yes, the Clinton tax plan is a hot time inside the beltway today, but it is the American people who should really be concerned.

Most troubling is this provision which was highlighted by the Post, "Created broad-based tax on energy that the administration says would be borne entirely by consumers."

In case you are wondering, consumers actually include everybody. That means this tax on energy will hit everybody, and it has been estimated, as you have heard, to cost the average family up to $500 a year, and this is just one provision of the Clinton tax plan.

I am almost afraid to read the rest. This plan may be a best seller, but I suspect that the reviewers will give it two thumbs down.

JOBS BILL

(Mr. CLYBURN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLYBURN. Mr. Speaker, I am proud to represent 16 of the 46 counties in my State of South Carolina.

Conversely, I am saddened that four of the seven counties with the worst unemployment rate in my State are in my district.

In Marion County alone, the unemployment rate for the month of March

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was 11.4 percent—the second highest ranking in the State.

Declining profits in the textile and apparel industries, military cutbacks, and seasonal layoffs have contributed to the rise of unemployment in Marion County and throughout South Carolina.

Mr. Speaker, the people of Marion County deserve better.

They deserve job training programs for dislocated workers.

They deserve apprenticeships that will prepare them for the jobs of tomorrow.

But they deserve some immediate action as well.

Mr. Speaker, we should take immediate action to provide much needed stimuli and employment opportunities to those we have sworn to serve.

The people of this Nation need a jobs bill and they need it now.

TO BTU OR NOT TO BTU

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, to Btu or not to Btu. That is the question; whether tis nobler in the wallet to suffer the slings and arrows of outrageous tax proposals or to take arms against a sea of troubles, and by opposing to end them?

To heat, to drive; to eat no more, without pernicious penalty, aye, there's the rub. For in that Btu tax, the ability to sleep with the heat in winter, or with the air-conditioning in the summer, will cost an outrageous fortune.

The oppresser is wrong; the proud people must stand in opposition.

To Btu or not to Btu; that indeed is the question; for my worth, I will oppose them; and work to save the American people from that sea of tax troubles.

THE NSC STAFF SHOULD LEARN TO READ THE LAW

(Mr. KOPETSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOPETSKI. Mr. Speaker, I fear for the safety of the world.

Last year I was a principal House sponsor of a law passed by Congress and signed into law by President George Bush in October to end all underground nuclear weapons testing. The law required the President to send Congress this spring a plan for achieving a multilateral comprehensive ban on the testing of nuclear weapons on or before September 30, 1996.

During his campaign, President Clinton called for a test ban in support of this law. In recent days, something has gone haywire. The greedy, life-threatening, narrowminded weapons laboratories in this country along with their sponsors in the Departments of Energy and Defense recommended to the President that the United States continue to test nuclear bombs indefinitely, although they are willing to hold the test yields below 1 kiloton.

□ 1210

This recommendation would completely ignore the law which halts testing in 1996. It says if the new NSC staff member learned the first lesson of the Iran/Contra scandal: Read the law. President Clinton should reject the recommendation. He should tell his national security staff to pay attention to his campaign promises, the danger of proliferation, and the law of the land.

THE INSIDIOUS ENERGY TAX

(Mr. BACHUS of Alabama asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BACHUS of Alabama. Mr. Speaker, President Clinton has long since abandoned his fall campaign promise of middle-class tax relief and, in fact, he has now embraced a baker's dozen of new taxes that will hurt both middle-class families and dampen the economy.

In 1990 alone, almost 3 million Alabamians used 2.6 billion gallons of gasoline. If President Clinton's Btu tax had been in place then, it would have cost Alabama taxpayers an additional $234 million, $234 million they did not have and could not have afforded.

President Clinton's Btu tax is so frightening because it is cleverly hidden from American consumers. But I say: "Americans, don't be fooled. If you drive a car, heat your home, cool your office, cook in your kitchen, light your front porch, use aluminum, drink out of a glass, it will affect you." The average American family, middle-class American family, will be paying $500 more per year. Mr. Speaker, the American people cannot afford the Btu tax.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MONTGOMERY). The Chair will inform our guests in the gallery that we love to have them here, but they may not participate in the debate nor applaud.

EUROPEANS SHOULD HELP PROTECT THEIR OWN CONTINENT

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, reports say that unless the Serbian Government accepts the peace treaty, foreign leaders want Uncle Sam to attack.

What is going on here, Mr. Speaker? Uncle Sam has fought Europe's wars for the last 50 years. It is time for Europe to play and pay their fair share and to help protect their own continent.

I personally will oppose any plan that has Uncle Sam carrying the majority of the load. This business of foreign countries in trouble dialing 911 and Uncle Sam sending our kids over to die, and a ton of taxpayer dollars, is absolutely, in my opinion, un-American.

Mr. Speaker, the days of John Wayne are over; it is time for the French, the Italians, the Germans, the Russians, and everybody to get involved to help to save Europe, not the taxpayers and the children of the United States of America.

AN ODE TO PRESIDENT CLINTON'S FIRST 100 DAYS

(Mr. DOOLITTLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOOLITTLE. Mr. Speaker, now that President Clinton has completed his first 100 days in office, I have completed this poem in his honor, which I have entitled "An Ode to President Clinton's First 100 Days:"

He swore his first 100 days would earn him
everlasting praise.
He promised the economy
would be transformed and so would we!
He bit his lower lip and vowed
His 100 days would make us proud!
But now, far as the eye can see,
The scene is littered with debris
Of pledges he did not fulfill—
And bills that failed upon the Hill.
He promised action, jobs and power—
But he's given us the Amateur Hour!

REFORMING FEDERAL SENTENCING GUIDELINES

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, a decade ago, in order to overcome disparities in criminal sentences, people in one part of the country were treated more lightly for certain types of felonious activity than people in other parts of the country, Congress and the Federal judiciary, working together, came up with mandatory minimum sentencing as well as sentencing guidelines to, again, eliminate the disparities in sentencing for serious crimes.

As we now know, there are many Federal judges who want, and yesterday the Attorney General of the United States has ordered, a review of the way these mandatory minimum sentences, particularly in drug-related crimes, are imposed, and also to examine the sentencing guidelines to see if they are still valid.

Certainly, I think all of us support only putting behind bars the serious offenders, and we certainly do not want to have minor actors in these dramas put away for long periods of time.

But, Mr. Speaker, whatever is done, we have to again be sure we do not go back to the old days when there were these very serious sentencing disparities. It is only fair to treat offenders consistently, and that is what the sentencing guidelines ought to do.

THE TEXAS ADVANTAGE

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, while it is too early to tell who will win the Texas Senate runoff race between Kay Bailey Hutchinson and BOB KRUEGER, it sure is not too early to tell who lost the election Saturday: President Bill Clinton. Even though he was not on the ballot, he was on every Texan's mind just as assuredly as he intends to be in every Texan's wallet and pocketbook.

Appointed Senator BOB KRUEGER, soon to be disappointed Senator KRUEGER, while carrying only 20 percent of the vote for the Democrats also had to carry Bill Clinton and his big government and big spending ways. Evidently it was too heavy a burden for the Democrats to carry or for Texans to swallow, because the Republicans took 57 percent of the vote and the Perot candidate took 8 percent. It is to KRUEGER'S political credit, if not his political honesty, that he tried to run away from Bill Clinton, but he couldn't run far enough or fast enough.

The Texas results add up easily. Bill Clinton is not very popular in Texas because twisting words and breaking promises are not very popular in Texas; because bigger Government, bigger spending, and bigger taxes are not very popular in Texas. Despite what Mr. Clinton says, Texans judged him on what he does. My hunch is that the rest of the country is not any different, it is just that Texas had an advantage: we got to vote early.

OFFENSIVE MILITARY ACTION REQUIRES PREVIOUS APPROVAL BY THE CONGRESS

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, I applaud President Clinton's efforts to end the carnage in Yugoslavia. His efforts to work with the United Nations to bring a peaceful end to the slaughter in Bosnia is in the best tradition of our Nation. But if our response to Bosnia requires the commitment of American military forces, our Constitution requires the approval of Congress. This requirement by our Founding Fathers was put in place so that the American people, through their elected Representatives in Congress, would make the decision as to whether or not we would engage in military action endangering the lives of American military personnel.

Mr. Speaker, last week, I circulated a letter in this Chamber asking President Clinton to be mindful of the fact that the Constitution requires the explicit approval of Congress before American military forces are committed to an offensive military action. Ninety-one Members of Congress, Democrats and Republicans alike, liberal and conservative, signed this letter. It is in the best tradition of the United States.

Mr. Speaker, it is consistent with the provisions in the Constitution. We have said that we will work with the President, but Congress and Congress alone has the authority to commit American troops to offensive military action.

WE NEED AN OMNIBUS CRIME BILL TO CURTAIL THE VIOLENCE IN THE UNITED STATES

(Mr. RAMSTAD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAMSTAD. Mr. Speaker, this past Saturday night, while riding in squad car 404 of the Minneapolis Police Department, I watched a young man die on the streets of north Minneapolis. Ironically, I was riding in squad car 404 with a good cop friend of mine who lost his former wife and the mother of his three children 1 week previously to another murderer.

In the last 100 days, several thousand other people have been murdered in this country, 28,800 women have been raped, and 1 million children have been abused.

No other civilized society tolerates this level of violence. That is why we need to pass an omnibus crime bill now, one that includes President Clinton's promise of the death penalty for cop killers, drug dealing murderers and other violent criminals.

The President said, he promised in his St. Louis debate on October 11, "The crime bill will be one of my highest priorities next January if I become President." But there is absolutely no indication, Mr. Speaker, from the White House that a crime bill is even on the President's agenda.

If the President gave this promise the same priority as putting homosexuals in the military, we would now be holding hearings on the crime bill just like we are holding hearings on gays in the military.

Mr. Speaker, it is time to put politics aside and pass an omnibus crime bill with some real teeth in it.

□ 1220

UNITED STATES INTERVENTION IN THE BOSNIA CONFLICT

(Mr. BISHOP asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BISHOP. Mr. Speaker, the President has reiterated his commitment of our Armed Forces to a peace-keeping mission in battle-torn Bosnia and Herzegovina, where the death toll is rising steadily. I urge the administration to do whatever is necessary to reach an accord between the rival Serb, Croat, and Moslem factions and to stop the so-called effort of ethnic cleansing by Serb forces.

We must use caution as we negotiate and try to decide which path to traverse in dealing with the volatile situation in Bosnia, and not ignore our history in every step taken.

We must halt the brutal slaughtering of innocent civilians and strive to bring calm to the strife-filled area, for it not only is a threat to our national security, Mr. Speaker, but it also hampers our efforts to establish global peace and equality worldwide.

USE OF FORCE IN THE FORMER YUGOSLAVIA

(Mr. MANZULLO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MANZULLO. Mr. Speaker, it is with the utmost of respect that I raise serious concerns with the recent report that NATO plans to dispatch at least 17,000 United States ground troops to help enforce a tenuous peace agreement among rival ethnic factions in Bosnia.

There are still many unanswered questions in my mind. What will we do if the pseudo-Bosnian Serb Parliament rejects this peace treaty? If adopted, what will be the mission of our Armed Forces? How will we distinguish friend from foe? Will rival ethnic factions be able to control their own forces? Will this operation succeed?

In my view, our ground troops will simply be sniper bait for warring factions that have fought each other for centuries. The interjection of foreign troops may widen the conflict when the warring factions decide that one of the 10 cantons in Bosnia is not big enough for them.

Mr. Speaker, I see us becoming mired in a conflict similar to Northern Ireland, multiplied by three. Let us not put our brave uniformed men and women in harm's way to defend a policy that has not been fully thought out.

CELEBRATING THE LIFE OF CESAR CHAVEZ, UNITED FARM WORKERS OF AMERICA

(Mr. TUCKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TUCKER. Mr. Speaker, I rise today to honor the life of a great American, Mr. Cesar Estrada Chavez, who was described by the late Robert F. Kennedy in 1968 as "One of the Heroic Figures of Our Time."

Mr. Chavez, a migrant farmworker who emerged from poverty in the agricultural valley of Arizona went on to organize the United Farm Workers of America.

Using the nonviolent tactics of Ghandi with the organizational skills of his late mentor, Saul Alinsky, Mr. Chavez was able, almost singlehandedly, to organize one of the most successful agricultural boycotts in U.S. history. In 1965, when the average wage of a farmworker was $1.50 an hour with no fringe benefits, no seniority, and no standing to challenge abuses by employers, Mr. Chavez became to migrant farmworkers, Latinos in particular, and African-Americans and civil rights advocates in general, a hero.

Mr. Speaker, it is with a great sense of honor that I offer these few words to celebrate the life of this great American hero.

SECRET POLICYMAKING AT CLINTON WHITE HOUSE

(Mr. CLINGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLINGER. Mr. Speaker, on Friday of last week, the Clinton administration Justice Department went before the U.S. Court of Appeals and asserted that the Federal Advisory Committee Act is an unconstitutional infringement upon the powers of the President, in arguing that the First Lady's health care task force be allowed to continue operating in secret.

U.S. Appeals Court Judge Laurence Silberman called this pronouncement by President Clinton a stunning expansion of an unparalleled crusade to overturn Government sunshine laws that every President since Richard Nixon has willingly applied.

President Clinton was elected by calling for the opening of Government policymaking to average Americans. Vice President ALBERT GORE went the furthest when he stated:

> No longer will decisions that should be made in public be made in private. In this Administration, everyone will play by the rules and public decisions will be public information.

Unfortunately, Mr. Speaker, the Vice President's rhetoric does not match this administration's actions. When given the option, President Clinton has chosen secrecy over sunshine.

Mr. Speaker, the President should bring his Government into the sunshine where it belongs. He should listen to his own Vice President and begin playing by the rules.

CRITICAL SITUATION IN ARMENIA

(Mr. BILBRAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BILBRAY. Mr. Speaker, about a month ago, a group of us went to Armenia. At that time we observed the plight of the Armenian people who were suffering through the blockade that has been put around that country, with 80 percent unemployment because the people of Armenia cannot work because electrical and gas supplies have been cut off from Azerbaijan and also the fact that food supplies are at a critical state.

We visited refugee camps in Armenia for Armenians who had fled from Azerbaijan where the minimal amount of food they had was not enough to keep people alive and they had to scavenge around the country trying to get additional supplies.

But in addition, Turkey has cut off those Red Cross parcels that were being shipped in on a daily basis into Armenia by the International Red Cross.

I call upon the Turkish Government to lift the blockade and the Azerbaijani Government to lift the blockade and allow medicines and food and electricity and natural gas to flow into that country.

I also call upon the Armenians and Azerbaijanis in the Minsk round to look forward to getting peace in this area; but it is critical at this time that the American Government and all governments of the world urge the end of this blockade of food and medicines to a people who are in a critical situation.

ADMINISTRATION LACKS GAME PLAN ON BOSNIAN INTERVENTION

(Mr. ZELIFF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ZELIFF. Mr. Speaker, no firefighter I know of would rush blindly into a burning building without some idea of the extent of the fire, who is trapped inside, and what the possible escape routes are.

I am concerned that the administration is rushing blindly into the burning war in Bosnia—without so much as a game plan or strategy.

Make no mistake, the horrors of this war and the atrocities against defenseless civilians demand world condemnation—and world action.

But before we commit American men and women to combat, we should clearly express our national interests and strategy of intervention.

Before we send our soldiers into battle, we should have a thorough understanding of how we will get in, what we plan to accomplish while we are there, what our time table is, and how we will get out.

On the subject of our Armed Forces, all we have been hearing lately from the administration is $127 billion of budget cuts, COLA reductions, and gays in the military, and the story goes on and on.

Mr. Speaker, the administration now must focus its attention on the most important issue confronting the military—developing a strategy and a direction for protecting our national interests and finding a way to fund it.

The administration should consult with the congressional leadership and present a workable plan to Congress for dealing with the crisis in Bosnia before taking any action.

THE NEED FOR ECONOMIC STIMULUS AND JOBS IS REAL

(Mr. KLINK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLINK. Mr. Speaker, last week, the Commerce Department released figures showing that the economy had slowed to a 1.8-percent annual growth rate in the first quarter of 1993.

The U.S. trade deficit increased in the first quarter.

Consumer spending declined in March for the third consecutive month.

Unemployment nationally continues to hover around 7 percent.

All these figures show that the need for economic stimulus and jobs is real.

We really could have used the President's stimulus package that the Senate killed.

In my district, the bad economic numbers come as no surprise. In parts of my district, the official unemployment rate is over 12 percent, but the real unemployment rate is closer to 25 percent.

My constituents want jobs and a real economic recovery.

The President's economic stimulus package would have helped to put people back to work and get the economy going again. It would have created over 200,000 full-time jobs in this year alone. It would have created 675,000 new summer jobs for disadvantaged youth to help get troubled kids off the street and help them become productive members of society.

The Clinton administration has indicated that they will try again for some sort of jobs bill. They are not sure how, or what specific programs they will try to fund, but there will be an attempt to create jobs.

Secretary of Labor Robert Reich has assured me that the Clinton administration would definitely try to get the new summer jobs money through Congress again.

That is a good first step, and good news to my constituents.

□ 1230

CALVERT AMENDMENT TO COMPETITIVENESS BILL

(Mr. CALVERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CALVERT. Mr. Speaker, later this week, the House will consider H.R. 820—the national competitiveness bill.

While I agree that our Government can play a vital role in helping our industries become more competitive in the global marketplace, I disagree with some provisions of this legislation.

One provision which I believe is particularly misguided is the loan and equity financing provision, a provision which is modeled after the Small Business Investment Corporation of the Small Business Administration.

Along with Congressman ROYCE, I will offer an amendment to delete this provision, for three reasons: First, it is redundant, second, the administration does not want it, and, third, the Commerce Department has an atrocious record in loan programs—having collected less than half of the $1.2 billion it has loaned out to businesses.

I do not think the taxpayers can, nor should, support a program of this type.

OUR TEPID ECONOMIC RECOVERY NEEDS HELP NOW

(Mr. POMEROY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. POMEROY. Mr. Speaker, it is time we take another crack at assisting our economy.

This year, Mr. Speaker, our efforts to address this issue have generated plenty of political combat, but no meaningful action. Last week new economic indicators provided compelling evidence that we need to try again. The first quarter's economic recovery was a pathetic 1.8 percent. In March, nine economic indicators actually declined. In my State, Mr. Speaker, the unemployment rate rose in March and now stands at a higher level than it did 1 year ago.

Behind these numbers are millions of individual tragedies. Many women are unable to provide for their families and are losing confidence and, ultimately, hope, as weeks of unemployment stretch to months and then years.

On this issue, Mr. Speaker, let us at last put aside beltway political games and posturing.

The numbers received last week make it very clear. This economy needs help, and it needs help now. We must assist this tepid economic recovery with a program that will put people back to work.

LOOK AT FACTS BEFORE CHANGING POLICY ON HOMOSEXUALS IN THE MILITARY

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, this morning the House Armed Services Committee began a series of hearings on the President's recommendation to repeal the existing ban on homosexuals serving in the military.

I hope the hearings on this issue will address some of the points brought to light during the Republican research committee's hearings on this matter over the last several months. As chairman of three such hearings, I heard important testimony which often contradicted much of the conventional wisdom surrounding this issue.

First of all, we have been led to believe that the military's exclusion of homosexuals violates established legal definitions of civil rights. However, a virtually unanimous body of law affirms the special status of the military and the constitutionality of its position on homosexuality. This is because military service is a privilege, not a right and the armed services must protect their right to determine fitness for service based on their expertise.

Second, we have been led to believe that homosexuals have constitutionally protected minority rights that must be protected by repealing the ban. Again, the courts have rejected a fundamental right to homosexual conduct, and there is no legal basis for claims that the ban must be repealed on the grounds of equal rights.

What the three hearings I chaired did show was that the majority of military experts believe lifting the ban would cause intractable problems for the armed services and reduce military morale and readiness.

I hope Chairman DELLUMS' hearings explore these important issues, keeping in mind the true role of our Armed Forces, is protecting all men and women in our Nation.

MFN FOR CHINA SHOULD DEPEND ON THEIR PROGRESS IN THE REALM OF HUMAN RIGHTS

(Mr. SMITH of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of New Jersey. Mr. Speaker, today the gentleman from Minnesota [Mr. OBERSTAR], the gentleman from Virginia [Mr. WOLF], the gentleman from New York [Mr. LAFALCE], and I are introducing legislation to condition most-favored nation [MFN] trade status for China on the attainment of the significance of progress in the realm of human rights, adherence to bilateral trade agreements, and observance of nuclear nonproliferation principles.

The bill we are introducing today is virtually identical to the MFN legislation which was overwhelmingly passed by the House in July 1991, 313 to 112. Our former colleague, Jim Moody, was the author of specific language in that bill which conditioned MFN on the attainment of an end to the practice, of course, of abortion and involuntary sterilization. Regrettably this key provision in the bill was dropped in a House-Senate conference committee before we took up the bill again.

In my view that was a big mistake. Human rights, Mr. Speaker, are indivisible. Protecting women and babies from the crime of forced abortion should not be the orphan human right, the human right abuse that we conveniently overlook or downplay because it is not politically correct. In conscience we cannot ignore this gross abuse or pretend that it does not exist.

The New York Times a week ago Sunday published a page 1 exposé of China's brutal oppression of its women and children as part of its program. My legislation, the legislation we are introducing today, would make coercive abortion and involuntary sterilization a part of the human rights umbrella that we look at in determining whether or not we confer MFN to the People's Republic of China.

PRIVATE SECTOR JOB CREATION AND ECONOMIC GROWTH ACT OF 1993

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, a few minutes ago our freshman colleague from Pennsylvania pointed to the fact that we have seen a dramatic decrease in the index of leading economic indicators, reduction in consumer spending and an unemployment problem that is still hovering around 7 percent. He is right on target in saying that we should have a stimulus package.

Many people on the other side like to throw stones at the Republicans because we blocked the pork barrel package that President Clinton submitted. Frankly, we, as Republicans, have offered a positive alternative. I have introduced H.R. 1885 designed to reduce a capital gains tax rate from 28 to 15 percent, offers a 2-percent solution, basically a freeze on Federal spending, a moratorium on new regulations to be imposed on the business sector and an expansion of individual retirement accounts.

Mr. Speaker, this is the kind of stimulus we need. That is why I call it the Private Sector Job Creation and Economic Growth Act of 1993. I urge my colleagues to cosponsor H.R. 1885 so that we can, in fact, get this economy moving.

BTU: THE KING KONG OF TAXES

(Mr. BAKER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAKER of California. Mr. Speaker, as the old song has it, "Fish gotta swim, birds gotta fly," and the Democrats apparently gotta tax us until we all die.

The Democrats under President Clinton have now come up with their monster tax, a King Kong of taxes, something called the Btu tax. Btu stands for "British thermal units," but Btu in plain old American English is the big Clinton tax on practically everything American.

I ask my colleagues, "Do your elderly parents heat their home in the winter?" Of course they do. Clinton's tax would raise their monthly bill.

I ask my colleagues, "Do you buy clothes that are made by processes that use energy?" I am sure my colleagues do. Clinton's tax would be included in the price of every garment that we and our children wear.

Further, Mr. Speaker, I ask, "Do you drive a car? Take a bus to work? Are you a farmer? Are you a consumer? Do you deliver by UPS?"

Mr. Speaker, the Clinton tax would be there every day, everywhere, with its hands in our wallets permanently.

Get ready for the Btu, the King Kong of taxes, as it stomps the life out of our recovering economy. I say to the taxpayers, "Let your Representatives know that you want more savings and investment, not a devastating tax increase."

CLINTON'S NATIONAL SERVICE PROGRAM

(Mr. LAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAZIO. Mr. Speaker, yesterday I commented on the President's proposal to restructure the existing student loan program. Today, I want to focus on the other half of Mr. Clinton's initiative—a major, new program of national service.

I find the concept of national service appealing. It is consistent with the strong American tradition of helping each other. But despite its attractiveness, some important questions arise.

The key question arises in the context of existing student aid programs. At a time when student aid programs are underfunded, it is fair to ask if a large, new national service program linked to the GSL Program makes sense.

As is typical with new initiatives, the budget numbers keep changing. The President put a 5-year, $7.4 billion plug for this program in his original budget, an amount that, quite frankly, is politically infeasible, even for this institution. But as submitted, it appears that the program has been scaled back substantially. This is encouraging. It puts this worthwhile idea in the realm of the fiscally feasible.

Nevertheless, the cost of this particular proposal is crucial because the beneficiaries of the proposed program—young Americans—are also the people most directly hurt by deficit spending. We are incurring bills that they must pay.

National service has an undeniable popular appeal, but we need to pause and look beyond the instant gratification.

□ 1240

TAX FREEDOM DAY 1993

(Mr. GOSS asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, for millions of Americans yesterday was the first day this year that Uncle Sam did not take their paychecks. Yesterday was National Tax Freedom Day, the symbolic day on which average Americans have earned enough in 1993 to pay off their tax obligations to local, State, and Federal Governments. It is the day that Americans begin to keep for themselves and their families what they earn.

This year it took 123 days to reach that milestone, 5 days longer than it took just 9 years ago. Let us think back to just how long ago January 1 was this year. We have had a Super Bowl, inauguration, tragedy in Bosnia, the bombing of the World Trade Center, the storm of the century, and many other events we all know about. All this time American workers have been working exclusively to pay their governments.

American workers already dedicate over a third of the year just to pay the taxman, and now they are going to be asked to work more and longer to pay more taxes. Should President Clinton's $350 billion tax increase pass, Tax Freedom Day will fall even later. Enough is enough. We should cut spending now.

A NEED TO CLARIFY THE OBJECTIVE OF MILITARY ACTION IN BOSNIA

(Mr. GILLMOR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GILLMOR. Mr. Speaker, President Clinton has approved using United States military forces in Bosnia, but one very important thing is lacking so far, and that is a statement by the President of what the objective of this force is.

Without that clear objective, we face the prospect of risking American lives with no long-term benefit.

Is the objective to force Serbs to withdraw from land they invaded and conquered? Is it to just enforce the Vance Owens Peace Plan which rewards the aggressors by letting them keep what they conquered? Is it to bomb a few artillery pieces in the hope that will change something? Is there any clear objective?

We have a President, who pulled every string conceivable to personally avoid wearing the uniform, now proposing to send young American men and women to risk their lives. He owes it to them and the American people to clearly state what objective is to be achieved, at what cost, and when United States forces will be permanently out of Bosnia.

MOVING EXPENSES FOR BUREAUCRATS

(Mr. DUNCAN asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. DUNCAN. Mr. Speaker, almost every day we hear of ways in which the Federal Government is just out of control. Frequently these reports concern Federal judges or Federal employees who have incurred lavish expenses of one sort or another because there is no incentive to hold costs down.

Last week a column in the Washington Post reported that the Federal Reserve Board has spent more than $2 million to move just 17 officials. These Government officials averaged $118,000 per move. One new vice president received more than $181,000 to move from North Carolina to Cleveland, including $4,950 for house-hunting expenses.

One employee received $121,000 just to move from San Francisco to Los Angeles. Another received $227,000 to move from Kansas City to Los Angeles.

Our protected, unaccountable Federal bureaucracy is taking far too much money from the individuals and families of America. Instead of looking for ways to raise taxes so this lavish spending can continue, this Congress should be leading a tax revolt and returning at least a little money to the people instead of giving more to the bureaucrats.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate has concluded on all motions to suspend the rules.

UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT OF 1993

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 995) to amend title 38, United States Code, to improve reemployment rights and benefits of veterans and other benefits of employment of certain members of the uniformed services, and for other purposes, as amended.

The Clerk read as follows:

H.R. 995

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 "Uniformed Services Employment and Reemployment Rights Act of 1993".

SEC. 2. REVISION OF CHAPTER 43 OF TITLE 38.

(a) RESTATEMENT AND IMPROVEMENT OF EMPLOYMENT AND REEMPLOYMENT RIGHTS.—Chapter 43 of title 38, United States Code, is amended to read as follows:

"CHAPTER 43—EMPLOYMENT AND REEMPLOYMENT RIGHTS OF MEMBERS OF THE UNIFORMED SERVICES

"SUBCHAPTER I—PURPOSES, RELATION TO OTHER LAW, AND DEFINITIONS

"Sec.
"4301. Purposes; sense of Congress.
"4302. Relation to other law and plans or agreements.
"4303. Definitions.

"SUBCHAPTER II—EMPLOYMENT AND REEMPLOYMENT RIGHTS AND LIMITATIONS; PROHIBITIONS

"4311. Discrimination against persons who serve in the uniformed services and acts of reprisal prohibited.
"4312. Reemployment rights of persons who serve in the uniformed services.
"4313. Reemployment positions.
"4314. Reemployment by the Federal Government.
"4315. Rights, benefits, and obligations of persons absent from employment for service in a uniformed service.
"4316. Employee pension benefit plans.
"4317. Character of service.

"SUBCHAPTER III—PROCEDURES FOR ASSISTANCE, ENFORCEMENT, AND INVESTIGATIONS

"4321. Assistance in obtaining employment or reemployment.
"4322. Enforcement of employment or reemployment rights.
"4323. Conduct of investigation; subpoenas.

"SUBCHAPTER IV—MISCELLANEOUS PROVISIONS

"4331. Regulations.
"4332. Reports.
"4333. Outreach.

"SUBCHAPTER I—PURPOSES, RELATION TO OTHER LAW, AND DEFINITIONS

"§4301. Purposes; sense of Congress

"(a) The purposes of this chapter are—

"(1) to encourage noncareer service in the uniformed services by eliminating or minimizing the disadvantages to civilian careers and employment which can result from such service;

"(2) to minimize the disruption to the lives of persons performing service in the uniformed services as well as to their employers, their fellow employees, and their communities, by providing for the prompt reemployment of such persons upon their completion of such service under honorable conditions; and

"(3) to prohibit discrimination against persons because of their service in the uniformed services.

"(b) It is the sense of Congress that the Federal Government should be a model employer in carrying out the reemployment practices provided for in this chapter.

"§4302. Relation to other law and plans or agreements

"(a) Nothing in this chapter shall supersede, nullify, or diminish any Federal or State law (including any local law or ordinance) or any contract, practice, policy, agreement, plan, or other matter provided by an employer which establishes rights or benefits which are greater than or in addition to those provided in this chapter.

"(b) This chapter supersedes State laws (including any local law or ordinance), employer practices, policies, agreements, and plans, and other matters that reduce, limit, or eliminate in any manner rights or benefits provided by this chapter, including the establishment of additional prerequisites to the exercise of such rights.

"§4303. Definitions

"For the purposes of this chapter:

"(1) The term 'Attorney General' means the Attorney General of the United States or any person designated by the Attorney General to carry out a responsibility of the Attorney General under this chapter.

"(2) The term 'benefit', 'benefit of employment', or 'rights and benefits' means any aspect of the employment relationship, other than wages or salary for work performed, provided by contract or employer practice or custom, that offers advantage, profit, privilege, gain, status, account, or interest and includes, but is not limited to, pension plans and payments, insurance coverage and awards, employee stock ownership plans, bonuses, severance pay, supplemental unemployment benefits, vacations, and selection of work hours or locations of employment.

"(3) The term 'employee' means any person employed by an employer.

"(4)(A) Except as provided in subparagraphs (B) and (C), the term 'employer' means any person, institution, organization, or other entity that pays salary or wages for work performed or that has control over employment opportunities, including—

"(i) a person, institution, organization, or other entity to whom the employer has delegated the performance of employment-related responsibilities;

"(ii) the Federal Government;

"(iii) a State;

"(iv) any successor in interest to a person, institution, organization, or other entity referred to in this subparagraph; and

"(v) a person, institution, organization, or other entity that has denied initial employment in violation of section 4311.

"(B) In the case of a National Guard technician employed under section 709 of title 32, the term 'employer' means the adjutant general of the State in which the technician is employed.

"(C) Except as an actual employer of employees, an employee pension benefit plan described in section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2)) shall be deemed to be an employer only with respect to the obligation to provide benefits described in section 4316.

"(5) The term 'Federal Government' includes the executive branch, the judicial branch, and the legislative branch, with the executive branch including—

"(A) any department, administration, agency, commission, board, or independent establishment in, or other part of, the executive branch (including any executive agency as defined in section 105 of title 5);

"(B) the United States Postal Service and the Postal Rate Commission;

"(C) any nonappropriated fund activity of the United States; and

"(D) any corporation wholly owned by the United States.

"(6) The term 'health plan' means an insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or other arrangement under which health services for individuals are provided or the expenses of such services are paid.

"(7) The term 'notice' means (with respect to subchapter II) any written or verbal notification of an obligation or intention to perform service in the uniformed services provided to an employer by the employee who will perform such service or by the uniformed service in which such service is to be performed.

"(8) The term 'other than a temporary position' means a position of employment as to which there is a reasonable expectation that it will continue indefinitely.

"(9) The term 'qualified' means having the ability to perform the essential tasks of an employment position.

"(10) The term 'reasonable efforts' means actions, including training provided by an employer, that do not create an undue hardship on the employer.

"(11) Notwithstanding section 101, the term 'Secretary' means the Secretary of Labor or any person designated by such Secretary to carry out an activity under this chapter.

"(12) The term 'seniority' means longevity in employment together with any benefits of employment which accrue with, or are determined by, longevity in employment.

"(13) The term 'service in the uniformed services' means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, and a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty.

"(14) The term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and other territories of the United States (including the agencies and political subdivisions thereof).

"(15)(A) The term 'undue hardship' means an action requiring significant difficulty or expense, when considered in light of the factors set forth in subparagraph (B).

"(B) In determining whether an action would impose an undue hardship on an employer, factors to be considered include—

"(i) the nature and cost of the action needed under this chapter;

"(ii) the overall financial resources of the facility or facilities involved in the provision of the action; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such action upon the operation of the facility;

"(iii) the overall financial resources of the employer; the overall size of the business of an employer with respect to the number of its employees; the number, type, and location of its facilities; and

"(iv) the type of operation or operations of the employer, including the composition, structure, and functions of the work force of such employer; the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the employer.

"(16) The term 'uniformed services' means the Armed Forces, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in time of war or emergency.

"SUBCHAPTER II—EMPLOYMENT AND REEMPLOYMENT RIGHTS AND LIMITATIONS; PROHIBITIONS

"§4311. Discrimination against persons who serve in the uniformed services and acts of reprisal prohibited

"(a) A person who is a member of, applies to be a member of, performs, has performed, applies to perform, or has an obligation to perform service in a uniformed service shall not be denied initial employment, reemployment, retention in employment, promotion, or any benefit of employment by an employer on the basis of that membership, application for membership, service, application for service, or obligation.

"(b) An employer shall be considered to have denied a person initial employment, reemployment, retention in employment, promotion, or a benefit of employment in violation of this section if the person's membership, application for membership, service, application for service, or obligation for service in the uniformed services is a motivating factor in the employer's action, unless the employer can demonstrate that the action would have been taken in the absence of such membership, application for membership, service, application for service, or obligation.

"(c)(1) An employer may not discriminate in employment against or take any adverse employment action against any person because such person has taken an action to enforce a protection afforded any person under this chapter, has testified or otherwise made a statement in or in connection with any proceeding under this chapter, has assisted or otherwise participated in an investigation under this chapter, or has exercised a right provided for in this chapter.

"(2) The prohibition in paragraph (1) shall apply with respect to a person regardless of whether that person has performed service in the uniformed services.

"§4312. Reemployment rights of persons who serve in the uniformed services

"(a) Subject to subsections (b), (c), and (d) and to section 4317, any person who is absent from a position of employment (other than a temporary position) by reason of service in the uniformed services shall be entitled to the reemployment rights and benefits and other employment benefits of this chapter if—

"(1) the person (or an appropriate officer of the uniformed service in which such service is performed) has given advance written or verbal notice of such service to such person's employer;

"(2) except as provided in subsection (c), the cumulative length of the absence and of all previous absences from a position of employment with that employer by reason of service in the uniformed services does not exceed five years; and

"(3) except as provided in subsection (f), the person reports to, or submits an application for reemployment to, such employer in accordance with the provisions of subsection (e).

"(b) No notice is required under subsection (a)(1) if the giving of such notice is precluded by military necessity or, under all of the relevant circumstances, the giving of such notice is otherwise impossible or unreasonable. A determination of military necessity for the purposes of this subsection shall be made pursuant to regulations prescribed by the Secretary of Defense and shall not be subject to judicial review.

"(c) Subsection (a) shall apply if such person's cumulative period of service in the uniformed services, with respect to the employer relationship for which a person seeks reemployment, does not exceed five years, except that any such period of service shall not include any service—

"(1) that is required, beyond five years, to complete an initial period of obligated service;

"(2) during which such person was unable to obtain orders releasing such person from a period of service in the uniformed services before the expiration of such five-year period and such inability was through no fault of such person;

"(3) performed as required pursuant to section 270 of title 10, under section 502(a) or 503 of title 32, or to fulfill additional training requirements determined and certified in writing by the Secretary concerned to be necessary for professional development or for completion of skill training or retraining; or

"(4) performed by a member of a uniformed service who is—

"(A) ordered to or retained on active duty under section 672(a), 672(g), 673, 673b, 673c, or 688 of title 10;

"(B) ordered to or retained on active duty (other than for training) under any provision of law during a war or during a national emergency declared by the President or the Congress;

"(C) ordered to active duty (other than for training) in support, as determined by the Secretary concerned, of an operational mission for which personnel have been ordered to active duty under section 673b of title 10;

"(D) ordered to active duty in support, as determined by the Secretary concerned, of a critical mission or requirement of the uniformed services; or

"(E) called into Federal service as a member of the National Guard under chapter 15 of title 10 or under section 3500 or 8500 of title 10.

"(d)(1) An employer is not required to reemploy a person under this chapter if—

"(A) the employer's circumstances have so changed as to make such reemployment impossible or unreasonable, or

"(B) in the case of a person entitled to reemployment under section 4313 (a)(3), (a)(4), or (b)(2)(B), such employment would impose an undue hardship on the operation of the employer.

"(2) In any administrative or judicial proceeding involving an issue of whether—

"(A) any reemployment referred to in paragraph (1) is impossible or unreasonable because of a change in an employer's circumstances, or

"(B) any accommodation, training, or effort referred to in section 4313 (a)(3), (a)(4), or (b)(2)(B) would impose an undue hardship on the operation of the business of the employer,

the employer shall have the burden of proving the impossibility or unreasonableness or undue hardship.

"(e)(1) Subject to paragraph (2), a person referred to in subsection (a) shall, upon the completion of a period of service in the uniformed services, notify the employer referred to in such subsection of the person's intent to return to a position of employment with such employer as follows:

"(A) In the case of a person whose period of service in the uniformed services was less than 31 days, by reporting to the employer—

"(i) not later than the beginning of the first full regularly scheduled work period on the first full calendar day following the completion of the period of service and the expiration of eight hours after a period allowing for the safe transportation of the person from the place of that service to the person's residence; or

"(ii) as soon as possible after the expiration of the eight-hour period referred to in clause (i), if reporting within the period referred to in such clause is impossible or unreasonable through no fault of the person.

"(B) In the case of a person who is absent from a position of employment for a period of any length for the purposes of an examination to determine the person's fitness to perform service in the uniformed services, by reporting in the manner and time referred to in subparagraph (A).

"(C) In the case of a person whose period of service in the uniformed services was for more than 30 days but less than 181 days, by submitting an application for reemployment with the employer not later than 14 days after the completion of the period of service or as soon as possible after such 14-day period if submitting such application within such period is impossible or unreasonable through no fault of the person.

"(D) In the case of a person whose period of service in the uniformed services was for more than 180 days, by submitting an application for reemployment with the employer not later than 90 days after the completion of the period of service or as soon as possible after such 90-day period if submitting such application within such period is impossible or unreasonable through no fault of the person.

"(2)(A) A person who is hospitalized for, or convalescing from, an illness or injury incurred in, or aggravated by, the performance of a period of service in the uniformed services shall, at the end of the period that is necessary for the person to recover from such illness or injury submit an application for reemployment with such employer. Such period of recovery may not exceed two years, except as provided in subparagraph (B).

"(B) Such two-year period shall be extended by the minimum time required to accommodate the circumstances beyond such person's control which make reporting within the time limit specified in subparagraph (A) impossible or unreasonable.

"(f) A person who fails to report for employment or reemployment within the time limits specified in subsection (e) does not automatically forfeit such person's right under subsection (a) but shall be subject to the conduct rules, established policy, and general practices of the employer pertaining to explanations and discipline with respect to absence from scheduled work.

"(g)(1) A person who submits an application for reemployment in accordance with subparagraph (C) or (D) of subsection (e)(1) or subsection (e)(2) shall provide to the person's employer (upon the request of such employer) documentation to establish that—

"(A) the person's application is timely;

"(B) the person has not exceeded the service limitations set forth in subsection (a)(2) (except as permitted under subsection (c)); and

"(C) the person's entitlement to the benefits under this chapter has not terminated under section 4317.

"(2) Documentation of any matter referred to in paragraph (1) that satisfies regulations prescribed by the Secretary shall satisfy the documentation requirements in such paragraph.

"(3) The failure of a person to provide documentation that satisfies regulations prescribed pursuant to paragraph (2) shall not be a basis for denying reemployment in accordance with the provisions of this chapter if the failure occurs because such documentation does not exist or is not readily available at the time of the request of the employer. If, after such reemployment, documentation becomes available that establishes that such person does not meet one or more of the requirements referred to in subparagraphs (A) through (C) of paragraph (1), the employer of such person may terminate the employment of the person and the provision of any rights or benefits afforded the person under this chapter.

"(4) It shall be unlawful for an employer to delay or attempt to defeat a reemployment obli-

gation by demanding documentation that does not then exist or is not then readily available.

"(h) The right of a person to reemployment under this section shall not entitle such person to retention, preference, or displacement rights over any person with a superior claim under the provisions of title 5, United States Code, relating to veterans and other preference eligibles.

"(i) In any determination of a person's entitlement to protection under this chapter, the timing, frequency, and duration of the person's training or service or the nature of such training or service (including voluntary service) in the uniformed services shall not be a basis for denying protection of such training or service if the service does not exceed the limitations set forth in subsection (c), and the notice requirements established in subsection (a)(1) and the notification requirements established in subsection (e) are met.

"§4313. Reemployment positions

"(a) Subject to subsection (b) in the case of any employee and subject to section 4314 in the case of reemployment by the Federal Government, a person entitled to reemployment under section 4312 upon completion of a period of service in the uniformed services shall be promptly reemployed in a position of employment in accordance with the following priorities:

"(1) Except as provided in paragraphs (3) and (4), in the case of a person whose period of service in the uniformed services was for less than 91 days—

"(A) in the position of employment in which the person would have been employed if the continuous employment of such person with the employer had not been interrupted by such service, the duties of which the person is qualified to perform; or

"(B) in the position of employment in which the person was employed on the date of the commencement of the service in the uniformed services, only if the person is not qualified to perform the duties of the position referred to in subparagraph (A) after reasonable efforts by the employer to qualify the person.

"(2) Except as provided in paragraphs (3) and (4), in the case of a person whose period of service in the uniformed services was for more than 90 days—

"(A) in the position of employment in which the person would have been employed if the continuous employment of such person with the employer had not been interrupted by such service, or a position of like seniority, status and pay, the duties of which the person is qualified to perform; or

"(B) in the position of employment in which the person was employed on the date of the commencement of the service in the uniformed services, or a position of like seniority, status and pay, the duties of which the person is qualified to perform, only if the person is not qualified to perform the duties of a position referred to in subparagraph (A) after reasonable efforts by the employer to qualify the person.

"(3) In the case of a person who has a disability incurred in, or aggravated by, a period of service in the uniformed services, and if, after reasonable efforts by the employer to accommodate the disability, such person is not qualified due to such disability to be employed in the position of employment in which the person would have been employed if the continuous employment of such person with the employer had not been interrupted by such service—

"(A) in any other position which is equivalent in seniority, status, and pay, the duties of which the person is qualified to perform or would become qualified to perform with reasonable efforts by the employer; or

"(B) if not employed under subparagraph (A), in a position which is the nearest approximation to a position referred to in subparagraph (A) in terms of seniority, status, and pay consistent with circumstances of such person's case.

"(4) In the case of a person who is not qualified to be employed in the position of employment in which the person would have been employed if the continuous employment of such person with the employer had not been interrupted by such service or in the position of employment in which such person was employed on the date of the commencement of the service in the uniform services for any reason other than disability incurred in, or aggravated by, a period of service in the uniformed services and who cannot become qualified with reasonable efforts by the employer, in any other position of lesser status and pay which such person is qualified to perform, with full seniority.

"(b)(1) If two or more persons are entitled to reemployment under section 4312 in the same position of employment and more than one of them has reported for such reemployment, the person who left the position first shall have the prior right to reemployment in that position.

"(2) Any person entitled to reemployment under section 4312 who is not reemployed in a position of employment by reason of paragraph (1) shall be entitled to reemployment as follows:

"(A) Except as provided in subparagraph (B), in any other position of employment referred to in subsection (a)(1) or (a)(2), as the case may be (in the order of priority set out in the applicable subsection), that provides a similar status and pay to a position of employment referred to in paragraph (1) of this subsection, consistent with circumstances of such person's case, with full seniority.

"(B) In the case of a person who has a disability incurred in, or aggravated by, a period of service in the uniformed services that requires reasonable efforts by the employer for the person to be able to perform the duties of the position of employment, in any other position referred to in subsection (a)(3) (in the order of priority set out in that subsection) that provides a similar status and pay to a position referred to in paragraph (1) of this subsection, consistent with circumstances of such person's case, with full seniority.

"§4314. Reemployment by the Federal Government

"(a) Except as provided in subsections (b), (c), and (d), if a person is entitled to reemployment by the Federal Government under section 4312, such person shall be reemployed in a position of employment as described in section 4313.

"(b) If the employer of a person described in subsection (a) was, at the time such person entered service in the uniformed services, an agency in the executive branch, and the Director of the Office of Personnel Management determines that—

"(1) such employer no longer exists and its functions have not been transferred to another part of the executive branch; or

"(2) it is impossible or unreasonable for such employer to reemploy such person,

the Director shall identify an alternative position of like seniority, status, and pay for which such person is qualified in another part of the executive branch, and the Director shall cause employment in such position to be offered to such person.

"(c) If the employer of a person described in subsection (a) was, at the time such person entered service in the uniformed services, a part of the judicial branch or the legislative branch of the Federal Government, and such employer determines that—

"(1) it is impossible or unreasonable for such employer to reemploy such person; and

"(2) such person is otherwise eligible to acquire a status for transfer to a position in the competitive service in accordance with section 3304(c) of title 5,

such person shall, upon application to the Director of the Office of Personnel Management, be considered for and offered employment in an alternative position in the executive branch on the same basis as described in subsection (b).

"(d) If the adjutant general of a State determines that it is impossible or unreasonable to reemploy a person who was a National Guard technician employed under section 709 of title 32, and such person is otherwise eligible to acquire a status for transfer to a position in the competitive service in accordance with section 3304(d) of title 5, such person shall, upon application to the Director of the Office of Personnel Management, be considered for and offered employment in an alternative position in the executive branch of the Federal Government on the same basis as described in subsection (b).

"§4315. Rights, benefits, and obligations of persons absent from employment for service in a uniformed service

"(a) A person who is reemployed under this chapter is entitled to the seniority and other rights and benefits determined by seniority that the person had on the date of the commencement of service in the uniformed services plus the additional seniority and rights and benefits that such person would have attained if the person had remained continuously employed.

"(b) A person who performs service in the uniformed services is considered to be on furlough or leave of absence while in the uniformed services and is also entitled to such other rights and benefits, not determined by seniority, relating to other employees on furlough or leave of absence which were in effect by contract, practice, policy, agreement, or plan at the commencement of such period of service or were established while such person is performing such service. Such person may be required to pay the employee cost, if any, of any funded benefit continued pursuant to the preceding sentence to the extent other employees on furlough or leave of absence are so required.

"(c)(1) Notwithstanding subsection (b), a person who performs service in the uniformed services shall, at such person's request, continue to be covered by any insurance provided by such employer for up to 18 months. Such person may be required to pay the entire cost of any benefit continued pursuant to the preceding sentence, except that in the case of persons ordered to training or service for fewer than 31 days, such person may be required to pay only the employee share, if any, of the cost of such benefit.

"(2) In the case of employer-sponsored health benefits, an exclusion or waiting period may not be imposed in connection with coverage of a health or physical condition of a person entitled to participate in these benefits, either under paragraph (1) or upon reinstatement, or in connection with a health or physical condition of any other person who is covered by the benefit by reason of the coverage of such person, if—

"(A) the condition arose before or during that person's period of training or service in the uniformed services;

"(B) an exclusion or waiting period would not have been imposed for the condition during a period of coverage resulting from participation by such person in the benefits; and

"(C) the condition of such person has not been determined by the Secretary of Veterans Affairs to be service-connected.

"(d) A person who is reemployed by an employer under this chapter shall not be discharged from such employment, except for cause—

"(1) if such person's period of service was 181 days or more, within one year;

"(2) if such person's period of service was 31 days or more but less than 181 days, within six months; or

"(3) if such person's period of service was less than 31 days, within a period of time that is equal to the period of service concerned.

"(e) Any person who is absent from or leaves a position (other than a temporary position) in the employ of any employer for voluntary or involuntary service in the uniformed services may utilize, with respect to the employer and during any period of such service, accrued or other leave which the person could have utilized if the person had remained in such position.

"§4316. Employee pension benefit plans

"(a)(1)(A) Except as provided in subparagraph (B), in the case of a right provided pursuant to an employee pension benefit plan described in section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2)) or a right provided under any Federal or State law governing pension benefits for governmental employees, the right to pension benefits of a person reemployed under this chapter shall be determined under this section.

"(B) In the case of benefits under the Thrift Savings Plan, the rights of a person reemployed under this chapter shall be those rights provided in section 8432b of title 5. The first sentence of this subparagraph shall not be construed to affect any other right or benefit under this chapter.

"(2)(A) A person reemployed under this chapter shall be treated as not having incurred a break in service with the employer or employers maintaining the plan by reason of such person's period or periods of service in the uniformed services.

"(B) Each period served by a person in the uniformed services shall, upon reemployment under this chapter, be deemed to constitute service with the employer or employers maintaining the plan for purposes of determining the nonforfeitability of the person's accrued benefits and for the purpose of determining the accrual of benefits under the plan.

"(b)(1)(A) An employer reemploying a person under this chapter shall be liable to an employee pension benefit plan for funding any obligation of the plan to provide the benefits described in subsection (a)(2). For purposes of determining the amount of such liability and for purposes of section 515 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1145) or any similar Federal or State law governing pension benefits for governmental employees, service in the uniformed services that is deemed under subsection (a) to be service with the employer shall be deemed to be service with the employer under the terms of the plan or any applicable collective bargaining agreement. In the case of a multiemployer plan, as defined in section 3(37) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(37)), any liability of the plan described in this paragraph shall be allocated by the plan in such manner as the sponsor maintaining the plan shall provide.

"(B) An employee entitled to pension benefits under this chapter, with respect to a period of service described in subsection (a)(2)(B)—

"(i) shall have earnings credited with respect to an employer contribution in the same manner and to the same extent as earnings are credited to other employees during the period of service, subject to paragraph (3), irrespective of when the contribution is made;

"(ii) shall have allocated the amount of—

"(I) any employer contribution that was voluntary; and

"(II) any employer contribution the total amount of which was determined without reference to the number of, or compensation of, plan participants before being allocated to the accounts of participants; and

"(iii) may have allocated the amount of any forfeiture,

in the same manner and to the same extent the allocation occurs for other employees during the period of service.

"(2) A person reemployed under this chapter shall be entitled to accrued benefits pursuant to subsection (a) that are contingent on the making of, or derived from, employee contributions or elective deferrals (as defined in section 402(g)(3) of the Internal Revenue Code of 1986) only to the extent the person makes payment to the plan with respect to such contributions or deferrals. No such payment may exceed the amount the person would have been permitted or required to contribute had the person remained continuously employed by the employer throughout the period of service described in subsection (a)(2)(B). Any payment to the plan described in this paragraph shall be made during any reasonable continuous period (beginning with the date of reemployment) as the employer and the person may agree.

"(3) For purposes of computing an employer's liability under paragraph (1)(A) or the employee's contributions under paragraph (2), the employee's compensation during the period of service described in subsection (a)(2)(B)—

"(A) shall be computed at the same rate as the employee received from the employer immediately before such period; or

"(B) if the employee's compensation was not based on a fixed rate, shall be computed on the basis of the employee's average rate of compensation during the 12-month period immediately preceding such period (or, if shorter, the period of employment immediately preceding such period).

"(c) Any employer who reemploys a person under this chapter and who is an employer contributing to a multiemployer plan, as defined in section 3(37) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(37)), under which benefits are or may be payable to such person by reason of the obligations set forth in this chapter, shall, within 30 days after the date of such reemployment, provide information, in writing, of such reemployment to the administrator of such plan.

"§ 4317. Character of service

"A person's entitlement to the benefits of this chapter by reason of the service of such person in one of the uniformed services terminates upon the occurrence of any of the following events:

"(1) A separation of such person from such uniformed service with a dishonorable or bad conduct discharge.

"(2) A separation of such person from such uniformed service under other than honorable conditions, as characterized pursuant to regulations prescribed by the Secretary concerned.

"(3) A dismissal of such person permitted under section 1161(a) of title 10.

"(4) A dropping of such person from the rolls pursuant to section 1161(b) of title 10.

"SUBCHAPTER III—PROCEDURES FOR ASSISTANCE, ENFORCEMENT, AND INVESTIGATIONS

"§4321. Assistance in obtaining employment or reemployment

"The Secretary (through the Veterans' Employment and Training Service) shall provide assistance to any person with respect to employment and reemployment rights and benefits to which such person is entitled under this chapter. In providing such assistance, the Secretary may request the assistance of existing Federal and State agencies engaged in similar or related activities and utilize the assistance of volunteers.

"§4322. Enforcement of employment or reemployment rights

"(a)(1) A person who claims that—

"(A) such person is entitled under this chapter to employment or reemployment rights or benefits with respect to employment by an employer; and

"(B)(i) such employer has failed or refused, or is about to fail or refuse, to comply with the provisions of this chapter; or

"(ii) in the case that the employer is the Federal Government, such employer or the Office of Personnel Management has failed or refused, or is about to fail or refuse, to comply with the provisions of this chapter,

may file a complaint with the Secretary in accordance with subsection (b), and the Secretary shall investigate such complaint.

"(2) In the case that the employer is the Federal Government, subsection (a) of section 4323 shall be applicable to such investigation but not subsections (b) and (c) of such section.

"(3) This subsection does not apply to any action relating to benefits to be provided by the Thrift Savings Plan.

"(b)(1) A person described in subsection (a) may file a complaint in accordance with paragraph (2) and apply to the Secretary for assistance in asserting that complaint.

"(2) Such complaint shall be in writing, be in such form as the Secretary may prescribe, include the name and address of the employer against whom the complaint is filed, and contain a summary of the allegations that form the basis for the complaint.

"(3) Before the receipt of a written complaint, the Secretary shall, upon request, provide technical assistance to the potential claimant and, if the Secretary determines it appropriate, to such claimant's employer.

"(c)(1)(A) Except as provided in paragraph (2), if the Secretary, after investigation, is reasonably satisfied that the employer has failed to comply with the provisions of this chapter, if efforts to obtain voluntary compliance are not successful, and if the claimant requests in writing that the claim be referred for litigation, the Secretary shall refer the case to the Attorney General. If the Attorney General is reasonably satisfied that the person requesting representation is entitled to the rights or benefits sought, the Attorney General shall appear and act as attorney for the claimant in the filing of a complaint and other appropriate motions and pleadings and the prosecution thereof in the district courts of the United States and on appeal.

"(B) If the Attorney General declines to represent a person after receiving a referral from the Secretary or if a person chooses not to apply to the Secretary for assistance or to utilize the Attorney General for representation under this section, such person may be represented before the district court or on appeal by counsel of the person's choice.

"(2)(A) In the case where the employer is the Federal Government, if the Secretary, after investigation, is reasonably satisfied that the employer has failed to comply with the provisions of this chapter, if efforts to obtain voluntary compliance are not successful, and if the claimant requests in writing that the claim be referred for litigation, the case shall be referred to the Office of the Special Counsel, litigation shall be before the Merit Systems Protection Board, and if the Special Counsel is reasonably satisfied that the person requesting representation is entitled to the rights or benefits sought, the Special Counsel shall appear and act as attorney for the claimant in filing an appeal to the Merit Systems Protection Board and in pursuing that appeal.

"(B) If the Special Counsel declines to represent a person after receiving a referral from the Secretary or if a person chooses not to apply to the Secretary for assistance or to utilize the Special Counsel for representation under this section, such person may be represented before the Merit Systems Protection Board or on appeal by counsel of the person's choice.

"(d)(1) This subsection applies only with respect to a State or private employer.

"(2)(A) The district courts of the United States may require the State or private employer, as the case may be—

"(i) to comply with the provisions of this chapter;

"(ii) to compensate the person for any loss of wages or benefits suffered by reason of such employer's failure to comply with the provisions of this chapter; and

"(iii) to pay, in addition to the compensation paid under clause (ii), the person an amount equal to such compensation as liquidated damages, if the court determines that the employer's failure to comply with the provisions of this chapter was willful.

"(B) Any compensation and payment under clauses (ii) and (iii) of subparagraph (A) shall be in addition to, and shall not be deemed to diminish, any of the other rights and benefits provided for in this chapter.

"(3)(A) No fees or court costs shall be charged or taxed against any person claiming rights or benefits under this chapter.

"(B) In any action or proceeding to enforce a provision of this chapter by a person described in paragraph (2) who obtained private counsel for such action or proceeding, the court, in its discretion, may award any such person who prevails in such action or proceeding a reasonable attorney's fee, expert witness fees, and other litigation expenses.

"(4) The court may use its full equity powers, including temporary or permanent injunctions and temporary restraining orders, to vindicate fully the rights or benefits of persons under this chapter.

"(5) An action under this chapter may be initiated only by a person claiming rights or benefits under this chapter, not by an employer, prospective employer, or other entity with obligations under this chapter.

"(6) In any action under this chapter, only the employer shall be deemed a necessary party respondent.

"(7) No State statute of limitations shall apply to any proceedings under this chapter.

"(8) A State shall be subject to the same remedies, including prejudgment interest, as may be imposed upon any private employer under this section.

"(e)(1) This subsection applies only with respect to the Federal Government as employer.

"(2)(A) If the Merit Systems Protection Board concludes that the Federal Government, as employer, has failed to comply with the provisions of this chapter or that the Director of the Office of Personnel Management has not met an obligation set forth in section 4314, the Board shall enter an order specifically requiring the employing agency or the Director to comply with such provisions and to compensate such person for any loss of wages or benefits suffered by reason of the employing agency's or the Director's unlawful action.

"(B) Any such compensation shall be in addition to and shall not be deemed to diminish any of the other rights or benefits provided for by this chapter.

"(3)(A) A claimant under this chapter may petition the United States Court of Appeals for the Federal Circuit to review a decision of the Merit Systems Protection Board denying such claimant the relief sought, in whole or in part, subject to the conditions and in accordance with the procedures set forth in section 7703 of title 5.

"(B) The Secretary and the Special Counsel shall not represent persons with respect to review of decisions of the Merit Systems Protection Board under this chapter in the United States Court of Appeals for the Federal Circuit or the Supreme Court.

"(C) If a person seeks such judicial review, or in any case in which a person is involved in the Board's decision is being appealed by another party, such person may be represented by counsel of the person's choice.

"§4323. Conduct of investigation; subpoenas

"(a) In carrying out investigations under this chapter, the Secretary's duly authorized representatives shall at all reasonable times have access to, for the purpose of examination, and the right to copy and receive, any documents of any person or employer.

"(b) Except as provided in section 4322(a)(2), in carrying out investigations under this chapter, the Secretary may require by subpoena the attendance and testimony of witnesses and the production of documents relating to any matter under investigation. In case of disobedience of the subpoena or contumacy and on request of the Secretary, the Attorney General may apply to any district court of the United States in whose jurisdiction such disobedience or contumacy occurs for an order enforcing the Secretary's subpoena.

"(c) Except as provided in section 4322(a)(2), upon application, the district courts of the United States shall have jurisdiction to issue writs commanding any person or employer to comply with the subpoena of the Secretary or to comply with any order of the Secretary made pursuant to a lawful investigation under this chapter, and the district courts shall have jurisdiction to punish failure to obey a subpoena or other lawful order of the Secretary as a contempt of court.

"SUBCHAPTER IV—MISCELLANEOUS PROVISIONS

"§4331. Regulations

"(a) The Secretary (in consultation with the Secretary of Defense) may prescribe regulations implementing the provisions of this chapter with regard to the application of this chapter to States, local governments, and private employers.

"(b)(1) The Director of the Office of Personnel Management (in consultation with the Secretary and the Secretary of Defense) may prescribe regulations implementing the provisions of this chapter with regard to the application of this chapter to the Federal Government as employer. Such regulations shall be consistent with the regulations pertaining to the States and private employers, except that employees of the Federal Government may be given greater or additional rights. Nothing in this subsection constitutes authority for the Director to prescribe any matter for which any regulation may be prescribed under paragraph (2).

"(2) Regulations may be prescribed—

"(A) by the Merit Systems Protection Board to carry out its responsibilities under this chapter; and

"(B) by the Office of Special Counsel to carry out its responsibilities under this chapter.

"§4332. Reports

"The Secretary shall, after consultation with the Attorney General and the Special Counsel referred to in section 4322(b)(2) and no later than February 1, 1995, and each February 1 thereafter, transmit to the Congress, a report containing the following matters for the fiscal year ending before such February 1:

"(1) The number of cases reviewed by the Department of Labor under this chapter during the fiscal year for which the report is made.

"(2) The number of cases referred to the Attorney General or the Special Counsel pursuant to section 4322(c)(1) or 4322(c)(2), respectively, during such fiscal year.

"(3) The number of pleadings filed by the Attorney General pursuant to section 4322(c)(1) during such fiscal year.

"(4) The nature and status of each case reported on pursuant to paragraph (1), (2), or (3).

"(5) An indication of whether there are any apparent patterns of violation of the provisions of this chapter, together with an explanation thereof.

"(6) Recommendations for administrative or legislative action that the Secretary, the Attorney General, or the Special Counsel considers necessary for the effective implementation of this chapter, including any action that could be taken to encourage mediation, before claims are filed under this chapter, between employers and persons seeking employment or reemployment.

"§4333. Outreach

"The Secretary, the Secretary of Defense, and the Secretary of Veterans Affairs shall take such actions as such Secretaries determine are appropriate to inform persons entitled to rights and benefits under this chapter and employers of the rights, benefits, and obligations of such persons and such employers under this chapter.".

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENTS TO TITLE 38.—The tables of chapters at the beginning of title 38, United States Code, and the beginning of part III of such title are each amended by striking out the item relating to chapter 43 and inserting in lieu thereof the following:

"43. Employment and reemployment rights of members of the uniformed services ..... 4301".

(2) AMENDMENT TO TITLE 5.—(A) Section 1204(a)(1) of title 5, United States Code, is amended by striking out "section 4323" and inserting in lieu thereof "chapter 43".

(B) Subchapter II of chapter 35 of such title is repealed.

(C) The table of sections for chapter 35 of such title is amended by striking out the heading relating to subchapter II of such chapter and the item relating to section 3551 of such chapter.

(3) AMENDMENT TO TITLE 10.—Section 706(c)(1) of title 10, United States Code, is amended by striking out "section 4321" and inserting in lieu thereof "chapter 43".

(c) AMENDMENTS TO TITLE 28.—Section 631 of title 28, United States Code, is amended—

(1) by striking out subsection (j);

(2) by redesignating subsections (k) and (l) as subsections (j) and (k), respectively; and

(3) in subsection (j), as redesignated by paragraph (2), by striking out "under the terms of" and all that follows through "section," the first place it appears and inserting in lieu thereof "under chapter 43 of title 38,".

SEC. 3. EXEMPTION FROM MINIMUM SERVICE REQUIREMENTS.

Section 5303A(b)(3) of title 38, United States Code, is amended—

(1) by striking out "or" at the end of subparagraph (E);

(2) by striking out the period at the end of subparagraph (F) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new subparagraph:

"(G) to benefits under chapter 43 of this title.".

SEC. 4. THRIFT SAVINGS PLAN.

(a) IN GENERAL.—(1) Title 5, United States Code, is amended by inserting after section 8432a the following:

"§8432b. Contributions of persons who perform military service

"(a) This section applies to any employee who—

"(1) separates or enters leave-without-pay status in order to perform military service; and

"(2) is subsequently restored to or reemployed in a position which is subject to this chapter, pursuant to chapter 43 of title 38.

"(b)(1) Each employee to whom this section applies may contribute to the Thrift Savings Fund, in accordance with this subsection, an amount not to exceed the amount described in paragraph (2).

"(2) The maximum amount which an employee may contribute under this subsection is equal to—

"(A) the contributions under section 8432(a) which would have been made, over the period beginning on date of separation or commencement of leave-without-pay status (as applicable) and ending on the day before the date of restoration or reemployment (as applicable); reduced by

"(B) any contributions under section 8432(a) actually made by such employee over the period described in subparagraph (A).

"(3) Contributions under this subsection—

"(A) shall be made at the same time and in the same manner as would any contributions under section 8432(a);

"(B) shall be made over the period of time specified by the employee under paragraph (4)(B); and

"(C) shall be in addition to any contributions then actually being made under section 8432(a).

"(4) The Executive Director shall prescribe the time, form, and manner in which an employee may specify—

"(A) the total amount such employee wishes to contribute under this subsection with respect to any particular period referred to in paragraph (2)(B); and

"(B) the period of time over which the employee wishes to make contributions under this subsection.

The employing agency may place a maximum limit on the period of time referred to in subparagraph (B), which cannot be shorter than two times the period referred to in paragraph (2)(B) and not longer than four times such period.

"(c) If an employee makes contributions under subsection (b), the employing agency shall make contributions to the Thrift Savings Fund on such employee's behalf—

"(1) in the same manner as would be required under section 8432(c)(2) if the employee contributions were being made under section 8432(a); and

"(2) disregarding any contributions then actually being made under section 8432(a) and any agency contributions relating thereto.

"(d) An employee to whom this section applies is entitled to have contributed to the Thrift Savings Fund on such employee's behalf an amount equal to—

"(1) 1 percent of such employee's basic pay (as determined under subsection (e)) for the period referred to in subsection (b)(2)(B); reduced by

"(2) any contributions actually made on such employee's behalf under section 8432(c)(1) with respect to the period referred to in subsection (b)(2)(B).

"(e) For purposes of any computation under this section, an employee shall, with respect to the period referred to in subsection (b)(2)(B), be considered to have been paid at the rate which would have been payable over such period had such employee remained continuously employed in the position which such employee last held before separating or entering leave-without-pay status to perform military service.

"(f)(1) The employing agency shall be required to pay lost earnings on contributions made pursuant to subsections (c) and (d). Such earnings shall be calculated retroactively to the date the contribution would have been made had the employee not separated or entered leave without pay status to perform military service.

"(2) Procedures for calculating and crediting the earnings payable pursuant to paragraph (1) shall be prescribed by the Executive Director.

"(g) Amounts paid under subsection (c), (d), or (f) shall be paid—

"(1) by the agency to which the employee is restored or in which such employee is reemployed;

"(2) from the same source as would be the case under section 8432(e) with respect to sums required under section 8432(c); and

"(3) within the time prescribed by the Executive Director.

"(h)(1) For purposes of section 8432(g), in the case of an employee to whom this section applies—

"(A) a separation from civilian service in order to perform the military service on which the employee's restoration or reemployment rights are based shall be disregarded; and

"(B) such employee shall be credited with a period of civilian service equal to the period referred to in subsection (b)(2)(B).

"(2)(A) An employee to whom this section applies may elect, for purposes of section 8433(d), or paragraph (1) or (2) of section 8433(h), as the case may be, to have such employee's separation (described in subsection (a)(1)) treated as if it had never occurred.

"(B) An election under this paragraph shall be made within such period of time after restoration or reemployment (as the case may be) and otherwise in such manner as the Executive Director prescribes.

"(i) The Executive Director shall prescribe regulations to carry out this section.".

(2) The table of sections for chapter 84 of title 5, United States Code, is amended by inserting after the item relating to section 8432a the following:

"8432b. Contributions of persons who perform military service.".

(b) PRESERVATION OF CERTAIN RIGHTS.—(1) Section 8433(d) of title 5, United States Code, is amended by striking "subsection (e)." and inserting "subsection (e), unless an election under section 8432b(h)(2) is made to treat such separation for purposes of this subsection as if it had never occurred.".

(2) Paragraphs (1) and (2) of section 8433(h) are each amended by striking the period at the end and inserting ", or unless an election under section 8432b(h)(2) is made to treat such separation for purposes of this paragraph as if it had never occurred.".

(c) ELECTION TO RESUME REGULAR CONTRIBUTIONS UPON RESTORATION OR REEMPLOYMENT.—Section 8432 of title 5, United States Code, is amended by adding at the end the following:

"(i)(1) This subsection applies to any employee—

"(A) to whom section 8432b applies; and

"(B) who, during the period of such employee's absence from civilian service (as referred to in section 8432b(b)(2)(B))—

"(i) is eligible to make an election described in subsection (b)(1); or

"(ii) would be so eligible but for having either elected to terminate individual contributions to the Thrift Savings Fund within 2 months before commencing military service or separated in order to perform military service.

"(2) The Executive Director shall prescribe regulations to ensure that any employee to whom this subsection applies shall, within a reasonable time after being restored or reemployed (in the manner described in section 8432b(a)(2)), be afforded the opportunity to make, for purposes of this section, any election which would be allowable during a period described in subsection (b)(1)(A).".

(d) APPLICABILITY TO EMPLOYEES UNDER CSRS.—Section 8351(b) of title 5, United States Code, is amended by adding at the end the following:

"(11) In applying section 8432b to an employee contributing to the Thrift Savings Fund after being restored to or reemployed in a position subject to this subchapter, pursuant to chapter 43 of title 38—

"(A) any reference in such section to contributions under section 8432(a) shall be considered a reference to employee contributions under this section;

"(B) the contribution rate under section 8432b(b)(2)(A) shall be the maximum percentage allowable under subsection (b)(2) of this section; and

"(C) subsections (c) and (d) of section 8432b shall be disregarded.".

(e) EFFECTIVE DATE; APPLICABILITY.—This section and the amendments made by this section—

(1) shall take effect on the date of enactment of this Act; and

(2) shall apply to any employee whose release from military service, discharge from hospitalization, or other similar event making the individual eligible to seek restoration or reemployment under chapter 43 of title 38, United States Code, occurs on or after August 2, 1990.

(f) RULES FOR APPLYING AMENDMENTS TO EMPLOYEES RESTORED OR REEMPLOYED BEFORE EFFECTIVE DATE.—In the case of any employee (described in subsection (e)(2)) who is reemployed or restored (in the circumstances described in section 8432b(a) of title 5, United States Code, as amended by this section) before the date of enactment of this Act, the amendments made by this section shall apply to such employee, in accordance with their terms, subject to the following:

(1) The employee shall be deemed not to have been reemployed or restored until—

(A) the date of enactment of this Act, or

(B) the first day following such employee's reemployment or restoration on which such employee is or was eligible to make an election relating to contributions to the Thrift Savings Fund,

whichever occurs or occurred first.

(2) If the employee changed agencies during the period between date of actual reemployment or restoration and the date of enactment of this Act, the employing agency as of such date of enactment shall be considered the reemploying or restoring agency.

(3)(A) For purposes of any computation under section 8432b of such title, pay shall be determined in accordance with subsection (e) of such section, except that, with respect to the period described in subparagraph (B), actual pay attributable to such period shall be used.

(B) The period described in this subparagraph is the period beginning on the first day of the first applicable pay period beginning on or after the date of the employee's actual reemployment or restoration and ending on the day before the date determined under paragraph (1).

(4) Deem section 8432b(b)(2)(A) of such title to be amended by striking "ending on the day before the date of restoration or reemployment (as applicable)" and inserting "ending on the date determined under section 4(f)(1) of the Uniformed Services Employment and Reemployment Rights Act of 1993".

SEC. 5. TECHNICAL AMENDMENT.

Section 9(d) of Public Law 102–16 (105 Stat. 55) is amended by striking out "Act" the first place it appears and inserting in lieu thereof "section".

SEC. 6. TRANSITION RULES AND EFFECTIVE DATES.

(a) REEMPLOYMENT.—(1) Except as otherwise provided in this Act, the amendments made by this Act shall be effective with respect to reemployments initiated on or after the first day after the 60-day period beginning on the date of enactment of this Act.

(2) The provisions of chapter 43 of title 38, United States Code, in effect on the day before such date of enactment, shall continue to apply to reemployments initiated before the end of such 60-day period.

(3) In determining the number of years of service that may not be exceeded in an em-

ployee-employer relationship with respect to which a person seeks reemployment under chapter 43 of title 38, United States Code, as in effect before or after the date of enactment of this Act, there shall be included all years of service without regard to whether the periods of service occurred before or after such date of enactment unless the period of service is exempted by the chapter 43 that is applicable, as provided in paragraphs (1) and (2), to the reemployment concerned.

(4) A person who initiates reemployment under chapter 43 of title 38, United States Code, during or after the 60-day period beginning on the date of enactment of this Act and whose reemployment is made in connection with a period of service in the uniform services that was initiated before the end of such period shall be deemed to have satisfied the notification requirement of section 4312(a)(1) of title 38, United States Code, as provided in the amendments made by this Act, if the person complied with any applicable notice requirement under chapter 43, United States Code, as in effect on the day before the date of enactment of this Act.

(b) DISCRIMINATION.—The provisions of section 4311 of title 38, United States Code, as provided in the amendments made by this Act, and the provisions of subchapter III of chapter 43 of such title, as provided in the amendments made by this Act, that are necessary for the implementation of such section 4311 shall become effective on the date of enactment of this Act.

(c) INSURANCE.—(1) Except as provided in paragraph (2), the provisions of section 4315(c) of title 38, United States Code, as provided in the amendments made by this Act, concerning insurance coverage shall become effective on the date of enactment of this Act.

(2) A person on active duty on the date of enactment of this Act, or a family member or personal representative of such person, may, after the date of enactment of this Act, elect to reinstate or continue insurance coverage as provided in such section 4315. If such an election is made, insurance coverage shall remain in effect for the remaining portion of the 18-month period that began on the date of such person's separation from civilian employment.

(d) DISABILITY.—(1) Section 4313(a)(3) of chapter 43 of title 38, United States Code, as provided in the amendments made by this Act, shall apply to reemployments initiated on or after August 1, 1990.

(2) Effective as of August 1, 1990, section 4307 of title 38, United States Code (as in effect on the date of enactment of this Act), is hereby repealed, and the table of sections at the beginning of chapter 43 of such title (as in effect on the date of enactment of this Act) is amended by striking out the item relating to section 4307.

(e) REPORTS.—The reports made by the Secretary of Labor pursuant to section 4332 of title 38, United States Code, as provided in the amendments made by this Act, shall be made with respect to cases pertaining to chapter 43 of such title without regard to whether a case originated under such chapter before, on, or after the date of enactment of this Act.

(f) PREVIOUS ACTIONS.—Except as otherwise provided, the amendments made by this Act do not affect reemployments that were initiated, rights, benefits, and duties that matured, penalties that were incurred, and proceedings that were begun before the end of the 60-day period referred to in subsection (a).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. STUMP] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that I may be permitted to revise and extend my remarks, and that all Members may have 5 legislative days in which to revise and extend their remarks on the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. MONTGOMERY. Mr. Speaker, I rise in strong support of H.R. 995, as amended. This measure, cited as the Uniform Services Employment and Reemployment Rights Act of 1993, would amend chapter 43, title 38, United States Code, with respect to employment and reemployment rights of veterans and other members of the uniformed services.

For 53 years protection has been provided to the citizen soldier who leaves employment to serve in our Nation's Armed Forces by preserving the former service member's right to return to his or her preservice employment. This protection includes those who serve on active duty and members of the Selected Reserve.

Although the law, as contained in chapter 43, has effectively served the interests of veterans, members of the Reserve components, the Armed Forces, and employers, the current statute is complex and difficult to understand. The activation of thousands of members of the Selected Reserve during the Persian Gulf war illustrated the need to clarify and simplify the veterans' reemployment rights statute. Credit should go to TIM PENNY of Minnesota who, as chairman of the Subcommittee on Education, Training and Employment during the 102d Congress, saw the need to revise chapter 43 and undertook this difficult task. He and CHRIS SMITH of New Jersey, then ranking minority member of the Subcommittee, worked hard on this effort. During the 102d Congress, the House twice passed H.R. 1578, the Uniformed Services Employment and Reemployment Rights Act of 1991. Unfortunately, the other body did not act on this measure until the end of the Congress, and not enough time remained to resolve the few, but important, differences between the House and Senate versions of the chapter 43 rewrite.

H.R. 995, as amended, is substantially the same as H.R. 1578, as approved by the House on October 6, 1992. Because the committee report accompanying this bill is very detailed, I will only briefly describe H.R. 995. The major provisions of the Committee bill would:

First, continue to prohibit discrimination against an employee or applicant for employment because of past, current, or future military obligations;

Second, provide that reemployment rights protection shall apply to the individual if such person's period of service, with respect to the employment relationship for which a person seeks reemployment does not, with certain exceptions, exceed 5 years;

Third, require an individual to return to work or apply for reemployment within certain time limits based on the length of time in the uniformed services;

Fourth, reaffirm that the timing and duration of a person's training or service shall generally not be a basis for denying employment or reemployment protection;

Fifth, reaffirm that a protected individual is generally entitled to reemployment in the same position which the person would have attained if he or she had been continuously employed;

Sixth, reaffirm that a person reemployed under chapter 43 is entitled to the seniority that the individual would have attained if the person had remained continuously employed;

Seventh, provide that a protected person would, at the person's request, continue to be covered by employer-provided insurance for up to 31 days at the employer's expense and up to 18 months at the person's expense, unless the employer chooses to fund the entire cost;

Eighth, provide that, in the cost of employer-sponsored health benefits, no exclusion from coverage or waiting period can be imposed for a non-service-connected physical condition of covered persons which developed before or during military service;

Ninth, require an individual, except when it is impossible or unreasonable, to give verbal or written advance notice to an employer regarding an anticipated absence due to military service;

Tenth, require the Secretary of Labor, through the Veterans' Employment and Training Service, to provide assistance in obtaining employment or reemployment to any person entitled to rights or benefits under chapter 43; and

Eleventh, require that Federal employees be provided representation by the Office of Special Counsel before the Merit Systems Protection Board when necessary to enforce reemployment rights with the Federal Government.

I want to emphasize that H.R. 995 is a bill which effectively balances the needs of our Armed Forces, members of the uniformed services, veterans, and employers. Since implementation of reemployment rights protection for service members over five decades ago, the employer community in the United States has understood that, although the responsibilities required of them may occasionally be burdensome, reemployment protection for those who defend the freedoms and liberties enjoyed by all citizens of the United

States is integral to a strong national defense. The committee notes that employer support for those who served during the Persian Gulf war was impressive. Not only did the employer community willingly and in good faith meet their commitments under chapter 43, in countless instances employers went far beyond the requirements of the law and demonstrated their strong support for the men and women who served during Desert Shield/Desert Storm by providing additional benefits such as continued salaries. In this regard, I want to thank the National Federation of Independent Businesses [NFIB] for working with us on this bill. Their comments were constructive and valuable, and we appreciate their support for this legislation.

I want to take this opportunity to again thank the members of the executive branch task force on veterans' reemployment for their continued willingness to assist us in fine tuning H.R. 995. Additionally, very special thanks should be extended to Mr. William Berger, deputy regional solicitor, Department of Labor, Atlanta, GA. Bill is the foremost legal expert on veteran's reemployment rights in the country, and, for over 2 years, he has generously spent countless hours assisting and advising as we developed the committee's reemployment rights bills. Veterans' reemployment rights is a very technical area of law, and Bill's familiarity with both the case law and the practical aspects of enforcing the law have provided the committee with the type of insight necessary to accomplish the committee's goal of clarifying, simplifying, and strengthening the law.

I want to thank my good friend, BOB STUMP, ranking minority member of the committee, for his assistance and support in developing H.R. 995, as amended. Additionally, thanks should again be extended to TIM PENNY and CHRIS SMITH for their hard work on this issue during the 102d Congress.

Finally, my sincere thanks go to the chairman of the Post Office and Civil Service Committee, BILL CLAY, and the ranking minority member, JOHN MYERS, for their help and cooperation. H.R. 995 includes provisions establishing and clarifying rights and benefits for Federal employees who return to civilian employment upon completion of a period of military service. These provisions were developed in cooperation with the Committee on Post Office and Civil Service which generally has jurisdiction over Federal employees. H.R. 995 was jointly referred, and I am grateful to Chairman CLAY and Mr. MYERS for agreeing to the expeditious consideration of the bill on the floor today.

H.R. 995, as amended, is a good bill, and I urge my colleagues to support it.

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Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. PENNY], a member of the Committee on Veterans' Affairs.

Mr. PENNY. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in strong support of H.R. 995, the Uniformed Services Employment and Reemployment Rights Act of 1993. This legislation is similar to bills passed twice by the House in the 102d Congress, especially to H.R. 1578 which I sponsored. The legislation represents a number of years of arduous and painstaking examination of veterans' reemployment law which is now over 50 years old and in need of clarification and simplification.

The bill before us today makes certain that service members and employers alike clearly understand what is expected when the service member is called to active military service. As we continue to rely more heavily on our Reserve Force, this mutual understanding is critical. I believe it is a tribute to employers and those who served during the Gulf war that the original legislation worked as well as it did and with few complaints. However, it is important to undergird the original language with a restatement of congressional intent that a person may fulfill military commitments without fear of discrimination or retaliation in their normal employment.

It is also important for the law to reflect changes in service requirements and employee benefits, such as health insurance and pension plans, that are operative today. This bill, just as the original law, covers all types of civilian employment from small businesses to the Federal Government and backs that coverage with enforcement mechanisms through the Departments of Labor and Justice.

I urge my colleagues to support this bill and would add my hopes that our Senate colleagues will also act expeditiously to enact this much-needed legislation.

Mr. Speaker, I compliment the gentleman from New Jersey [Mr. SMITH] for his work with me on this issue in the last session, and I want to extend my appreciation to all of my colleagues on the Committee on Veterans' Affairs, but particularly the gentleman from Arizona [Mr. STUMP], the ranking minority member, and our chairman, the gentleman from Mississippi [Mr. MONTGOMERY], for their leadership.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 995, the Uniformed Services Employment and Reemployment Rights Act of 1993.

Chairman MONTGOMERY, who has become chairman of the Subcommittee on Education, Training, and Employment, has been most persistent in keeping up the momentum on this legislation to update and improve the employment rights of all of the Federal uniformed services. I commend him for his hard work, as well as TIM PENNY, the former subcommittee chairman, and CHRIS SMITH, the former subcommittee ranking minority member. Mr. PENNY and Mr. SMITH have other leadership positions this session, but their efforts were invaluable in developing and passing the legislation last year. With an early start again this session, hopefully there will be enough time to reach agreement with the Senate.

The chairman has summarized the bill's major provisions. It would effectively clarify and strengthen existing laws, on veterans' reemployment rights. It would cover the active duty forces, reserves and National Guard alike.

The Nation owes its military personnel the protections and peace of mind afforded for their civilian jobs by H.R. 995. Not too long ago our men and women in uniform answered the call for the Persian Gulf, then it was Somalia and now in this uneasy world they could be called upon again for Bosnia. They should not have to worry whether they will have a job waiting at home when they are halfway around the world carrying out the President's orders.

Mr. Speaker, the bill's pension provision were the ones over which the largest differences existed last session with the Senate. They have great significance to employers generally and can be critical to small businesses because of cost factors. Obviously, if anything is going to go to the President for signature this session, the differences must be overcome. I am confident we can reach agreement in a way which recognizes the realities of employer costs in a changing business environment, yet maintains the strong public policy underlying veterans' reemployment rights.

I urge my colleagues to continue their support for veterans' reemployment rights and vote for H.R. 995.

Mr. Speaker, the subcommittee has an outstanding freshman Member from the State of Arkansas [Mr. HUTCHINSON] as its ranking minority member this year. It is an unusual expression of confidence to elevate a freshman member to such a position, but the gentleman inspires that kind of confidence.

Mr. Speaker, I yield 4 minutes to the gentleman from Arkansas [Mr. HUTCHINSON].

Mr. HUTCHINSON. Mr. Speaker, I thank the distinguished ranking minority member for yielding time to me.

Mr. Speaker, I rise in support of H.R. 995, the Uniformed Services Employment and Reemployment Rights Act of 1993.

I would commend CHRIS SMITH and TIM PENNY for their outstanding work on this bill.

I would also like to commend both Chairman MONTGOMERY and the rank-

ing minority member on the committee, BOB STUMP, for their leadership on this matter and for their expeditious action in bringing this matter to the floor.

The return of our service men and women from the conflict in the Persian Gulf highlighted our obligation to both clarify and reinforce the reemployment rights of U.S. veterans. When, and if, our Nation calls upon its service men and women to protect United States interests, in Bosnia or elsewhere, they should not have to worry about their jobs and careers back home.

This bill clarifies the rights and obligations of both the employer and employee regarding the veterans' absences for military service and his or her return to work. It establishes that upon returning, a veteran's application for employment be submitted within a certain time limit based on the length of time the individual was in the uniformed services.

If the veteran complies with these requirements they will not have to worry about having a job upon returning. They will not have to worry about loosing ground with regard to any promotions which might have been forthcoming. I could go on and on with similar examples.

This bill will help our forces to concentrate totally on the purpose of their mission. If we are asking our service men and women to risk their lives for our country, we must ensure that their employment rights are easily understood and consistently observed.

Mr. Speaker, I strongly urge my colleagues to support this bill.

Mr. MONTGOMERY. Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina [Mr. CLYBURN], an outstanding new member of the subcommittee who has dealt with situations like this with the State of South Carolina.

Mr. CLYBURN. Mr. Speaker, I thank the gentleman for yielding the time, and I applaud his efforts on behalf of America's veterans.

Mr. Speaker, I am proud to support H.R. 995, the Uniformed Services Employment and Reemployment Rights Act of 1993. This legislation will bring about fairness and equity to those Americans who leave their employment to serve in our Nation's Armed Forces, and some much-needed clarifications to the current laws.

Recent occurrences have demonstrated the need to protect the many service men and women who left secure, well-paying jobs with seniority, to serve in the Armed Forces. During Operations Desert Shield and Desert Storm more than 200,000 members of the National Guard and Reserve answered the call to duty.

The National Guard and Reserve have become integral parts of our military strength, and this legislation will ensure that these components remain an appealing choice for qualified and dedicated individuals.

It is only fair that we provide employment protection to those individuals who have volunteered to serve their country, and often put themselves in harm's way. This service should not be rendered at the expense of losing a job, or being subject to reprisals or discrimination, or losing seniority and other benefits.

In light of the increased downsizing of our active military forces, it is likely that our military will depend even more on the National Guard and Reserve components of the total force.

Mr. Speaker, the National Guard and Reserve components of the U.S. Armed Forces are vital to our overall military strength, and these individuals must be afforded the same job protections as others who are called to active duty.

I am pleased to offer strong support for this important legislation.

Mr. STUMP. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I am honored to rise in support of H.R. 995, the Veterans' Employment and Reemployment Rights Act of 1993 and I commend the distinguished chairman of the Veterans' Affairs Committee, the gentleman from Mississippi [Mr. MONTGOMERY], and the distinguished ranking member, the gentleman from Arizona [Mr. STUMP] for introducing this comprehensive veterans legislation.

Mr. Speaker, H.R. 995 is an invaluable piece of legislation that will ensure our Nation's veterans with comparable reemployment opportunities when they return from military service. This measure will send our veterans an important message. By extending a guarantee of reemployment, as well as entitlement to benefits such as insurance coverage, health care, and pension rights, our Nation's veterans will be provided with the opportunities that they have justly earned. The military service that our veterans provide is invaluable to the security of our Nation. Accordingly, I urge my colleagues to support our Nation's veterans by supporting this legislation.

By reaffirming the rights of our military service men and women, H.R. 995 will prohibit discrimination against employees based on past, present, or future military obligations. This legislation provides that an individual is entitled to the benefits and/or training that he or she would have received had he or she been continuously employed. This measure also proposes substantial reforms. And, in an effort to ensure that employers comply with this program, employers who are found to be in violation will be substantially fined and punished.

Mr. Speaker, I would like to praise the Veterans' Affairs Committee for their leadership and dedication that has been shown during the 103d Congress, in addressing the needs of our Nation's veterans. On April 27, 1993, the Members of the House of Representatives approved H.R. 1032, a measure which will establish an Office of Employment Discrimination Complaints resolution to resolve complaints of unlawful employment discrimination within the Department of Veterans Affairs. Both of these legislative initiatives demonstrate the true commitment that the United States places in fulfilling the needs of our Nation's veterans.

Mr. Speaker, the Veterans' Employment and Reemployment Rights Act is similar to legislation that, along with a majority of my colleagues from the 102d Congress, I was proud to support. I urge my colleagues to continue to advance the needs of our Nation's veterans. By passing this legislation, we will demonstrate that, as a nation, we care. The invaluable military service that our service men and women provide warrants our full support when they return from active duty.

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Mr. MONTGOMERY. Mr. Speaker, I want to thank the gentleman from New York [Mr. GILMAN], who is not on our committee, but he is always here testifying for these veterans bills, and the gentleman from Arkansas [Mr. HUTCHINSON], a new member on the subcommittee that I chair. We are proud to have him.

We also have a great new member on the committee, the gentleman from Georgia [Mr. BISHOP]. We have been to his district, talking to veterans down in Georgia. He comes to all the meetings.

Mr. Speaker, I yield 2 minutes to the gentleman from Georgia [Mr. BISHOP].

Mr. BISHOP. Mr. Speaker, I thank the distinguished gentleman from Mississippi [Mr. MONTGOMERY], my chairman, for yielding time to me.

It gives me an opportunity to rise in support of the Uniformed Services and Reemployment Act of 1993, H.R. 995.

This resolution would prohibit discrimination against employees or applicants for employment because of past, present or future military obligation.

When our forces were called to the Persian Gulf war, some 200,000 Americans in the Reserves and the National Guard, some of whom were involuntarily required to be away from homes and families and jobs for an extended period of time, but when they returned, many of them found reprisals and were out of jobs and were discriminated against and had lost their favored positions in the jobs, only because they were involuntarily called to service for their country.

They did us proud in the Persian Gulf, Mr. Speaker. And I think that the Uniformed Services Employment and Reemployment Rights Act of 1993 is a

piece of legislation whose time has come. We need to reaffirm the protections that those people are due, and I would like to applaud the chairman and members of this committee on both sides of the aisle for the hard work that they put into this legislation.

Mr. MONTGOMERY. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I rise in support of H.R. 995. One of the sad pictures of the recent ordeal in the Persian Gulf was seeing many of our veterans come back, not being able to go back to work, many of them having lost their jobs and lost employment opportunities.

I think that was really one of the down sides of that great experience that we had as a nation. But it is sad enough that we ignored our Vietnam veterans.

Let us be truthful. I think it is fitting, Mr. Speaker, that the gentleman from Mississippi, Chairman MONTGOMERY has put together and brought out a bill like that that will put to rest those types of problems that have plagued us from the past and could carry on into the future.

I want to commend the gentleman from Minnesota [Mr. PENNY] and the minority leader and staff for their support of this legislation. I also commend the chairman.

Mr. MONTGOMERY. Mr. Speaker, I thank the gentleman for what he has said. We think we have a great bill here, and it would eliminate the problems we have had in the Vietnam war as well as the Persian Gulf war as far as employee-employer. I would urge Members to support the bill.

Ms. BROWN of Florida. Mr. Speaker, I rise in support of H.R. 995, the Uniformed Services Employment and Reemployment Rights Act of 1993 which ensures that men and women who have risked their lives for their fellow Americans are able to return to their civilian jobs without delay and without penalty. I want to commend Chairman MONTGOMERY for introducing this measure and bringing it to the floor.

Since 1940, veterans, reservists, and members of the National Guard have enjoyed varying degrees of protection that assured their return to civilian employment following military duty. During those 50 years, the law has become increasingly complex and confusing. After the 1991 Persian Gulf war, many employers and veterans were unsure of their obligations and rights under the veterans' reemployment rights law.

H.R. 995 will provide both returning veterans and their employers with a clear explanation of their respective rights and responsibilities. In addition, H.R. 995 will improve and strengthen existing law, particularly enforcement provisions, to help protect veterans' employment and reemployment rights.

I urge my colleagues to support this bill.

Mr. ROSTENKOWSKI. Mr. Speaker, H.R. 995, as reported by the Committee on Veterans' Affairs, contains provisions which would amend the Internal Revenue Code with respect to qualification of pension plans. In order not to delay the floor consideration of this important measure for our Nation's veterans, the Committee on Ways and Means did not request a referral of this legislation. However, I wish to clearly state that any amendments to the Internal Revenue Code included in this legislation are within the exclusive jurisdiction of the Committee on Ways and Means.

In general, the Committee on Ways and Means supports the Committee on Veterans' Affairs in its goal to clarify the rights to employees who are called away to military service, as well as the responsibilities of employers to such employees when they return to their jobs. Last year, the Committee on Ways and Means worked with the Committee on Veterans' Affairs to facilitate the receipt of additional pension benefits by reemployed veterans without jeopardizing the tax qualification of pension plans. In fact, H.R. 11, the Revenue Act of 1992, contained a number of technical corrections to H.R. 1578, the Uniformed Services Employment and Reemployment Rights Act of 1991, to accomplish this. The effective date of the technical corrections contained in H.R. 11 was tied to final passage of H.R. 1578. H.R. 1578 died in the Senate on the last day of the 102d Congress and H.R. 11 was vetoed by former President Bush. Early this Congress I reintroduced these technical corrections as part of H.R. 17, the Technical Corrections Act of 1993, in exactly the same form as included in H.R. 11.

H.R. 995, as reported, contains additional tax provisions to those included in H.R. 1578 last year and accommodated by the technical corrections contained in H.R. 17. These additional provisions will directly impact the qualification of pension plans. Because the current technical corrections approved by the Committee on Ways and Means are in conflict with these additional provisions, it is my intention to withdraw those technical corrections at this time.

Mr. Speaker, in light of these recent developments and the continued concern of the Committee on Ways and Means regarding the amendments to the Internal Revenue Code included in H.R. 995, the Committee on Ways and Means respectfully requests to retain the right to be named conferees on this bill and to be consulted in any effort to make conforming amendments to the Internal Revenue Code as will be required upon passage of H.R. 995.

Mr. CLEMENT. Mr. Speaker, I rise today in full support of the Uniformed Services Employment and Reemployment Rights Act of 1993.

Mr. Speaker, this bill introduces stability into the current uncertainty among the members of the military and gives them peace of mind.

The Persian Gulf war gave us our first true test of the All-Volunteer Force and our reliance on the Guard and Reserve Forces. And as the shape of our defense forces continues to change in response to new global and strategic challenges, the National Guard and Reserve components of the military will play an increasingly critical role.

If the men and women of the Guard and Reserve are not protected from discrimination or reprisal on the job as a result of their service, it will be increasingly difficult to recruit Americans to serve. This would seriously jeopardize the All-Volunteer Force concept.

Many of my fellow Guard members served proudly in the Gulf War. Upon their return, some of these individuals experienced additional hardships and inconveniences in the workplace as a direct result of their deployment overseas. These experiences have caused a great deal of skepticism among the troops and a reluctance on the part of others to join the Guard and Reserves.

Willing Americans must have the freedom to serve. This legislation gives the men and women in uniform that freedom, coupled with the certainty that Guard or Reserve service will not be a detriment. Service should be a badge of honor, worthy of respect from employers and fellow employees alike. H.R. 995 is vital to the future of an All-Volunteer Force and I urge its adoption.

Mr. KENNEDY. Mr. Speaker, I rise in support of H.R. 995, the Uniformed Services and Employment and Reemployment Rights Act of 1993. Our Nation's veterans deserve the promise of employment upon completing service to our country and of job security while on military status. H.R. 995 provides important protective measures to veterans with respect to employment and reemployment upon returning from military service.

The Persian Gulf war enlisted the brave services of more reservists than have been called upon in recent history. A national defense increasingly reliant upon reservists highlights the need for an understandable framework concerning employment rights both to our military personnel and their employers. Reservists must feel confident in their job security while serving our country. This bill provides provisions which significantly clarify and strengthen current law.

The bill institutes a ban on employment discrimination because of past, current, or future military service. In addition, it sets in place antiretaliation provisions which seek to protect individuals exercising their rights under this legislation. Veterans' rights under this legislation. Veterans' rights in the workplace would be guaranteed through enforcement by the Departments of Labor and Justice.

In general, the bill expands upon current reemployment rights of our Nation's veterans. Reemployment rights would extend for 5 years with all categories of service counted toward this limit. Current law provides a 4-year limitation on employment rights with only active duty service attributed to this goal.

Mr. Speaker, we must renew our national commitment to the men and women who have served our country so well by supporting their workplace rights throughout all dimensions of military service—from active duty to reservist status. I urge my colleagues to support this legislation.

Mr. MONTGOMERY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STUMP. Mr. Speaker, I would like to commend the gentleman from Mississippi [Mr. MONTGOMERY] for all his hard work.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the mo-

tion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 995, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

INVESTMENT ADVISER REGULATORY ENHANCEMENT AND DISCLOSURE ACT OF 1993

Mr. MARKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 578) to provide for recovery of costs of supervision and regulation of investment advisers and their activities, and for other purposes, as amended.

The Clerk read as follows:

H.R. 578

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 "Investment Adviser Regulatory Enhancement and Disclosure Act of 1993".

SEC. 2. ADDITIONAL RESOURCES FOR INVESTMENT ADVISER SUPERVISION.

(a) AMENDMENT.—The Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.) is amended by inserting after section 203 the following new section:

"FEES FOR REGISTRANTS AND APPLICANTS

"SEC. 203A. (a) IN GENERAL.—The Commission is authorized, in accordance with this section, to collect fees to recover the costs of registration, supervision, and regulation of investment advisers and their activities. Such fees shall be collected, and shall be available, only to the extent provided in advance in appropriations Acts. No appropriation Act may authorize fees to be collected under this section during any fiscal year unless the amount appropriated by such Act for such costs for such fiscal year equals or exceeds the aggregate amount that may reasonably be expected to be collected by such fees. Such fees shall be deposited as an offsetting collection to the Commission's appropriation and may remain available for such purposes for the succeeding fiscal year. The costs covered by such fees shall be limited to the costs of Commission expenses for registration, examinations, and surveys of persons registered or required to register under this Act.

"(b) TIME FOR PAYMENT.—

"(1) NEW REGISTRANTS.—At the time of filing an application for registration under this title, the applicant shall pay to the Commission the fee specified in subsection (c). No part of such fee shall be refunded to the applicant. The filing of an application for registration under this title shall not be deemed to have occurred unless the application is accompanied by the fee required under this section.

"(2) ONGOING REGISTRANTS.—Each investment adviser whose registration is effective on the last day of its fiscal year shall pay to the Commission the fee specified in subsection (c). Such payment shall be made not later than 90 days after the end of its fiscal year, or at such other time as the Commission, by rule, shall determine, unless its registration has been withdrawn, canceled, or revoked prior to that date. No part of such fee shall be refunded to the investment adviser.

"(c) COST-BASED SCHEDULE OF FEES.—For any fiscal year for which fees are authorized to be collected by an appropriation Act, the amount of fees due from investment advisers in accordance with paragraphs (1) and (2) of subsection (b) shall be determined according to the following schedule:

"Assets under management	***Fee due:***
Less than $10,000,000	*$300*
$10,000,000 or more, but less than $25,000,000.	*$500*
$25,000,000 or more, but less than $50,000,000.	*$1,000*
$50,000,000 or more, but less than $100,000,000.	*$2,500*
$100,000,000 or more, but less than $250,000,000.	*$4,000*
$250,000,000 or more, but less than $500,000,000.	*$5,000*
$500,000,000 or more	*$7,000.*

"(d) SUSPENSION FOR FAILURE TO PAY.—The Commission, by order, may suspend the registration of any investment adviser if it finds, after notice, that such investment adviser has failed to pay when due any fee required by this section. The Commission shall reinstate such registration upon payment of the fee (and any penalty due), if such suspension was based solely on the failure to pay the fee.

"(e) RULEMAKING.—The Commission may adopt such rules as are necessary to carry out this section.

"(f) DEFINITION OF ASSETS UNDER MANAGEMENT.—As used in this section, the term 'assets under management' means the client assets with respect to which an investment adviser provides continuous and regular supervisory or management services.".

(b) EFFECTIVE DATE.—This section shall become effective upon the adoption by the Commission of implementing rules, under section 203A(f) of the Investment Advisers Act of 1940, as added by subsection (a).

SEC. 3. EXAMINATIONS AND SURVEYS.

The Investment Advisers Act of 1940 is amended by inserting after section 222 (15 U.S.C. 80b–22) the following new section:

"EXAMINATIONS AND SURVEYS

"SEC. 223. (a) PERIODIC EXAMINATIONS.—The Commission shall establish and periodically revise a schedule for the regular examination of investment advisers. Such schedule shall provide for more frequent examinations of certain investment advisers based on factors that the Commission determines increase the need for examination of those investment advisers, which shall include (at a minimum) each of the following:

"(1) the frequency of customer complaints;

"(2) the risks associated with newly registered investment advisers;

"(3) custody of funds and the authority to exercise investment discretion;

"(4) the existence of deficiencies detected during an examination under this title that may continue to present high risks to clients; and

"(5) the receipt of commissions for the sale of investments recommended to clients.

"(b) SURVEYS OF UNREGISTERED PERSONS.—The Commission shall, within 3 years after the date of enactment of this section and periodically thereafter, provide for the conduct of a survey to determine the extent of, and reasons for, the failure of persons to register as required by this Act. The Commission shall, on the basis of such survey results, establish objectives for the reduction or elimination of such failures and shall include in annual reports to Congress (under section 23(b) of the Securities Exchange Act of 1934) submitted after completion of the first survey, a statement of such objectives, an evaluation of the success in attaining those objectives during the preceding year, and such recommendations as the Commission considers appropriate to assist in the attainment of those objectives. If the survey identifies any pattern of noncompliance with the registration requirements of the title and the rules thereunder, the Commission's objectives shall include such rulemaking proceedings as may be required to correct such noncompliance.

"(c) PROVISIONS NOT LIMITATION.—The provisions of this section shall not be construed to limit the authority of the Commission to prescribe rules under this Act or to conduct an examination or investigation at any time or to institute proceedings under this title or any other title.".

SEC. 4. DESIGNATION OF SELF-REGULATORY ORGANIZATIONS.

The Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.) is amended by inserting after section 223 (as added by section 3 of this Act) the following new section:

"DESIGNATION OF SELF-REGULATORY ORGANIZATIONS

"SEC. 224. (a) DESIGNATION TO CONDUCT EXAMINATIONS.—The Commission, by rule, consistent with the public interest, the protection of investors, and the purposes of this title, may designate one or more self-regulatory organizations registered with the Commission under section 6 or 15A of the Securities Exchange Act of 1934, to conduct periodic examinations of its members, and affiliates of members, that are registered or required to register under this title, to determine compliance with applicable provisions of this title and the rules and regulations thereunder. Such rule shall specify the minimum scope and frequency for such examinations and shall, to the extent consistent with the protection of investors, be designed to avoid unnecessary regulatory duplication or undue regulatory burdens. Such self-regulatory organization may discipline such members and affiliates of members for violations of the applicable provisions of this title and the rules and regulations thereunder pursuant to the standards and procedures set forth in sections 6, 15A, and 19 of the Securities Exchange Act of 1934. The money penalties imposed by a self-regulatory organization for violations of this title shall not exceed those contained in section 203(i).

"(b) LIMITATIONS.—

"(1) PRIMARY BUSINESS LIMITATION.—The Commission shall not exercise the designation authority contained in subsection (a) for members or affiliates of members if the primary business of the member and its affiliates is investment advisory activities.

"(2) LIMITATION WITH RESPECT TO AFFILIATES OF MEMBERS.—The Commission shall not exercise the authority contained in subsection (a) for an affiliate of a member if—

"(A) the primary business of the affiliate is investment advisory activities;

"(B) the affiliate is an affiliate of the member solely as a result of the adviser's (or an associated person of the adviser's) registration with the member as a registered representative; and

"(C) the affiliate is a registered representative of the member solely to enable the adviser to execute transactions that are incidental to the investment adviser's primary business;

unless the Commission determines, in accordance with such other criteria as the Commission establishes by rule, that such exercise of designation authority is consistent with the public interest, the protection of investors, the purposes of this title, and the objectives of the Commission's investment adviser examination program.

"(3) LIMITATION WITH RESPECT TO SAVINGS ASSOCIATION AFFILIATES OF MEMBERS.—The Commission shall not exercise the authority contained in subsection (a) for an affiliate of a

member if the affiliate is a savings association, as such term is defined in section 3(b)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)(1)).

"(4) DEFINITIONAL RULES.—For purposes of this subsection, the Commission may, by rule, establish criteria for defining the terms 'primary business' and 'incidental to the investment adviser's primary business'.

"(c) AUTHORITY TO IMPOSE FEES.—

"(1) IN GENERAL.—Any self-regulatory organization designated by the Commission to perform the examinations specified in subsection (a) shall have the authority to collect fees in accordance with this subsection.

"(2) LIMITATION.—The total fee paid by a registered investment adviser under this subsection shall not exceed an amount determined in accordance with rules prescribed by the Commission. Such rules shall require that the fees collected by a self-regulatory organization under this subsection—

"(A) cover only the costs of the self-regulatory organization's expenses for examinations conducted pursuant to subsection (a);

"(B) as to any investment adviser, bear a reasonable relationship to the costs of conducting an examination of that adviser pursuant to subsection (a); and

"(C) not exceed such portion of the fee authorized under section 203A as the Commission determines is allocable to the Commission's expenses for conducting such an examination.

"(3) REDUCTION OF SECTION 203A FEES.—The amount of any fee that a registered investment adviser is required to pay under section 203A with respect to any fiscal year shall be reduced by the amount paid to a self-regulatory organization in accordance with this subsection with respect to such fiscal year.

"(d) EFFECTIVE DATE OF RULE.—A rule prescribed by the Commission under this section shall not be effective until 90 days after the date on which the Commission submits to each House of Congress a report—

"(1) containing the text of the proposed rule and the reasons therefor;

"(2) describing the procedures to be used to coordinate the collection of fees by the Commission under section 203A and by a self-regulatory organization under the rule; and

"(3) containing such other information as may be necessary to describe the implementation and enforcement of the rule.

"(e) DEFINITION.—For purposes of this section, the term 'affiliate' shall mean any person directly or indirectly controlling, controlled by, or under common control with a member.".

SEC. 5. SUITABILITY AND OTHER ADVISER OBLIGATIONS.

(a) AMENDMENT.—Section 206 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-6) is amended to read as follows:

"PROHIBITED TRANSACTIONS BY INVESTMENT ADVISERS

"SEC. 206. (a) PROHIBITED CONDUCT.—It shall be unlawful for any investment adviser or any person associated with an investment adviser, by use of the mails or any means or instrumentality of interstate commerce, directly or indirectly—

"(1) to employ any device, scheme, or artifice to defraud any client or prospective client;

"(2) to engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client;

"(3) acting as principal for his own account, knowingly to sell any security to or purchase any security from a client, or acting as broker for a person other than such client, knowingly to effect any sale or purchase of any security for the account of such client, without disclosing to such client in writing before the completion of such transaction the capacity in which he is acting and obtaining the consent of the client to such transaction;

"(4) to engage in any act, practice, or course of business which is fraudulent, deceptive, or manipulative;

"(5) to provide investment advice to any client, other than in connection with impersonal advisory services, unless the adviser—

"(A) prior to providing any investment advice, and as appropriate thereafter, makes a reasonable inquiry into the client's financial situation, investment experience, and investment objectives;

"(B) reasonably determines that the investment advice is suitable for the client; and

"(C) maintains reasonable records, in accordance with such rules as the Commission shall prescribe, of the information obtained from the inquiries the adviser made in complying with this paragraph; or

"(6) to guarantee a client that a specific result will be achieved as a result of the advisory services provided by the investment adviser.

"(b) EXEMPTIONS AND SPECIAL RULES.—

"(1) EXEMPTION.—The prohibitions of subsection (a)(3) shall not apply to any transaction with a customer of a broker or dealer if such broker or dealer is not acting as an investment adviser in relation to such transaction.

"(2) AUTHORITY TO DEFINE AND PRESCRIBE.—The Commission shall, for the purposes of subsection (a)(4), by rules define, and prescribe means reasonably designed to prevent, such acts, practices, and courses of business as are fraudulent, deceptive, or manipulative.

"(3) DEFINITION OF IMPERSONAL ADVISORY SERVICES.—As used in subsection (a)(5), the term 'impersonal advisory services' means any investment advisory services provided—

"(A) by means of written material or oral statements which do not purport to meet the objectives or needs of specific individuals or accounts;

"(B) through the issuance of statistical information containing no expression of opinion as to the investment merits of a particular security; or

"(C) by any combination of the foregoing services.".

(b) RULEMAKING REQUIRED.—The Commission shall prescribe rules for purposes of paragraph (5)(C) of section 206(a) of the Investment Advisers Act of 1940 (as added by subsection (a) of this section) within one year after the date of enactment of this Act.

SEC. 6. ADDITIONAL DISCLOSURE OBLIGATIONS OF INVESTMENT ADVISERS.

(a) ADDITIONAL OBLIGATIONS.—Section 204 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-4) is amended—

(1) by striking the heading of such section and inserting the following:

"PERIODIC REPORTS AND OTHER DISCLOSURE REQUIREMENTS";

(2) by inserting "(a) PERIODIC AND OTHER REPORTS.—" after "SEC. 204."; and

(3) by adding at the end the following new subsections:

"(b) BROCHURE REQUIRED.—

"(1) IN GENERAL.—Each person registered under section 203 of this title shall disseminate to each client or prospective client a document disclosing material facts concerning matters listed in paragraphs (2) and (3) and such other matters as the Commission shall prescribe. In order to provide for timely and effective disclosure of such facts and matters to clients, the Commission shall by rule prescribe the format of the document and the timing of its dissemination.

"(2) CONTENTS OF BROCHURE.—The document required by paragraph (1) shall include information concerning—

"(A) the education and business background of such person and of any associated person providing significant investment advisory services to the client,

"(B) compensation arrangements between the client and the investment adviser,

"(C) the nature of services offered,

"(D) business practices,

"(E) methods for obtaining information on the disciplinary history and registration of the investment adviser and persons associated with the investment adviser, and

"(F) conflicts of interest which could reasonably be expected to impair the rendering of disinterested advice.

"(3) PROMINENT DISCLOSURES.—Such document shall also prominently disclose—

"(A) that—

"(i) the registered person receives or may receive, directly or indirectly, sales commissions or other fees in connection with a purchase or sale effected on behalf of a client; or

"(ii) the registered person will not receive, directly or indirectly, any sales commission or other fees in connection with such purchase or sale, but the client may be charged a sales commission or other fee by another person in connection with such purchase or sale; and

"(B) that remedies may be available to the client with respect to disputes arising out of the advisory relationship.

"(4) DEFINITION.—The Commission shall define 'associated person providing significant investment advisory services to the client' by rule for purposes of this subsection.

"(c) TRANSACTION REPORTS.—

"(1) INITIAL DISCLOSURE.—Before a purchase or sale is effected on behalf of any client, each registered investment adviser shall, in accordance with rules prescribed by the Commission, disclose to the client the total amount of commissions, fees, or other charges that may reasonably be expected to be charged in connection with the transaction (or, in the case of payments from third parties, that a payment will be received) and that the adviser or a related person will receive a portion of the commission, fee, charge, or payment. Such initial disclosure shall be in writing if the purchase or sale was recommended in writing.

"(2) CONFIRMATION.—After a purchase or sale is effected, each registered investment adviser shall transmit to each client a written statement that discloses the amount of commissions, fees, or other charges charged in connection with the transaction (or, in the case of payments from third parties, that a payment has been or will be received). Such written statement shall be in such form and contain such information, and be provided in accordance with such rules, as the Commission shall prescribe. Such rules shall, to the extent consistent with the protection of investors, permit delivery of a confirmation statement of a broker or a dealer that includes information that meets the requirements of this subsection (and the rules adopted thereunder) in order to satisfy such requirements.

"(3) WAIVER.—The Commission may, by rule, permit an investment adviser to omit disclosure required by this subsection with the knowing written consent of the client.

"(4) EXCEPTIONS.—This subsection shall not apply—

"(A) with respect to any purchase or sale for which the investment adviser, and any person associated or under common control with the investment adviser, will not receive any portion of the amount charged or deducted in connection with the purchase or sale, and will not receive any payment from a third party required to be disclosed under paragraph (1);

"(B) with respect to accounts for which the person is authorized to exercise investment discretion; or

"(C) with respect to any account for which the person is not acting as an investment adviser.

"(5) SPECIAL RULE.—The provisions of this subsection shall also apply to any person associated with an investment adviser effecting transactions for advisory clients through a broker or dealer with which the person is associated.

"(d) PERIODIC REPORTS.—

"(1) IN GENERAL.—Each registered investment adviser shall provide to each client a periodic written statement in such form and containing such information as the Commission shall prescribe by rule consistent with the public interest, the protection of investors, and the purposes of this title. Such rule shall require the disclosure of—

"(A) commissions, fees, or other charges paid by the client during the period for services provided by the investment adviser and any person associated or under common control with the investment adviser;

"(B) compensation directly or indirectly received during the period by the investment adviser, or any person associated or under common control with the investment adviser, from any third party with respect to any recommended transaction;

"(C) in the case of a client account for which the investment adviser provides investment supervisory services, securities positions held in the account at the beginning and at the end of the period; and

"(D) such other matters as the Commission shall prescribe.

"(2) COMMISSION RULES.—The rule prescribed by the Commission pursuant to paragraph (1) shall require that the format and timing of delivery be designed to present the required information in a manner that readily permits clients to compare the costs charged by the investment adviser with the costs charged by other advisers. In adopting such rule, the Commission shall require an investment adviser whose clients purchase or sell investment products through persons other than such adviser, or persons associated or under common control with such adviser, to disclose to its clients that such information concerning costs charged does not include commissions or other fees paid in connection with such purchases or sales. Such rule shall, to the extent consistent with the protection of investors, permit delivery of a report of a broker or dealer that includes information that meets the requirements of this subsection (and the rules adopted thereunder) in order to satisfy such requirements.

"(3) WAIVER.—The Commission may, by rule, permit an investment adviser to provide the statement required by paragraph (1) no more frequently than annually if the client knowingly waives, in writing, the right to obtain such statement more frequently than annually.

"(4) EXCEPTION.—This subsection shall not apply with respect to any account for which the person is not acting as an investment adviser.

"(e) FACILITIES FOR FILING RECORDS AND REPORTS; ACCESS TO DISCIPLINARY AND OTHER INFORMATION.—

"(1) FILING DEPOSITORIES.—The Commission, by rule, may require any investment adviser—

"(A) to file with the Commission any fee, application, report, or notice required by this title or by the rules issued under this title through any entity designated by the Commission for that purpose; and

"(B) to pay the reasonable costs associated with (i) such filing, and (ii) the maintenance of the toll-free telephone listing required by paragraph (2).

"(2) LISTING FOR TOLL-FREE INQUIRIES.—The Commission shall require the entity designated by the Commission to receive fees, applications, reports, or notices pursuant to paragraph (1) to—

"(A) establish and maintain a toll-free telephone listing to receive inquiries regarding the disciplinary and other information involving investment advisers and persons associated with investment advisers; and

"(B) respond promptly to such inquiries in writing.

Such designated entity may charge persons, other than individual investors, reasonable fees for the cost of providing written responses to inquiries. Such designated entity shall not have any liability to any person for any actions taken or omitted in good faith under this paragraph.".

(b) RULEMAKING REQUIRED.—The Commission shall prescribe rules for purposes of subsections (b), (c), and (d) of section 204 of the Investment Advisers Act of 1940 (as added by subsection (a) of this section) within one year after the date of enactment of this Act.

SEC. 7. BOND REQUIREMENT.

Section 208 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-8) is amended by adding at the end the following:

"(e) BOND REQUIREMENT.—

"(1) IN GENERAL.—The Commission, by rules for the protection of investors, shall require any investment adviser registered under section 203 who—

"(A) is authorized to exercise investment discretion, as defined in section 3(a)(35) of the Securities Exchange Act of 1934, with respect to an account,

"(B) has access to the securities or funds of a client, or

"(C) is an investment adviser of an investment company, as defined in section 2(a)(20) of the Investment Company Act of 1940,

to obtain a bond from a reputable fidelity insurance company against larceny and embezzlement in such reasonable amounts and covering such officers, partners, directors, and employees of the investment adviser as the Commission may prescribe.

"(2) CONSIDERATIONS IN RULEMAKING.—In implementing paragraph (1), the Commission shall consider—

"(A) the degree of risk to client assets that is involved;

"(B) the cost and availability of fidelity bonds;

"(C) existing fidelity bonding requirements; and

"(D) any alternative means to protect client assets.

"(3) EXEMPTION AUTHORITY.—The Commission by rule may exempt any person or class of persons, under such terms and conditions and for such periods as the Commission shall provide in such rule, from the requirements of this subsection and the rules thereunder.".

SEC. 8. DISQUALIFYING CONDUCT.

(a) AMENDMENT.—Section 203(e) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3(e)) is amended—

(1) by redesignating paragraphs (3) through (7) as paragraphs (4) through (8), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) has been convicted within ten years preceding the filing of any application for registration or at any time thereafter of any crime that is punishable by imprisonment for one or more years and that is not described in paragraph (2) of this subsection or of a substantially equivalent crime by a foreign court of competent jurisdiction.".

(b) CONFORMING AMENDMENTS.—Section 203 of such Act is further amended—

(1) in subsection (e)(6) (as redesignated by subsection (a) of this section), by striking "this paragraph (5)" and inserting "this paragraph (6)";

(2) in subsection (f)—

(A) by striking "paragraph (1), (4), (5), or (7)" and inserting "paragraph (1), (5), (6), or (8)"; and

(B) by striking "paragraph (3)" and inserting "paragraph (4)"; and

(3) in subsection (i)(1)(D), by striking "section 203(e)(5) of this title" and inserting "subsection (e)(6) of this section".

SEC. 9. CONFIDENTIALITY.

Section 208 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-8), as amended by section 7, is further amended by adding at the end the following new subsection:

"(f) DISCLOSURE OF CLIENT INFORMATION PROHIBITED.—

"(1) ADVISER DISCLOSURE.—It shall be unlawful for any investment adviser to disclose any personally identifiable financial information with respect to any client unless required by law to do so, or unless—

"(A) the client has been adequately informed of the proposed information disclosure, in accordance with rules prescribed by the Commission, and (i) has been afforded the opportunity, in accordance with such rules, to object to the disclosure, and (ii) has not objected or has affirmatively consented;

"(B) the information disclosed is necessary and appropriate in order to establish an advisory or brokerage account or to effect or attempt to effect a transaction for the client;

"(C) the information (i) is requested by representatives of the Commission, a State agency whose primary assignment is the regulation of the securities business, or a self-regulatory organization, or (ii) is requested by subpoena; or

"(D) the information is requested by the client's auditors or accountants.

"(2) SECONDARY DISCLOSURE.—It is unlawful for any person to whom information is disclosed for the purpose described in paragraph (1)(B) to use such information for any purpose other than the effectuation of the client's transaction.".

SEC. 10. CUSTODIANSHIP.

(a) FINDINGS.—The Congress finds that—

(1) most clients of investment advisers who give their advisers discretionary authority over their securities and funds provide for the safekeeping of their securities and funds with a custodian;

(2) it is a customary business practice for custodians to provide reports of the transactions in client accounts directly to clients;

(3) such direct reporting provides an important safeguard against improper use of client assets; and

(4) permitting advisers to serve as the sole recipient of custodial account communications has allowed, and may continue to allow, unscrupulous persons to misuse client assets, causing substantial losses for those clients.

(b) REPORT.—The Commission, within 18 months of enactment of this Act, after consultation with the appropriate Federal banking agencies (as such term is defined in section 3(q) of the Federal Deposit Insurance Act), shall submit a report to Congress—

(1) analyzing the risks to investors when an investment adviser is made the sole recipient of communications from the custodian or when an investment adviser or affiliate thereof serves as the custodian; and

(2) making any recommendations the Commission believes are necessary to eliminate or reduce these risks.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. MARKEY] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 578, the Investment Advisers Regulatory Enhancement and Disclosure Act. This bill, sponsored by Congressman BOUCHER, myself, Chairman DINGELL, and others, is the culmination of a lengthy effort to bring appropriate regulation to the world of financial planning. I would like to commend the gentleman from Virginia, in particular, for his hard work and persistence in pursing this very important investor protection issue.

Investment advisers and financial planners are perhaps the least regulated of all the members of the securities industry. The industry has grown explosively in the recent past, in part in response to demand by consumers who find the investment world scary, complex, and often overwhelming. As bank CD rates have deflated, so more and more consumers are moving into the securities markets, and in doing so are soliciting the advice of financial professionals. Unfortunately, those who are forced to depend on the kindness of strangers for investment advice are not always protected from those that mean them harm. As we have seen time and again in other areas, the law and regulation have not kept up with market developments. The Securities and Exchange Commission, charged with regulating the investment adviser industry, is egregiously underfunded in this area, and the number of inspectors, 48, available to keep tabs on an industry rife with the opportunity, if not in all cases the reality, of abuse, is laughable.

Today, there are about 18,400 investment advisers providing what their clients hope is well-informed and objective advice about how to invest their hard-earned money. Over the 11 years between 1981 and 1992, the number of planners and advisers registered with the SEC skyrocketed by over 260 percent. Assets managed by advisers rose from $450 billion to $9.8 trillion, an increase of more than 2,000 percent. This amount represents almost four times the amount deposited in U.S. commercial banks. Given the explosive growth of this industry, something has had to give, and that something has been regulatory oversight and investor protection.

Clearly, increasing inspections of advisers from once every 30 years to once every 5 years helps, and our bill would accomplish that goal. But increased regulatory scrutiny alone cannot solve the problems endemic to this industry. In my subcommittee's hearings on this issue, we have heard from numerous small investors from all parts of the country who sought the advice of investment advisers in an effort to obtain educated, disinterested and comprehensive advice about how to invest their savings. But instead of an objective assessment of their financial needs and a program designed to meet them, they received self-interested plans that form a veritable roadmap of the highest commissions in the securities business. Better SEC oversight alone cannot stem such abuses. Investors must be equipped with the facts they need to make informed decisions and to arm themselves against predatory practices. Our bill would do just that.

While unsophisticated investors are the easiest targets for unscrupulous financial planners, even relatively sophisticated investors can be taken in by investment advisers who, like modern-day Pied Pipers, play the sweet tune of high returns and low risk. Steven Wymer, president of Institutional Treasury Management, and the perpetrator of one of the most egregious investment adviser frauds in history, was just such a Pied Piper, harming various cities, towns, and governmental entities to the tune of hundreds of millions of dollars. Mr. Wymer is now under indictment and has pled guilty to nine felony counts. He is due to be sentenced tomorrow afternoon, and faces a substantial prison term, but he will never be able to repay the millions of dollars he stole from the people of California, Colorado, and Iowa, many of whose towns are suffering budget emergencies, service cuts, and spending freezes as a result of his actions.

Some might say that in the face of a well-planned and well-executed fraud like Mr. Wymer's, we should just throw up our hands and acknowledge that we can't prevent all crimes. But I take from Mr. Wymer's sordid tale a different lesson. That lesson is that while it is never possible to plug every hole, we have an obligation to do far more than blindly throw money at the problem. The House bill does more:

It bolsters SEC regulation of investment advisers through higher fees dedicated to SEC inspections, risk-targeted examinations, and authority for the SEC to delegate to an SRO certain inspection responsibilities;

It requires investment advisers to recommend only suitable investments to their clients;

It provides for better disclosure of conflicts of interest and other relevant information through a three-tiered disclosure system including a brochure and transaction and periodic reporting;

It requires investment advisers with discretion over or custody of client assets to obtain a fidelity bond;

It safeguards the confidentiality of personally identifiable financial information;

It provides for a toll-free number for investors to call regarding their adviser's disciplinary history; and

It addresses the problem highlighted by the Wymer case where custodians failed to provide account information to their custodial clients, thereby facilitating a dishonest adviser's ability to conceal fraud.

These provisions are critical for the millions of Americans who each year entrust their future and that of their families to investment advisers and financial planners. I urge you to vote for this important legislation.

□ 1310

Mr. Speaker, this is a solid piece of legislation, and it is one that many people deserve praise for: Consuela Washington, who was counsel for the full Committee on Energy and Commerce; to Merrill Spiegel, working for the gentleman from Virginia [Mr. BOUCHER]; to Steve Blumenthal and Peter Rich, who work with the minority, ensuring that the gentleman from Texas [Mr. FIELDS], the ranking minority member, and the gentleman from California [Mr. MOORHEAD], the ranking minority member on the full committee, were included from step one all the way through the transaction, and on my own staff, to Dolores Daly and to David Moulton and to Jeff Duncan and especially to Elise Hoffmann, who has worked on this legislation tirelessly for 3 years in bringing it to this point.

I want to close by congratulating and thanking the ranking minority member of the subcommittee, the gentleman from Texas [Mr. FIELDS] for making it possible for us to put together legislation in this fashion. It is a tribute to him that we are able to bring legislation out on the floor that has this kind of bipartisan cooperation.

It is our goal to ensure that that be the way in which all legislation be dealt with between the majority and minority.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 578.

As the population of the United States grows older and the need for financing a child's education or providing security in retirement grows more important, financial planning services are sought by more Americans.

Most financial advisers are honest, conscientious people who do a great job for their clients. Unfortunately, we must be sure that we are being protected from the small percentage of frauds and crooks who would take advantage of their clients. H.R. 578 will go a long way toward improving the protection of investors who use the services of investment advisers.

Unfortunately, enactment of this legislation will come too late for some. In hearings before the Energy and Commerce Committee, we listened to painful testimony that large and small California and Iowa cities, counties, and school districts have been defrauded of hundreds of millions of dol-

lars. The losses they suffered occurred because they invested with a 43-year-old investment adviser named Steven Wymer. Mr. Wymer has now plead guilty to stealing $174 million from his clients.

State and local government entities have become big investors. Years ago, idle funds gathered dust, not interest, for the relatively brief period between the time property and other taxes were collected and the revenue was used to pay the bills. Local banks that held the money enjoyed reinvestment revenues, and advocates of good government reasoned correctly that the taxpayers deserved at least a share of that revenue. New laws let government entities shop anywhere for the best deal. This is fertile ground for a fraud like Steven Wymer.

The millions of dollars that were lost to Wymer's fraud came out of the pockets of Iowa farmers struggling to make a living. It came from the profits of small shopkeepers and from the checking accounts of young California families with modest homes. It was money gathered from thousands and thousands of Californians and Iowans, funneled into local treasuries, to a statewide trust, and finally to the personal account of a wheeler dealer. Mr. Wymer's conversion of funds entrusted to him imperils the financial security of the retirement of thousands of dedicated civil and public servants. No one can be proud of the Wymer story.

Unfortunately, investment adviser regulation has not been accorded the high priority it deserves at the Securities and Exchange Commission. Despite the enormous growth of the financial planning industry over the last decade, and the proliferation of new and complex investments, somehow SEC budget dollars and staff allocations have been directed toward programs that seem more important at that moment. That situation may be understandable, but events have underscored the need to bring it to an end.

The SEC is without a program of regular adviser examinations. At our hearings, we learned the Commission actually moved some staff out of the adviser examination program to perform other duties. The agency seems to be without the will to transfer people and funds from other departments and to devote them to investment adviser examinations. Congress cannot micromanage the agency, and indeed, it would not make sense to create manpower and resource shortages in other divisions of the Commission just to staff the adviser examination program. It is bad public policy to force the agency to rob Peter to pay Paul. The only logical answer is to provide additional funding and mandate an adequate examination program. H.R. 578 provides such new funds for the Commission. It also contains a mechanism by which the SEC can call upon the resources of the industry itself, and provide for examination of those investment advisers who are affiliated with brokerdealers. This is consistent with the congressionally approved program of securities industry self regulation and I wholeheartedly support it.

Perhaps the issue that has most focused people on the need for this legislation, however, is the need to build a federal system of regulation for financial planners. Financial planing regulation is the weak underbelly of the financial services community. Frequently the least trained, and certainly the least overseen, financial planner incompetence and breach of duty is collectively a much greater threat to the financial security of investors than a single fraud like Steven Wymer ever could be. The inadequacy of financial planning regulation is a national problem, and it is time that we recognized that it is a congressional concern.

Many of the State legislatures have addressed the issue of who is a financial planner and what is the appropriate regulation of the industry. Most are satisfied their investment adviser acts provide an adequate regulatory framework. But not even the largest States have the budget and manpower resources to enforce a comprehensive scheme of regulation of the large number of independent financial planners. The issue that concerns us as the national legislature, of course, is whether the problem has grown so large that it exceeds the resources of the States to control it. I believe it has. Certainly, State regulation did not deter Mr. Wymer.

I will not minimize my concerns. I am horrified at the abuses that are reported in the studies of the numerous examples of fraud, breach of fiduciary duty, and even outright stealing and embezzlement by people calling themselves financial planners.

We must be careful, however, not to increase the costs of doing business in this country by adding another layer of regulation on top of legitimate professions and industries. Because we are sensitive to the burden compliance with additional regulation places on small businesses and individual practitioners, the most potentially burdensome disclosure requirements have been drafted in a way to minimize the impact on small businesses. We must always be aware of the costs imposed by the additional disclosure and other regulatory requirements contained within this legislation. Investment adviser legislation in the other body differs significantly from the House approach, particularly in the area of requiring additional disclosures, and much remains to be done before a bill can be placed before the President for his signature.

H.R. 578 represents the most significant revision of the Investment Advisers Act in almost 20 years. When passed, it will join other legislation reported by this committee and enacted into law modifying the Securities Act of 1933, and the Securities Exchange Act of 1934, to reform the markets and curb insider trading, provide new SEC additional enforcement remedies, and eliminate the abuses of the penny stock market. Enactment of this legislation brings to a conclusion a bipartisan effort that began 4 years ago with the introduction of a bill by my good friend from Virginia, Congressman BOUCHER. I want to commend him on this fine legislation, and for his persistent and tenacious effort to secure its adoption. I also want to commend Chairmen DINGELL and MARKEY for their efforts. Finally I make special note of the significant contributions to the deliberations of the committee by Congressman MICHAEL OXLEY. In addition to his own work as the ranking Republican on the Subcommittee on Transportation and Hazardous Waste, Congressman OXLEY has been an enormous help to the energy and commerce minority and its full and subcommittee ranking members in leading the effort of the Telecommunications and Finance Subcommittee on this legislation.

In addition, I would like to commend JACK FIELDS, the ranking Republican on the Subcommittee on Telecommunications and Finance and all the members of that panel for their hard work in crafting this legislation.

□ 1320

Mr. Speaker, I reserve the balance of my time.

Mr. MARKEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Speaker, I rise today in strong support of H.R. 578, legislation that will provide for more thorough oversight of investment advisers by the Securities and Exchange Commission. Too often during the past several years members of the Energy and Commerce Committee have heard testimony highlighting fraud and manipulation in our financial markets. Whether it is manipulation in the Government securities markets, insider trading, or multimillion dollar pyramid schemes, our Nation's investors have time and again been subjected to the backlash of greedy schemes run by greedy people.

As a credit to the committee, led by Chairman DINGELL, subcommittee Chairman MARKEY and others, including the original sponsor of today's bill, RICK BOUCHER, we in Congress have been able to consistently, and aggressively, address fraud in the markets, in whatever form it may arise. The Investment Advisers Act is simply the latest in a long line of market fraud prevention measures proposed by the committee.

Our hearings on this issue have shown that investment advisers are, perhaps, the least regulated segment of the securities industry. During the past 12 years the number of investment advisers has more than tripled from 5,100 in 1981 to 18,700 in 1992. During the same period, the assets under their management grew from $450 million to more than $8 trillion. Unfortunately this explosion was not matched by anywhere near the proper regulatory response. During the last decade, the SEC, the only industry regulator, struggled to increase the number of examiners overseeing investment advisers from 36 to 48.

H.R. 578 is a well-crafted legislative response to the woefully deficient regulatory framework overseeing investment advisers. The bill, which I am glad to cosponsor, sensibly and effectively protects investors from unscrupulous investment advisers by mandating fuller disclosure, tighter registration requirements, more vigorous SEC enforcement and investigation, strong suitability requirements, and oversight of investment advisers by self-regulatory organizations.

Congress needs to quickly pass this bill so we can protect our constituents from those unscrupulous financial finaglers who like to make a fast buck and do not care how they do it.

Mr. MARKEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. BOUCHER].

Mr. BOUCHER. Mr. Speaker, I would like to express my appreciation to the gentleman from Massachusetts [Mr. MARKEY], the chairman of the Subcommittee on Telecommunications and Finance, for yielding me this time, and also for his very able assistance and that of his staff in helping to develop this measure which has been a high priority of mine for the last several years.

Mr. Speaker, I would also like to express my appreciation to the gentleman from California [Mr. MOORHEAD] and the gentleman from Texas [Mr. FIELDS] for their assistance and cosponsorship of the measure.

Consumers who are entrusting their financial decisionmaking, and often their life savings, to financial planners need greater protection than the current law affords. It is estimated that investors are losing up to $1 billion annually because of inappropriate conduct on the part of financial planners and investment advisers. These are all avoidable losses.

This money is not lost because of the normal risks that are associated with investing. The losses do not arise from the typical fluctuations of the stock and bond and commodities markets. These losses occurred as a result of malfeasance on the part of financial consultants. Some simply steal the money. Others exhaust their customers' assets through the churning of accounts, earning for themselves fees from an unjustifiably large number of financial transactions.

Some planners lack any specialized training or education, and through their incompetence, make recommendations that result in investor losses.

A more subtle but pervasive problem is the hidden conflict of interest in which the investment adviser receives a special fee or commission anytime a financial product that he recommends is sold. He does not disclose to his customer the fact that he receives that special fee or commission, and as a consequence, the incentive is very great for the investment adviser to recommend products for which he will receive the largest fee or commission, and oftentimes these are the most risky kinds of investments such as limited-partnership interests, an area in which there has been a great deal of abuse.

The other phenomenon that we have noticed is that advisers who receive special fees or commissions very often recommend the same kind of investment to people with very different financial circumstances. Oftentimes the young couple that is just making its way in life will get exactly the same kind of recommendation from an investment adviser that he makes to the senior couple preparing to enter retirement. Obviously that kind of investment is wrong for one couple or the other, and in many instances is wrong for both. That particular financial planner holds himself out as offering objective advice to his clients, but, in fact, he is nothing more than a salesperson for a particular financial product, and it is his own financial interest that he is seeking to foster instead of that of his client.

There is no entrance examination for this industry. In fact, there is no entry requirement of any kind beyond the payment of a one-time fee of $150 and the filing of a registration form at the SEC. Anyone can become a registered financial planner or investment adviser.

Compounding that problem is the lack of adequate personnel at the SEC to oversee the industry.

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During the past decade the number of registered investment advisers has risen from 5,100 to 18,400, and the assets that they have under management have soared from $450 billion to more than $8 trillion. During that same period of one decade, the number of examiners at the SEC devoted to overseeing the industry has risen by only 12, from an inadequate 36 in 1980 to an even more inadequate 48 today.

The typical investment adviser can expect to be examined and have oversight of his activities only once every 30 years.

A reform of the law is obviously needed.

Consumers must have a reliable means of learning more about the financial planner with whom they deal, learning more about the education of that planner, about his business background and his disciplinary history, and learning more about whether the advice they are receiving is really in their interest or is designed to promote the financial interest of the planner himself. The SEC must be provided with adequate resources to oversee the industry.

The legislation we offer today is that comprehensive reform, and it does meet that test. It contains a number of investor protections.

It addresses the problems of the hidden conflict of interest by requiring that all fees or commissions received when a particular financial product is sold be disclosed. It provides that the financial planner must inquire into the financial resources of his client and into the investment objectives of that client and keep a very careful record of those inquiries to make sure that he is giving an eye toward the suitability of particular investments for particular clients.

Any time the financial planner will have custody over his client's funds or investment discretion with regard to those funds, he will be required to obtain a fidelity bond, so that if he through fraud or other means steals the funds, the client will have recourse.

We say that no one who has been convicted of a felony may be a registered investment adviser, and we provide the new resources for the SEC to appropriately oversee this industry. Today there is a one-time registration fee of $150. Our legislation would impose an annual fee that would be based on the size of the assets that the particular financial planner has under management. And we direct the SEC to use those new resources to hire the inspectors and refocus their efforts on newly registered advisers, the advisers who have custody over client funds or discretion with regard to investing those funds, and advisers with regard to whose conduct complaints are generated.

The original bill that I introduced has been significantly strengthened by the efforts of the gentleman from Massachusetts, Chairman MARKEY, and the subcommittee staff, and the gentleman from Texas [Mr. FIELDS] and the gentleman from California [Mr. MOORHEAD] and the staff on the Republican side.

I particularly want to thank Mr. MARKEY for his recommendation that the SEC maintain a special 800 number which can be called by any person in the United States in order to find out about the disciplinary history of the investment adviser with whom that client is dealing. That is a much-needed

reform, and a number of the other provisions that Mr. MARKEY has recommended and are a part of this measure strengthen it considerably as well.

Given the busy nature of the subcommittee that the gentleman, Mr. MARKEY, chairs and the various items that are presently on its agenda, I particularly want to thank him for his early attention to this measure, for moving it forward quickly through the subcommittee, the full Committee on Energy and Commerce, and for bringing it today to the floor of the House.

Mr. Speaker, it is a comprehensive reform. It will contain the consumer protections that are so badly needed, given the explosive growth of this largely unregulated industry today. I am pleased to urge our colleagues in the House of Representatives to approve the measure.

Mr. MOORHEAD. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. FIELDS], the ranking Republican on the subcommittee.

Mr. FIELDS of Texas. Mr. Speaker, I rise in support of H.R. 578, the Investment Adviser Regulatory Enhancement and Disclosure Act of 1993.

Congress enacted the Investment Advisers Act of 1940 to protect the public from the unscrupulous investment advisers. Over the five decades of its existence the act seemed to work well. The activities of advisers rarely produced headlines announcing scandals as have the actions of penny stock brokers and insider traders. But events of the last few years have shown us that we were lulled into a false sense of security.

While the regulatory framework for advisers is well conceived, the ability of the SEC to enforce the law has been lacking. The SEC has not had sufficient resources to operate an effective inspection program. At the current levels at which Congress funds the agency, and with the staff allocations to the examination function made by the SEC itself, the 17,000 investment advisers registered with the SEC can expect a routine examination approximately once every 30 years.

If that is not troubling enough, the inattention of Congress sent the wrong message to the SEC. As the Telecommunications and Finance Subcommittee held hearings on this bill, it became apparent the SEC had a policy of not applying even those resources it does have to adviser regulation. Employees responsible for adviser exams were actually assigned to other duties. There is even evidence that the lack of funding for routine adviser examinations lead to superficial investigations in those instances when the agency had cause to examine. This was a prescription for disaster and disaster occurred.

Observers of the marketplace were horrified by news reports of an SEC registered investment adviser, named Steven Wymer, abusing the trust of his investment advisory client. He succeeded in imperiling the financial security and retirement of thousands of employees of States, cities, and municipalities around the country. The SEC actually examined Mr. Wymer for cause on three separate occasions over several years. On two occasions the SEC was incorrectly satisfied that his illegal activities were nothing more than minor administrative violations, to be corrected without enforcement action. When the house of cards was finally brought down, it became clear that Mr. Wymer's fraud had been operating in spite of the SEC cause examinations, and he succeeded in stealing $174 million of the funds of the employee pension and public project funds entrusted to him.

The increased attention our committee has given the inadequacy of the SEC adviser examination program should, hopefully, underscore for the Commission that Congress is not writing a blank check to the agency. We demand significant improvement in the regulation of financial planners. We must end the anomaly of more and more investors using investment advisers while fewer law enforcement resources are applied to adviser regulation.

In enacting this legislation Congress tells the SEC to do more with its appropriation than increase the number of employees on its payroll. We need better regulation, not just more regulation. The bill expands the antifraud provisions of the Advisers Act to include persons associated with advisory firms. For the first time the SEC will be able to move against employees of advisory firms and financial planners operating through contractual agreements with broker-dealers without having to resort to convoluted legal theories.

New and higher levels of disclosure of conflicts of interest are mandated in the bill. Customers will be assured of having regular reports of trading activity to meet their obligations of overseeing their own accounts Some concerns have arisen that the periodic reporting requirements of this legislation could be misinterpreted as authorizing duplicative reports and disclosure. This is not our intent. In writing regulations pursuant to this legislation, the SEC should accept existing disclosure whenever adequate.

We must be careful not to increase the costs of the securities industry in particular by burdening it with inappropriate investment adviser regulation. No matter how well meaning our efforts are to secure additional disclosure of potential conflicts of interest arising from compensation agreements and incentives, we must recognize that we are imposing new costs of doing business on legitimate entrepreneurs. The gains from these additional regulations must be commensurate with the additional costs being imposed, as the costs will undoubtedly be passed on to customers.

We have spent many hours polishing and refining the provisions of this legislation as it proceeded through the Telecommunications Subcommittee. Wherever possible we eliminated burdens that will fall more heavily on the shoulders of the small business professions that make up the bulk of the advisory profession. We will continue to fine tune the legislation we enact today when we go to conference to reconcile this bill with that which will be passed by the other body.

Mr. Speaker, I want to compliment Congressman RICK BOUCHER for his efforts over the years on behalf of this bill. I am happy to be an original cosponsor of the legislation and to see it enacted by the House today. I also commend subcommittee chairman, ED MARKEY, as we well as committee chairman, JOHN DINGELL, and ranking Republican, CARLOS MOORHEAD, for their leadership. I also want to thank my friend from Ohio, Congressman MICHAEL OXLEY, for his efforts on behalf of the subcommittee during its consideration of the legislation.

□ 1340

Mr. MARKEY. Mr. Speaker, I yield myself the final 30 seconds just to note that the chairman of the full committee, the gentleman from Michigan [Mr. DINGELL] is wholeheartedly in support of this and has played an integral role in bringing it to this point.

I want to once again congratulate the gentleman from Virginia [Mr. BOUCHER], the gentleman from Texas [Mr. FIELDS], and the gentleman from Ohio [Mr. OXLEY], and the gentleman from California [Mr. MOORHEAD] and all the rest of the people who made it possible for us to bring this legislation to the floor.

Mr. DINGELL. Mr. Speaker, today the Committee on Energy and Commerce is bringing to the House floor legislation to correct deficiencies in the current framework for overseeing and regulating investment advisers.

Current SEC resources are woefully insufficient to fund an examination and supervisory program adequate to the task of regulating the more than 18,400 advisers currently registered with the SEC, let alone to searching out and taking action against those operating outside the law. Over the past 11 years, the examination cycle for registered investment advisers has slowed from once every 12 years to once approximately every 27 years. Tremendous growth in the adviser industry has been severely undermatched by increases in SEC resources available for regulation of the industry. For example, on average, about 60 percent of the advisers registered for more than 1 year in the SEC's Chicago, Denver, Los Angeles, and New York regions have never been inspected. These regions are responsible for inspecting approximately 59 percent of the total registered investment adviser population.

This is an open invitation to fraud and chicanery against the citizens of this country who increasingly rely on financial planners and investment advisers, as their saving and investing decisions have become more complex and riskier.

Some of the more egregious abuses associated with the investment advisory industry are highlighted by a recent case involving a California investment adviser, Steven Wymer, who managed over $1 billion for more than 60 State and local government entities. Wymer, through his company, Institutional Treasury Management [ITM], had close to 100 clients, of which 12 were financial institutions and 6 were pools of funds—like the Iowa trust, a pool of numerous local Iowa municipalities—whose participants numbered approximately 250. On December 9, 1991, the SEC filed a complaint seeking a temporary restraining order, preliminary and permanent injunctions and other relief, charging Wymer with fraud in connection with his diversion of clients' funds. On January 2, 1992, Wymer was indicted on 30 counts of securities fraud, mail fraud, money laundering, making false statements to SEC staff and obstruction of justice. On September 29, 1992, the SEC and the U.S. attorney's office, central district of California, jointly announced a global settlement of the civil and criminal actions against Wymer. Wymer pleaded guilty in the criminal action to a nine-count felony information and, in the SEC's civil action, he was ordered to pay approximately $209 million to his 19 defrauded advisory clients. Wymer, who is currently awaiting criminal sentencing, faces up to maximum of 100 years incarceration, a 5-year period of supervised release, and other monetary penalties. As a result of Wymer's fraud, approximately 19 of his clients lost all or nearly all of their funds under his management, totaling approximately $174 million.

Wymer preyed upon small towns and municipalities whose funds often were managed by inexperienced treasurers, many of whom worked only part time.

H.R. 578 provides the SEC with additional resources with which to conduct inspections and other regulatory activities with respect to registered investment advisers. H.R. 578 also provides enhanced protection to investors employing the services of investment advisers, including financial planners, by increasing the frequency of SEC examinations of high-risk advisers, by establishing a mechanism for the identification of unregistered advisers, by establishing an express suitability standard, by improving disclosures of conflicts of interest and other pertinent information, by requiring fidelity bonds of certain advisers, by making provision for the establishment of a toll-free telephone listing to receive inquiries regarding disciplinary information concerning investment advisers, and by providing for client financial information to remain confidential unless consent is given for it to be disclosed.

OMB has asked that we confirm that both the collection and expenditure of the fees collected pursuant to authority of H.R. 578 are triggered by appropriations acts, and that no moneys may be collected or expended unless and until appropriated. Separately, with respect to the periodic reports under new section 204(d), we believe that the SEC may require thereunder the disclosure of certain soft dollar practices in order to alert account owners of the extent to which their accounts are affected by such practices. An investment adviser has a duty to disclose to clients all potential or actual conflicts of interest which might influence him, consciously or unconsciously, to render advice which is not disinterested. See current Advisers Act section 206 and rule 204–3 under the act. It is the growth of soft dollar practices and this potential conflict of interest, when an adviser receives research as a result of allocating brokerage on behalf of client accounts, that gives rise to the need to disclose these arrangements to clients. The committee will shortly be conducting a focused inquiry into questions raised by soft dollar practices and payment for order flow.

It is imperative that this legislation be passed by the Congress and signed by the President before any more massive frauds are perpetrated against our vulnerable constituents. The vast majority of the people in this business are honest men and women. We owe it to them to pass this bill as soon as possible in order to maintain much-needed honesty and integrity in the rendering of investment advice.

I thank my colleagues for their support of this bill.

Mr. MARKEY. Mr. Speaker, I yield back the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. MARKEY] that the House suspend the rules and pass the bill, H.R. 578, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 578, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

TECHNICAL AMENDMENTS TO SECTION 11(a) OF THE SECURITIES EXCHANGE ACT OF 1934

Mr. MARKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 616) to amend the Securities Exchange Act of 1934 to permit members of national securities exchanges to effect certain transactions with respect to accounts for which such members exercise investment discretion.

The Clerk read as follows:

H.R. 616

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROHIBITED TRANSACTIONS.

Section 11(a)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78k(a)(1)) is amended—

(1) in subparagraph (E), by striking "(other than an investment company)";

(2) by striking "and" at the end of subparagraph (G);

(3) by redesignating subparagraph (H) as subparagraph (I); and

(4) by inserting after subparagraph (G) the following new subparagraph:

"(H) any transaction for an account with respect to which such member or an associated person thereof exercises investment discretion if such member—

"(i) has obtained, from the person or persons authorized to transact business for the account, express authorization for such member or associated person to effect such transactions prior to engaging in the practice of effecting such transactions;

"(ii) furnishes the person or persons authorized to transact business for the account with a statement at least annually disclosing the aggregate compensation received by the exchange member in effecting such transactions; and

"(iii) complies with any rules the Commission has prescribed with respect to the requirements of clauses (i) and (ii); and".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. MARKEY] will be recognized for 20 minutes, and the gentleman from Texas [Mr. FIELDS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

I want to notify other Members that I will consume no more than 2 minutes. I think if the minority will do the same, then we will complete the business on this piece of legislation.

I am pleased to join with Representatives FIELDS and MOORHEAD in bringing H.R. 616 to the House floor today. This noncontroversial legislation eliminates an anachronistic provision in the law which prevents money managers who are members of the New York Stock Exchange or other national securities exchanges from using an affiliated broker to buy or sell stocks for certain accounts over which they exercise investment discretion.

Currently, the managed accounts restrictions in section 11(a) of the Securities Exchange Act of 1934 allow money managers to use affiliated brokers to do everything necessary to effectuate a trade for their managed accounts other than actually executing the buy-and-sell order on the exchange floor. Here, current regulations require money managers to use an independent floor broker to execute trades at the specialist post. H.R. 616, in contrast, would allow money managers to use an affiliated broker to actually execute the buy or sell orders for their managed accounts.

On March 30, the Subcommittee on Telecommunications and Finance

heard testimony from the securities industry indicating that passage of H.R. 616 would reduce unnecessary costs imposed on the industry, enhance the equality of trade execution for managed accounts, and reduce certain administrative and compliance burdens. In the 102d Congress, the subcommittee also received testimony from the SEC in support of identical legislation.

H.R. 616 provides the SEC with authority to assure that appropriate investor protections are afforded against the potential conflicts of interest arising from the combination of money management and brokerage functions. First, the SEC has authority to mandate that prior customer authorization be obtained before a money manager uses an affiliated broker to execute transactions for their managed accounts. Second, authority is granted to require regular disclosure of compensation arrangements with the affiliated broker.

I would also note that while the committee report recognizes that this legislation may result in reduced brokerage costs, we are not requiring that any such savings be allocated in any specific way. Rather, as the committee report explains, we expect that the savings resulting from this amendment to section 11(a) will be one of many factors influencing the negotiation of rates within the context of an intensely competitive brokerage industry.

I urge my colleagues to support this legislation.

Mr. Speaker, I yield to the gentleman from Massachusetts [Mr. MOAKLEY].

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2, NATIONAL VOTER REGISTRATION ACT OF 1993

Mr. MOAKLEY, from the Committee on Rules submitted a privileged report (Rept. No. 103–78) on the resolution (H. Res. 163) waiving points of order against the conference report to accompany the bill (H.R. 2) to establish national voter registration procedures for Federal elections, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 820, NATIONAL COMPETITIVENESS ACT

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103–79) on the resolution (H. Res. 164) providing for consideration of the bill (H.R. 820) to amend the Stevenson-Wydler Technology Innovation Act of 1980 to enhance manufacturing technology development and transfer, to authorize appropriations for the Technology Administration of the Department of Commerce, including the National institute of Standards and Technology, and for other purposes, which was referred to the House Calendar and ordered to be printed.

Mr. FIELDS of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Chairman MARKEY has done an excellent job in explaining this legislation. There is no controversy on this side of the aisle.

Once again we appreciate the chairman working in a cooperative spirit with the minority.

Mr. Speaker, I rise in support of H.R. 616, a proposal to amend section 11(a) of the Securities and Exchange Act of 1934.

In considering amendments to the securities laws in 1975, Congress was apprehensive about the possibility that broker-dealers might churn managed accounts to generate commissions. It was also concerned that a firm might pressure managers of advised accounts to purchase a particular security to complete a block transaction, or to close an underwriting of a new issue. Finally, there was also concern that brokers might give preference to managed accounts in the execution of their orders. To resolve these problems, section 11(a) was adopted as part of the Securities Act Amendments of 1975.

The prohibition against an exchange member firm effecting orders for managed accounts, over which it has investment discretion, is a holdover from the days of fixed commission rates. The practical effect of section 11(a) is to require institutions to channel their exchange business through unaffiliated broker-dealers. It also forces exchange members to execute trades for their managed accounts through an unrelated firm. In the absence of demonstrated conflicts of interest occurring, the section introduces unnecessary inefficiency in the order execution process.

Since May 1, 1975, the markets have changed dramatically, and experience has shown that the restrictions of section 11(a) are unnecessary. Although this section of the law does not appear to increase investor protection, it does impose unnecessary administrative costs and market inefficiencies on money managers.

I support H.R. 626 and urge its adoption.

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume just to say that the chairman of the full committee, the gentleman from Michigan [Mr. DINGELL] and all the Members on the majority side are in full support of this legislation.

I as well would like to compliment the minority. We worked this bill out over the last 2 years in a way which is acceptable to both sides.

My compliments to the gentleman from Texas and to his staff for their excellent job, as well as my own staff, Jeff Duncan, for his work.

Mr. FIELDS of Texas. Mr. Speaker, I yield back the balance of my time.

Mr. MARKEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. MARKEY] that the House suspend the rules and pass the bill, H.R. 616.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 616, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

USE OF CAPITOL GROUNDS FOR THE NATIONAL PEACE OFFICERS' MEMORIAL SERVICE

Mr. TRAFICANT. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 71) authorizing the use of the Capitol Grounds for the 12th annual National Peace Officers' Memorial Service.

The Clerk read as follows:

H. CON. RES. 71

Resolved by the House of Representatives (the Senate concurring),

SECTION 1. USE OF CAPITOL GROUNDS FOR NATIONAL PEACE OFFICERS' MEMORIAL SERVICE.

The National Fraternal Order of Police and its auxiliary shall be permitted to sponsor a public event, the twelfth annual National Peace Officers' Memorial Service, on the Capitol grounds on May 15, 1993, or on such other date as the Speaker of the House of Representatives and the President pro tempore of the Senate may jointly designate, in order to honor the 137 law enforcement officers who died in the line of duty during 1992.

SEC. 2. TERMS AND CONDITIONS.

(a) IN GENERAL.—The event authorized to be conducted on the Capitol grounds under section 1 shall be free of admission charge to the public and arranged not to interfere with the needs of Congress, under conditions to be prescribed by the Architect of the Capitol and the Capitol Police Board.

(b) EXPENSES AND LIABILITIES.—The National Fraternal Order of Police and its auxiliary shall assume full responsibility for all expenses and liabilities incident to all activities associated with the event.

SEC. 3. EVENT PREPARATIONS.

(a) STRUCTURES AND EQUIPMENT.—Subject to the approval of the architect of the Capitol, the National Fraternal Order of Police and its auxiliary are authorized to erect upon the Capitol grounds such stage, sound amplification devices, and other related structures and equipment, as may be required for the event authorized to be conducted on the Capitol grounds under section 1.

(b) ADDITIONAL ARRANGEMENTS.—The Architect of the Capitol and the Capitol Police

Board are authorized to make any such additional arrangements as may be required to carry out the event.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio [Mr. TRAFICANT] will be recognized for 20 minutes, and the gentleman from Tennessee [Mr. DUNCAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Concurrent Resolution 71, the annual Peace Officers' Memorial Service, has special meaning to me. From 1981 to 1985 I served as sheriff of Mahoning County, OH. As a former law enforcement officer and sheriff, I know the enormous sacrifices that have been made throughout this Nation's history by a special group of men and women that defend our communities.

Mr. Speaker, as of last year, seven law enforcement officers in Ohio died in the line of duty, including Millard Williams of the Youngstown Police Department.

So I have experienced also first hand the tragedy of a line-of-duty death.

One of my deputies, Sonny Litch, was shot and killed in an ambush while transporting a prisoner. His name is one of the thousands of names that appear on the wall of the National Law Enforcement Officers Memorial here in Washington.

Mr. Speaker, I would also like to mention one other officer who was killed in the line of duty while I served actively as the Sheriff of Mahoning County.

John Utlak was an officer in the Niles, OH, Police Department in neighboring Trumbull County, OH. John was shot and killed during an undercover drug operation. John's mother, Irene Sudano, is a constituent of mine and a tremendous and beautiful woman who has dedicated her life to assisting other survivors of police officers killed in the line of duty. This year's National Peace Officers' Memorial Service will honor the 137 law enforcement officers who died in the line of duty in 1992, defending our country, our citizens, our cities, our counties and our States. I cannot think of a more appropriate place to honor these fallen heroes than the U.S. Capitol.

□ 1350

Mr. Speaker, I reserve the balance of my time.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 71, a resolution which will allow the National Peace Officers' Memorial Service to be held on the Capitol Grounds on May 15, 1993.

Mr. Speaker, I join with my distinguished chairman of the subcommittee, the gentleman from Ohio [Mr. TRAFICANT] in supporting this resolution.

Mr. Speaker, this service is the 12th time this event has been held, and the first time it will be held on the Capitol Grounds. The Capitol Police is the sponsoring agency for the event this year.

Before I came to Congress, Mr. Speaker, I practiced law in my hometown of Knoxville, TN, and served 7½ years as a criminal court judge trying primarily the felonies of more serious criminal cases. In that work I got to know almost all of the local law enforcement people on a very close basis, and many of them are close personal friends of mine. I have known over the years police officers who have been killed in the line of duty, and certainly I do not think we do enough to show our appreciation and respect for the work that is done by the brave men and women who serve in our law enforcement agencies around the country.

A very close friend of mine, Willis McCormick, served for many years as the national chaplain for the Fraternal Order of Police and traveled around the country speaking and holding services for policemen and others who have been killed in the line of duty in serving in our law enforcement agencies.

So, Mr. Speaker, I am pleased to join my colleague, the distinguished chairman of the Subcommittee on Public Buildings and Grounds, the gentleman from Ohio [Mr. TRAFICANT], in support of this resolution, and I urge its adoption.

Mr. Speaker, I yield back the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Committee on Public Works and Transportation, the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Speaker, I rise in strong support of House Concurrent Resolution 71, to authorize the 12th annual national peace officers' memorial service.

This event will allow thousands of Americans to pay tribute to police officers who have died in the line of duty during the past year.

This year the event is scheduled to take place on May 15, 1993.

I would like to commend the chairman of the Subcommittee on Public Buildings and Grounds, the gentleman from Ohio [Mr. TRAFICANT] for introducing this most worthwhile resolution and I urge its adoption.

I would also like to commend the gentleman from Tennessee [Mr. DUNCAN], the ranking Republican of this subcommittee, for helping expedite this matter for House consideration.

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I, too, want to commend the distinguished ranking minority member, the gentleman from Tennessee [Mr. DUNCAN], for his leadership on this and many other issues. I think this is a fitting tribute, House Concurrent Resolution 71, and it is fitting for Congress to take this action.

Mr. CLYBURN. Mr. Speaker, I rise in support of House Concurrent Resolution 71, which will allow the use of the Capitol Grounds for the national peace officers' memorial service on May 15.

This 12th annual memorial service honoring our Nation's law enforcement officials who have been killed in the line of duty is an event which serves to remind us of the ultimate sacrifice made too often by the men and women who risk their lives daily to protect each and every one of us here today.

Too often we take them for granted. Let us not forget that each of the 137 slain law enforcement officials we honor today died because they believed in, and were dedicated to their missions, and bravely faced the worst kind of danger.

Mr. Speaker, I would like to submit for the RECORD the names and addresses of the 10 law enforcement officials killed in South Carolina during calendar year 1992.

Hardy Merle Godbold, 2-29-1992, trooper, 1074 Highway Patrol, South Carolina.

John Mark Dial, 4-17-1992, deputy sheriff, 3506 Richland County, South Carolina, S.D.

William Nalley, 6-7-1992, deputy sheriff, 365 Charleston County, South Carolina, P.D.

Hubert Leander Lloyd, 6-7-1992, sergeant, 365 Charleston County, South Carolina, P.D.

Thomas W. Spears, 7-9-1992, corporal, 3866 Florence County, South Carolina, S.O.

Charles Junior Smith, 8-24-1992, chief deputy, 3878 Allendale County, South Carolina, S.D.

James Brent McCants, 10-25-1992, deputy sheriff, 3855 York County, South Carolina, S.D.

Mark Hunter Coates, 11-21-1992, trooper, 1074 Highway Patrol, South Carolina.

Christopher Lee Taylor, 12-7-1992, deputy sheriff, 2917 Anderson County, South Carolina, S.O.

Edward Joseph Alva, 12-24-1992, deputy sheriff, 3506 Richland County, South Carolina, S.D.

All of them were senseless tragedies.

In closing, let me salute the families of these officers: the mothers, the fathers, the wives, and children. Stand tall and keep faith. Be proud of the dedication shown by your lost loved one and know that we in the Congress are proud of them and are humbled by this ceremony which will honor them.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I thank the distinguished chair of the Public Buildings and Grounds Subcommittee. I am proud to join with him as we pass this legislation which will allow Congress to pay its due respect to law enforcement officials who have made the ultimate sacrifice in service to their fellow officers and citizens.

Law enforcement has been accurately described as a thin blue line. In recent years we have been asking law enforcement to do more and more, even as the size of many forces have been cut due to budget problems. Meanwhile, in far too many cases, the thin blue line has been stretched beyond recognition.

Today we are honoring peace officers who were slain in the line of duty. An inscription at

the National Law Enforcement Memorial reads, "it is not how these officers died that made them heroes, it is how they lived." How true that is. These officers carried an honorable sense of duty. Their daily lives were geared toward preserving order in our society.

Far too often law enforcement officials have been killed in the line of duty, in fact 13,256 times through 1992. This year, the Dallas Police Department has the unfortunate distinction of placing four of its officers' name on the memorial where their contributions to our Nation will be forever engraved. I appeal in the strongest terms possible to my fellow members and the citizens of our Nation, let us work together so that these officers will not have died in vain.

Mr. TRAFICANT. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Ohio [Mr. TRAFICANT] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 71.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. TRAFICANT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Concurrent Resolution 71, the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

USE OF CAPITOL GROUNDS FOR THE GREATER WASHINGTON SOAP BOX DERBY

Mr. TRAFICANT. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 82) authorizing the use of the Capital grounds for the Greater Washington Soap Box Derby.

The Clerk read as follows:

H. CON. RES. 82

Resolved by the House of Representatives (the Senate concurring),

SECTION 1. AUTHORIZATION OF SOAP BOX DERBY RACES ON CAPITOL GROUNDS.

The Greater Washington Soap Box Derby Association (hereinafter in this resolution referred to as the "Association") shall be permitted to sponsor a public event, soap box derby races, on the Capitol grounds on July 17, 1993, or on such other date as the Speaker of the House of Representatives and the President pro tempore of the Senate may jointly designate.

SEC. 2. CONDITIONS.

The event to be carried out under this resolution shall be free of admission charge to the public and arranged not to interfere with the needs of Congress, under conditions to be prescribed by the Architect of the Capitol and the Capitol Police Board; except that the Association shall assume full responsibility for all expenses and liabilities incident to all activities associated with the event.

SEC. 3. STRUCTURES AND EQUIPMENT.

For the purposes of this resolution, the Association is authorized to erect upon the Capitol grounds, subject to the approval of the Architect of the Capitol, such stage, sound amplification devices, and other related structures and equipment as may be required for the event to be carried out under this resolution.

SEC. 4. ADDITIONAL ARRANGEMENTS.

The Architect of the Capitol and the Capitol Police Board are authorized to make any such additional arrangements that may be required to carry out the event under this resolution.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio [Mr. TRAFICANT] will be recognized for 20 minutes, and the gentleman from Tennessee [Mr. DUNCAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the local soap box derby is a wonderful event that celebrates the family value of parents working with their children on a common goal. I want to commend the distinguished gentleman from Maryland [Mr. HOYER] for his leadership, being the sponsor of this bill.

The Greater Washington Soap Box Derby is for young boys and girls 9 through 16 years of age. The youngsters learn the principles of aerodynamics and mechanics through designing, building, and operating their own racing cars. It is a very popular, well-attended event, and I am pleased to associate myself with the gentleman from Maryland [Mr. HOYER] and this worthwhile family event.

Mr. Speaker, I reserve the balance of my time.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 82, a resolution which will allow the Washington area Soap Box Derby races to be held on the Capitol Grounds on July 17, 1993. This event will take place on Constitution Avenue. The event allows families to participate in a worthwhile endeavor, and allows for a better understanding of aerodynamics, physics, and mechanical engineering.

Mr. Speaker, the sponsor of this resolution, the gentleman from Maryland [Mr. HOYER] is joined by other Washington area Members of Congress, including the gentleman from Virginia, [Mr. WOLF] and the gentlewomen from Maryland, Mrs. MORELLA and Mrs. BENTLEY.

I join my colleagues from both sides of the aisle in support of this resolution.

Mr. TRAFICANT. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Maryland [Mr. HOYER], the sponsor of this bill.

Mr. HOYER. Mr. Speaker, I would like to thank the chairman of the House Public Works Committee, Mr. MINETA, the ranking member Mr. SHUSTER and the chairman of the Subcommittee on Public Buildings and Grounds, Mr. TRAFICANT for their support and expeditious consideration of this bill.

For the past few years, I have sponsored this resolution to authorize the use of Constitution Avenue NE., between Delaware and Third, for the Greater Washington Soap Box Derby Competition. This competition is part of the All-American Soap Box Derby held later this summer in Akron, OH.

The local competition, open to boys and girls ages 9 to 16, offers young people the exciting opportunity to participate in an aged old all-American sport in the heart of the Nation's Capital. Youngsters and their families come from all across the region to take part in an activity that promotes a rewarding sense of achievement, sportsmanship, and camaraderie.

As in previous years, the Architect of the Capitol and the Sergeant at Arms, will negotiate a licensing agreement with the local derby association to assure that there will be complete compliance with rules and regulations governing the uses of Capitol Grounds.

I am pleased to again have the opportunity to make part in this most worthwhile event which provides the participants, tourists, and local residents with a safe and enjoyable day of activities.

Mr. Speaker, I urge my colleagues to support this resolution.

Mr. Speaker, again I thank the chairman, the gentleman from Ohio [Mr. TRAFICANT], and the staff of the subcommittee for their great help on this effort.

Mr. TRAFICANT. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Committee on Public Works and Transportation, the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Speaker, I am pleased to join in strong support of House Concurrent Resolution 82, to authorize the use of the Capitol Grounds for the Greater Washington Soap Box Derby Race.

This annual event is instrumental in developing the mechanical skills of this Nation's youth. Boys and girls ranging from 9 to 16 years old participate by first designing and constructing their race cars and then competing in the Soap Box Derby.

In an age of high technology, it is an excellent exercise for our youth to learn firsthand the inner workings and principles of aerodynamics and have fun in so doing.

I thank the gentleman from Maryland, Congressman STENY HOYER, for once again sponsoring this special resolution.

Mr. Speaker, I urge adoption of House Concurrent Resolution 82.

□ 1400

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I, too, want to commend the ranking member of the subcommittee, the gentleman from Tennessee [Mr. DUNCAN], and once again pay special tribute to the subcommittee chairman, the gentleman from Maryland [Mr. HOYER], who has taken his time to look at all facets of life and the young people and the benefits accrued from this resolution. I think this shows all sides of this chairman, and we appreciate his efforts.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Ohio [Mr. TRAFICANT] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 82.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. TRAFICANT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

THE 1993 SPECIAL OLYMPICS TORCH RELAY

Mr. TRAFICANT. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 81) authorizing the 1993 Special Olympics Torch Relay to be run through the Capitol Grounds.

The Clerk read as follows:

H. CON. RES. 81

Resolved by the House of Representatives (the Senate concurring),

SECTION 1. AUTHORIZATION OF RUNNING OF SPECIAL OLYMPICS TORCH RELAY THROUGH CAPITOL GROUNDS.

On May 27, 1993, or on such other date as the Speaker of the House of Representatives and the President pro tempore of the Senate may designate jointly, the 1993 Special Olympics Torch Relay may be run through the Capitol Grounds, as part of the journey of the Special Olympics torch to the District of Columbia Special Olympics summer games at Gallaudet University in the District of Columbia.

SEC. 2. RESPONSIBILITY OF CAPITOL POLICE BOARD.

The Capitol Police Board shall take such action as may be necessary to carry out section 1.

SEC. 3. CONDITIONS RELATING TO PHYSICAL PREPARATIONS.

The Architect of the Capitol may prescribe conditions for physical preparations for the event authorized by section 1.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio [Mr. TRAFICANT] will be recognized for 20 minutes, and the gentleman from Tennessee [Mr. DUNCAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Special Olympics Torch Relay has become a cherished event in Washington, DC, each year the Special Olympics is held for handicapped individuals. A torch relay signifies the official start of this wonderful event, which gives handicapped children and adults an opportunity to participate in athletic events. To begin the Olympic games the torch is run from the Capitol grounds to Gallaudet University, which is the site for the Special Olympics.

Mr. Speaker, I urge support of this worthwhile event.

Mr. Speaker, I reserve the balance of my time.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 81, a resolution to allow the running of the Special Olympics Torch through the Capitol grounds on May 27, 1993.

This resolution supports a worthy cause for the District of Columbia's Special Olympics summer games to be held at Gallaudet University. It is an opportunity for mentally handicapped men and women to compete, gain self respect and demonstrate to all their value as great citizens.

Mr. Speaker, I have participated in many Special Olympic events in my own home district in east Tennessee, and I cannot think of a better cause that we in Congress can support. I support this effort and I urge my colleagues to support House Concurrent Resolution 81.

Mr. Speaker, I yield back the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Committee on Public Works and Transportation, the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Speaker, I rise in support of House Concurrent Resolution 81, to authorize the 1993 torch relay of the Special Olympics to be run through the Capitol grounds on May 27, 1993.

The Special Olympics commences its annual summer games with a torch lighting ceremony followed by a relay of law enforcement officers throughout the District of Columbia. The U.S. Capitol police will carry the torch for the first leg of the relay. Like Mr. DUNCAN, I have participated in every one of our Special Olympics in San Jose, having served as a Honorary Chair of our county Special Olympics as well as of our State Special Olympic games.

Our committee is proud to lend its support to the Special Olympics each year by approving this type of resolution. I urge its adoption.

Mr. Speaker, again I would like to commend the chairman of the subcommittee, the gentleman from Ohio [Mr. TRAFICANT], and our ranking Republican, the gentleman from Tennessee [Mr. DUNCAN], for their help in bringing this matter to the floor, and I urge its adoption.

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend the ranking member, the gentleman from Tennessee [Mr. DUNCAN], for his contribution, and I also would like to recommend this worthwhile legislation to the House. It is very good for handicapped children and for adults.

I am pleased to see my neighbor from the district north of me seated there presiding over the House. We are very proud of him.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FINGERHUT). The question is on the motion offered by the gentleman from Ohio [Mr. TRAFICANT] that the House suspend the rules and agree to the concurrent resolution House Concurrent Resolution 81.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. TRAFICANT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

ROBERT F. PECKHAM U.S. COURTHOUSE AND FEDERAL BUILDING

Mr. TRAFICANT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1345) to designate the Federal building located at 280 South First Street in San Jose, CA, as the "Robert F. Peckham U.S. Courthouse and Federal Building."

The Clerk read as follows:

H.R. 1345

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building located at 280 South First Street in San Jose, California, shall be known and designated as the "Robert F. Peckham United States Courthouse and Federal Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Robert F. Peckham United States Courthouse and Federal Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio [Mr. TRAFICANT] will be recognized for 20 minutes, and the gentleman from Tennessee [Mr. DUNCAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1345, a bill to designate the courthouse in San Jose, CA, as the "Robert F. Peckham U.S. Courthouse and Federal Building," is a bill which honors not only the judicial excellence but also the high ethical and moral standards of Judge Robert F. Peckham. Judge Peckham, who recently died, had served 26 years in the Federal courts and was an acknowledged leader in the California judicial circuit. Fairness and wisdom were cornerstones of his judicial practice. Honorable and conscientious were characteristics of the man.

Mr. Speaker, I am sure that when we hear the statement today of Chairman MINETA, we will see some of the sides of our Federal judges that many people do not see, and we may understand the way they have helped many people, not necessarily by just enforcing the Constitution but by supporting humanity.

So, Mr. Speaker, I am pleased to speak on behalf of this bill, and I urge my colleagues to support its enactment.

Mr. Speaker, I reserve the balance of my time.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1345, a bill to name the courthouse and Federal office building in San Jose, CA, the "Robert F. Peckham U.S. Courthouse and Federal Building."

Mr. Speaker, Judge Peckham was an able, dedicated lawyer and judge who served with distinction in the northern district of California. He was a Federal judge for 26 years and was chief judge of the U.S. District Court for the Northern District of California from 1976 to 1988. His father, grandfather, and uncle all practiced law and made an impact on local issues of land ownership.

Judge Peckham passed away February 16, 1993.

I urge enactment of H.R. 1345.

Mr. Speaker, I yield back the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Committee on Public Works and Transportation, the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Speaker, I, too, rise in strong support for this bill. H.R. 1345, introduced by my fine colleague, Mr. EDWARDS and me, will honor one of the most outstanding members of our Federal judiciary; a man whose legacy of integrity, compassion, and justice has left an indelible mark on the Federal judiciary and on the Nation.

When U.S. district court Judge Robert Peckham passed away in February, this Nation lost a jurist of unmatched dedication and skill. San Jose, CA, lost an individual who was a vital part of our community for almost a half century and I lost a treasured friend.

Bob Peckham was born in San Francisco on November 3, 1920, and was raised in Palo Alto. In many ways, law was the Peckham family business. Both his father and grandfather were lawyers, his grandfather having served as a county judge in Santa Cruz.

His uncle, J.B. Peckham, was an attorney and a legendary figure among Japanese-Americans in my hometown of San Jose. During World War II, when we were forced from our homes on the west coast and put into internment camps along with 120,000 other Americans of Japanese ancestry, many lost the homes, farms, and businesses they had struggled to build.

Those of us in San Jose, however, truly had a guardian angel in J.B. Peckham. Immigrants from Asia were prohibited from owning property at the time, so they turned to Mr. Peckham. He held their businesses, farms, and homes in trust until their oldest native-born children reached the age of 21 and could assume ownership.

Legally, he could have sold the property—and many attorneys in California did so. But Mr. Peckham's integrity and careful stewardship ensured that, when we returned home from the camps, our community remained intact. He is given much of the credit for the fact that San Jose's Japantown remains a thriving neighborhood to this day.

That kind of dedication to the principles of fairness, equality, and justice run throughout the career of Bob Peckham, as well.

As a Federal district court judge in the northern district of California since 1971, and the district's chief judge from 1976 to 1988, Bob Peckham established himself as an implacable enemy of discrimination.

For 21 years, he presided over the desegregation of the San Jose Unified School District. For the past 20 years, he presided over the desegregation of the San Francisco Police Department.

In 1989, he ordered the State Department to issue a passport to an Irish woman who had been denied citizenship. Her mother was an American, but at the time she was born, only fathers could transmit their U.S. citizenship to their children.

In 1972, the Stanford Daily was the subject of a police raid in an effort to seize a reporter's notes. It was Bob Peckham's decision that declared such raids to be an unconstitutional violation of freedom of the press.

These and other landmark decisions clearly established him as one of the giants of the Federal judiciary. The legal community knew him as a scrupulously fair and intellectually brilliant judge. I can think of no more fitting memorial to his life and work than naming the San Jose Federal courthouse in his memory, and I urge its approval.

Again, I would like to commend the chair of the Subcommittee on Public Buildings and Grounds, Mr. TRAFICANT, and the ranking Republican on the subcommittee, Mr. DUNCAN, for their interest in this legislation and in expediting action on this bill to bring it to the House floor for consideration.

Mr. TRAFICANT. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. EDWARDS], who is the coauthor of H.R. 1345, for the purpose of making a statement relative to that piece of legislation.

Mr. EDWARDS of California. Mr. Speaker, I thank the gentleman from Ohio [Mr. TRAFICANT], chairman of the subcommittee, and the ranking Republican, the gentleman from Tennessee [Mr. DUNCAN] for their courtesy in hearing this bill and its prompt consideration.

The people of San Jose, California's third largest city, are also very grateful. The gentleman from California [Mr. MINETA] and I, the gentleman from California [Mr. MINETA], of course, is the chairman of the full committee, and he is also a very distinguished ex-mayor of San Jose.

This bill has the total acceptance and approval of everybody in San Jose. We have letters from the Mayor, Susan Hammer. We have letters from the bar association. We have letters from the city council, a passed resolution that was unanimous in favor of naming the courthouse and Federal building after the late Judge Robert F. Peckham.

It is very fitting that it be named after Bob Peckham, who died just in February of this year, because he was a great judge. He was a close personal friend of the gentleman from California, NORM MINETA, and mine.

He was appointed by Lyndon Johnson 26 years ago to the Federal bench in San Francisco. And when he got to the bench, he did wonderful things, not only for the Federal court in San Francisco, but he also thought about his

hometown of San Jose, because he knew that we had a lot of Federal business down there and that we needed a Federal judge. We needed a court. And he worked very, very hard.

He worked with the gentleman from California, NORM MINETA, and with me, and we worked with the Committee on the Judiciary and with the administration. And pretty soon we had a Federal court.

And then we found that the burden was enormous, and more and more judges were assigned to San Jose. And we found that we needed a Federal courthouse. We cannot have lawyers and litigants going 50 miles north to hold court. That is justice denied.

And Bob Peckham made that case very well. And the gentleman from California [Mr. MINETA] and I made the very best case we could. And pretty soon, just a few years ago, this beautiful courthouse in San Jose was built.

In the meantime, Judge Peckham had a very distinguished career. He was assigned to handle the San Jose Unified School desegregation case. It was just one of the biggest public school districts in the country, a very, very complicated, fractious challenge, because feelings were running very high, as one might imagine to order the desegregation of an enormous public school district.

To Bob Peckham's credit, he handled and directed the entire desegregation matter. And it worked out very well, and he set aside that case, finished with the case, still remaining the friend of both sides and greatly admired by all of the people of San Jose and, indeed, of the State of California.

Mr. Speaker, it is fitting that we will be able to tell our people in San Jose that we, the Congress, are naming this beautiful building on First Street in San Jose after Judge Peckham, a true son of our area, a gracious, kindly man who also had steel in his bones.

One did not fool around in Judge Peckham's court, and it is certainly a fitting memory that he be honored in this way by naming this beautiful courthouse, Federal building, after the late Judge Robert F. Peckham.

Once again, I thank the gentleman from Ohio [Mr. TRAFICANT] and the gentleman from California [Mr. MINETA] and the gentleman from Tennessee [Mr. DUNCAN], the staff and all the members of the subcommittee and the full committee that were so gracious in handling this matter for the people of San Jose and for the people of California.

□ 1410

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am proud to associate myself with the remarks of the distinguished chairman and pleased to have been able to speak on behalf of this legislation.

I wish to also commend the gentleman from Tennessee [Mr. DUNCAN] for his continuing support and recognition of this bill, an urge my colleagues to support it.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FINGERHUT). The question is on the motion offered by the gentleman from Ohio [Mr. TRAFICANT] that the House suspend the rules and pass the bill, H.R. 1345.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. TRAFICANT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 1345, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

REDESIGNATING THE "ALMERIC L. CHRISTIAN FEDERAL BUILDING"

Mr. TRAFICANT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1346) to redesignate the Federal building located on St. Croix, VI, as the "Almeric L. Christian Federal Building," as amended.

The Clerk read as follows:

H.R. 1346

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building located on St. Croix, Virgin Islands, shall be known and designated as the "Almeric L. Christian Federal Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Almeric L. Christian Federal Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio [Mr. TRAFICANT] will be recognized for 20 minutes, and the gentleman form Tennessee [Mr. DUNCAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1346, as amended, honors Almeric L. Christian. Judge Christian has distinguished himself throughout his 40 years as a lawyer and judge. He received judicial appointments from Presidents Kennedy, Johnson, and Nixon. In 1969, he became chief judge for the U.S. District Court for the Virgin Islands. It is fitting and proper to honor him by naming the Federal building after Judge Christian.

Mr. Speaker, I reserve the balance of my time.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1346, a bill to name the Federal building in St. Croix, VI, as the "Almeric L. Christian Federal Building."

Judge Christian served with distinction as district court judge in 1969, and chief judge from 1970 to 1986. He took senior status in 1986 and retired from the bench in 1988.

I urge my colleagues to support this naming bill, and I urge enactment.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I yield such time as he may consume to my friend, the gentleman from the Virgin Islands [Mr. DE LUGO], the author of this bill.

Mr. DE LUGO. Mr. Speaker, I wish to thank my good friend and chairman, the gentleman from Ohio [Mr. TRAFICANT], and the ranking member, the gentleman from Tennessee [Mr. DUNCAN], for their leadership and help in bringing this bill through the committee process and to the floor today.

Mr. Speaker, ours is a Nation of laws, institutions, and people. The success of our Nation is largely predicated on a strong legal institution that is consistently and fairly administered by enlightened people.

Once in a great while there are people, though few in number, who achieve such stature that they come to personify our institutions.

In the Virgin Islands, one of those exceptional individuals is Almeric Leander Christian, the senior sitting judge of the territorial court and the former chief judge of the U.S. district Court of the Virgin Islands.

My bill, H.R. 1346, would designate the Federal building in St. Croix the Almeric L. Christian Federal Building.

Almeric was born on November 23, 1919 to Elena L. (Davis) Christian and Adam E. Christian. Almeric grew up in Christiansted, attending grammar, junior high and high school there before moving onto the University of Puerto Rico at Rio Piedras and then Columbia College in New York City.

He entered Columbia Law School, served in the U.S. Army in World War II, and then returned to Columbia Law to graduate.

After law school Almeric returned to his native Virgin Islands where he entered private practice.

In 1962, President Kennedy appointed Almeric to be the Virgin Islands U.S.

attorney. The following year he married Shirley Frorup of Christiansted. They had two children, Adam Gregory, now an attorney, and Rebecca Therese, who lives and works in North Carolina. By a previous marriage Judge Christian has an older daughter, Donna Christian Green, who today is a distinguished physician and assistant commissioner of health in St. Croix.

In 1966 President Johnson reappointed Almeric Christian U.S. attorney, a position he held until 1969 when President Nixon appointed him judge of the district court of the Virgin Islands, the first native born Federal judge in the Virgin Islands. In 1970, he was appointed chief judge.

As a jurist, Almeric Christian earned the enormous respect of both the legal community and the community as a whole. Greatly admired for his close study of each case that came before him, no lawyer dared enter his courtroom unprepared. In the courtroom Judge Christian was known for his astute and penetrating questions that cut to the quick of an argument. No one worked harder at the district court than Almeric Christian.

Failing eyesight forced him in 1986 to take senior status and he retired from the bench in 1988.

Without question Almeric Christian is the Virgin Islands' most experienced, most revered, and most celebrated jurist. He has devoted more than 45 years of his life to the legal profession and given more than 20 years to the bench. He has dedicated his entire professional career to the law and to ensuring that his community serves it and is served by it.

Mr. Speaker, it is with great pride that I ask my colleagues to join me in honoring this great jurist, Almeric Leander Christian, by voting in favor of my legislation to name the Federal building near his birthplace, Christiansted, St. Crox, for this outstanding Virgin Islander and man of the law.

□ 1420

Mr. TRAFICANT. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Committee on Public Works and Transportation, the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I, too, support H.R. 1346, to designate the Federal building located on St. Croix, Virgin Islands, as the "Almeric L. Christian Federal Building."

Judge Christian is the first native-born Federal judge in the Virgin Islands, born just a few miles from the Federal building which will bear his name.

Throughout his long and distinguished legal career of nearly four decades, Judge Christian has enjoyed a reputation for fairness, consistency and excellence in the legal community.

It is fitting and appropriate that Judge Christian be honored in this way and I thank Congressman RON DE LUGO, a senior Member of the Public Works and Transportation Committee, for sponsoring the bill.

I wish to thank Mr. TRAFICANT, the chair of our Subcommittee on Public Buildings and Grounds and Mr. DUNCAN, the ranking Republican, for expeditious handling of this legislation for House floor consideration.

Mr. Speaker, I urge adoption of H.R. 1346.

Mr. TRAFICANT. Mr. Speaker, I want to commend the ranking minority member, the gentleman from Tennessee [Mr. DUNCAN], the sponsor of the bill, the gentleman from the Virgin Islands [Mr. DE LUGO], and all members of the subcommittee for this good piece of legislation. I urge my colleagues to support it.

Mr. DE LUGO. Mr. Speaker, ours is a nation of laws, institutions, and people. The success of our Nation is largely predicated on a strong legal institution that is consistently and fairly administered by enlightened people.

Once in a great while there are people, though few in number, who achieve such stature that they come to personify our institutions.

In the Virgin Islands, one of those exceptional individuals is Almeric Leander Christian, the senior sitting judge of the territorial court and the former chief judge of the U.S. District Court of the Virgin Islands.

Today, Mr. Speaker, I rise to speak to my legislation that is appropriate to the man, to the institution, and to the community he has served throughout a lifetime. My bill, H.R. 1364, would redesignate the Federal building in St. Croix the Almeric L. Christian Federal Building.

Christiansted, just a few miles from where the new Federal building now stands, is the place where Almeric L. Christian was born on November 23, 1919, to Elena L. Davis Christian and Adam E. Christian. Almeric grew up in Chrisitansted, attending grammar, junior high, and high school there before continuing his education at the University of Puerto Rico at Rio Piedras and at Columbia College in New York City.

He entered Columbia Law School, served in the U.S. Army in World War II, and then returned to Columbia law to graduate.

After law school Almeric returned almost immediately to his native Virgin Islands where he entered private practice. In the next several years he was admitted to the New York State Bar and the Virgin Islands Bar, and was admitted to argue before the U.S. Third Circuit Court of Appeals and the U.S. Supreme Court.

Almeric Christian became closely involved with the fundamental legal document of the Virgin Islands, the Revised Organic Act of 1954, when President Eisenhower appointed him to a seven-member commission to determine the application of Federal laws to the territory.

In 1962, President Kennedy appointed Almeric to be the Virgin Islands U.S. attorney. The following year he married Shirley Frorup of Christiansted. They had two children, Adam Gregory, now an attorney, and Rebacca Therese, who lives and works in North Carolina. By a previous marriage Judge Christian has an older daughter, Donna Christian Green, who today is a physician and assistant commissioner of health in St. Croix.

In 1966 President Johnson reappointed Almeric Christian U.S. attorney, a position he held until 1969 when President Nixon appointed him judge of the district court of the Virgin Islands, the first native born Federal judge in the Virgin Islands. In 1970, he was appointed chief judge.

As a jurist, Almeric Christian earned the enormous respect of both the legal community and the community as a whole. Greatly admired for his close study of each case that came before him, no lawyer dared enter his courtroom unprepared. In the courtroom Judge Christian was known for his astute and penetrating questions that cut to the quick of an argument. No one worked harder at the district court than Almeric Christian.

Failing eyesight forced him in 1986 to take senior status and he retired from the bench in 1988.

Judge Christian has been a member of the Federal Bar Association, the board of directors of Legal Services, Corp., the V.I. Food Commission on St. Croix, the V.I. Housing and Urban Renewal Authority, the Personnel Board, the Electoral Board of St. Croix and the V.I. Board of Education.

He continues to contribute to his community through service on the V.I. Montessori School Board of Trustees, the Board of Episcopal Charities, the Columbia University Board of Visitors, and the National Bar Association.

Without question Almeric Christian is the Virgin Islands' most experienced, most revered, and most celebrated jurist. He has devoted more than 45 years of his life to the legal profession and given more than 20 years to the bench. He has dedicated his entire professional career to the law and to ensuring that his community serves it and is served by it.

Mr. Speaker, it is with great pride that I ask my colleagues to join me in honoring this great jurist, Almeric Leander Christian, by voting in favor of my legislation to name the Federal building near his birthplace, Christiansted, St. Croix, after this great Virgin Islander and man of the law.

Mr. TRAFICANT. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FINGERHUT). The question is on the motion offered by the gentleman from Ohio [Mr. TRAFICANT] that the House suspend the rules and pass the bill, H.R. 1346, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to designate the Federal building located on St. Croix, VI, as the 'Almeric L. Christian Federal Building'."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. TRAFICANT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

□ 1430

JAMES L. FOREMAN COURTHOUSE

Mr. TRAFICANT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 791) to name the U.S. courthouse in Benton, IL, the "James L. Foreman Courthouse," as amended.

The Clerk read as follows:

H.R. 791

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States courthouse located at 301 West Main Street in Benton, Illinois, shall be known and designated as the "James L. Foreman United States Courthouse".

SEC. 2. REFERENCES.

Any reference in any law, map, regulation, document, paper, or other record of the United States to the courthouse referred to in section 1 shall be deemed to be a reference to the "James L. Foreman United States Courthouse".

The SPEAKER pro tempore (Mr. FINGERHUT). Pursuant to the rule, the gentleman from Ohio [Mr. TRAFICANT] will be recognized for 20 minutes, and the gentleman from Tennessee [Mr. DUNCAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 791 as amended, honors Judge James L. Foreman by designating the courthouse in Benton, IL, as the "James L. Foreman U.S. Courthouse." Judge Foreman has served the people of the Southern District of Illinois for over 21 years. Judge Foreman has earned the respect and admiration of his judicial colleagues. He is known for his fairness and for his administrative as well as judicial skills.

Judge Foreman has recently taken senior status but continues to maintain full case load. In light of Judge Foreman's impressive contributions, it is fitting and proper to name this courthouse after Judge Foreman.

Mr. Speaker, I reserve the balance of my time.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 791, a bill to designate the U.S. courthouse in Benton, IL, as the "James L. Foreman United States Courthouse." Judge Foreman, a life-long resident of Massac County, IL, was appointed in 1972 by President Nixon, and retired from the bench in 1992. Judge Foreman still maintains an active case load as a senior judge.

I urge my colleagues to support this bill, and I urge enactment.

Mr. Speaker, I commend my friend, the sponsor of this resolution, the gentleman from Illinois [Mr. POSHARD].

Mr. Speaker, I yield back the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. POSHARD], a hard-working member of the Committee on Public Works and Transportation.

Mr. POSHARD. Mr. Speaker, I rise in strong support of H.R. 791, which will designate the U.S. District Courthouse in Benton, IL, the "James L. Foreman United States Courthouse." I was pleased to introduce this legislation and want to take this opportunity to thank the subcommittee chairman, Mr. TRAFICANT, Mr. DUNCAN, as well as the full committee chairman, Mr. MINETA and the minority spokesman, for their assistance in guiding this bill through the subcommittee and the full Committee on Public Works and Transportation.

Judge Foreman has had an outstanding career on the Federal bench. He was appointed to the Federal bench in 1972, after serving as an assistant attorney general for Illinois and Massac County State's attorney from 1960 to 1964. He became chief judge in 1978 and continued in this position until 1992, when he became a senior district judge.

Originally, the district was known as the eastern district of Illinois because it covered a large area that ranged from the outskirts of Chicago south to Champaign-Urbana, and covered the entire southern section of Illinois. At Judge Foreman's suggestion, the boundaries of the Federal judicial districts in Illinois were reviewed and the present judicial district was renamed the southern district, which is composed of the 38 southernmost contiguous counties in the southern one-third of the State.

Judge Foreman was instrumental in instituting a formal case management system long before the concept was mandated for all Federal courts. The southern district also established court facilities at the maximum security U.S. Penitentiary at Marion, IL, in order to accommodate the special security concerns involved with these prisoners.

Judge Foreman has also served on the Judicial Resources Committee of the Judicial Conference of the United States. On several occasions he has been appointed to sit by designation in cases before the U.S. Court of Appeals for the Seventh Circuit and in the U.S. District Court for the Western District of Kentucky.

Judge Foreman has served with honor and distinction during his tenure on the Federal bench. I believe it would be most appropriate to honor Judge Foreman's many contributions by naming the courthouse in Benton, IL, in his honor and am proud to represent Judge Foreman and the citizens of his judicial district in Congress.

Again, I would like to thank Mr. TRAFICANT and Mr. DUNCAN for their support of this bill.

Mr. TRAFICANT. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. MINETA], the distinguished chairman of the Committee on Public Works and Transportation.

Mr. MINETA. Mr. Speaker, I rise in support of H.R. 791, a bill to designate the U.S. Courthouse located in Benton, IL, as the "James L. Foreman United States Courthouse."

Judge Foreman served as a U.S. district court judge for the eastern district of Illinois from 1972 and became its chief judge from 1978 until 1992. Since that time he has assumed senior status.

Judge Foreman has earned tremendous respect from his legal community and community at large. Such an outstanding career deserves this tribute and I commend Congressman GLENN POSHARD, a member of the Public Works and Transportation Committee, for sponsoring H.R. 791.

I want to thank the chair of the Subcommittee on Public Buildings and Grounds, Mr. TRAFICANT, and the ranking Republican, Mr. DUNCAN, for bringing this legislation to the floor for House consideration and I join with everyone else to urge passage of H.R. 791.

Mr. TRAFICANT. Mr. Speaker, I want to associate myself with the remarks of the fine chairman, and commend the gentleman from Illinois [Mr. POSHARD] for his efforts. I urge my colleagues to support the bill.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio [Mr. TRAFICANT] that the House suspend the rules and pass the bill, H.R. 791 as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to designate the U.S. courthouse in Benton, Illinois, as the 'James L. Foreman United States Courthouse'.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. TRAFICANT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

LEWIS F. POWELL, JR. U.S. COURTHOUSE

Mr. TRAFICANT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1513) to designate the U.S. courthouse located at 10th and Main Streets in Richmond, VA, as the "Lewis F. Powell, Jr. United States Courthouse."

The Clerk read as follows:

H.R. 1513

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF LEWIS F. POWELL, JR. UNITED STATES COURTHOUSE.

The United States courthouse located at 10th and Main Streets in Richmond, Virginia, is designated as the "Lewis F. Powell, Jr. United States Courthouse".

SEC. 2. LEGAL REFERENCES.

Any references in any law, regulation, document, record, map, or other paper of the United States to the courthouse referred to in section 1 is deemed to be reference to the "Lewis F. Powell, Jr. United States Courthouse".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio [Mr. TRAFICANT] will be recognized for 20 minutes, and the gentleman from Tennessee [Mr. DUNCAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Judge Powell has enjoyed a long, distinguished, extensive public service career. As chairman of the Richmond public schools during the mid-1950's he presided over the integration of public schools in face of great pressure not to integrate.

He was appointed by President Nixon to the Supreme Court in 1971. He served for 16 years and retired in 1987. It is fitting and proper to name the Richmond courthouse after Judge Powell.

Mr. Speaker, I reserve the balance of my time.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1513, a bill to designate the U.S. courthouse in Richmond, VA, as the "Lewis F. Powell, Jr., United States Courthouse."

Judge Powell is a widely respected lawyer, civic leader, and Supreme Court Justice. He has served his community and the Nation well in all that he has done. Justice Powell was nominated in 1971 to serve on the highest court, and served until his retirement in 1987.

It is fitting to honor Justice Powell with designating the U.S. courthouse the Lewis Powell Courthouse. I urge my colleagues to support this bill and I urge enactment.

Mr. Speaker, I reserve the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. SCOTT].

Mr. SCOTT. Mr. Speaker, I rise in support of H.R. 1513, a bill to designate the Federal courthouse in Richmond, VA, in honor of Justice Lewis F. Powell, Jr.

Mr. Speaker, Justice Lewis F. Powell, Jr., was a fine Virginia gentleman and a great American jurist. In 1987, Justice Powell resigned his seat on the U.S. Supreme Court after 15 years as an Associate Justice. Today we wish to honor him by sponsoring a bill to name the Federal Court Building in Richmond, VA, the Lewis F. Powell, Jr. Courthouse.

Born in Suffolk, VA, on September 9, 1907, Justice Powell was educated at Washington and Lee University and Harvard Law School.

Joining the Army Air Corps in 1941, he raised to the rank, of colonel. During World War II, Mr. Powell served has a combat and staff intelligence officer which included 33 months in Europe and North Africa. His service earned him the Legion of Merit, the Bronze, Star, and the French Croix de Guerre with Palm.

Returning to private practice after the war, Justice Powell became active in local and national legal affairs, while continuing his devotion to the city of Richmond. In 1948, he became the president of the City of Richmond Bar Association. He later was elected as president of the Richmond Chamber of Commerce and served on the Richmond School Board. Justice Powell also served on the Special Charter Commission which established Richmond's city-manager form of government.

Nationally, Powell served as president of the American Bar Association in 1964–65. From 1969 to 1971, he served as president of the American Bar Foundation and president of the American College of Trial Lawyers from 1969 to 1970.

In 1966, Powell was appointed by President Johnson to the National Advisory Committee on Legal Services for the Poor. Adding his experience and national standing to the cause, Mr. Powell labored continuously to obtain legal services for the impoverished.

In 1972, Lewis Powell became the first Virginian appointed to the Supreme Court since the Civil War. Justice Powell brought to the Court a careful, thoughtful, and pragmatic approach to the law. While a member of the bench, Mr. Powell sought justice and fairness for each party that came before him.

Let me conclude by quoting a friend of Justice Powell, Judge J. Harvie Wilkinson, who described Lewis Powell's legal persona fittingly when he stated:

> For those who seek a perspective: grounded in realism and leavened by decency; conscientious in detail and magnanimous in spirit; solicitous of personal dignity and protective of the public trust; there will never be a better Justice.

□ 1440

Mr. Speaker, I want to thank my colleague from Richmond, Mr. BLILEY, and others who have cosponsored this bill, and I urge the House to pass H.R. 1513, to designate the name of the Federal courthouse in Richmond in honor of Justice Lewis F. Powell, Jr.

Mr. DUNCAN. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Richmond, VA, and the surrounding area, Mr. BLILEY, who is the ranking member of the Committee on the District of Columbia.

Mr. BLILEY. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I am truly honored today to lend my support to H.R. 1513, a bill, as has been pointed out, to designate the U.S. Courthouse in Richmond, VA, as the Lewis F. Powell, Jr. U.S. Courthouse.

Before saying a few words about Justice Powell, let me say that I am pleased to join my colleague from Virginia, Mr. SCOTT, in this endeavor. I would also like to point out that this courthouse is one of the more historic courthouses in the country. It was built in 1858. From 1861 to 1865 it was used as the headquarters of the Confederate Government, and Jefferson Davis had his office in there. Before my colleagues from north of the Mason-Dixon line get upset, let me point out it was also used as the courthouse to try Jefferson Davis for treason.

Following the conversion of the building to a post office, Elizabeth Van Lew became the first Postmistress of Virginia. She was the lady who was the famous Union spy in Richmond during the war of northern aggression.

Lewis Powell is truly an outstanding gentleman. He had an outstanding career. He was the designer of the charter, as my colleague pointed out, for the city of Richmond, a model charter, I might add, for city manager form of government. He served as chairman of our school board. He served on our constitutional commission. He was president of the Virginia Bar, the Richmond Bar, and the American Bar Association. And for all of this, in addition, though he was exempt from the draft in World War II, he volunteered and rose to the rank of colonel.

He is truly an outstanding person. I deem it an honor to have him as a friend and a constituent, and I urge all of my friends and colleagues to support this legislation to name this courthouse, after so many years, after a

great American, and certainly after one of Virginia's and Richmond's finest citizens.

Mr. Speaker, I am truly honored today to lend my support to H.R. 1513, a bill which will designate the U.S. courthouse in Richmond, VA, as the Lewis F. Powell, Jr. United States Courthouse. It is a great pleasure for me to speak on behalf of so selfless a contributor to our Nation as retired Supreme Court Justice Lewis Powell. Before I begin, however, let me thank my new colleague for his efforts, Mr. SCOTT of Newport News, with whom I share the honor of representing the city of Richmond, and with whom I share cosponsorship of this legislation.

Mr. Speaker, my pleasure today is multiplied manyfold in being able to recognize Justice Powell, not only for his achievements on the highest Court, but also for his lasting contributions to the citizens of the Commonwealth of Virginia and the people of the city of Richmond. As a fellow native Virginian and son of the city of Richmond, Justice Powell has always been, and continues to be, a source of great pride for myself and my constituents of the seventh district. I can then scarcely imagine a more appropriate and fitting means of acknowledging his distinguished legacy of public service, than to dedicate the Richmond Federal Courthouse Building in his name.

Born in 1907, Justice Powell began his legal studies at Washington and Lee University, going on to Harvard for a masters in law. Justice Powell then returned to Richmond where he soon joined the prestigious firm of Hunton & Williams.

Even though exempt from military duty, Justice Powell volunteered for service in World War II, going on to earn the rank of lieutenant colonel, the Legion of Merit, and the Bronze Star. His wartime experiences left an indelible mark on Justice Powell's view of free government, and his jurisprudence. Justice Powell served his country admirably as a staunch defender of our national security and a steadfast opponent of totalitarian rule. In 1969, at the height of the Vietnam war, Justice Powell was appointed to a blue ribbon panel to study the organization of the Pentagon. It is ironic to note that his highly unfashionable call for a stronger United States effort to counter the Soviet threat, has now been vindicated some two decades later.

Returning home after the war, Justice Powell began his lifelong involvement in the civic life of the city of Richmond and the Commonwealth of Virginia—serving among other offices, as president of the Richmond Bar Association, president of the chamber of commerce, chairman of the Richmond School Board, and a leading member of the State Board of Education and the Virginia Constitutional Commission.

In 1971, at the age of 64, Justice Powell began his second career on the Nation's highest Court. His jurisprudence was marked by an objective, detached legal reasoning that earned him acclaim from the whole of the ideological spectrum. In a time of great political divisiveness, his cautious, pragmatic approach brought a certain balance and sensitivity to Court rulings which served to dignify and elevate the Court's work in the eyes of the American public.

Finally, I wish to add a few words regarding the personal character of Justice Powell. I can think of no more appropriate description than to call Justice Powell a gentleman—for he exemplifies the term. His colleagues and clerks could stand before the subcommittee today and detail countless instances where he displayed that kind, modest, and self-sacrificing manner which so mark a true gentleman.

I, however, will supply just one: In an interview shortly before his retirement, Justice Powell was asked how he expected to be remembered. He replied with characteristic humility and understatement that in the long reach of history I may be a footnote somewhere, but that's the most that I would expect.

Mr. Speaker, the bill before the House today is a small means of recognizing that Justice Lewis Powell's legacy of civic achievement will always rightfully be in the text, and not the footnotes, of our country's history.

Mr. DUNCAN. Mr. Speaker, I thank the gentleman from Virginia for that very fine statement, and I urge support for this legislation.

Mr. Speaker, I have no additional requests for time, and I yield back the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I find very informative the remarks of the gentleman from the Richmond area, I think he has let us all know of the realities there, and we appreciate his testimony.

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from California [Mr. MINETA], the chairman of the Committee on Public Works and Transportation.

Mr. MINETA. Mr. Speaker, I rise in support of H.R. 1513, a bill to designate the U.S. Courthouse located at 10th and Main Streets in Richmond, VA, as the "Lewis F. Powell, Jr., United States Courthouse."

Justice Lewis F. Powell was appointed by President Nixon to the U.S. Supreme Court in 1971.

Additionally, Justice Powell held several national positions with distinction. He was president of the American Bar Association, president of the American College of Trial Lawyers, and served as a member of President Lyndon B. Johnson's Crime Commission as well as Johnson's National Advisory Committee on Legal Services for the Poor.

Justice Powell's outstanding career as a jurist is highlighted most by his pragmatic and cautious approach in the midst of great political divisiveness in this country.

It is indeed fitting and proper that the U.S. courthouse located in Richmond, VA, be designated the "Lewis F. Powell, Jr., United States Courthouse."

Mr. Speaker, I urge passage of H.R. 1513 and thank Congressman ROBERT SCOTT for sponsoring the bill and Congressman THOMAS BLILEY for his efforts on behalf of this legislation.

I wish to extend thanks to the Chair of the subcommittee on public buildings and grounds, Mr. TRAFICANT, and Mr. DUNCAN, the ranking Republican on the subcommittee, for bringing this matter through the legislative process for House consideration.

Mr. TRAFICANT. Mr. Speaker, I urge all of our colleagues to support this legislation. It is fitting.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. (Mr. FINGERHUT). The question is on the motion offered by the gentleman from Ohio [Mr. TRAFICANT] that the House suspend the rules and pass the bill, H.R. 1513.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. TRAFICANT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 1513, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

CLARKSON S. FISHER FEDERAL BUILDING AND UNITED STATES COURTHOUSE

Mr. TRAFICANT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1303) to designate the Federal Building and United States Courthouse located at 402 East State Street in Trenton, NJ, as the "Clarkson S. Fisher Building and United States Courthouse."

The Clerk read as follows:

H.R. 1303

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal Building and United States Courthouse located at 402 East State Street in Trenton, New Jersey, shall be known and designated as the "Clarkson S. Fisher Federal Building and United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal Building and United States Courthouse referred to in section 1 shall be deemed to be a reference to the "Clarkson S. Fisher Federal Building and United States Courthouse".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio [Mr. TRAFICANT] will be recognized for 20 minutes, and the gentleman from Tennessee [Mr. DUNCAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. TRAFICANT].

□ 1450

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Clarkson S. Fisher is a distinguished jurist with over 20 years of public service to the residents of New Jersey. In 1970, President Nixon appointed him to the Federal Bench by naming him to the U.S. District Court for the State of New Jersey. In 1979, he became the chief judge of that court. Judge Fisher is widely respected and held with great esteem by his colleagues. It is indeed fitting and proper to designate the building at 402 East State Street as the "Clarkson S. Fisher Federal Building and United States Courthouse."

Mr. Speaker, I reserve the balance of my time.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1303, a bill to designate the Federal building and courthouse in Trenton, NJ, as the "Clarkson S. Fisher Federal Building and United States Courthouse."

Judge Fisher served with distinction from 1970 as a district judge, and from 1979 until his retirement in 1987 as chief judge. Judge Fisher maintains an active case load, serving in a senior status capacity.

I urge adoption of H.R. 1303, and I urge my colleagues to support this measure.

Mr. Speaker, also, I would like to thank the chairman of the full committee, the gentleman from California [Mr. MINETA], for his leadership on these bills and for all other legislation which has come before our committee so far during this Congress, and also I would like to pay my respects once again to my very distinguished chairman of the subcommittee and thank him, my friend, the gentleman from Ohio [Mr. TRAFICANT].

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I appreciate the comments of the distinguished minority ranking member.

Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. MINETA], the chairman of the Committee on Public Works and Transportation.

Mr. MINETA. Mr. Speaker, I, too, rise in support of H.R. 1303, a bill to designate the U.S. courthouse located at 402 East State Street in Trenton, NJ, as the "Clarkson S. Fisher Federal Building and United States Courthouse."

In 1970, Clarkson S. Fisher was appointed to the U.S. District Court for New Jersey. In 1979, he became chief judge, serving in that capacity with distinction for nearly a decade. Currently, Judge Fisher maintains senior status on the court.

Judge Fisher is respected and held in high regard by his colleagues and legal scholars in the State of New Jersey.

Mr. Speaker, it is fitting and appropriate to designate the building located at 402 East State Street in Trenton, NJ, as the "Clarkson S. Fisher Federal Building and United States Courthouse."

I commend Congressman CHRIS SMITH of New Jersey for his leadership in sponsoring this legislation, and thank Mr. TRAFICANT, chair of the Subcommittee on Public Buildings and Grounds, and Mr. DUNCAN, its ranking Republican for expeditious handling of this bill for House consideration.

Mr. Speaker, I urge passage of H.R. 1303.

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

I want to thank the chairman, the gentleman from California [Mr. MINETA], and to commend him for all of his efforts in helping us in the subcommittee to bring this legislation through. I want to thank the ranking member, the gentleman from Tennessee [Mr. DUNCAN], for his leadership and willingness to participate and understand all of these issues and not just receive fax messages.

In addition, I want to thank the staffs on both sides, the majority and minority staffs, who do an awful lot of the work and many times are overlooked.

On behalf of the gentleman from New Jersey [Mr. SMITH], I urge my colleagues to support this legislation.

Mr. FRANKS of New Jersey. Mr. Speaker, today I rise in strong support of H.R. 1303, a bill to designate the Federal building and U.S. courthouse located in Trenton, NJ, as the "Clarkson S. Fisher Federal Building and Courthouse." This legislation was introduced by my good friend and New Jersey colleague, CHRIS SMITH, who represents the area where this building is located.

Judge Fisher has a long and distinguished career as a jurist. Born in the shore community of Long Branch, NJ, he was educated at St. Benedict's Preparatory School in Newark, and at the University of Notre Dame. In 1970, President Richard M. Nixon appointed Judge Fisher to the U.S. District Court for New Jersey. In 1979, he became chief judge and served for nearly 9 years. He took senior status in 1987, and continues to sit in the district court in Trenton.

As a State legislator who served in Trenton for 13 years, I am well aware of Judge Fisher's sterling reputation. The Seton Hall Law Review describes Judge Fisher as a man "* * * totally without pretense, completely without arrogance, intellectual and otherwise, and at all times, a gentleman. It is easy to see why he has earned the respect, and the affection, of the bench and bar."

Mr. Speaker, I wholeheartedly agree with that assessment of Judge Fisher's character and I urge my colleagues to vote "yea" on H.R. 1303.

Mr. SMITH of New Jersey. Mr. Speaker, I would like to take this opportunity to urge my colleagues to pass my legislation, H.R. 1303, which would designate the Federal building and U.S. courthouse located at 402 East State Street in Trenton, NJ, as the "Clarkson S. Fisher Federal Building and the United States Courthouse."

Last year, I was pleased that the House passed my bill but, unfortunately, the 102d Congress adjourned before more action could be taken on the bill. I am very grateful to the chairmen and ranking Republicans of the Public Works and Transportation Committee and its Subcommittee on Public Buildings and Grounds, whose expeditious work on this bill has enabled it to be considered so quickly on the floor.

Mr. Speaker, Clarkson Fisher served with distinction and honor as the chief judge of the U.S. District Court for the District of New Jersey from 1979 until 1987. He continues to serve with senior status in the District Court of Trenton.

His dedication to public service, however, reaches well beyond his service as chief judge. After passing the bar in 1951, Judge Fisher worked in private practice serving as a councilman in West Long Branch from 1958 until 1964. After being elected to the New Jersey Assembly in 1963, he was appointed to the Monmouth County Court, where he served until being appointed to New Jersey's Superior Court in 1966. In 1970, President Nixon appointed him to sit on the U.S. District Court, where he has been serving for 23 years as an associate, chief judge, and senior judge.

Clearly, Mr. Speaker, Judge Fisher's work has been of great service to the people of New Jersey and the Nation as a whole. The respect he has earned has transcended those in the legal community and now encompasses people affected by his work.

It is also important to note that the legal work he has done has not been at the expense of his family life. He and his wife Mae have been married since 1949 and have raised four sons. He remains active in family and church activities.

Judge Fisher's humility would prevent him from even considering such a designation. It was left to his fellow judges, those who know his work and his life best, to advance the idea to me, and of course, I was pleased and grateful to introduce this legislation. I am hopeful that H.R. 1303 will be quickly passed and signed into law so that this courthouse can appropriately be renamed in honor of Judge Fisher.

Again, Mr. Speaker, I would like to thank the members of the committee and subcommittee responsible for bringing this legislation to the floor of the House for all their efforts.

Mr. TRAFICANT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FINGERHUT). The question is on the motion offered by the gentleman from Ohio [Mr. TRAFICANT] that the House suspend the rules and pass the bill, H.R. 1303.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. TRAFICANT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 1303, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

WORLD WAR II MEMORIAL

Mr. CLAY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 682) to authorize the American Battle Monuments Commission to establish a memorial, in the District of Columbia or its environs, to honor members of the Armed Forces who served in World War II, and to commemorate the participation of the United States in that war.

The Clerk read as follows:

H.R. 682

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY TO ESTABLISH MEMORIAL.

(a) IN GENERAL.—The American Battle Monuments Commission (hereinafter in this Act referred to as the "Commission") is authorized to establish a memorial on Federal land in the District of Columbia or its environs to honor members of the Armed Forces who served in World War II and to commemorate the participation of the United States in that war.

(b) COMPLIANCE WITH STANDARDS FOR COMMEMORATIVE WORKS.—The establishment of the memorial shall be in accordance with the Act entitled "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes" approved November 14, 1986 (40 U.S.C. 1001 et seq.).

(c) HANDICAPPED ACCESS.—The plan, design, construction, and operation of the memorial pursuant to this section shall provide for accessibility by, and accommodations for, the physically handicapped.

SEC. 2. ADVISORY BOARD.

(a) ESTABLISHMENT OF BOARD.—There is hereby established a World War II Memorial Advisory Board, consisting of 12 members, who shall be appointed by the President from among veterans of World War II, historians of World War II, and representatives of veterans organizations, historical associations, and groups knowledgeable about World War II.

(b) APPOINTMENTS.—Members of the Board shall be appointed not later than 3 months after the date of the enactment of this Act and shall serve for the life of the Board. The President shall make appointments to fill such vacancies as may occur on the Board.

(c) RESPONSIBILITIES OF THE BOARD.—The Board shall—

(1) in the manner specified by the Commission, promote establishment of the memorial and encourage donation of private contributions for the memorial; and

(2) upon the request of the Commission, advise the Commission on the site and design for the memorial.

(d) SUNSET.—The Board shall cease to exist on the last day of the third month after the month in which the memorial is completed or the month of the expiration of the authority for the memorial under section 10(b) of the Act referred to in section 1(b), whichever first occurs.

SEC. 3. PRIVATE CONTRIBUTIONS.

The American Battle Monuments Commission shall solicit and accept private contributions for the memorial.

SEC. 4. FUND IN THE TREASURY FOR THE MEMORIAL

(a) IN GENERAL.—There is hereby created in the Treasury a fund which shall be available to the American Battle Monuments Commission for the expenses of establishing the memorial. The fund shall consist of—

(1) amounts deposited, and interest and proceeds credited, under subsection (b);

(2) obligations obtained under subsection (c); and

(3) the amount of surcharges paid to the Commission for the memorial under the World War II 50th Anniversary Commemorative Coins Act.

(b) DEPOSITS AND CREDITS.—The Chairman of the Commission shall deposit in the fund the amounts accepted as contributions under section 3. The Secretary of the Treasury shall credit to the fund the interest on, and the proceeds from sale or redemption of, obligations held in the fund.

(c) OBLIGATIONS.—The Secretary of the Treasury shall invest any portion of the fund that, as determined by the Chairman of the Commission, is not required to meet current expenses. Each investment shall be made in an interest bearing obligation of the United States or an obligation guaranteed as to principal and interest by the United States that, as determined by the Chairman of the Commission, has a maturity suitable for the fund.

(d) ABOLITION.—Upon the final settlement of the accounts of the fund, the Secretary of the Treasury shall submit to the Congress a draft of legislation (including technical and conforming provisions) recommended by the Secretary for the abolition of the fund.

SEC. 5. DEPOSIT OF EXCESS FUNDS.

If, upon payment of all expenses of the establishment of the memorial (including the maintenance and preservation amount provided for in section 8(b) of the Act referred to in section 1(b)), or upon expiration of the authority for the memorial under section 10(b) of that Act, there remains a balance in the fund created by section 4, the Chairman of the American Battle Monuments Commission shall transmit the amount of the balance to the Secretary of the Treasury for deposit in the account provided for in section 8(b)(1) of that Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Missouri [Mr. CLAY] will be recognized for 20 minutes, and the gentleman from Nebraska [Mr. BARRETT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Missouri [Mr. CLAY].

Mr. CLAY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 682, which authorizes the American Battle Monuments Commission to establish a memorial, in the District of Columbia or its environs, honoring members of the Armed Forces who served in World War II, and to commemorate the participation of the United States in that war.

During World War II over 16 million men and women served in the Armed Forces of the United States. Of that number over 406,000 died, 130,000 were prisoners of war, and nearly 80,000 are missing in action.

H.R. 682 would authorize the American Battle Monuments Commission to establish the memorial. The bill would require that the Commission build the memorial in accordance with the standards contained in the Commemorative Works Act of 1986.

No public funds would be used in designing and constructing the memorial. The Commission would be authorized to solicit funds and accept private donations.

H.R. 682 would authorize the establishment of an Advisory Board of 12 members whose primary function would be to promote and encourage donations. In addition, when asked to do so by the Commission, the Board could act as an Advisory Board in site selection and design for the memorial.

Members of the Board would be appointed by the President from among veterans and historians of World War II and representatives of veteran organizations, historical associations, and others knowledgeable about World War II.

This measure is the result of over 5 years of hard work and I would like to commend and thank its sponsor, MARCY KAPTUR, for her perseverance and determination.

I urge my colleagues to support this fitting tribute to the men and women who fought and died for freedom.

Mr. Speaker, I reserve the balance of my time.

Mr. BARRETT of Nebraska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is my pleasure to rise in support of H.R. 682, a bill, that would establish a memorial to honor members of the Armed Forces who served in World War II, and to commemorate U.S. participation in that conflict. I find it appropriate that this legislation has come before the House today, May 4, because on this day nearly 50 years ago German troops in the north, including Denmark and the Netherlands, surrendered to Montgomery and the 21st Army Group. And 4 days later, on May 8, 1945, the world celebrated what has come to be known as official victory in Europe Day, or VE Day.

Throughout the world there are many memorials to World War II, but not one on American soil that honors all Americans who were in some way involved in the war. I find this surprising as World War II was one of the most significant wars in all of history. Involving more than 16 million Americans, it was the war which preserved freedom for the Western World. Yet, it was not without a heavy toll. The damage and the human suffering were extreme. More than 670,000 Americans were wounded and over 400,000 made

the ultimate sacrifice by giving their lives.

This particular war marked a turning point in our Nation's history. The United States emerged as the undisputed leader of the free world. And today we are considering legislation that will serve as a permanent reminder of the victory made possible by the dedicated efforts and sacrifices made by over 1 million Americans in World War II. For almost 50 years now, our Nation has benefited from this victory, and I think the memorial is a fitting tribute to our veterans and their families.

Last year we had two separate proposals for the memorial. One sponsored by Representative KAPTUR and the other sponsored by Representative DICKINSON in the House and by Senator THURMOND in the Senate. This year Senator THURMOND and Representative KAPTUR have reached a compromise and each sponsored companion legislation. Senator THURMOND's companion bill has passed the Senate on a voice vote.

Also, I might add that last year a World War II Commemorative Coin Act was made law. Today's bill permits use of $7 million in proceeds from coin sales to fund the memorial. The coin act requires no net cost to the Federal Government in minting and issuing these coins. It provides for a surcharge to offset costs in designing and issuing coins, including labor, materials, use of machinery, and overhead expenses.

I think it is important to note that the intent of the authorizing committee is that Federal funds not be used for the establishment of memorials. We have an understanding in the Subcommittee on Libraries and Memorials, that no Federal funds be used in the establishment of memorials in our Nation's Capital. In fact, the intent of the Commemorative Works Act of 1986 was that Congress' role in memorials would be to authorize creation of the memorials.

Mr. Speaker, this memorial will not only become a source of pride for many veterans, it will also comfort those who lost someone during the war and will educate generations to come. This education is vital as our young must never forget what has happened in the past, and what the world is capable of becoming again. The terrible memory of World War II and the victory over totalitarianism, highlights the importance of ensuring that America remains strong in defense and in its support of democracy.

With the 50th anniversary celebrations soon approaching, Mr. Speaker, I urge my colleagues to join me in support of this worthy measure for our faithful and deserving veterans.

□ 1500

Mr. CLAY. Mr. Speaker, the gentlewoman from Ohio [Ms. KAPTUR] is the principal sponsor of this bill and the driving force behind it. Without her tenacity and effective leadership, we would not be considering it today.

Mr. Speaker, therefore, I yield 5 minutes to the gentlewoman from Ohio [Ms. KAPTUR].

Ms. KAPTUR. I thank the chairman of the subcommittee, the gentleman from Missouri [Mr. CLAY], for yielding this time to me, not just for his recognition today but for his staunch support of our efforts as we have tried to move this legislation in the last two Congresses. Believe me, I thank him on behalf of all the veterans of the United States and their families and those here in the Congress who have worked so very hard for this legislation.

I would like to acknowledge also, Mr. Speaker, the chairman of the full committee, the gentleman from North Carolina [Mr. ROSE], who has been vigilant in his efforts. Also, the ranking Republican, the gentleman from Nebraska [Mr. BARRETT], who has been very generous in his remarks here today, certainly for his support.

In a few moments we will be hearing from the gentleman from Mississippi, Chairman SONNY MONTGOMERY, who has worked with us over the last several years both in terms of passing the coin legislation to pay for the memorial, as well as his staunch support of this legislation. I want to acknowledge his leadership throughout these several years.

Mr. Speaker, this bill we are considering today has been 50 years in the making, beginning with the moment Japan bombed Pearl Harbor on December 7, 1941, and the days that victory was declared in Europe and in the Pacific in 1945.

As we move this bill toward House passage today, I would like the RECORD to show that the idea for its creation came from a remarkable veteran from Ohio's Ninth District, Mr. Roger Durbin, who served with the 90th Reconnaissance Unit of the 10th Armored Division during World War II. He is currently a resident of Richfield Township in Lucas County outside of Toledo, OH. His dream was to honor and commemorate all those Americans, over 16 million of them, who fought in defense of freedom at its most compelling moment in this century. His desire was a simple one, to help create a place in America where he could bring his grandson to explain the ideals for which he and others fought, and where Americans in years hence could visit and pay homage and tribute to those who preserved freedom for the Western World.

I would like to read from a letter I received from Mr. Durbin.

I am Roger Durbin. I served with the 90th Recon., a unit of the Tenth Armored Division. During World War II, the tenth armored fought in three of America's four active armies in Europe. I am a World War II veteran and proud of it. I am not going to stand here and tell you war stories. I will say, that any World War II veteran that saw combat was scared, and done a lot of praying. Those of us that survived, our prayers were answered.

I am here today to ask for your support of H.R. 1624 World War II Memorial Act. We need a World War II Memorial in our Nation's Capital, it is long overdue. We are not asking for your budget dollars, or the taxpayers' dollars. We are asking you to support H.R. 1623 World War II Commemorative Coin Act that will pay the bill.

I think it is kind of ironic for me to stand here and ask you (Congress) to support these two bills, for a World War II Memorial. If it had not been for the World War II veterans, Congress would not be sitting here today, representing the American people. In this, the best form of government in the world.

I do not know how many of you sitting here today are under fifty years of age. I do know, that if you are under fifty, you do not know much about World War II. From what I can find out, very little is being taught about World War II in our schools today. Every year I call the local TV station on May 8th and ask them, why didn't you mention on the news that it was the anniversary of V.E. Day? They answer. Why didn't you call us yesterday, so we could get it in our computer? I get the same story on June 6th when I have to remind them of D. Day and all the other days that I will never forget. And so it goes.

If you are under fifty and did not live through World War II, you don't know we had 16 million people in the service. We had ten million overseas. World War II was the second most bloodiest war this country was ever in. Probably would have been the bloodiest war this country was ever in if it had not been for the modern medicine at the time.

My son turned fifty this year. He was a year and half old when I left for the service. Do you know what he said he remembers about World War II? It was when I came home, he remembers coming to the train station with his mother to pick me up. That was the kind of welcome home we all wanted. We thanked God we were home and still in one piece. There was no parades unless you just happened to be in a large city on V.E. Day or V.J. Day.

President Kennedy said, ask not what your country can do for you, but what you can do for your country? I am sure, he was not speaking to the World War II veteran when he made his famous remark. Now fifty years later, we the veterans of World War II are asking our country for a memorial in our Nation's Capital.

Last year, my grandson and I flew to Washington to be present at the World War II Commemorative Coin Act hearing as Congresswoman Kaptur's guest. That was a proud day for both of us. We thought we were present when history was being made. (So we thought). Being a low level politician myself, I knew the wheels of government turned slow. I was disappointed, my grandson was disappointed, the tenth armored division association was disappointed, and the 405,000 souls that were taken in World War II were disappointed. Today I am here with reinforcements, not only the 405,000 souls that were killed in World War II, but I have all the other deceased World War II vets with me, plus the remaining 8 million World War II veterans that are still living.

Wouldn't it be nice to honor the World War II veterans with the memorial they deserve

in our Nation's Capital while one half of them are still living? It can be done with your help. I want to live long enough to visit the World War II Memorial in my Nation's Capital.

Thank you,

ROGER DURBIN.

Since this bill was first introduced, in the 100th Congress, its passage has been complicated by its referral to two committees. So I am most grateful to the chairman of the House Administration Committee, the gentleman from North Carolina [Mr. ROSE], for his support and willingness to move this bill and ensure that it complies with the Commemorative Works Act. The gentleman from Missouri [Mr. CLAY], chairman of the Libraries and Memorial Affairs Subcommittee of the House Administration Committee, advised me that this bill would be moved quickly and, with his support, it has. I am especially grateful to and commend Chairman MONTGOMERY of Mississippi of the Veterans' Affairs Committee for his vigilant support over the 6 years it has taken to move this bill to passage. I also want to congratulate the gentleman from Arizona [Mr. STUMP], a Navy veteran himself and the ranking member, who knows the value of recognizing those who have served. When I chaired the veterans' subcommittee charged with memorial affairs, their steadfast support kept this dream alive.

I also want to extend a sincere hand of gratitude to all of the veterans' organizations across our country who have worked so diligently to help gain cosponsorship for this bill and show their support for the memorial, and who have waited through the public hearing process, and through that process of fine tuning the legislation to assure that this memorial's construction will have proper oversight and proper accountability of funds. And so today we thank the American Legion, the Veterans of Foreign Wars, the Disabled American Veterans, the Military Order of the Purple Heart, the Polish Legion of the American Veterans, the Normandy Foundation, and the Paralyzed Veterans of America, the Battle of the Bulge, the Air Force Association, the Navy League, the American Ex-Prisoners of War Association, the Non-Commissioned Officers Association, AMVETS, the Korean War Association, and the Reserve Officers Association.

Recognizing the difficult budgetary situation in which this country finds itself, I have addressed the need to generate the revenue to finance this memorial. The World War II Commemorative Coins Act, which authorizes the minting of coins to commemorate the 50th anniversary of the U.S. involvement in World War II, was signed into law on October 14, 1992. Proceeds from the sale of these coins, along with private donations, will be used by the American Battle Monuments Commission to establish this memorial. Sale of the coins will begin this month on May 28.

In taking this important step toward construction of this memorial, let us remember that during World War II, countries representing over half the world's population went to war. More civilians and military personnel were killed, more money spent, more property damaged and more sweeping political changes resulted than in any other war during this century. Over 16 million American men and women served this Nation in uniform. Over 405,000 Americans sacrificed their lives in defense of freedom. American GI's fought heroically on all fronts, in the Pacific, the Atlantic, in Europe, Asia, the Mediterranean, and North Africa. The names and places are familiar to us all: Pearl Harbor, Midway, Coral Sea, Bataan death march, Battle of the Bulge, Normandy, Omaha Beach, and dozens of other battles.

Please let us move forward, with passage of this memorial bill, in paying tribute to those who gave their lives for the enduring values to which our participation in that struggle is dedicated.

Mr. Speaker, as you know, we are in the midst of commemorating the 50th anniversary of the United States involvement in World War II. Sixteen million Americans fought in this war and 405,000 made the ultimate sacrifice by giving their lives to the service of our country and its pursuit of global freedom.

Throughout our land over the next 2 years, as we celebrate this anniversary, there will be tributes, speeches, parades, and displays of gratitude to the American men and women who fought for freedom over tyranny around the globe between 1941 and 1945. However, long after the parades have marched and the speeches have ended, it is astounding to realize that, were it not for us, no single monument in our Nation's Capital would recognize the contributions to liberty made by 16 million American veterans of World War II—the most profound and consequential war of this century.

In the Washington, DC area, the Iwo Jima Memorial commemorates one key battle, as well as the Marine Corps. Individual monuments recognizing other specific military units have also been constructed, particularly along Memorial Drive to Arlington Cemetery. Yet there exists no single place in the capital area where the lasting contributions World War II veterans made to freedom are memorialized, and where living veterans and visitors can pay their respects to Americans who served their country during this time of global turmoil.

Only a national memorial can honor veterans both deceased and living who carried this Nation to victory. Therefore, since 1987, when a veteran from Ohio's Ninth District, Mr. Roger Durbin, approached me with the idea of creating such a memorial, I have introduced legislation to authorize its construction in the District of Columbia or its environs.

On December 10, 1987, I introduced H.R. 3742—100th Congress—to establish a World War II memorial and museum. This bill was jointly referred to the Veterans' Affairs Committee and the House Administration Committee. On April 21, 1988, the Subcommittee on Housing and Memorial Affairs of the Veterans' Affairs Committee held a hearing on this bill. On June 21, 1988, the Subcommittee adopted an amendment in the nature of a substitute to H.R. 3742 and recommended that the bill be considered by the full Veterans' Affairs Committee. On June 28, 1988, the Committee ordered the bill favorably reported and on July 7, 1988, filed a report (House Report 100–755). The Committee on House Administration did not take any action.

On June 29, 1989, I introduced H.R. 2807, following a June 15 hearing by the Subcommittee on Housing and Memorial Affairs on an identical bill, H.R. 537 (101st Congress). This bill was also jointly referred to the Veterans' Affairs Committee and the House Administration Committee. The Housing and Memorial Affairs Subcommittee unanimously approved H.R. 2807 on September 20, 1989, and recommended it to the full Veterans' Affairs Committee. The committee ordered the bill favorably reported on September 20, 1989, and filed a report on September 26, 1989, (H. Rept. 101–257). H.R. 2807 was ordered to be reported by the House Administration Committee on September 19, 1990. No further action was taken on this bill.

On March 22, 1991, I introduced an identical bill, H.R. 1624 (102d Congress), which was jointly referred to the Committee on Veterans' Affairs and the Committee on House Administration. The Subcommittee on Housing and Memorial Affairs held a hearing on July 11, 1991, and unanimously recommended the bill to the full Veterans' Affairs Committee with an amendment on July 18, 1991. H.R. 1624 was ordered to be reported by the Committee on Veterans' Affairs on July 23, 1991, and a report was filed on July 21, 1991 (H. Rept. 102–179). This bill passed the House by voice vote on June 22, 1992. The Senate subsequently passed H.R. 1624 with an amendment in the form of the text of the Senate companion measure, S. 2244, on October 7, 1992, but the House had adjourned and no further action was taken.

H.R. 682 authorizes the American Battle Monuments Commission [ABMC] to establish a memorial, in the District of Columbia or its environs, to honor members of the Armed Forces who served in World War II, and to commemorate the participation of the United States in that war. The ABMC would be responsible for planning, designing, constructing, and overseeing the operation of the memorial. Accessibility and accommodations for the physically handicapped would be required under this bill, as would compliance with provisions of the Commemorative Works Act.

H.R. 682 would establish a World War II Memorial Advisory Board, consisting of 12 members, appointed by the President, to serve for the life of the Board. Board members would be chosen from among World War II veterans, World War II historians, and representatives of veterans organizations, historical associations, and other groups knowledgeable about World War II. The Board would promote establishment of the memorial, encourage private contributions for the memorial, and, upon request of the ABMC, assist the ABMC in selection of the site and design of the memorial.

H.R. 682 would require the ABMC to solicit and accept private contributions for establishment of the memorial. A fund would be set up in the Treasury for deposit of these contributions and the amount of surcharges paid to the ABMC for the memorial under the World War II 50th Anniversary Commemorative Coins Act (Public Law 102–414). The Secretary of the Treasury would be authorized to invest any portion of the fund that, as determined by the chairman of the Commission, is not required to meet current expenses.

A fitting memorial would honor our World War II veterans as well as give us all a sense of the times, the scope of the war, the hundreds of places in which Americans served, the numerous actors in the conflict, the multiple issues, goals, and objectives that came into play in the war and, of course, the enduring values to which our participation in that struggle was dedicated.

The time has come to honor our World War II veterans in a manner that is lasting. Future generations of Americans will benefit greatly from the lessons of World War II imparted by this memorial and will come to honor the millions of Americans whose sacrifices and bravery contributed to the preservation of democracy and the free world.

Mr. CLAY. Mr. Speaker, I yield 4 minutes to the gentleman from Mississippi [Mr. MONTGOMERY], chairman of the Committee on Veterans' Affairs and a longtime supporter of this measure.

Mr. MONTGOMERY. Mr. Speaker, I thank the gentleman from Missouri for yielding this time to me.

Mr. Speaker, H.R. 682 was introduced on January 27, 1993, by a former member of the Committee on Veterans' Affairs, the Honorable MARCY KAPTUR of Ohio. I am pleased to be a cosponsor of that bill.

For many years, she has been leading the effort to establish a memorial to honor members of the Armed Forces who served in World War II. I want to congratulate Ms. KAPTUR for the many hours she has devoted to this bill—for getting it on the floor of the House. A similar bill had cleared both Houses on the last day of the 102d Congress. About 40 bills were blocked by a parliamentary procedure on the last day.

I want to also express my appreciation to the gentleman from North Carolina the Honorable CHARLIE ROSE, chairman of the Committee on House Administration, and the gentleman from Missouri, the Honorable BILL CLAY, chairman of the Subcommittee on Libraries and Memorials, bringing this bill up so quickly, the gentleman from California, the Honorable WILLIAM THOMAS and BILL BARRETT, the gentleman from Nebraska, the ranking minority members for the full committee and subcommittee respectively.

The bill would authorize the American Battle Monuments Commission to establish the Memorial in accordance with the standards contained in the Commemorative Works Act of 1986. The American Battle Monuments Commission operates and maintains monuments throughout the world and is currently involved in building the Korean War Veterans Memorial. The American Battle Monuments Commission takes care of two or three memorials.

No public funds are to be used in designing and constructing the memorial. All costs come from either private donations or from revenues derived from the sale of commemorative coins as set out in Public Law 102–414, which was signed into law on October 14, 1992.

Mr. Speaker, since December 7, 1991, ceremonies have been held throughout the world commemorating events that occurred during this long and critical period in our Nation's history and will continue for the next 4 years. It is time that we paid tribute to those who defended America during this time, and I am pleased to support Ms. KAPTUR and others in her efforts to get this memorial established in our Nation's Capital.

□ 1510

Mr. CLAY. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. SANGMEISTER].

Mr. SANGMEISTER. Mr. Speaker, I rise in support of H.R. 682, the bill introduced by my colleague from Ohio, the Honorable MARCY KAPTUR, which would authorize the establishment of a World War II memorial in the District of Columbia.

Congresswoman KAPTUR has been working diligently to bring this project to fruition since 1987. In order not to spend taxpayer dollars, she also worked on a coin bill which was enacted into law last year to fund this memorial.

This bill is strongly supported by veterans organizations and the Congress. H.R. 682 currently has 96 cosponsors.

In essence, the bill directs the American Battle Monuments Commission—which oversees American cemeteries and memorials worldwide—to establish the World War II Memorial in the District of Columbia or its environs. The Commission would be responsible for planning, designing, and construction. The bill also provides for an advisory board appointed by the President to promote the establishment of the memorial and to encourage contributions for its construction.

Mr. Speaker, I believe a fitting tribute to the 16 million Americans who served their country and the over 400,000 who died in service during World War II is long overdue and I urge favorable consideration of the bill.

Mr. KANJORSKI. Mr. Speaker, I rise today in strong support of H.R. 682, a bill to create a memorial honoring Americans who led the United States to victory in the Second World War.

A constituent in my district wrote me last week to ask why there were memorials all over Europe and no national memorial here in Washington, DC, to honor those who served our Nation with such gallantry.

Fifty years ago, America accepted its duty to protect liberty around the world. Tyrants were locking their grip on people everywhere. For a time it seemed nothing could stop the domination of freedom by ruthless dictators.

But the enemies of freedom did not count on the bravery of the men and women of the United States. After Pearl Harbor, our Armed Forces were deluged with volunteers willing to risk all to defend their families, their country, and precious human liberty.

History will forever record the valor of these great Americans. They fought at Guadalcanal, Midway, Sicily, Normandy, in the drive across Europe, at the Battle of the Bulge, in Iwo Jima, Okinawa, and countless other bloody engagements.

Also important to the war effort were the proud Americans here at home who built barracks, typed documents, fed the troops, built the ships, tanks, and planes, worked the mines and production lines, and performed all the other tasks necessary to Allied victory.

Americans went overseas knowing there was danger. Nearly 700,000 were wounded in action.

Many never returned. Four hundred thousand Americans died in service to their country.

The time has come to honor all who contributed to America's success. H.R. 682 will establish a memorial to honor members of the Armed Forces who served in World War II.

I am an original cosponsor on this bill because I believe we must recognize those who serve our Nation when they are needed most. Our country is strong today, indeed our Nation exists today because the veterans of World War II helped topple the forces of oppression across the globe.

Mr. Speaker, we are voting today to raise a memorial honoring the Americans who helped the Allies win World War II. I urge my colleagues to stand behind the veterans of that war. As Memorial Day approaches, let us give them the recognition they deserve.

More importantly, I hope we honor our veterans every day we live in freedom. When we vote; when we criticize our leaders; when we love our families; and every time we are reminded that we live in the greatest Nation on Earth—I truly hope we remember the brave men and women who protected this country in its hour of need.

Mr. GILMAN. Mr. Speaker, as a World War II veteran, I am honored to rise in support of H.R. 682, legislation authorizing the American Battle Monuments Commission to establish a memorial honoring the courageous men and women who served our country during World War II. I commend our distinguished colleague from Ohio, Ms. KAPTUR, for introducing this important measure.

World War II was unlike any other conflict. Having served with the Army Air Force, I can attest to the horrors and ugliness of that war. It is those memories that have motivated me to continually work to protect and promote the liberties and freedoms which, we are privileged to enjoy.

There are many important lessons to be learned from World War II. It therefore is of great significance to preserve the memories of those who perished in upholding their democratic ideals and institutions. A monument

honoring our Nation's brave service men and women and survivors, of World War II will be an important reminder of the monstrosities of World War II.

On April 22, 1993, we were privileged to witness an awe-inspiring event in our Nation's Capitol—the dedication of the Holocaust Museum with President Clinton and numerous world leaders and distinguished guests, the world bore witness to the horrors of the Holocaust. Just as the Holocaust Museum will teach future generations of the evil of racism and hatred, a monument to the heroes of World War II will pay an appropriate, and long overdue, tribute to our Nation's champions of Liberty in World War II.

Mr. Speaker, I am pleased that this legislation is being considered as we observe the 50th anniversary of the United States' participation in World War II. Over 16 million members of our Nation's Armed Forces fought in World War II. And, 8 million veterans of that conflict are still alive today. According, it is appropriate that, as a Nation, we pay tribute and honor to these American heroes.

The World War II Memorial Act does just that. As my colleagues will recall, the 102d Congress passed the World War II Coin Act, designating that the Funds generated from the sale of those World War II anniversary coins will be used to finance the construction and maintenance of the World War II monument on Federal land. by utilizing the funds generated by the sale of the anniversary coins, H.R. 682 will provide a lasting tribute to the veterans of World War II. This legislation also establishes a World War II Memorial Advisory Board which will be responsible for the promotion and fund raising that is necessary for the success of this awesome undertaking.

Mr. Speaker and my colleagues, I urge support of H.R. 682. This monument dedicated to the heroes of World War II deserves our recognition and support. Moreover in paying tribute to our past heroes, we will so be educating our children to the significance of our Nation's sacrifices in promoting liberty and freedom.

Mr. BEREUTER. Mr. Speaker, as a cosponsor of H.R. 682, legislation to establish a World War II memorial, this Member would like to offer strong support for passage of this important legislation. H.R. 682 authorizes the American Battle Monument Commission to establish a fund in the U.S. Treasury to accumulate private contributions and proceeds from the sale of World War II anniversary coins.

H.R. 682 would honor our Nation's World War II veterans with a memorial on Federal land within or nearby the District of Columbia. Currently, there is no single memorial in our Nation's Capital dedicated to veterans who served in this war, and to honor the more than 400,000 men and women who gave their lives for our Nation. This is a serious oversight that should surely be corrected.

This Member is also especially pleased to note that no taxpayer dollars will be involved in this project. Last year, the World War II 50th Anniversary Commemorative Coins Act was signed into law, which will pay for the Memorial with the minting of special edition World War II memorial coins.

Mr. Speaker, a national memorial will serve to honor our World War II veterans, both deceased and living, who carried this nation to victory, and ensured the preservation of democracy and freedom. Mr. Speaker, This Member urges this colleagues to support passage of this important legislation.

Mr. BARRETT. Mr. Speaker, I yield back the balance of my time.

Mr. CLAY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Missouri [Mr. CLAY] that the House suspend the rules and pass the bill, H.R. 682.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

Mr. CLAY. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the Senate bill (S. 214) to authorize the construction of a memorial on Federal land in the District of Columbia or its environs to honor members of the Armed Forces who served in World War II and to commemorate U.S. participation in that conflict, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 214

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY TO ESTABLISH MEMORIAL.

(a) IN GENERAL.—The American Battle Monuments Commission (hereafter in this Act referred to as the "Commission") is authorized to establish a memorial on Federal land in the District of Columbia or its environs to honor members of the Armed Forces who served in World War II and to commemorate the participation of the United States in that war.

(b) COMPLIANCE WITH STANDARDS FOR COMMEMORATIVE WORKS.—The establishment of the memorial shall be in accordance with the Act entitled "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes" approved November 14, 1986 (40 U.S.C. 1001 et seq.).

(c) HANDICAPPED ACCESS.—The plan, design, construction, and operation of the memorial pursuant to this section shall provide for accessibility by, and accommodations for, the physically handicapped.

SEC. 2. ADVISORY BOARD.

(a) ESTABLISHMENT OF BOARD.—There is established a World War II Memorial Advisory Board (hereafter in this Act referred to as the "Board"), consisting of 12 members, who shall be appointed by the President from among veterans of World War II, historians of World War II, and representatives of veterans organizations, historical associations, and groups knowledgeable about World War II.

(b) APPOINTMENTS.—Members of the Board shall be appointed not later than 3 months after the date of enactment of this Act and shall serve for the life of the Board. The President shall make appointments to fill such vacancies as may occur on the Board.

(c) RESPONSIBILITIES OF BOARD.—The Board shall—

(1) in the manner specified by the Commission, promote establishment of the memorial and encourage donation of private contributions for the memorial; and

(2) upon the request of the Commission, advise the Commission on the site and design for the memorial.

(d) TERMINATION.—The Board shall cease to exist on the last day of the third month after the month in which the memorial is completed or the month of the expiration of the authority for the memorial under section 10(b) of the Act referred to in section 1(b), whichever first occurs.

SEC. 3. PRIVATE CONTRIBUTIONS.

The Commission shall solicit and accept private contributions for the memorial.

SEC. 4. FUND IN THE TREASURY FOR THE MEMORIAL.

(A) IN GENERAL.—There is created in the Treasury a fund which shall be available to the American Battle Monuments Commission for the expenses of establishing the memorial. The fund shall consist of—

(1) amounts deposited, and interest and proceeds credited, under subsection (b);

(2) obligations obtained under subsection (c); and

(3) the amount of surcharges paid to the Commission for the memorial under the World War II 50th Anniversary Commemorative Coins Act.

(b) DEPOSITS AND CREDITS.—The Chairman of the Commission shall deposit in the fund the amounts accepted as contributions under subsection (a). The Secretary of the Treasury shall credit to the fund the interest on, and the proceeds from sale or redemption of, obligations held in the fund.

(c) OBLIGATIONS.—The Secretary of the Treasury shall invest any portion of the fund that, as determined by the Chairman of the Commission, is not required to meet current expenses. Each investment shall be made in an interest bearing obligation of the United States or an obligation guaranteed as to principal and interest by the United States that, as determined by the Chairman of the Commission, has a maturity suitable for the fund.

(d) ABOLITION.—Upon the final settlement of the accounts of the fund, the Secretary of the Treasury shall submit to the Congress draft legislation (including technical and conforming provisions) for the abolition of the fund.

SEC. 5. DEPOSIT OF EXCESS FUNDS.

If, upon payment of all expenses of the establishment of the memorial (including the maintenance and preservation amount provided for in section 8(b) of the Act referred to in section 1(b)), or upon expiration of the authority for the memorial under section 10(b) of that Act, there remains a balance in the fund created by section 4, the Chairman of the Commission shall transmit the amount of the balance to the Secretary of the Treasury for deposit in the account provided for in section 8(b)(1) of that Act.

MOTION OFFERED BY MR. CLAY

Mr. CLAY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. CLAY moves to strike out all after the enacting clause of S. 214 and to insert in lieu

thereof the provisions of H.R. 682, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "An Act to authorize the American Battle Monuments Commission to establish a memorial, in the District of Columbia or its environs, to honor members of the Armed Forces who served in World War II, and to commemorate the participation of the United States in that war."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 682) was laid on the table.

GENERAL LEAVE

Mr. CLAY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material on H.R. 682 and S. 214, the bills just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

HOUR OF MEETING ON TOMORROW

Mr. CLAY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 1 p.m. on tomorrow, Wednesday, May 5, 1993.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

INTRODUCTION OF COMPREHENSIVE HEALTH AND RURAL EQUITY ACT OF 1993

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wyoming [Mr. THOMAS] is recognized for 5 minutes.

Mr. THOMAS of Wyoming. Mr. Speaker, I want to take a few minutes to talk about an issue that certainly is current, certainly is important to each of us, and that is health, probably more appropriate to be called health than health care. We ought to be putting some emphasis on preventive medicine which would limit the amount of health care.

Most of us, I think most everyone involved in this debate would concede that there are at least two major items and two major goals that we would like to accomplish. One is to have access for all Americans to some basic outline of health care. The other, of course, is to do something about cost. Those two issues I think prevail and are prominent throughout the country. They are the ones that we seek to do something about.

There are a great many notions as to how to do it, a whole spectrum of ideas, ideas that could be borrowed from Great Britain where the people pay taxes, where the Government hires the providers, and it is a total Government program, all the way, of course, to a completely private system where people would be entitled to have IRA's or some kind of tax relief, some kind of buildup, to pay for their own care, and then all in between, including the Canadian system, including changes in the system that we have now.

It seems to me that the two important aspects of doing something, and it is time we do that, is to have a fundamental reform, a fundamental change in the way we do some of the things that provide health care.

The other important element and the one that concerns me some, frankly, with what has been going on in Washington, is that it be doable, that it be something that can be done and can be done in a relatively short time. If we have some kind of esoteric program that turns health care entirely on its head and starts over, when you are talking about a program that costs $900 billion a year, affects each of us one way or another, it is very, very difficult to do that.

On the other hand, if we can develop a vision of where we want to be over some period of time and begin to incrementally make some moves to do it, it seems to me that our chance of doing that is best.

I intend tomorrow to introduce a bill. It will be called the Comprehensive Health and Rural Equity Act of 1993. It is designed to do those things. It is designed to fundamentally change the delivery program, although keeping it basically in the private sector, and it is doable and we can do these things. Many of them have been introduced before. Many of them have been talked about. Many of them are understood and we can do that.

I represent the State of Wyoming. The State of Wyoming has 100,000 square miles with 475,000 people in it. One of the plans that has come forward, interestingly enough, has come from the Jackson Hole group in Jackson, WY. It has to do with managed competition. It is the notion that you bring together pretty large buying units, whether they be employers or private people that come together, to use the leverage of size to find providers who will give good quality, that will give it at a low price. Not a bad idea, and I think we ought to pursue that.

The difficulty is, and it works well in some situations, the model that I saw I think was Cincinnati where large employers put together several thousand into a purchasing group and were able to select from among 17 hospitals as to which gave the best quality, which one gave the best price, and select a provider.

There is one town in Wyoming that has more than one hospital. You know, that sort of selection process simply does not work in rural areas.

□ 1520

So, Mr. Speaker, we want to do several things. One is incentive to increase access.

When we talk about access, that is not totally a financial kind of a thing. It is also in rural areas the importance of having health care providers located in those small towns, and we are having more and more difficulty getting primary care doctors to be located there. So, this provides some incentive.

It provides help with the interest on loans for medical school for private family practitioners that would move to rural areas. It provides for reimbursement for the extra travel the doctors might have to provide access. It encourages the use of nurse practitioners and physicians assistants as extenders for physicians there.

Second, it guarantees access to affordable health care to everyone for a basic health package, and that is terribly important, first, because it is what we want to do and have everybody covered so that they have access to efficient and effective health care. Most people, frankly, now have some access to health care. Unfortunately, often it is going to the emergency room for routine kinds of things which is very expensive, very inefficient.

This would provide that everyone is insured and goes into the market to buy their own insurance to have some control over the costs. Those that financially cannot afford it would be given vouchers to be able to do that. It fundamentally reforms insurance and the tax program that goes with it.

So, Mr. Speaker, there are a number of steps. Let me just make one final point.

The tax changes that need to be made is to let self-insured people have the same kind of tax breaks as those that are employed. I intend to introduce this bill tomorrow and talk more about it.

MOURNING THE DEATH OF CESAR CHAVEZ

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. SERRANO] is recognized for 60 minutes.

Mr. SERRANO. Mr. Speaker, it is with great sadness that I rise as the chairman of the congressional Hispanic caucus to mourn the death of Cesar Chavez.

For more than three decades, Cesar Chavez symbolized the voice for political awareness among Latinos. He carried the cry for farm worker's rights to

the fields of California and echoed the call for La Causa, the struggle to raise political consciousness and deliver justice to all Latinos.

With every breath, Cesar Chavez brought passion to his quest for justice. But his triumphs sharpened the bittersweet taste of organizing and unionizing the migrant workers. A step forward in the march was often matched by a step backward, success often mixed with suffering.

It was in 1962 that Cesar Chavez took out his life savings and first organized the National Farm Workers Association in the San Joaquin Valley's agricultural town of Delano. By September of the same year, the NFWA held its first formal meeting in Fresno with 287 participants who came to listen to the powerful ideas of the farm worker's rights movement, lead by the inspiration of Cesar Chavez.

Along the thousands of miles traveled through the California farm land, Chavez brought the message of farm workers unity and unionization. During the late 1960's and early 1970's, the UFW's membership reached its peak with over 70,000 members. In 1975, Chavez delivered his most important legacy to the farm workers rights movement, successfully campaigning for the landmark Agricultural Labor Relations Act which permitted farm workers to organize and bargain collectively for the first time.

The grape picker's struggle took center stage in what Chavez called la huelga—a series of strikes, a call for adequate living conditions and higher wages, and a stop to the exploitation and injustice suffered by Latinos. Chavez is also responsible for one of the first and largest consumer boycotts, persuading millions of consumers to voluntarily abstain from buying California grapes. The boycott gave consumers an active role in opposing the injustices against farm workers across the country.

Throughout his life, Cesar Chavez brought to the public eye the existence of Mexican-Americans as a growing and vibrant population. More than just the political movement, Chavez created a moral, spiritual, and cultural world for Mexican-Americans to explore. With each and every march, Chavez continued to challenge all Mexican-Americans to engage in an active search for their own cultural identity.

By the 1970's the term "Chicanismo"—the identification of Latinos of Mexican decent as a symbiosis of Hispanic, indigenous, and American cultures—first appeared in the lingo of the time. Chicano art brought nourishment to the spirit of farm workers, and to urban life. Cesar Chavez was the inspiration for the Teatro Campesino which made its debut at the picket lines among the farm workers. It was Luis Valdez, Agustin Lira, and others that colored with music and drama with the fight Chavez would come to epitomize. Chavez gave writers, painters, and other artists the strength and inspiration to express the Chicano and Latino struggle for equality. He gave Latinos a voice, a spirit, and a dream: The means to speak a common language through the words of the working poor.

Cesar Chavez spoke in a language that was as dear to Puerto Ricans as it was to Mexican-Americans. I recall my late father who had walked the picket line on behalf of the sheet metal workers in the Bronx. It was my father who often expressed to me and my brother that the one power the working poor have is the right to strike. It was with these ideas that Cesar Chavez became part of the Puerto Rican struggle in the east coast.

Chavez encountered many impediments throughout his struggle but fought his opponent only through words and nonviolent philosophy.

In 1969 Chavez said, "If the strike means the blood of one grower or one grower's son, or one worker or one worker's son, then it isn't worth it." In 1968, Chavez began a 25-day fast. Chavez explained his actions by saying it was "an act of penance, recalling workers to the nonviolent roots of their movement." Even though his fasting lead to physical deterioration, it powerfully communicated the hunger for dignity of the farm worker.

To every one present today and for the thousands of farm workers in the United States, it is difficult to express through words the sorrow felt throughout this Nation. Like Martin Luther King, Jr., who organized African-Americans in the South to stand up against injustice and discrimination, Cesar Chavez stood up against injustice and discrimination, Cesar Chavez stood up against oppression and exploitation in the agricultural fields of California. But Chavez's greatest accomplishment was to unite the Latinos in this country who are children of the Earth, share the common land to sow, and with one united voice await the season when justice may be reaped for the betterment of all.

As a humble voice among Latinos, I take great pride in honoring the memory of Cesar Chavez. In memory of you, Cesar, we pledge to keep your voice alive, and with your words I make the call: Viva la Huelga, viva la Causa, viva la Union.

Thank you, Cesar, you will never be forgotten.

Mr. Speaker, I yield to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, during his life's struggle on behalf of the repressed, Cesar Chavez exemplified the best qualities of human life. He was a leader for the voiceless masses and challenged all Americans to reflect upon their society and world. Cesar Chavez will live eternally in the memories of the thousands whose lives he touched. It is with profound sadness that I voice this tribute in the wake of Cesar's death.

He rose from such depths and achieved such heights. Born March 31, 1927, near Yuma, AZ, Cesar was faced with and overcame numerous obstacles. When he was young, Cesar's family grappled with the tyranny of farm contractors. As he grew, attending dozens of schools and eventually dropping out in the seventh grade, Cesar never forgot the timeless lessons forged by hardship. Through the Catholic Church and the writings of Ghandi, Cesar came to understand the strength of nonviolent rebellion and the resiliency of human spirit. None will forget the firestorm ignited by La Huelga and the nationwide boycott which ensued. None will forget the simple truth which a modest man dared to expose. Cesar Chavez, father of eight and benefactor to thousands, will remain an ideal for those who continue the struggle.

He was a giant among humankind. He dedicated his life to exposing the inequities of an unjust system. As the pain of his passing ebbs, the accomplishments of this humble man will shine. I join the thousands in expressing my grief and renewing my faith at the passing of Cesar Estrada Chavez.

□ 1530

Mr. SERRANO. Mr. Speaker, I yield to the gentleman from California [Mr. EDWARDS], the dean of the California delegation.

Mr. EDWARDS of California. Mr. Speaker, I thank the distinguished gentleman from New York [Mr. SERRANO] for yielding, the chairman of the Hispanic caucus, and for arranging this series of speeches about Cesar Chavez. I am honored to be a part of this important event.

Mr. Speaker, it was with a deep feeling of sadness that I learned of the passing of Cesar Chavez. He had meant so much to me for more than three decades, and I feel as though I have lost a dear member of my family.

My years with Cesar go back to when I first ran for Congress in June 1962. I had known of him, of course. He and his family had lived for many years in San Jose, my hometown, and Cesar began his farm labor organizing work in San Jose.

Anyway, when I started my campaign for Congress in early 1962, I met Cesar through Dr. Ernesto Galarza a distinguished author and professor, who wrote movingly in several respected books about the plight of the farmworkers. We had long talks about the Bracero Program, which Dr. Galarza and Cesar opposed, and one of my first votes in Congress was in favor of legislation that ended the program.

Cesar was gracious enough to endorse my candidacy in the 1962 election, a welcomed gesture of approval I appre-

ciated and one he continued as the years went by.

It was in 1962, also, that Cesar formed the National Farm Workers Association, which later became the United Farm Workers.

We saw each other several times each year, sometimes at marches and rallies in support of the UFW's grape boycott, too often at tragic events like the moving funerals of farmworkers who were murdered because of their political work.

A few years ago Cesar went on a hunger strike to protest the use of poisonous pesticides in the vineyards where the farmworkers labored. Susan Hammer, now the mayor of San Jose, my district director, Terry Poché, and I flew to Delano in a small chartered airplane.

Cesar was lying in his bed, very weak, but still his loving self. He asked us to do what we could for the health of his union members. We promised, hugged him, and left with tears in our eyes.

Mr. Speaker, I don't consider Cesar Chavez as someone who is dead and forgotten. He inspired all who knew him and knew of him because he was absolutely selfless. His only concern was the welfare of farmworkers, whose battles he fought month after month, year after year.

Cesar made enormous differences in their lives, but he was never satisfied and he never gave up the struggle. We are all fortunate that Cesar lived and was our comrade.

Mr. SERRANO. Mr. Speaker, I yield to the gentleman from California [Mr. FILNER].

Mr. FILNER. Mr. Speaker, I thank the gentleman from New York [Mr. SERRANO] for organizing this special order as it is so necessary for us to recognize the passing of Cesar Chavez.

Mr. Speaker, last week, America mourned the passing of one of its most charismatic and inspirational leaders: Cesar Chavez. At his funeral, thousands came to honor his achievements. Cesar Chavez's appeal was universal: it transcended our ordinary differences of religion, ethnicity, and ideology. Today, I join my colleagues in honoring Cesar Chavez, a man who served as an inspiration to millions of people around the world.

As a member of the San Diego City Council, I authored a resolution proclaiming April 18, 1989, as Cesar Chavez Day. At his celebration, accompanied by San Diego family members, he marveled, "I never expected a city as conservative as San Diego to designate a day in my honor." That was one of Cesar's endearing traits—his simplicity.

Cesar Chavez spent his life crusading for migrant farmworkers. Himself the son of such farmworkers, Cesar witnessed firsthand the long, hot days workers spent under the blazing California sun, bent over, tilling the fields. He knew too that the workers were denied even basic necessities such as restrooms, drinking water, and work breaks. Cesar Chavez convinced farmworkers, who he saw as the invisible people, to join together and fight for decent working conditions—and respect. The United Farm Workers Union, which he organized, will occupy a permanent place in American history.

Cesar's influence extended beyond better working conditions for farmworkers in rural areas. In urban areas, he organized voter registration drives, and brought complaints against mistreatment of Latinos by police and welfare officials. Cesar galvanized and inspired Latinos to fight against oppression. He helped not only define their struggle, but the entire civil rights movement.

The most remarkable thing about Chavez, though, was how he fought the battle. Cesar taught all of us what it means to give oneself entirely to the struggle. He spent his entire life serving others. He knew that the battle was never ending—and he lived it always.

Cesar Chavez never let himself become satisfied with the progress he had made. Instead, he personally suffered in order to push the movement farther. In his quest to show the dangers facing migrant farmworkers, he would often fast. Many close to Cesar Chavez tried to stop him from endangering his own life. When once asked "Why do you bear the pain of fasting?" Cesar stated that it was "for his purification and an act of penance for those in positions of moral authority and for all men and women activists who know what is right and just, who know that they could or should do more, who have become bystanders and thus collaborators with an industry that does not care about its workers."

We must not let ourselves become bystanders to injustice, but instead continue the work started by Cesar Chavez. We, in Congress, must make certain that the struggle Cesar started will continue. We must all be committed to true equality and dignity for all.

In the words of Cesar Chavez and the United Farm Workers, "Si, Se puede—yes we can."

□ 1540

Mr. SERRANO. Mr. Speaker, I now yield to the distinguished gentleman from Georgia [Mr. LEWIS].

Mr. LEWIS of Georgia. Mr. Speaker, I want to thank the gentleman from New York [Mr. SERRANO], my friend, for holding this special order. Mr. Speaker, I rise today to pay tribute to a great American, Cesar Chavez. Chavez personified the very best in the American tradition. He displayed an unwavering commitment to improving the conditions of farmworkers.

Chavez led a crusade on behalf of migrant workers that empowered hundreds of thousands of people. He brought attention to the plight of migrant workers in a way that deepened and expanded the civil rights movement. His efforts in voter registration forever changed the face of politics in the West. His nonviolent protests improved conditions in the lives of thousands of workers. The accomplishments of Cesar Chavez were many. His leadership was unparalleled. His devotion to nonviolence was complete.

I knew Cesar Chavez. He was a good and decent man. In 1968, we worked together in Robert Kennedy's Presidential campaign. During that campaign, I got to know this man. He was a leader in the truest sense of the word. He was a crusader for social justice.

His cause was our cause. His fight was our fight.

Cesar Chavez was able to organize the unorganized. He gave many hope in a time of hopelessness. His work and his cause enhanced the dignity of humanity everywhere. He was my friend. He was my brother.

I'll never forget that wonderful time we spent together, 25 years ago, campaigning in California for Senator Robert Kennedy in 1968. Chavez brought tremendous dignity, compassion and commitment to that campaign.

Cesar Chavez was persistent and consistent. He had a vision of a new America, a better America. He had a dream of what America could become. He kept his eyes on the prize. He was a kind and gentle spirit.

Cesar Chavez was the embodiment of love and nonviolence. He followed the teachings of the great teacher. He followed the teachings of Gandhi and Dr. Martin Luther King, Jr. During the labor campaigns of the 1960's, Chavez moved the Nation like few labor leaders had ever done.

Men and women such as Cesar Chavez, Dr. Martin Luther King, Jr., A. Phillip Randolph, former Chief Justice Thurgood Marshall, Fannie Lou Hamer, and former Attorney General Robert Kennedy have inspired me with their leadership abilities. These men and women brought us through one of the most difficult times in modern American history, the civil rights movement.

I came of age during the civil rights movement of the 1950's and 1960's. It was an era in which I found my own courage to try and make a difference in this society. I was inspired by individuals such as Chavez. I drew strength from his examples of leadership.

I am convinced that the lessons of the 1960's are still relevant today. I am a product of that era. I think that many of the difficult experiences that Chavez and others went through should be discussed to remind people of the long struggle that was necessary to strengthen freedom and democracy in the post-World-War era.

I felt a great deal of kinship with Cesar Chavez. He, like me, started from

very modest circumstances. You see, I come from a small southeast Alabama town called Troy. In the 1940's and 1950's, the signs of discrimination and segregation were everywhere. I saw those signs that said white men, colored men, white women, colored women, white waiting, colored waiting.

Chavez experienced great hardships as a child growing up in migrant worker communities. He suffered the harsh sting of discrimination and racism. Because his family traveled from one community to another in search of work, Chavez was not able to finish high school. Life was hard for the migrant farmworking families of the West. It was especially hard for the Mexican families who were subject to great discrimination.

Despite the struggles of his youth, Chavez emerged as one of the most disciplined labor and civil rights leaders of his generation. The grape boycott of 1965 that was led by Chavez proved to be one of the finest hours of the migrant farmworker crusade. It won the support of the Nation and brought Chavez into a highly visible position of leadership in the struggle for civil rights in the Hispanic community.

Chavez will be remembered for his courage and his determination to bring dignity to the lives of workers. His legacy will speak to future generations of Americans. I believe he should be regarded as one of the founding fathers of the New America. This small brown man was a citizen of the world. He was a beautiful human being. He will be greatly missed.

Mr. SERRANO. Mr. Speaker, I now yield to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Speaker, I am grateful for this opportunity to express my thoughts about Cesar Chavez, but saddened beyond words by the occasion for this special order.

Of all the attributes of our great Nation, the one in which I take the most pride is our Nation's moral compass, which constantly points us toward the goal of justice for all. We have the good grace, rare among nations, to acknowledge our shortcomings, and an abiding determination to work to overcome them.

In few areas is our resolve to do right more severely tested—or betrayed—than our treatment of this Nation's migrant farmworkers.

That is why it is so fortunate that Cesar Chavez stepped into our lives, and more importantly, into the lives of his fellow campesinos.

No workers in this country are more poorly paid than farmworkers, yet I daresay none work harder. Job security is nonexistent. Housing? It may be no more than a hillside. The basic understanding that all of us have about the terms and conditions of our employment is commonly denied to migrant farmworkers.

To evade their responsibilities under those few laws that do afford protection to farmworkers, agricultural employers increasingly resort to the use of crewleaders to bring a workforce to their fields—transported in all too many instances in unsafe vehicles by drunk drivers. Modern day peonage persists: Farmworkers work grueling long days under crippling conditions and end up with nothing in their pockets after crewleaders deduct exorbitant amounts for transportation, and for room and board which no Member of this body would find remotely tolerable.

Cesar Chavez devoted his life to the effort to inspire his fellow farmworkers, and to fire the conscience of us all, to do something about this.

He was a constant inspiration to me in the many years we worked together to enact the Agricultural Labor Relations Act to secure collective bargaining rights for farmworkers, and to block foreign guestworker programs sought by agricultural employers to further depress wages and working conditions.

We as lawmakers must continue to take responsibility for improving and expanding the legal protections available to farmworkers. That is why one of the most appropriate actions we can take to honor the memory of Cesar Chavez is to pass H.R. 1173, the omnibus legislation introduced by my colleague from California, Mr. MILLER, to amend and improve the Migrant and Seasonal Agricultural Worker Protection Act.

But without for an instant letting this body off the hook, when there is so much we can and must do, I must say that Cesar Chavez knew that we cannot put our faith in laws alone to bring a new day for farmworkers.

Officials repay debts to the wealthy growers who elected them, and laws designed to protect farmworkers go unenforced. Such has been the fate of the Agricultural Labor Relations Act. And growers persist in inflating the labor supply to drive down wages. Laws enacted to protect the health of farmworkers and consumers alike are undermined by growers determined to use and abuse toxic pesticides.

That is why the efforts of Cesar Chavez were so critical. He understood that only farmworkers themselves, aided by all of us who support their cause, can achieve lasting justice for farmworkers.

And that is the difficult but essential task of Cesar's colleagues and successors at the United Farm Workers of America: to emerge from their grief to renew Cesar's message that in the union there is strength, and there is hope.

I will miss Cesar Chavez as a lodestar in my own life. He was a great and good man who exemplifies for me the biblical injunction:

For He has showed thee O man what is good, and what doth the Lord require of thee, but to do justly, and to love mercy, and to walk humbly with thy God.

In death as in life, he will continue to inspire us all. For those who pick up his mantle, I pledge my continued support. For Cesar, for his cause, and for the farmworkers he represented so well, I can do no less.

Mr. SERRANO. Mr. Speaker, I yield to the gentleman from Illinois [Mr. GUTIERREZ].

Mr. GUTIERREZ. Mr. Speaker, I thank the gentleman for organizing this fine tribute.

Mr. Speaker, I am proud to take to the floor today to honor the memory and life work of one of the most important Americans of the past half-century.

Mr. Speaker, I am talking, of course, about the founder of the United Farm Workers Union of America, Cesar Chavez.

As we all know, Cesar died last week in San Luis, AZ, peacefully and in his sleep. But I want everyone to know that his struggle and quest for civil rights for this Nation's migrant workers did not end in his death.

In the 1960's, Latino workers across our Nation—Latinos who had been discriminated against for decades because of their race and ethnicity were drawn to Cesar's leadership.

Cesar's leadership brought national notice to the injustices that Mexican migrant laborers faced in the agricultural industry.

More importantly, by focusing attention on migrant workers, Cesar allowed millions of Latinos nationwide to organize and demand justice in the workplace.

Cesar was, and will remain, a hero in the Illinois Fourth Congressional District. He made many visits to the Pilsen and Little Village Mexican-American communities, and every time he spoke, the community came in throngs to see and hear him. They loved and greatly respected Cesar and his fight for fairness, his fight for justice.

El movimiento, the movement, was what the Chicano civil rights campaign of the 1960's was called.

While it was a Chicano-based movement, Cesar reminded us that el movimiento was not a struggle based on race, but a struggle based on economic injustice.

Working-class African-Americans, Asians, native-Americans, Latinos, and whites were involved at every level of organizing workers. We should all remain committed to continuing his struggle.

Many have compared Cesar to Martin Luther King, Jr., and Mahatma Gandhi, and they are right in doing so.

I want to remind everyone here today that Cesar was a dedicated advocate of nonviolence and that in honor of his

memory we continue to use his peaceful methods of protest.

I will remember Cesar not only for his hunger strikes and grape boycotts, but for what he gave to us all.

He reminded us that all workers deserve fair wages and decent conditions and to be treated with dignity and respect.

He challenged us to bring justice to the workplace and instilled in us a sense of brotherhood.

I am confident that the Mexican, Puerto Rican, and Latino communities in this Nation, and especially in the Illinois Fourth Congressional District, will continue his struggle for economic fairness and social justice.

My prayers and thoughts are with his family and the United Farm Workers of America.

Mr. SERRANO. Mr. Speaker, I yield to our colleague, the gentleman from Texas [Mr. GENE GREEN].

Mr. GENE GREEN of Texas. Mr. Speaker, I thank my colleague, the gentleman from New York [Mr. SERRANO] for yielding to me on this sad but momentous occasion.

Mr. Speaker, I appreciate the time to recognize the passing of Cesar Chavez, a leader in the Hispanic community nationwide, but also for working people everywhere. At age 20 he picketed for workers' rights in 1947, just a few miles north of Delano, CA. I think it is no secret that that was the year a great many of us in Congress were born, but Cesar Chavez was leading the way then. He spoke for the working people everywhere, from California to New York to Texas.

As a fellow trade unionist, we mourn his passing, but are thankful he was on Earth to provide leadership for us all.

A person is judged by his impact, and I am proud to say that Cesar Chavez will be long remembered by farm workers everywhere. I am proud to remember Cesar Chavez, from a person who in the 1960's supported his la causa and remembers him as an hermano in the labor movement.

Mr. SERRANO. Mr. Speaker, I yield to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I thank our colleague, the gentleman from New York [Mr. SERRANO], for yielding me this time and for calling this special order today.

Mr. Speaker, I rise today with great sadness to join my distinguished colleagues in paying tribute to one of America's great heroes, Cesar Chavez. As many have noted, Cesar Chavez was the most important and widely respected civil rights leader in the Hispanic community. Like any great leader, however, the impact of his life and his work have reverberated far beyond his immediate community.

I am particularly pleased that we are having this special order, and so pleased that our colleague, the gentlewoman from California [Ms. ROYBAL-ALLARD] is here, because I am sure she will convey to this Congress and this country that her father worked closely with Cesar Chavez.

I am telling the Members that because I mentioned in San Francisco when we had our own ceremony for Cesar on Friday night, as anyone who has read the papers in the last week knows, tens of thousands of people, indeed, as many as 35,000 people, attended the funeral in Delano earlier in the week. We had our own at St. Peter's Church on Friday night.

At that time, I told those who had gathered, and the church was packed, you could not get anywhere near it, that we would bring the business of Congress to a conclusion this week in memory of Cesar; that we would talk about him here on the floor under the leadership of the Hispanic Caucus of the Congress.

I told my constituents that I would tell this body how enthusiastic they were, how encouraged they were, by the life of Cesar Chavez. From time to time the cry of "Si se puede" would rise up in the church; yes, we can, yes, we can. That is what Cesar taught them.

This man was a man of quiet dignity who respected the dignity and worth of every person and taught each person to expect that respect. He really had an impact, and small children running up and down the aisles were taking the message to another generation.

Those of us who have been involved in organizing at the grassroots level had another loss recently, and that was Mr. Fred Ross, who was a teacher and best friend and mentor of Cesar Chavez. He used to call Cesar "general" and Cesar in turn called him "jefe"; general and jefe, general and chief, the respect that they had for each other.

We will miss them for their commitment, their passion for justice and equality, their energy, and their abiding faith in the human potential.

My sympathy goes out to the family and friends of these great men whose lives were interconnected in so many ways. I was fortunate to be part of the great circle of those gifted and dedicated men who we learned from, and we will miss them both. In their honor we must continue and expand their struggle for justice, equal rights, and basic human rights. Cesar Chavez would expect no less.

Although he did not outlive his opponents physically, he has the ultimate triumph in the memory and esteem in which he is held. I am very grateful to our colleague, once again, for calling this special order in his honor.

Mr. SERRANO. Mr. Speaker, I yield to the gentleman from the Virgin Islands [Mr. DE LUGO].

Mr. DE LUGO. Mr. Speaker, I want to thank the gentleman from New York [Mr. SERRANO], the chairman of the Hispanic caucus, for arranging to take this time to laud this great American and leader.

Mr. Speaker, I rise today to pay tribute to Cesar Chavez.

Cesar Chavez was a man of rare moral clarity, and unending human compassion.

No one who encountered his spiritual boldness—whether through television, newspapers, or in person—could help but be humbled by his decency or transfixed by his courage.

His integrity and commitment were palpable. And his crusade to protect the dignity of the faceless men, women, and children who labor in the fields—sunup to sundown—to put food on our tables gripped the very heart of this Nation.

Child labor.

Pesticide poisoning.

Brutality.

He made us understand that these were the underpinnings of the farm abundance we have come to see as our birthright.

And he imbued farmworkers with a sense of their collective strength.

As a result, major corporate interests—for the first time—were forced to negotiate with the farmworkers whose labor they had for so long taken for granted.

As the Chicago Tribune pointed out, Mr. Speaker, John Steinbeck may have dramatized the harsh life of the farmworker in "The Grapes of Wrath," and broadcasting great Edward R. Murrow may have driven home the same point in his "Harvest of Shame" TV program, but it was Cesar Chavez who pursued a solution with doggedness and devotion, using his charisma and considerable skills to win for farmworkers the rights and dignity they had so long been denied.

No farmworker has ever affected both the fields and the corporate boardrooms as Cesar Chavez did, and for many Latinos, he was a combination of Gandhi and King.

This world is indeed a better place as a result of Cesar Chavez having lived.

He shall not soon be forgotten.

Mr. SERRANO. Mr. Speaker, I yield to the gentlewoman from California [Ms. ROYBAL-ALLARD].

□ 1600

Ms. ROYBAL-ALLARD. Mr. Speaker, I would like to thank our chairman of the caucus, Mr. SERRANO, for having these special orders. I know that not only his family, but literally thousands of people who marched in his services, will appreciate this special order.

Cesar Chavez was a Latino organizer who fought to improve the working conditions for migrant workers. He also symbolized the struggle for fair and just treatment for all Latinos.

Cesar Chavez was an example of our Nation's continuing fight for labor and civil rights. He will be best remem-

bered as the founder and president of the United Farmworkers of America. It was in this role that Cesar Chavez gained national notoriety as a labor rights activist. He organized strikes, boycotts, and fasts in an attempt to achieve a better wage and better working conditions for farmworkers.

The contributions of Cesar Chavez, however, were not limited to the fields. His voice reached into the urban areas across America, and particularly into the east Los Angeles area, a district where I was born and raised, and which I have represented both in the Assembly and now in Congress. It was there that he helped create civic groups such as the Community Services Organization. The union he founded has trained young Latinos to be activists at community, State, and national levels. And in addition, he led an organized voter registration drive in Latino communities and helped to empower those communities by getting them more politically involved.

When history looks back upon the great civil rights leaders of this century, a union organizer named Cesar Chavez will be remembered as an example of one who fought for the rights of his people and his work benefited the lives of all Americans. All of us, whether from the largest urban cities or the smallest rural towns, will miss Cesar Chavez.

Mr. SERRANO. Mr. Speaker, I yield to our colleague, the gentleman from Texas [Mr. BILBRAY].

Mr. BILBRAY. Mr. Speaker, I would like to thank the gentleman from New York for yielding.

Mr. Speaker, I rise today to join my colleagues in honoring the memory of Cesar Chavez.

As we rise today and honor the memory of this dedicated civil rights leader, it is with the hope that his memory will not only live on, but inspire those that will follow him. To the end, Cesar Chavez continued the struggle that had catapulted him to prominence in 1965, traveling around the country seeking to improve the rights of farm workers and to benefit the Mexican-American community in this country.

With the indelible impressions of a childhood spent in the fields, he grew into a committed spokesman and leader for those who had been discriminated and exploited for much too long. He gave the farm workers struggle a voice and a face, and in so doing brought long deserved rights and improvements to these workers.

The abuses that Chavez fought for so long, made a comeback in recent years and it is somewhat ironic that he died just as he began another campaign. I can only hope that the memory and the dedication of this man will inspire others to continue his struggle.

Again, I join my colleagues in commemorating the memory of Cesar Chavez, an example to the working man, the Mexican-American community and all of us who seek fairness and respect for all Americans.

Mr. SERRANO. Mr. Speaker, I yield to the gentleman from Texas [Mr. DE LA GARZA], a member of the congressional Hispanic caucus.

Mr. DE LA GARZA. Mr. Speaker, last week one of the first Hispanic Americans to become permanently etched into our Nation's consciousness died—Cesar Chavez.

During his time here on Earth and in his own uncompromising way, Cesar Chavez came to symbolize and personify the struggle of migrant farm workers for basic rights and dignity.

Through his leadership of the National Farm Workers Association and its successor, the United Farm Workers, Cesar Chavez organized farm workers and fought for improved working conditions. The boycotts and strikes he organized and the fasts he himself undertook focused our Nation's attention on the plight of the migrant farm worker and helped bring about much needed changes.

The legacy Cesar Chavez leaves is that of a caring, selfless advocate for our Nation's farm workers. For that he will always be remembered.

Mr. SERRANO. Mr. Speaker, I yield to the gentlewoman from New York [Ms. VELÁZQUEZ].

Ms. VELÁZQUEZ. Mr. Speaker, I want to thank the gentleman from New York for yielding.

Mr. Speaker, on April 23, our world lost a hero and a champion whose life was typified by struggle. Cesar Chavez's early life was engaged in a struggle against his own poverty and his hard life in the fields of California. His later years were consumed by "La Cause", the struggle to organize farmworkers through a labor union and improve their dismal conditions.

Ironically, while our Government was publicly telling lies and fighting a senseless war in Vietnam with missiles and bombs, Cesar Chavez was fighting a moral battle here in the States. His causes were justice and fairness. His weapons were hunger strikes, boycotts, and the long march.

The Latino community in the United States, and across the globe, laments the death of this courageous role model. But we can learn much from his life's commitment to empower his exploited brothers and sisters in the fields, especially today as we discuss NAFTA and its possible effects on this country's workers.

Mr. Speaker, may the history books note the life of Cesar Chavez, a man of peace and a lover of humanity. Viva la huelga!

Mr. SERRANO. Mr. Speaker, I yield to the distinguished gentleman from Maryland [Mr. MFUME], the chairman of the Congressional Black Caucus.

Mr. MFUME. Mr. Speaker, my congratulations to the gentleman from New York [Mr. SERRANO], for leading us, as he always does, back to our collective conscience.

I would like to, if I might, Mr. Speaker, join with Mr. SERRANO and all the others who have come to this well today to take the time to remember, to remember someone who gave and continued to give long after it was fashionable, a man who never lost his roots, never forgot the capacity to love, never gave up on believing that people were special and, in fact, could in fact make something of themselves.

Cesar Chavez was to the Latinos of this Nation and the world what he was to people of African ancestry, what he was to all men and women who believed that people were special and that they had, by virtue of their birthright, and by their God, a special destiny in front of them. He challenged all of us to live up to that.

Thank God he was as fearless as he was, because he did not fear to die because he loved us so. Cesar Chavez, bigger than life, looms now in this Hall, in this sacred institution as a reminder, a daily reminder of all that we have to do, of all that really is incumbent upon us to make life better in this world for people, who by no fault of their own find themselves locked in an uphill battle.

The late Dr. Benjamin Mays said once that he or she who starts behind in the race of life would either have to run faster or forever remain behind. Cesar Chavez ran faster. He taught us how to fight and how to forgive, how to win and how to lose, how to laugh and how to cry. He taught us really how to live, and in the end, with dignity, he taught us how to die.

Mr. SERRANO. Mr. Speaker, I would like to take this opportunity to really thank the gentleman from Maryland [Mr. MFUME] for those very beautiful words. When we work together in this House, two different caucuses, it is always important to remember those things that bring us together. Mr. MFUME's words highlight the fact that Cesar Chavez was more than a leader for one community. He was a leader that transcended all communities, and when we lose him we lose someone who fights for all of the people in this Nation.

So that struggle must continue, and I know that Mr. MFUME and I will continue to join hands in bringing a voice to those who may not be heard throughout this country, and hope that in some small way we can continue the work of Mr. Chavez.

Mr. Speaker, I yield to the gentlewoman from Oregon [Ms. FURSE].

□ 1610

Ms. FURSE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, we lost a hero of our time last week. Cesar Chavez was an untiring leader in the struggle for justice for farm workers.

His work for improvement in their wages and living conditions stands as a model for the rest of us who must carry on his struggle.

A quiet pacifist, Cesar Chavez achieved a position of moral and political leadership in civil rights equaled perhaps only by that of Martin Luther King, Jr.

When I first came to this country over 30 years ago, I had the great privilege of working as a volunteer with Cesar Chavez in behalf of farm workers, and that experience changed my life.

Mr. Speaker, too often when a person achieves great fame, they forget their roots. That was not the case with Cesar. He suffered poverty, disappointment, and he suffered great danger, but throughout it all, he never forgot the farm workers.

His life was dedicated. A gentleman, a man of great honor, it was an honor to know Cesar Chavez, and I am proud to join with my colleagues here in the U.S. House of Representatives in paying homage to this great man.

Mr. SERRANO. Mr. Speaker, I yield to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, as I listened to my colleagues who have been inspired by Mr. Chavez, I cannot help but think that if he were sitting here he might well be scowling because he would not want us talking about him. That was the kind of man he was. He would want us, instead, focusing on the people, the plight of the migrant farm workers, that caused him to dedicate his entire life to improving their conditions and to providing a future for their children.

When Mr. Chavez entered the scene about a quarter of a century ago when he became most visible, migrant farm workers were really destined to a life of indentured servitude. They would start in the lower part of California, work their way up the State and then go to Washington or Michigan or wherever their destinations, stay and then work their way back again following the harvest. If the harvest was particularly good, many of the farmers would cut their piece rates to make sure that they could never acquire enough money to break out of that cycle of poverty.

They would be housed off the back roads where no one would see the living conditions in which they had to live.

They had virtually no health care.

The educational system was almost designed to keep their children in that cycle of poverty. I remember being down in the Rio Grande Valley of Texas, and it was the beginning of the fall, and a young kindergarten girl was running home crying. I was sitting with her father, and it turns out that she had been whapped on the backs of her calves; they were black and blue; because she had blurted out in kindergarten in Spanish. The Spanish language was prohibited in the Texas public school system at that time. The teacher could not speak Spanish, and many of the children could not speak English, and many of them, almost by deliberate intent, left the school system and went into the fields to support their family, and never broke out of that cycle.

Cesar Chavez realized what was happening to a large segment of America's population, that there could be no hope unless he spoke out. He devoted his adult life to speaking out. He was a true hero, a true American leader, and truly deserving of the attention of not only my colleagues but of this Nation and those who search for what the real qualities of leadership are in an individual.

Cesar Chavez showed it with his life.

I thank the gentleman from New York [Mr. SERRANO] for having this special order today.

Mr. SERRANO. Mr. Speaker, I yield to our colleague, the gentlewoman from California [Ms. ESHOO].

Ms. ESHOO. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I thank the gentleman for yielding and for arranging this special order which recognizes an extraordinary man, Cesar Chavez.

I join my colleagues here today to pay tribute and memorialize one of the great labor and civil rights leaders in recent history, Mr. Cesar Chavez.

Mr. Chavez' crusade on behalf of the poor and under represented clearly did not go unnoticed.

Last week an astonishing 35,000 mourners descended upon a desolate farming community in Kern County, CA, to pay their final respects to the man who was for them a hero and a saint.

Mr. Chavez asked that his funeral be held at Forty Acres Union Hall—the site of his first public fast in 1968 and the place where Central Valley grape growers signed their first union contracts in 1970.

Mr. Chavez also requested to be buried in a plain, pine coffin built by his 64-year-old brother, who was a carpenter before joining the United Farm Workers in the 1960's

Cesar Chavez' funeral is in many ways symbolic of his life.

Despite fame and success throughout his life, he chose to live a simple existence, amongst his people, sharing their plight and instilling them with hope and human empowerment.

It was these people who showed up in masses to memorialize what Cardinal Roger Mahoney of Los Angeles called their special prophet.

Among the thousands were such notable people as members of the Kennedy family, former Gov. Jerry Brown, California Assembly speaker Willy Brown, Jesse Jackson, Robert Blake, and Martin Sheen.

Also there was a close friend and political confidant, Richie Ross, who, like so many others, learned the fundamentals of political organization from Cesar. Not only did Richie learn political organization while with the farmworkers, he met his beautiful and talented wife, Juana, while working there.

Both of these people like so many others learned by example the lessons of service and selflessness that Cesar Chavez taught.

Yet the focus was not on the VIP's, it was on the great majority of farm workers and those whose lives were directly touched by him—and this is how Mr. Chavez would have wanted it.

He did not work for money or for fame—he simply worked to bring justice and dignity to thousands of farm workers.

He singlehandedly organized the United Farm Workers in California, and the movement soon spread throughout the Nation and the world.

Gandhian in his philosophy, he never promoted violence.

Rather, his boycotts, strikes, and life-threatening fasts were successful in achieving better wages and working conditions for the rural poor.

He also did not allow his anger to alienate him from society or obscure his love for our country.

He joined the Navy and returned determined to work within the system to change things.

Mr. Chavez serves as an inspiration and a symbol not only for the Latino community, but for all of us.

He was a man of compassion and humility, yet a giant in the struggle for justice, human rights and dignity for all people.

Cesar Chavez' work can be seen in the eyes of all the young people who are well educated and filled with hope, despite being the sons and daughters of migrant farm workers.

Yet for all the people who have been touched by his vision, there remains that many more who need to be empowered and instilled with the promise of a better tomorrow.

Cesar Chavez accomplished more than most in his lifetime, but his work remains unfinished.

The Reverend Juan Romero said at a rosary service for Mr. Chavez that "his death will be that seed in the ground which dies * * * itself and bears much fruit."

Mr. Speaker, I certainly hope that this is the case.

And in mourning Cesar Chavez' death, I urge everyone to capture some of the spirit that Mr. Chavez has left behind.

One of his earliest followers and the union's first female field organizer—Mrs. Jessie de la Cruz simply stated, "We didn't come to bury him, we just came to say goodbye."

I share Mrs. de la Cruz' sentiments, and I pray that Cesar Chavez' mission and vision endure.

Mr. SERRANO. Mr. Speaker, I would like to end this special order today by

thanking our colleagues who took time from a busy schedule to join us in paying tribute to this great man, Cesar Chavez.

Mr. Chavez, as we have heard here today, gave a voice to those who did not have a voice. He gave hope to those who felt that there was no hope. And he brought out a movement which really had an effect on all of our lives.

Those of us who were politically born during the 1960's, 1970's, and 1980's know well that Mr. Chavez, Cesar Chavez, was indeed a hero and is a hero in our community and throughout this country.

We have lost a great man, but we have not lost a great idea. We have lost a very decent and kind man, but we still have a lot of work to do.

So I would like to thank our colleagues today. Let us commit ourselves to Cesar's struggle to make sure that his dream is fully realized.

Mr. KENNEDY. Mr. Speaker, I mourn Cesar Chavez' passing not only because he was one of the most admirable leaders in our country, but also because he was my friend. He was a man of much courage, faith, and love; with these he touched people and shared his strength.

The time in which he rose to prominence is not much different from today. Cesar grew up during the Depression, and like many other families, he moved to California in search of a new beginning. That new beginning was the life of migrant laborers. In the 1950's he became active organizing other laborers in the struggle for justice, and he founded the United Farm Workers in 1965 to advance the causes of migrant laborers.

He was one of the leaders of the civil rights movement during the sixties, nonviolently striking, fasting, and demonstrating so that the wages and conditions of farmworkers would improve. Yet his message inspired others who were also being denied justice, and gave hope to people who had for so long felt powerless.

The struggle for justice, while it has changed settings, is far from over. Cesar would want us to continue to help others to help themselves, bettering the lives and the futures of today's generation. His messages must be taken to the streets of our inner cities, to our schools, to all of today's minorities and disadvantaged, wherever justice is being denied.

Cesar Chavez will be sorely missed by all, but his work will never be undone. We must make sure that it is carried on.

Mr. ORTIZ. Mr. Speaker, today this son of migrant farm workers rises to pay tribute to the migrant farm worker who focused the attention of the American public upon the wages and conditions of the men and women who harvested the fruits and vegetables on our kitchen tables—Cesar Chavez.

Everyone can recite the rich legacy of his life—from the early days of organizing a diverse population of exploited workers; to offering the American public the grape boycott in 1965 as a vehicle to show solidarity with the workers; to watching growers sign their first union contract; and finally, to keep going, day after day, to ensure that those whose labor brought us nutrition were not ignored. He kept up the struggle until the moment he died, bringing attention to the plight of America's workers.

But what made Cesar Chavez larger than life was his personal adherence to the principles of truth and courage; and the personal experience of knowing first hand what it was like to be treated without respect, or working all day, everyday, with nothing to show for it. In a lesser man, this may have inspired a burning anger. But what burned inside of Cesar Chavez was a simple love of justice. He wanted only for people to be treated fairly and respected, regardless of position or pigmentation.

Cesar was unique among labor leaders in that he lived among those he led and avoided perks often associated with the glamour of the office of a labor leader. He was a devoted Christian who emulated the teachings of the Bible with voluntary poverty. He raised his children in a simple home, with regular worship and absolute values. Cesar said, "The message of Christ is all about love—not only God—but also one another. Love is really sacrifice." He aligned himself with the principles of Mahatma Gandhi and Dr. Martin Luther King, Jr., by relying on economic boycotts, marches, civil disobedience and fasts. Cesar reinforced his nonviolent message among his followers with the declaration: "Nonviolence is our strength," still the signature slogan for the farm workers union he created.

Presidential candidate Senator Robert F. Kennedy said in 1968 that Chavez "is one of the heroic figures of our time." Some people believe that heroes are only those who risk their lives in battle—others of us believe that a hero is one who continues a lonely, thankless struggle to better the lives of family, community, and country—in the fact of extraordinary odds. Cesar Chavez is a hero for all Americans, and a wonderful role model for young Latinos and Latinas all over North America. As we celebrate Cinco de Mayo tomorrow, let us remember and celebrate the heroism of a gentle peacemaker. Que Viva Cesar Chavez.

Mr. MARTINEZ. Mr. Speaker, I join my colleagues today in paying tribute to Cesar Chavez, one of the truly great Americans of this century. Cesar Chavez was the son of migrant workers and a farm laborer himself. His struggle for economic and social justice touched the conscience of a Nation and the lives of millions of Mexican-Americans. Cesar Chavez founded the United Farm Workers of America in the mid-1960's, which he faithfully led until his untimely death on April 23, 1993.

Armed only with his conviction in the righteousness of his cause and commitment to better the lot of his fellow man, Cesar Chavez fought tirelessly to improve the working conditions of migrant workers across this land. Throughout his remarkable life, Cesar Chavez spoke the language of the downtrodden, the poor, and the disenfranchised. He raised to national prominence the plight of migrant workers. Chavez dedicated his life and committed his soul to improving the lives and dignity of farm laborers.

Chavez first made his mark in 1968, when he organized a strike and national boycott against the California grape growers of the San Joaquin Valley, where he brought the daily hardships and toil of migrant farm workers to the attention of America. Chavez organized migrant workers into an effective and powerful labor union whose mission was to raise the substandard wage and working conditions of farm laborers across this Nation.

Chavez firmly believed in the power and moral persuasion of nonviolent demonstrations. He believed in it to the point of risking his own health in a number of fasts. His faith in God and his faith in his fellow man never wavered throughout his struggle for social justice. Cesar Chavez gave selflessly of himself for a cause that both enriched and consumed his life.

Cesar Chavez presevered over insurmountable odds in making a difference in the lives of millions of migrant workers who have toiled in the agricultural fields of America. Chavez fought to end substandard wages and housing, pesticide poisoning, child abuse and discrimination. He was the unflagging champion of the dispossessed.

Chavez earned the Nation's admiration in his ceaseless struggle to obtain civil rights for farm laborers. Cesar Chavez' passion and tireless commitment to improving the lives of American's migrant farm workers made him a genuine hero and household name nationwide. Cesar Chavez's legacy will continue to enrich the lives of Mexican-Americans, will continue to give us pride and dignity, will continue to shine brightly as an inspirational beacon for future generations of Americans to follow.

Mr. BECERRA. Mr. Speaker, due to the birth of my first child over the weekend, I am staying in Los Angeles this week, and therefore will not be able to participate in today's remembrances as planned.

These days are a time of both joy and sorrow for me. Even as I celebrate the birth of my child, words simply cannot express my profound sadness over the passing of Cesar Chavez. Chavez was a man of immense dignity, humanity, and integrity, and few individuals will ever touch as many lives as did this great man. Millions have benefited from his work as a civil rights activists, and millions will mourn his death.

Last week at the services in Delano, I joined the thousands who traveled from far and wide to recognize Chavez's lifelong achievements. Being there was an incredible experience for me. It was a time to remember the boycotts, pickets, sing-ins, marches, and personal fasts that Chavez undertook to bring attention to the farm worker's cause.

For decades Cesar Chavez undertook one of life's most difficult callings: Organizing the masses to fight injustice. His fierce determination and strong spirit turned failed struggles into unprecedented successes. As the founder and president of the United Farm Workers of America, Chavez dedicated his life to educating farm workers about their basic human rights and how to effectively demand and receive a better quality of life. His achievements transcended the plight of the farm worker. Chavez's historic struggles for justice changed our world.

We can all learn and live by the values that guided Chavez's work: "Love triumphs over hate, nonviolence over violence, courage over

fear, and human dignity over belittlement and abuse."

Although this great leader is no longer here to guide us, his work on behalf of working men and women and consumers—but most importantly farm workers who even today often live and work in harsh conditions—must and will move forward.

Cesar Chavez was a man who kindled our spirits; and he is, in spirit, forever with us. Sí se puede.

Mr. BONIOR. Mr. Speaker, it is with great respect and sorrow that we say goodbye to an exceptional leader and unforgettable man, Cesar Chavez. Mr. Chavez gave unselfishly of his talents and passion for the rights of farm workers.

Throughout his life, Cesar Chavez brought his tireless efforts, his deep faith, and the strength of nonviolent resistance to organizing the poorest of our Nation's poor. Mr. Chavez labored in the orchard fields and vineyards in personal witness to the poor conditions and unfair wages. He inspired and organized his fellow workers to form the Nation's first successful union for agricultural workers, the United Farm Workers. Mr. Chavez continued to stand up for the rights of migrant farm workers until his very last days.

Although Cesar Chavez is no longer with us, his body and spirit will remain deeply embedded in the same soil of his labor, as well as in the hearts and minds of those he represented. His memory will forever be a driving force for the Farm Workers Union, and for all working people.

Mr. DELLUMS. Mr. Speaker, Cesar Chavez was a tireless human rights fighter and a champion of the labor movement. His life and legacy of struggle and determination compels us all to redouble our efforts to achieve social justice.

The son of migrant workers, and one himself, Cesar knew well the daily struggle that these workers face for survival. When telling about his childhood, he recalled that as a child he walked barefoot to school through the mud, fished in canals for wild mustard greens to combat hunger, and lived under bridges for protection against the cold and rain. He never forgot his roots and would not abandon these workers despite criticizms that he should focus more on the problems of urban Latinos. Even as Cesar rose to prominence, he ignored the trappings of power and fame, living in the same small house not far from UFW headquarters in La Paz, near Bakersfield, and wearing the plaid flannel shirts, cardigan sweaters and scuffed walking shoes that those who knew him remember so well.

Cesar was a giant of a person; a man of tremendous integrity and vision; and tireless advocate of nonviolence in the face of oppression. His dedication to improve the lot of those at the bottom of our economic and political structure, to protect immigrants from abuse, and to ensure safe working and living conditions for farm workers, were boundless. His life is on a par with those of Dr. Martin Luther King, Jr., and Mahatma Gandhi, two leaders and advocates in the nonviolent struggle for human rights that he admired and emulated, in that he epitomized the spiritual and political goals of a people.

I will cherish the times that I have spent with Cesar: In Delano, in Oakland and at points of struggle over our respective careers. I was honored that he chose to endorse my first candidacy for Congress; he had never endorsed another candidate and when he came to Oakland to campaign for me it validated our mutual commitment to coalition politics. I have tried in the years since to continue to merit the confidence and support that he demonstrated at that time.

We shall miss Cesar's powerful voice. In a 1948 speech to San Francisco's Commonwealth Club, Cesar said:

> Regardless of what the future holds for our union, regardless of what the future holds for farm workers, our accomplishment cannot be undone. The consciousness and pride that were raised by our union are alive and thriving inside millions of young Hispanics who will never work on a farm.

The example he set in the life he led calls us each to a higher purpose and to a greater resolve to right the wrongs and correct the injustices that continue to plague our communities—whether urban or rural, industrial or agricultural. The best tribute that we can pay Cesar is to continue his work, and not allow "la causa" to fail. It is an honor to remember the man and his valiant life and to recommit myself to our shared struggle.

Mr. UNDERWOOD. Mr. Speaker, I was deeply saddened by the recent death of Cesar Chavez. Leaders like Cesar Chavez, come only once in a lifetime because few are willing to make such extreme sacrifice without any promise of significant financial reward or guarantee of success. Because of his strong conviction and unwavering commitment, Cesar Chavez was able to give migrant workers a sense of hope and dignity. He mobilized this group and others into a force whereby the poor overcame the rich and the weak defeated the strong.

Cesar Chavez left an indelible imprint on this country and most important, he changed the wages and working conditions of migrant farm workers. May his death serve as a lightning rod to renew our moral conscience to right wrongs and to ensure that the talents and strengths derived from diversity are recognized.

Mr. COLEMAN. Mr. Speaker, I rise today to pay tribute to an American legend and folk hero, Cesar Chavez. The sudden death of Cesar Chavez comes as a great shock to the many of us who knew him and admired his work. Americans have lost a great leader who inspired many in his nonviolent campaigns for dignity and economic justice on behalf of farm workers and oppressed people everywhere.

His creative use of strikes, boycotts, marches, and fasts was renown. His struggles ignited a movement of social activism by Chicanos in the Southwest and Latinos everywhere. His efforts attracted worldwide attention and gained the admiration of millions.

In my very own State of Texas, Chavez attempted to organize farm workers in the Rio Grande Valley. He almost gave up after severe confrontations with law enforcement. But he never quit. This was perhaps his greatest strength. He shared this trait with his heroes Mahatma Ghandi and Martin Luther King, Jr.

Chavez visited El Paso about a month ago to remind our community about the farm workers' present-day struggle against the use of pesticides. As he did so many times, he captured the hearts of the many people he encountered. His personal example always reaffirmed the goals of his struggle.

My condolences go out to his family, friends, and followers. They can take comfort in the fact that his efforts will continue to inspire those who seek to help the downtrodden, the powerless, and the disenfranchised.

In death, Cesar Chavez' life can and will be held as an ideal to strive toward, to dream of, and to hope for.

Hermano Cesar, que en paz descanse.

Mr. GEPHARDT. Mr. Speaker, America has lost an invaluable champion in the fight for human rights. Cesar Chavez dedicated his life to improving the lives of others, both within and beyond his community. All Americans owe a debt of gratitude to this man whose life was a testament to the strength and fortitude of the human spirit.

Chavez' family was a victim of the Great Depression. Their story is sadly familiar to many American families today. When Chavez was 10 years, the family fell behind in mortgage payments and lost their 160-acre farm. They took to the roads and became migrant farmers. Cesar Chavez knew the deplorable conditions that existed for migrant farmers first hand. A man of vision and commitment, Chavez was not discouraged by his experience, but encouraged to fight for the rights of migrant farmers who were overworked, underpaid, and unempowered.

In the early 1960's Chavez started the National Farm Workers Association, which became the United Farm Workers of America. Under Chavez' leadership, the union spearheaded a nonviolent campaign to improve conditions for migrant farmworkers. In 1965, the young union struck table grape growers in the San Joaquin Valley. Chavez called for a national boycott of table grapes to call America's attention to the plight of farmworkers who produced the food on their tables. Five years later, the growers agreed to a contract and the union scored a victory for farmworkers all over the United States. Largely due to Chavez' efforts, the State of California passed the Agricultural Labor Relations Act in 1975.

Many have compared Cesar Chavez to other human rights champions of our time. Like Gandhi, Chavez denied himself through numerous fasts to achieve a greater good. Like King, he devised creative, peaceful protests to empower his community to redress the injustices inflicted upon them. Throughout his life, Cesar Chavez led a campaign for justice to restore hope to the millions of farm workers who had been left out of the American dream. Even in death, the lessons of Cesar Chavez' life set an example for all of us to follow.

Mr. STOKES. Mr. Speaker, I want to thank my distinguished colleagues and, in particular, the chairman of the Congressional Hispanic caucus, JOSÉ SERRANO, and the dean of the California Congressional Delegation, DON EDWARDS, for allowing us this opportunity to pay tribute to the late Cesar Chavez. The Nation mourns the loss of a great civil rights leader and an exceptional human being. I am honored to participate in this special order as we focus on the life of Cesar Chavez.

Many articles have been written about the contributions of Cesar Chavez. It is noted that by the time of his death, he had done more than any other person to aid our Nation's farmworkers. In many articles, Chavez has been compared to Gandhi and Dr. Martin Luther King, Jr. These references are quite true and significant. For many of us, however, we will remember Cesar Chavez not only for his efforts to organize farmworkers, but for leading the crusade to give a strong voice to the Hispanic community and challenging America to no longer ignore their plight.

Mr. Speaker, Cesar Chavez organized the National Farm Workers Association, later known as the United States Workers of America, in the early 1960's. Prior to the birth of the UFW, farmworkers in California had no benefits, no seniority rights, and lacked the means to challenge exploitive labor contracts. The UFW attracted national attention in 1968 when Chavez successfully organized a boycott of table grape growers in California. He won the support of mayors in cities across America who directed their purchasing agents not to buy non-union grapes.

I recall that in my congressional district of Cleveland, OH, my brother, Mayor Carl B. Stokes, encouraged major grocery stores to prominently display the UFW symbol, the black Aztec eagle, to encourage consumers to observe the grape boycott.

For the first time, attention was focused on the conditions facing the Mexican-American working community. Chavez utilized his skills as an activist and organizer to secure wage increases, medical and pension benefits, unemployment compensation, and union elections for farmworkers.

At the height of the movement, the United Farm Workers claimed a membership of more than 100,000. For over 30 years, Cesar Chavez committed his life to improving the life of migrant workers and others.

Cesar Chavez believed his cause was just and he inspired others through his leadership. He was a man of great vision who gave hope to Mexican-Americans, African-Americans, and others involved in the struggle for equal rights and economic justice.

Mr. Speaker, I join my colleagues in mourning the loss of Cesar Chavez. He will be remembered as a major figure, not only in the Nation's labor movement, but as a courageous hero to millions of people throughout the world. Those of us who have been involved in the struggle for civil rights and equal rights in this country have lost a friend and colleague. We pay tribute to Cesar Chavez and we pledge to continue the struggle on his behalf.

Mr. VISCLOSKY. Mr. Speaker, I rise today to pay tribute to Cesar Chavez, a man who tirelessly fought for those who were unable to fight for themselves. Cesar Chavez, the recently deceased labor leader and founder of the United Farm Workers' Union is being honored in a memorial service cosponsored by the Northwest Indiana Hispanic Coordinating Council and the Labor Council for Latin American Advancement and will take place today at Our Lady of Guadalupe Church in East Chicago, IN.

Mr. Chavez, president of the AFL–CIO United Farm Workers' Union, one of the country's most celebrated labor leaders, the Nation's most celebrated Mexican-American, and one of the most admired men in the world, passed away on April 23, 1993.

Mr. Chavez burst onto the national scene in 1965, when he organized the biggest unionization drive in California history. In the process, he brought national attention to Mexican-Americans as a minority group with a unique history. For the first time in this century, Americans became aware of the plight of the men and women who labor so tirelessly to put food on our tables.

Compared by many to Martin Luther King, Jr., and Mahatma Gandhi, Cesar Chavez adopted a path of nonviolent resistance for his movement. At several points in his career, Chavez drew attention to the farm workers' plight by fasting for 3 weeks or more, and it is believed that a 36-day fast in 1988 seriously weakened his health.

Because of his faith filled commitment to improve the lives and livelihood of America's farm workers, Cesar Chavez had a greater impact than any other individual upon both the fields and the corporate board rooms of agriculture. As a result of his efforts, the Nation's farms will never be the same.

Chavez delivered what could have been his own eulogy in a 1988 speech when he said:

> Regardless of what the future holds for farm workers, our accomplishments cannot be undone. The consciousness and pride that were raised by our union are alive and thriving inside millions of young Hispanics who will never work on a farm.

I join the Northwest Indiana Hispanic Coordinating Council, the Labor Council for Latin American Advancement, and the citizens of northwest Indiana, as well as the entire Nation in celebrating the life of Cesar Chavez, a man who symbolized the possibilities of collective action and hope for all Americans.

Mr. RUSH. Mr. Speaker, I rise this afternoon to pay tribute to one of the great men of our time, Cesar Chavez. His lifetime of visionary leadership and struggle brought hope and opportunity to hundreds of thousands of farmworkers.

Mr. Chavez was far more than just a labor leader, he was a leader of people. He spent his life seeking justice, a better life, and a better world for farmworkers throughout the United States. Mr. Chavez deeply valued the rights of every individual. Forced to drop out of school to support his family at an early age, he rose above his circumstances to launch the United Farm Workers. The UFW became a powerful force working to empower those who had been left out of the economic mainstream.

Tirelessly struggling against all forms of injustice, Cesar Chavez has left a powerful memory in all of us. But more than just a memory, Cesar Chavez has left a legacy and an obligation. We must carry on his work. We must seek to empower all Americans, especially those who continue to be denied the opportunity to fully participate in the American dream.

Mr. DIXON. Mr. Speaker, I rise today to pay special tribute to one of the most heroic figures of our times. Cesar Chavez achieved a position of moral and political leadership equaled perhaps only by that of Dr. Martin Luther King, Jr., and Mahatma Ghandi. In placing Chavez alongside the aforementioned individuals, we cannot help but notice the commonality that binds each man together, for all three subscribed to the undying notion that how we as human beings choose to use our lives, determines the type of people that we are. These men lived by the virtuous doctrine that, in the giving of ones life to a just and moral cause we can ultimately find life.

On April 22, 1993, America lost one of its most valuable and praiseworthy leaders in Cesar Chavez. One of five children of Depression-era migrant farmworkers, Chavez saw his family exploited by growers and thus was prematurely indoctrinated into the reality of migrant farming.

In 1962, with the most profound respect for the innate value of each human person, and an unwillingness to see that value diminished, Chavez founded the United Farm Workers Union [UFW]. Among its members were his wife, Helen, and their eight children. Three years later the union launched a 5-year boycott of California table grapes that became a national cause, ultimately winning higher wages for workers. Two more decades of struggle followed; in 1988, Chavez nearly died after a 36-day fast to protest what he claimed were cancer-causing pesticides on California grapes.

Cesar Chavez, on more than a few occasions, directed our Nation's attention to the economic and social plight of migrant farmworkers, revealing blatant inequalities and unfathomable working conditions. This mightly warrior relentlessly reminded Americans that injustice anywhere affects us everywhere. However, Chavez drove home this point not through violent or intimidating means, but through the use of nonviolent tactics employed by one of his heroes, Ghandi. Chavez utilized the power of boycotts, strikes, marathon marches and fasts in order to call attention to the UFW, and to wrest better wages and working conditions from the powerful grape, vegetable and citrus growers of California, the Southwest and Florida.

The untimely departure of this courageous human being from this earth has come at a time when farmworkers' wages and living conditions have deteriorated steadily for more than a decade. The need for better wages more commensurate with their back-breaking labor, and improved living conditions is still a problem faced by migrant farmworkers. The United Farm Workers Union, led by Chavez for over three decades, has struggled not to place a financial strain on growers or to cause them any undue hardship, but merely to keep its members from falling too far behind.

Cesar Chavez' United Farm Workers Union has become a symbol of empowerment and pride for not only farmworkers, but to many individuals around the Nation. This remarkable man will long be remembered because he touched the lives of so many in his own altruistic and meritorious ways. His life as well as his efforts will forever echo his undying devotion to safeguarding the dignity of each human being.

Mr. Speaker, I am honored to have this opportunity to salute the life of this noble and extraordinary civil rights leader, and to say goodbye to a man who for many years seemed to defy all odds due to sheer strength of spirit and an indestructible will to lead farm workers

from around the Nation toward economic and social equality.

Mr. CLAY. Mr. Speaker, I want to commend the gentleman from California, DON EDWARDS, the gentleman from New York, JOSÉ SERRANO, and the members of the Hispanic Caucus and other Members who joined in taking this special order to pay homage to the passing of a great American. Cesar Chavez was born in very modest circumstances, but rose to become among the most distinguished Americans of my generation. He accomplished this not by amassing great personal wealth, but by working tirelessly to improve the standard of living of the poorest and most neglected of our society, America's migrant workers.

Cesar Chavez first came to national attention in 1965 when he led a national boycott of grapes in an effort to obtain a bargaining agreement between the United Farm Workers Union and the table grapes growers in the San Joaquin Valley. At that time, farm workers earned less than $1.50 an hour, received no fringe benefits, had no seniority rights, and were without legal status to challenge abusive employment practices by growers and labor contractors. At a time when the farm industry grossed $4 billion dollars annually, farmworkers were earning as little as $1,350 a year.

Cesar Chavez and the United Farm Workers persevered, and, on July 30, 1970, after 5 years of effort, the San Joaquin table grape growers signed a collective bargaining agreement with the United Farm Workers Union. In 1975, California passed landmark legislation intended to protect the right of farmworkers to engage in and benefit from collective bargaining. By the late 1970's the United Farm Workers had negotiated collective bargaining agreements on behalf of an estimated 70,000 California farmworkers and thousands more in other States. For the first time, migrant workers were able to obtain medical benefits, pensions, unemployment benefits, and other basic protections that most Americans take for granted.

Neither the United Farm Workers nor migrant workers benefited from the Reagan era. Many of the gains achieved by the United Farm Workers in the 1970's were lost in the 1980's. George Deukmejian's appointments to the Agriculture Labor Relations Board turned California's farm worker labor law from an asset to a liability. Grievances filed before the board dragged on for months and years. Farm workers could not afford the time; justice delayed became justice denied. The protection the law had sought to extend to farmworkers was undermined. Unable to sustain their rights in the courtroom, it became increasingly difficult to maintain contracts in the face of intransigent employer opposition. Like many other unions across the country, the United Farm Workers lost contracts in the 1980's and, like many other American workers, advances in the standard of living of migrant workers across the country were eroded. If we are to truly honor the memory of Cesar Chavez, it is important that we not forget the work his passing has left uncompleted and the challenges he has left for us to fulfill.

As Americans, we pride ourselves on being a society that offers opportunity for all and encourages each individual to succeed to the best of one's abilities. Too often, we ignore or forget the extent to which reality falls short of this ideal. Sometimes we pat ourselves on our backs and share credit for the efforts of a dedicated few such as Cesar Chavez. Sometimes we don't realize just how hard a few individuals worked, the sacrifices and dangers they suffered, and we overestimate our own contributions to the success of their efforts.

Today, we recollect that Cesar Chavez brought to national attention the plight of farmworkers, and then we boycotted grapes and we helped to bring justice to the exploited farm workers. We tend to forget how throughout his life, Cesar Chavez' efforts on behalf of migrant workers were vigorously and even violently opposed by the growers and by more than a few public officials. As we celebrate Cesar Chavez' great contributions, we must remind ourselves that much remains to be done and we must now carry on in his footsteps.

Just as we cannot afford to forget the challenge that Cesar Chavez' life has left to us, we cannot afford to underestimate the many valuable accomplishments of his life.

Notwithstanding the setbacks of the last decade, the actions of Cesar Chavez and the United Farm Workers have substantially improved the standard of living of farm workers across the United States. As Dolores Huerta has so eloquently stated, "Cesar proved to the world that poor people can solve their problems if they stick together." However, though certainly the most famous labor organizer and union leader of our time, Cesar Chavez will ultimately be remembered for much more. By his deeds, Cesar Chavez symbolized the dignity and worth of the individual. Cesar Chavez was a dedicated advocate of the principles of nonviolence and frequently acknowledged Martin Luther King and Mahatma Gandhi as inspirations and models. His most important legacy is not less significant. As Cesar Chavez stated, "Regardless of what the future holds for our union, regardless of what the future holds for farm workers, our accomplishment cannot be undone. The consciousness and pride that were raised by our union are alive and thriving inside millions of young Hispanics who will never work on a farm." For Latinos across America, within and without the United States, the life of Cesar Chavez will forever serve as a source of pride and as a reminder of their own self worth. No one can leave a more valuable legacy, nor render a greater service to our democracy.

Mrs. SCHROEDER. Mr. Speaker, I rise today to mourn the death of one of the most able leaders this country has known, the late César Chavez. As a labor leader, Mr. Chavez was a advocate for all people, as an individual he served as a symbol of cultural and political unity for Mexican-Americans around the country. His fight to secure reasonable wages, decent housing, and human dignity for all farmworkers stretched our minds and touched our hearts. May his work never be forgotten. Viva la huelga!

[From the New Yorker, May 17, 1993]

CESAR CHAVEZ

(By Peter Matthiessen)

Cesar Chavez was on union business when his life ended quietly in his sleep, at 10:30 or 11 p.m. on April 22nd, in the small border town of San Luis, Arizona, thirty-five miles and sixty-six years distant from the childhood farm in the Gila River Valley which his parents lost at the end of the Depression. On April 29th, in ninety-degree heat, an estimated thirty-five thousand people, in a line three miles long, formed a funeral procession from Memorial Park in Delano, California, to the burial Mass, at the United Farm Workers field office north of town.

With the former scourge of California safely in his coffin, state flags were lowered to half-mast by order of the governor, and messages poured forth from the heads of church and state, including the Pope and the President of the United States. This last of the U.F.W. marches was greater, even, than the 1975 march against the Gallo winery, which helped destroy the growers' cynical alliance with the Teamsters. "We have lost perhaps the greatest Californian of the twentieth century," the president of the California State Senate said, in public demotion of Cesar Chavez's sworn enemies Nixon and Reagan.

For most of his life, Cesar Estrada Chavez chose to live penniless and without property, devoting everything he had, including his frail health, to the U.F.W., the first effective farmworkers' union ever created in the United States. "Without a union, the people are always cheated, and they are so innocent," Chavez told me when we first met, in July, 1968, in Delano, where he lived with his wife, Helen, and a growing family. Chavez, five feet six, and a sufferer from recurrent back pain, seemed an unlikely David to go up against the four-billion-dollar Goliath of California agribusiness. Not until January, 1968, after many hard years of door-to-door organizing of uneducated and intimidated migrant workers, had his new independent union felt strong enough to attempt a nationwide boycott of table grapes, publicized by the first of many prolonged religious fasts. On July 29, 1970, the main Delano growers all but ended the boycott by signing union contracts with the U.F.W.

This historic victory was no sooner won when the U.F.W. was challenged by the Teamsters Union, which rushed in to sign up lettuce workers in the Salinas Valley. Chavez was angered by the perfidy of the growers, who were bent on conspiring with the Teamsters to steal from behind the U.F.W.'s back what it had won in a fair, hard fight. He also resented the hostility of almost all municipal and state officials, from the ubiquitous police to governor Reagan, which exposed his farmworkers to an unrestrained climate of violence and too the lives of five U.F.W. members in the course of strikes and organizing campaigns. For Chavez, that hostility led to a resurfacing of emotional injuries he had suffered as a child, all the way back to the bank foreclosure on the small family farm and the brutal racism in such signs as "No Dogs or Mexicans Allowed." "Getting rejected hurts very deep," he told me once, recalling a time in Indio, California, during his migrant days when he followed his father into a decrepit diner to buy morning coffee, only to be contemptuously ordered out. To this day, he said, he could remember the expression on his father's face, and though it has been twenty years or more since Cesar told me that story. I can still recall his expression when he told it—that seraphic Indian face with the dark, sad, soft eyes and delighted smile turned crude and ugly.

In recent years, beset by the unremitting prejudice of California's Republican administrations, which were elected with the strong

support of agribusiness, the embittered Chavez embarked upon a table-grape and lettuce boycott against nonunion growers, protesting the use of dangerous pesticides, which threaten the health not only of farmworkers but of the public. The new boycott never took hold. What was lacking seemed to be the fervor of those exhilarating marches under union flags, the fasts, the singing, and the chanting—"Viva la huelga!"—that put the fear of God in the rich farm owners of California. These brilliant tactics remained tied in the public perception to La Causa, a labor and civil-rights movement with religious overtones which rose to prominence in the feverish tumult of the sixties; as a mature A.F.L.-C.I.O. union, the U.F.W. lost much of its symbolic power. Membership has now declined to about one-fifth of its peak of a hundred thousand.

With the funeral march over, the highway empty, and all the banners put away, Cesar Chavez's friends and perhaps his foes are wondering what will become of the U.F.W. A well-trained new leadership (his son-in-law has been named to succeed him, and four of his eight children work for the union) may bring fresh energy and insight. But what the union will miss is Chavez's spiritual fire. A man so unswayed by money, a man who (despite many death threats) refused to let his bodyguards go armed, and who offered his entire life to the service of others, was not to be judged by the same standards of some self-serving labor leader or politician. Self-sacrifice lay at the very heart of the devotion he inspired, and gave dignity and hope not only to the farmworkers but to every one of the Chicano people, who saw for themselves what one brave man, indifferent to his own health and welfare, could accomplish.

Anger was a part of Chavez, but so was a transparent love of humankind. The gentle mystic that his disciples wished to see inhabited the same small body as the relentless labor leader who concerned himself with the most minute operation of his union. Astonishingly—this seems to me his genius—the two Cesars were so complementary that without either, La Causa could not have survived.

During the vigil at the open casket on the day before the funeral, an old man lifted a child up to show him the small, gray-haired man who lay inside. "I'm going to tell you about this man someday," he said.

GENERAL LEAVE

Mr. SERRANO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order on today.

The SPEAKER pro tempore (Mr. FINGERHUT). Is there objection to the request of the gentleman from New York?

There was no objection.

□ 1620

WE MUST HELP FREE HAITI FROM THE GRIP OF MILITARY COUP LEADERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. OWENS] is recognized for 60 minutes.

Mr. OWENS. Mr. Speaker, for more than 19 months, the leaders of Haiti's military have held democracy in a chokehold here in our hemisphere. It is past time for our Government to enact stricter measures to bring to justice the individuals responsible for the September 1991 overthrow of President Jean-Bertrand Aristide. It is past time to end the terror in which the Haitian people continue to live and which has cost more than 3,000 Haitian citizens their lives since the 1991 coup.

Haiti's army is too busy running a billion-dollar-a-year cocaine business to worry about diplomatic missions and trade embargos. As we listen daily to the pleasant phrases of diplomacy seeking to end this national hostage taking, the situation in Haiti grows even more grim, even more desperate. The military coup leaders in Port-au-Prince have already served us sufficient notice that they do not intend to leave power voluntarily and that they intend to continue to be the main obstacle to the return of democracy.

It is our responsibility to help the Haitian military understand that the civilized world will no longer tolerate the intimidation, beatings, the murders, and the destruction of Haitian civil society. We need a proactive strategy. The United States must lead that effort by pushing for the establishment of an international peacekeeping force, by putting Gen. Raoul Cedras and his senior colleagues on trial, and by having the armed forces and paramilitary lay down their weapons. And we must reconsider insisting upon amnesty as one of the terms for President Aristide's return.

I would like to submit the following article from the Christian Science Monitor, entitled "Haiti Must Be Freed From Military's Grip." It was written by Morris Morley, a senior fellow with the Washington-based Council on Hemispheric Affairs, and Chris McGillion, an editorial writer for the Sydney Morning Herald newspaper in Sydney, Australia. I offer it as an indictment of the administration's Haiti policy as we have seen it carried out up until today.

[From the Christian Science Monitor, Apr. 14, 1993]

HAITI MUST BE FREED FROM MILITARY'S GRIP

(By Morris Morley and Chris McGillion)

It took a phone call from Washington in 1986 to convince Haiti's Jean-Claude "Baby Doc" Duvalier that it was in his best interests to flee. In 1990, it took a visit by the U.S. ambassador to get Gen. Prosper Avril and the armed forces to relinquish their grip on power and agree to democratic elections.

In December 1990, campaigning on an anticorruption, reformist platform, Jean-Bertrand Aristide overwhelmingly was elected president of Haiti. His democratic experiment lasted only seven months, to be overthrown 19 months ago by a brutal coup costing several thousand lives. Having successfully flexed its "muscle" in the recent past, why did Washington prove so ineffective for so long in ousting those who overthrew Mr. Aristide? Part of the answer has been its ambivalence toward a populist committed to substantial rather than token changes.

The civil strife that has occurred since Aristide's ouster, the worst in modern Haitian history, and in which slum dwellers paid the greatest price, is not so much for electoral democracy as to steer the island's destiny. Before his election Aristide said that, "democratic elections are not a solution" because "elections are a way for those in power to control the people." Washington, for all it professed aversion for the military gotpistas, has meant to ensure that Duvalierist institutions, especially the armed forces, remain intact as a barrier against an imagined mobocracy. At first, the U.S. was content to let a largely ineffective Organization of American States find a "solution" to the Haitian crisis. The UN's diplomatic efforts, begun a number of months ago, dragged on without significant results, aside from allowing scores of foreign human rights monitors to enter the island.

From the beginning, the most discussed formula for a solution would see Aristide return as almost a figurehead president at some unspecified future date. But this was hardly realistic, since there are enough of his opponents in Haiti's rigged Senate to impeach and dismiss him should he step out of line. Meanwhile, would the security forces quietly go back to the barracks as if nothing had happened, their leaders cheerfully giving up access to millions in illicit drug-trafficking dollars and their hatred for Aristide? Not surprisingly, Aristide privately has viewed this scenario with apprehension, as do most Haitians, convinced that fundamental social reform is impossible in the absence of the democratization of the country's basic institutions. That is why, during his brief presidency, he kept rallying support in the streets whenever his reforms were being blocked by the country's self-serving, if tiny, elite.

After the last White House meeting of the two leaders, President Clinton declared his firm support for Aristide's return to power. But no indication of a sharp break with former President Bush's failed policy materialized. In fact, the same man who authored it, Assistant Secretary of State Bernard Aronson, has been held over to do the same for Mr. Clinton. Other senior U.S. officials spoke of Aristide's returning to Haiti "when conditions permit." But they are opposed to his insistence that Army commander Gen. Raoul Cedras and other coup leaders be brought to justice, pressing him to agree to an amnesty for both victims and the victimizers.

As of now, Clinton's equivocations seem to be ending. The current White House initiative of asking donor nations to pledge $200 million a year over five years to help renovate the country's institutions and infrastructure is a step forward, but not a big one. Meanwhile, the Haitian military continues to stonewall, as more demands are made on Aristide.

Like Mr. Bush, Clinton seems to have confused democracy in Haiti with a demand that Aristide be willing to coexist with terrorist individuals and institutions. But the consolidation of Haitian democracy depends on vindication for the victims of the military terror.

Aristide is scheduled to return in a couple of months, but not necessarily with plenary powers. Only by putting General Cedres and his senior colleagues on trial, having the armed and paramilitary forces turn in their weapons, and restoring Aristide to his full constitutional authority under an international peacekeeping force can Haitian society be reliably freed from its unworthy military.

H.R. 1960, THE REVENUE RECONCILIATION ACT OF 1993

The SPEAKER pro tempore. Under a previous order of the House, the gen-

tleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, today I am pleased to introduce, by request of the administration, H.R. 1960, the Revenue Reconciliation Act of 1993. This measure contains the statutory language for the revenue proposals contained in the President's comprehensive economic plan as described in the summary of the administration's revenue proposals dated February 1993.

Mr. Speaker, the statutory language in H.R. 1960 will provide taxpayers with significant guidance in interpreting the technical aspects of the administration's tax proposals. Moreover, the bill will greatly assist the Committee On Ways and Means as it considers the President's program of proposals designed to create jobs, spur investment, enhance long-term economic growth, and reduce the overall budget deficit.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BARRETT of Nebraska) to revise and extend their remarks and include extraneous material:)

Mr. KIM, for 5 minutes each day, on May 13 and 20.

Mr. HORN, for 15 minutes each day, on May 11 and 18.

(The following Member (at the request of Mr. SERRANO) to revise and extend his remarks and include extraneous material:)

Mr. LEWIS of Georgia, for 5 minutes, today.

(The following Members (at the request of Ms. KAPTUR) to revise and extend their remarks and include extraneous material:)

Mr. HOYER, for 60 minutes each day, on May 3 and 4.

Ms. WATERS, for 60 minutes each day on May 5, 12, 19, 26, June 2, 6, 16, 23, and 30.

Mr. FALEOMAVAEGA, for 60 minutes, on May 7.

(The following Members (at the request of Mr. SERRANO) to revise and extend their remarks and include extraneous material:)

Mr. ROSTENKOWSKI, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. CLYBURN, on House Concurrent Resolution 71 in the House, today.

Mr. GILMAN, on H.R. 682, in the House, today.

(The following Members (at the request of Mr. BARRETT of Nebraska) and to include extraneous matter:)

Mr. LEWIS of California.
Mr. RIDGE.
Mr. MCDADE.
Mr. SAXTON in two instances.
Mr. DUNCAN in two instances.
Mr. WOLF.
Mr. HENRY.
Mr. EWING.
Mr. SMITH of New Jersey.

(The following Members (at the request of Ms. KAPTUR) and to include extraneous matter:)

Mr. STUPAK.
Mr. SLATTERY in four instances.
Mr. DINGELL.
Mr. MANN.
Mrs. KENNELLY.
Mr. DEUTSCH.
Mr. TORRES.
Mr. STUDDS.
Mr. NEAL of North Carolina.
Mr. CLYBURN.
Mr. DEFAZIO.
Mr. FRANK of Massachusetts.
Mr. DOOLEY.
Mr. LANTOS.
Mr. KANJORSKI.
Mr. APPLEGATE.

(The following Members (at the request of Mr. THOMAS of Wyoming) and to include extraneous matter:)

Mr. HYDE.
Mrs. MORELLA.

(The following Members (at the request of Mr. SERRANO) and to include extraneous matter:)

Mr. GILLMOR.
Mr. DREIER.
Mr. HUNTER.
Mr. MOAKLEY.

ENROLLED JOINT RESOLUTION SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a joint resolution of the House of the following title, which was thereupon signed by the Speaker:

H.J. Res. 127. Joint resolution to authorize the President to proclaim the last Friday of April 1993 as "National Arbor Day."

ADJOURNMENT

Mr. SERRANO. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 20 minutes p.m.), under its previous order, the House adjourned until Wednesday, May 5, 1993, at 1 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1153. A letter from the Acting Director, Office of Thrift Supervision, transmitting the office's 1992 annual report on the preservation of minority savings institutions, pursuant to Public Law 101-73, section 301 (103 Stat. 279); to the Committee on Banking, Finance and Urban Affairs.

1154. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting the 12th report on the activities of the Multinational Force and Observers [MFO] and Certain Financial Information concerning U.S. Government participation in that organization, pursuant to 22 U.S.C. 3422(a)(2)(A); to the Committee on Foreign Affairs.

1155. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting a report on proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Natural Resources.

1156. A letter from the Chairman, U.S. Sentencing Commission, transmitting the Commission's report of amendments to the sentencing guidelines together with the reasons for these amendments, pursuant to 28 U.S.C. 994(p); to the Committee on the Judiciary.

1157. A letter from the Special Counsel, U.S. Office of Special Counsel, transmitting a draft of proposed legislation to extend authorization of appropriations for the U.S. Office of Special Counsel, and for other purposes; to the Committee on Post Office and Civil Service.

1158. A letter from the Acting Administrator, General Services Administration, transmitting informational copies of various lease prospectuses, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

1159. A letter from the Interim CEO, Resolution Trust Corporation, transmitting the status report for the month of March 1993 (The 1998-89 FSLIC Assistance Agreements), pursuant to 12 U.S.C. 1441a note; jointly, to the Committees on Appropriations and Banking, Finance and Urban Affairs.

1160. A letter from the United States Trade Representative, transmitting a draft of proposed legislation to provide authority for the President to enter into trade agreements to conclude the Uruguay round of multilateral trade negotiations under the auspices of the General Agreement on Tariffs and Trade, to extend tariff proclamation authority to carry out such agreements, and to apply congressional "fast track" procedures to a bill implementing such agreements, and a draft of legislation entitled "Generalized System of Preferences Renewal Act of 1993"; jointly, to the Committee on Ways and Means and Rules.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FROST: Committee on Rules. House Resolution 163. Resolution waiving points of order against the conference report to accompany the bill (H.R. 2) to establish national voter registration procedures for Federal elections, and for other purposes (Rept. 103-78). Referred to the House Calendar.

Mr. HALL of Ohio: Committee on Rules. House Resolution 164. Resolution providing for consideration of the bill (H.R. 820) to amend the Stevenson-Wydler Technology Innovation Act of 1980 to enhance manufacturing technology development and transfer, to authorize appropriations for the Technology

Administration of the Department of Commerce, including the National Institute of Standards and Technology, and for other purposes (Rept. 103-79). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DEFAZIO (for himself, Mr. WILSON, Mr. RAVENEL, Mr. LIPINSKI, and Mr. JACOBS):

H.R. 1955. A bill to require the President to impose economic sanctions against countries that engage in whaling not authorized and approved by the International Whaling Commission; jointly, to the Committees on Merchant Marine and Fisheries, Ways and Means, and Foreign Affairs.

By Mr. ANDREWS of Texas:

H.R. 1956. A bill to amend the Internal Revenue Code of 1986 to modify alternative minimum tax system, and for other purposes; to the Committee on Ways and Means.

By Mr. BURTON of Indiana:

H.R. 1957. A bill to amend the base closure laws to require the Secretary of Defense to transfer real property and facilities at military installations being closed or realigned to States and other entities that agree to convert the property and facilities into correctional facilities for youthful offenders to be operated as military-style boot camps and to require the Secretary to develop a program to promote the expanded use of such correctional facilities; jointly, to the Committees on Armed Services and the Judiciary.

By Mr. CLYBURN (for himself, Mrs. MEEK, Mr. HASTINGS, and Mr. FIELDS of Louisiana):

H.R. 1958. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives with respect to enterprise zones and areas affected by military base closings or reductions in military base employment; to the Committee on Ways and Means.

By Mr. HEFLEY:

H.R. 1959. A bill to reduce until January 1, 1997, the duty on woven polypropylene cloth; to the Committee on Ways and Means.

By Mr. ROSTENKOWSKI (by request):

H.R. 1960. A bill to amend the Internal Revenue Code of 1986 to provide training and investment incentives and to provide additional revenues for deficit reduction purposes; to the Committee on Ways and Means.

By Mrs. KENNELLY (for himself, Mr. MEEHAN, Mr. BARLOW, Mr. LEWIS of Georgia, and Mr. MORAN):

H.R. 1961. A bill to improve the interstate enforcement of child support and parentage court orders, and for other purposes; jointly, to the Committees on Ways and Means, the Judiciary, Natural Resources, Banking Finance and Urban Affairs, Armed Services, Foreign Affairs, Post Office and Civil Service, and House Administration.

By Mr. KLECZKA:

H.R. 1962. A bill to extend until January 1, 1996, the existing suspension of duty on 6-Hydroxy-2-naphthalenesulfonic acid, and its sodium, potassium, and ammonium salts; to the Committee on Ways and Means.

H.R. 1963. A bill to suspend until January 1, 1996, the duty on DMAS; to the Committee on Ways and Means.

By Mr. LIPINSKI (for himself, Mr. STUDDS, Mr. BATEMAN, Mr. FIELDS of Texas, and Mr. TAUZIN):

H.R. 1964. A bill to authorize appropriations for the Maritime Administration for fiscal year 1994, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. REGULA:

H.R. 1965. A bill to amend the Internal Revenue Code of 1986 to allow individuals a deduction from gross income for contributions to health services savings account; to amend the Social Security Act to provide for universal coverage of basic health needs for all Americans; to expand Medicare to include preventive and long-term care services; and for other purposes; jointly, to the Committees on Ways and Means, Energy and Commerce, and Education and Labor.

By Mr. SLATTERY:

H.R. 1966. A bill to amend the Federal Cigarette Labeling and Advertising Act to require that cigarettes and cigarette advertising bear a label stating the addictive quality of nicotine; to the Committee on Energy and Commerce.

By Mr. SLATTERY (for himself, Mr. MCMILLAN, and Mr. SAWYER):

H.R. 1967. A bill to amend the Solid Waste Disposal Act to provide for a scrap tire management and recovery program; to the Committee on Energy and Commerce.

By Mr. SLATTERY:

H.R. 1968. A bill to provide that periods of training in the Cadet Nurse Corps during World War II be made creditable for Federal retirement purposes with respect to annuitants and certain other individuals not included under Public Law 99-638; to the Committee on Post Office and Civil Service.

H.R. 1969. A bill to amend the Internal Revenue Code of 1986 to disallow the deduction for advertising or other promotion expenses with respect to sales of tobacco products; to the Committee on Ways and Means.

By Mr. SLATTERY (for himself, Mr. MCMILLAN, and Mr. SAWYER):

H.R. 1970. A bill to establish a scrap tire trust fund to provide financial assistance to States to eliminate current scrap tire piles and to manage the future disposal of scrap tires; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. SLATTERY;

H.R. 1971. A bill to amend titles XVIII and XIX to treat qualified respiratory therapists and technicians as licensed health professionals for purposes of applying the nursing home reform requirements relating to the training of nurse aides; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. SMITH of Iowa:

H.R. 1972. A bill making urgent supplemental appropriations for the fiscal year ending September 30, 1993, and for other purposes; to the Committee on Appropriations.

By Mr. STUDDS (for himself, Mr. NEAL of Massachusetts, Mr. KENNEDY, Mr. MOAKLEY, Mr. MARKEY, Mr. FRANK of Massachusetts, Mr. OLVER, Mr. BLUTE, and Mr. MEEHAN):

H.R. 1973. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for fees for sewer and water services to the extent such fees exceed 1 percent of adjusted gross income; to the Committee on Ways and Means.

By Mr. WOLF (for himself and Mr. CARR):

H.R. 1974. A bill to amend title 49, United States Code, to provide that the Administrator of the Federal Aviation Administration shall be appointed for a term of 7 years; to the Committee on Public Works and Transportation.

By Mr. QUILLEN (for himself, Mrs. LLOYD, Mr. FORD of Tennessee, Mr. SUNDQUIST, Mr. COOPER, Mr. GORDON, Mr. CLEMENT, Mr. DUNCAN, Mr. TANNER, Mr. MONTGOMERY, Mr. STUMP, Mr. BEVILL, Ms. DANNER, Mr. FROST, Mr. KREIDLER, Mr. MCCLOSKEY, Mr. SMITH of Oregon, and Mr. TOWNS):

H.J. Res. 190. Joint resolution designating July 17 through July 23, 1993, as "National Veterans Golden Age Games Week"; to the Committee on Post Office and Civil Service.

By Mr. MICHEL:

H. Con. Res. 92. Concurrent resolution directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 1578; jointly, to the Committees on House Administration, Government Operations, and Rules.

By Mr. GEPHARDT (for himself, Mr. KOPETSKI, Mr. MATSUI, Mr. MOORHEAD, Mr. MARKEY, Ms. SLAUGHTER, Mr. EDWARDS of California, Mr. HUGHES, and Mr. SUNDQUIST):

H. Res. 165. Resolution expressing the sense of the House regarding the protection to be accorded United States copyright-based industries under agreements entered into pursuant to the Uruguay round of trade negotiations; to the Committee on Ways and Means.

By Mr. HYDE:

H. Res. 166. Resolution establishing a House Security Office; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII.

Mr. GLICKMAN introduced a bill (H.R. 1975) for the relief of Afsar Khanom Tajbakhsh; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

[Omitted from the Record of May 3, 1993]

H.R. 820: Mr. HINCHEY, Mr. DICKS, Mr. EVANS, Mr. HUGHES, Mr. LANCASTER, Mr. LAFALCE, Mr. MACHTLEY, Mr. KLINK, Mr. MOLLOHAN, Ms. KAPTUR, Ms. SHEPHERD, and Mr. MEEHAN.

[Submitted May 4, 1993]

H.R. 18: Mr. PICKLE, Mr. BERMAN, Mr. FILNER, Mrs. MINK, Mr. UPTON, Mr. CLYBURN, Mr. ANDREWS of Maine, Mr. DICKEY, and Mr. GREENWOOD.

H.R. 21: Mr. CAMP, Mr. WELDON, Mr. RIDGE, Mr. MURPHY, and Mr. PORTER.

H.R. 115: Ms. NORTON and Ms. ESHOO.

H.R. 123: Mr. RAHALL, Mr. PARKER, Mr. GINGRICH, Mr. ARCHER, Mr. MCKEON, Mr. ROYCE, and Mr. CRANE.

H.R. 124: Mr. GALLEGLY, Mr. GINGRICH, Mr. TUCKER, Mr. ROYCE, and Mr. RAVENEL.

H.R. 140: Mr. KNOLLENBERG, Mr. EVERETT, Mr. CUNNINGHAM, Mr. BONILLA, Mr. BARLOW, and Mr. HOEKSTRA.

H.R. 159: Mr. MCMILLAN.

H.R. 181: Mr. BAKER of Louisiana.

H.R. 349: Mr. COLLINS of Georgia, and Mr. ANDREWS of New Jersey.

H.R. 357: Mr. OBEY and Mr. KLUG.

H.R. 358: Mr. MANTON.

H.R. 417: Mr. MOORHEAD, Mr. GILLMOR, and Mr. GENE GREEN of Texas..

H.R. 567: Mr. KNOLLENBERG.

H.R. 633: Mr. FISH.

H.R. 656: Mr. FRANKS of New Jersey and Mr. DEUTSCH.

H.R. 746: Mr. PAYNE of Virginia.

H.R. 749: Mr. POMBO.

H.R. 830: Mr. ISTOOK, Mr. ROTH, and Mr. HUTTO.

H.R. 840: Mr. MILLER of California, Mr. TOWNS, Mr. STARK, Mr. BONIOR, Mr. GLICKMAN, Mr. FOGLIETTA, Mr. BLACKWELL, and Mr. FIELDS of Louisiana.

H.R. 822: Mr. PICKLE.

H.R. 1004: Mr. JEFFERSON.

H.R. 1077: Mr. BLACKWELL, Mr. VALENTINE, Mr. FAWELL, Mr. EWING, and Mr. GILLMOR.

H.R. 1096: Mr. DICKS and Mr. BONIOR.

H.R. 1141: Mr. MCCRERY, Mr. KNOLLENBERG, Mr. HALL of Ohio, Mr. CRAMER, Mr. DERRICK, and Mr. BARTLETT.

H.R. 1164: Mr. MARKEY.

H.R. 1275: Mr. GOSS and Mr. RAMSTAD.

H.R. 1296: Mr. GORDON, Mrs. CLAYTON, Mr. CRAMER, and Mr. HALL of Ohio.

H.R. 1322: Ms. MOLINARI, Mr. HOEKSTRA, Mr. KING, Mr. GUTIERREZ, Mr. BACHUS of Alabama, and Mr. BLUTE.

H.R. 1327: Mr. SMITH of New Jersey.

H.R. 1402: Mr. BLACKWELL, Mr. EVANS, Mr. MCHALE, Mr. SANTORUM, Mr. APPLEGATE, Mr. MCCRERY, and Mr. MOLLOHAN.

H.R. 1481: Mr. HANCOCK.

H.R. 1493: Mr. RAVENEL.

H.R. 1538: Mr. JEFFERSON, Mr. STOKES, Mrs. MINK, and Mr. FROST.

H.R. 1555: Mr. OBEY.

H.R. 1586: Mr. WYDEN, Mr. GUTIERREZ, Mr. GENE GREEN of Texas, and Mr. FRANK of Massachusetts.

H.R. 1640: Mr. SWIFT.

H.R. 1670: Mr. KIM and Mr. INHOFE.

H.R. 1718: Mr. HASTINGS, Mr. JEFFERSON, and Mr. FIELDS of Louisiana.

H.R. 1727: Mr. KILDEE and Mr. BONIOR.

H.R. 1765: Mr. ENGLISH of Oklahoma.

H.R. 1768: Mr. ENGLISH of Oklahoma.

H.R. 1772: Mr. MOLLOHAN, Mr. ENGLISH of Oklahoma, Mrs. MINK, and Mr. PAYNE of Virginia.

H.R. 1773: Mr. MOLLOHAN, Mr. BARRETT of Nebraska, Mr. ENGLISH of Oklahoma, Mrs. MINK, and Mr. PAYNE of Virginia.

H.R. 1795: Mr. TOWNS, Mr. FRANK of Massachusetts, and Ms. ESHOO.

H.R. 1814: Mr. FROST.

H.R. 1863: Mr. THOMAS of Wyoming, Mr. COBLE, Ms. DANNER, Mr. DOOLITTLE, Mr. KOLBE, Mr. QUINN, Mr. GILLMOR, Mr. LIGHTFOOT, Mr. STUMP, Mr. POMBO, Mr. GOSS, Mr. SHAYS, and Mr. LEVY.

H.R. 1873: Mr. MILLER of California, Mrs. MEEK, Mr. FOGLIETTA, Mrs. UNSOELD, Mr. LEVY, Ms. ESHOO, Mr. SHAYS, Mr. ACKERMAN, and Mr. MCNULTY.

H.R. 1874: Mr. COLEMAN and Mr. HOLDEN.

H.R. 1885: Mr. SPENCE, Mr. BURTON of Indiana, Mr. GOSS, Mr. BAKER of Louisiana, Mr. SOLOMON, Mr. ARMEY, and Mr. LEVY.

H.R. 1944: Ms. ROYBAL-ALLARD, Mr. YOUNG of Alaska, and Mr. DE LA GARZA.

H.J. Res. 68: Mr. TRAFICANT, Mr. CLYBURN, Mr. TUCKER, Mr. KLEIN, Mr. CLEMENT, Mr. PAYNE of Virginia, Mr. COPPERSMITH, Mr. HOBSON, and Mr. FIELDS of Louisiana.

H.J. Res. 136: Mr. LIPINSKI, Ms. DANNER, Mr. KLECZKA, Mr. VOLKMER, Mr. SLATTERY, Mr. FALEOMAVAEGA, Mr. FILNER, Mrs. UNSOELD, Mr. ANDREWS of Maine, Mr. HAYES of Louisiana, Mr. GALLO, Mr. MARTINEZ, Mr. DE LUGO, Mr. BILBRAY, Mr. SCHUMER, Mr. WAXMAN, Mr. FROST, Mr. SERRANO, Mr. LAFALCE, Mr. THOMPSON, Mr. KREIDLER, Mr. EVANS, Mr. FIELDS of Texas, Mr. FRANK of Massachusetts, Mr. SPRATT, Mrs. VUCANOVICH, Mr. CARDIN, Mr. NEAL of Massachusetts, Mr. FOGLIETTA, Mr. GINGRICH, Mr. KILDEE, and Mr. FAZIO.

H.J. Res. 139: Mr. WHEAT and Mr. COYNE.

H.J. Res. 166: Ms. FURSE.

H. Con. Res. 13: Mr. GINGRICH and Mr. ROYCE.

H. Con. Res. 54: Mr. INGLIS and Mr. DOOLITTLE.

H. Con Res. 80: Ms. EDDIE BERNICE JOHNSON, Mr. SCHIFF, Mr. POMBO, Mr. LANTOS, Mr. WAXMAN, and Mr. TUCKER.

H. Con. Res. 85: Mr. HANCOCK, Mr. BEREUTER, Mr. MCCRERY, Mr. LEACH, and Mr. JACOBS.

H. Res. 154: Mr. LEVY.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

32. By the SPEAKER: Petition of the President of the Legislative Yuan, Republic of China, relative to bilateral trade; to the Committee on Ways and Means.

33. Also, a petition of the Canadian Embassy, the Ambassador, relative to H.R. 1313; jointly, to the Committees on the Judiciary, Ways and Means, and Foreign Affairs.

SENATE—*Tuesday, May 4, 1993*

(Legislative day of Monday, April 19, 1993)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable HARLAN MATHEWS, a Senator from the State of Tennessee.

PRAYER

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

Let us pray:

Blessed is the nation whose God is the Lord: * * *—Psalm 33:12.

God of Abraham, Isaac, and Israel, everything good and right about our Nation is rooted and grounded in Judeo-Christian tradition. Faith in God and prayer sustained the colonies through imponderable difficulties and revolutionary war. Faith in God and the Bible conceived the Declaration of Independence, the Constitution and the Bill of Rights. The value system which has made America the greatest nation in history is founded on Biblical values.

But, mighty God, we are losing that faith and the benefits and blessings which accrue from it. Critically we need a restoration of that faith of our fathers. Help us hear the words of the father of our country, George Washington, as he spoke to Congress in 1789 following his taking of the oath of office:

"It would be peculiarly improper to omit, in this first official act, my fervent supplication to that Almighty Being who rules over the universe, who presides in the councils of nations, and whose providential aids can supply every human defect, that His benediction may consecrate to the liberties and happiness of the people of the United States. * * *"

For the glory of God and the welfare of the people. 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 bill clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 4, 1993.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HARLAN MATHEWS, a Senator from the State of Tennessee, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. 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 for not to exceed 5 minutes each.

The ACTING PRESIDENT pro tempore. The Senator from Maine.

Mr. COHEN. I thank the Chair.

(The remarks of Mr. COHEN pertaining to the introduction of S. 867 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. COHEN. I yield the remainder of my time.

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.

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

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

Mrs. MURRAY. Mr. President, I ask unanimous consent to have an additional 10 minutes to speak in morning business.

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

The Senator from Washington is recognized.

Mrs. MURRAY. I thank the Chair.

(The remarks of Mrs. MURRAY pertaining to the introduction of S. 868 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

DEADLINE FOR FILING OF FINANCIAL DISCLOSURE REPORTS

Financial disclosure reports required by the Ethics in Government Act of 1978, as amended, and Senate Rule 34 must be filed no later than close of business on Monday, May 17, 1993. The reports must be filed with the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510. The Public Records Office will be open from 8 a.m. until 6 p.m. to accept these filings; and will provide automatic written receipts for Senators' reports. Staff members may obtain written receipts upon request. Any written request for an extension should be directed to the Select Committee on Ethics, 220 Hart Building, Washington, DC 20510.

All Senators' reports will be made available simultaneously on Friday, June 11. Advance requests for copies of full sets of 100 Senators' reports are now being accepted by the Public Records Office. Any questions regarding the availability of reports or their purchase should be directed to that office (224-0322). Questions regarding interpretation of the Ethics in Government Act of 1978 should be directed to the Select Committee on Ethics (224-2981).

S. 818, THE BEVERAGE CONTAINER REUSE AND RECYCLING ACT

Mr. HATFIELD. Mr. President, I am proud to again be the sponsor of legislation to promote beverage container recycling through the implementation of a refundable deposit on beverage containers. Twenty years ago, Oregon led the Nation with such a system that has been a great promoter of recycling.

Oregonians solidly support the bottle bill. A generation of Oregonians have grown up with the bottle bill and many are surprised and then disturbed when they travel to other States that do not place such a high priority on energy savings, solid waste minimization, and litter reduction. Last year, I conducted an informal poll of Oregonians on this subject and found nearly 97 percent support. It is no coincidence that this number is very close to the beverage container recycling rate in Oregon.

A recent nationwide public opinion poll conducted by Peter D. Hart Research Associates, Inc. shows 76 percent of Americans support beverage container deposits. This study shows a high and consistent level of support. Even in nondeposit States, the survey shows a 74-percent support rate. These numbers show a considerable increase in support since 1990, when the General Accounting Office, at the request of Congressman HENRY, Senator JEFFORDS, and myself, conducted a national public opinion survey that showed a 70-percent level of support.

My purpose in speaking today is to place in the RECORD several letters

that indicate support deposit legislation. I ask unanimous consent that the following letters be included in the RECORD at the conclusion of my remarks: a letter from Donald M. Fraser, president of the National League of Cities; a letter from Daniel J. Weiss, Washington director of the Sierra Club's Environmental Quality Program; and finally, a letter from Jack Holland, president of the Kansas City Consensus.

These expressions of support are just a small indication of the public support for this commonsense idea. I look forward to the 1993 Environment and Public Works Committee hearings on this issue, kindly agreed to last year by Chairman BAUCUS.

Finally, Mr. President, I am pleased to ask unanimous consent to add the distinguished Senator from New York [Mr. MOYNIHAN] as a cosponsor of Senate bill 818.

Mr. President, this is an issue worthy of the serious consideration and support of my colleagues. President Clinton has made a commitment to support a national bottle bill and I look forward to seeing it enacted into law with his support.

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

NATIONAL LEAGUE OF CITIES,
Washington, DC, April 22, 1993.

Hon. MARK O. HATFIELD,
U.S. Senate,
Washington, DC.

DEAR SENATOR HATFIELD: On behalf of the National League of Cities (NLC) and the 16,000 cities and towns we represent, I am writing to express our support for your efforts to secure federal legislation to impose mandatory deposits on glass bottles.

The disposal of wastes and the conservation of resources are two of the most challenging problems to be solved by this nation. With almost half of our cities running out of current disposal capacity in the next two or three years, America's urban areas face an immediate disposal crisis.

We believe that the crisis of solid waste management must be solved through an aggressive program of source reduction, volume reduction and resource recovery and that the ultimate disposal of solid waste must be compatible with the environment.

NLC's National Municipal Policy (copy attached) supports federal requirements for mandatory deposits on batteries, tires and beverage containers as well as minimum recycled content requirements for items such as newsprint, glass and plastic.

We applaud your efforts to re-introduce the bottle bill and stand ready to support the enactment of such legislation.

Sincerely,

DONALD M. FRASER,
President, Mayor of Minneapolis.

2.04 SOLID AND HAZARDOUS WASTE

A. PROBLEMS

The disposal of wastes and the conservation of resources are two of the most challenging problems to be solved by this nation. With almost half of our cities running out of current disposal capacity in the next two to three years, America's urban areas face an immediate disposal crisis.

Additonally, the improper disposal of hazardous waste and the spills of chemicals, oils, and other hazardous substances as the result of highway, rail and waterway accidents are national problems which can endanger public health and pollute our nation's air, water and land resources. A solution to the hazardous waste and materials problem will require the cooperation of federal, state and local governments as well as the hazardous waste generating industries and materials transporting industries.

B. GOALS

The crisis of solid waste management must be solved through an aggressive program of source reduction, volume reduction, resource recovery, and ultimate disposal all of which must be compatible with the environment.

A national hazardous wastes and materials management strategy must be developed in order to protect human health and the environment. The strategy should encompass the entire life of the waste and material, from reproduction to transportation and temporary storage to final disposition.

C. NATIONAL SOLID WASTE POLICY

A national policy for solid waste management should take an integrated approach to effectively mix and match management options to best meet local needs.

To assist city officials' efforts to effectively address this crisis, the federal government must support the following management options.

1. Source reduction

The federal government should support public education programs to enhance a better understanding of the crisis and to promote public participation in options to reduce the volume of solid waste. Federal packaging standards to limit excess packaging or to require reuse of packaging should be established for manufacturers, distributors and retailers to achieve maximum feasible reduction. Congress should enact legislation which will identify and remove from the waste stream packaging and products which are toxic and not recyclable. Federal regulations should require that all new disposable products and all "advertising mail" be non-toxic, and recyclable. Federal resources should support research and development on packaging materials, biodegradability and techniques to minimize solid waste.

2. Recycling

While municipalities strongly support recycling initiatives, we oppose the imposition of mandatory percent recycling requirements or the imposition of mandatory diversion rates on local governments by the federal government unless there are federal minimum content standards. National recycling goals must take into account economic and regional market variations. To facilitate local recycling programs and attainment of national recycling goals, Congress should define municipal solid waste assuring recognition of the different types of waste, i.e., residential, commercial and industrial.

Congress must recognize that municipal recycling programs will not succeed without well-developed, long-term stable markets. Commodities such as batteries, tires, beverage containers and newspapers represent either significant disposal problems or are uniquely amenable to recycling. NLC supports federal requirements for mandatory deposits on batteries, tires and beverage containers as well as minimum recycled content requirements for such items such as newsprint, glass and plastic.

Federal funding should support research and development and pilot programs to assist localities in the demonstration of new recycling techniques. In addition, federal and state governments should provide tax incentives and technical assistance in order to identify and develop both domestic and international markets for recycled materials, as well as encourage the use of recycled and recyclable materials. To assure a level playing field, the federal state governments should insure that unfair and inappropriate tax incentives for the use of virgin materials are eliminated and favorable tax policies for recycling processing centers must be restored.

SIERRA CLUB SAYS THE AMERICAN PEOPLE KNOW WHAT "THE REAL THING" IS: A NATIONAL BOTTLE BILL

SIERRA CLUB,
Washington, DC, April 22, 1993.

DEAR SENATOR: Sierra Club applauds today's introduction of the National Beverage Container Reuse and Recycling Act of 1993, by Senator Mark Hatfield (R-OR), and Representatives Ed Markey (D-MA) and Paul Henry (R-MI). This national container deposit legislation would reduce garbage, increase recycling, conserve energy, and save valuable raw materials—all necessary objectives for a healthy environment and economy in the 21st century.

To that end, Sierra Club urges Senators to make a 1993 Earth Day pledge to cosponsor the National Beverage Container Reuse and Recycling Act of 1993.

AMERICANS WANT NATIONAL CONTAINER DEPOSIT LEGISLATION

The American people recognize the benefits of a national bottle bill. A recent national survey conducted by Peter D. Hart Research Associates—April 7–12, 1993—reveals that 76% of Americans favor a national bottle and can deposit law. In fact, a variety of opinion polls, over the years, have shown that a majority of those polled in bottle bill states support deposit laws.

On Earth Day 1992, then-Governor Bill Clinton promised that his administration would "pass a national bottle bill to encourage recycling" when discussing the urgent challenge to reduce the amount of solid waste generated. We urge President Clinton to make this goal a reality by strongly supporting the Hatfield-Markey beverage container deposit legislation.

BEVERAGE CONTAINER LEGISLATION HAS BEEN PROVEN EFFECTIVE

Nine states have already proven a beverage container deposit law can significantly reduce garbage. According to the General Accounting Office (GAO), deposit states have reduced the volume of beverage container litter by about 80 percent, and total solid waste by as much as six percent. Deposit legislation does this at no cost to cities or taxpayers.

BEVERAGE INDUSTRY CLAIMS ARE FALSE

The big beer and soda conglomerates will continue to oppose this legislation, as they have since the 1970's. But each of their assaults on this fiscally sound environmental program turned out to be false. First, these special interest opponents charged that state bottle bills will cost jobs. In fact, studies in Michigan, Maine, and by the GAO demonstrated that bottle bills create jobs.

Then the beverage companies claimed that beverage deposit programs actually disrupt curbside recycling programs. Nothing could be further from the truth. A study by the Congressional Research Service found that

"enactment of a bottle bill does not appear to prevent operation of curbside programs."

Now, the same companies that produce these throw away products are claiming that the bottle bill is not a comprehensive solution to our garbage crisis. Yet, these same companies opposed comprehensive recycling legislation last Congress.

Last November, the American people voted for a fundamental change in the way that government conducts business. The Hatfield-Markey-Henry National Beverage Container Reuse and Recycling Act would help spur this change by increasing recycling, creating jobs, and saving taxpayers money. President Clinton and Congress should enact this bold proposal. Please join the over 70 members of Congress who have signed on as original cosponsors to national beverage container legislation introduced today.

Sincerely,

DANIEL J. WEISS,
Washington Director,
Environmental Quality Program.

KANSAS CITY CONSENSUS,
Kansas City, MO, April 23, 1993.

Hon. MARK HATFIELD,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR HATFIELD: On behalf of the Kansas City Consensus Board of Directors and membership, thank you for introducing the National Bottle Bill. Kansas City Consensus is a 700-member volunteer organization committed to the improvement of the Kansas City, Missouri metropolitan area. Consensus works to involve citizens in the democratic process.

Consensus endorsed the concept of bottle bills in a 1990 task force report, entitled "Solid Waste Management: A Metropolitan Opportunity." The Consensus board formally endorsed your bill on April 15, 1993. In support of the National Bottle Bill, we have included an article in our newsletter asking our members to write their U.S. legislators. I have also written Senators Dole, Kassebaum, Danforth and Bond asking them to support the bill. I have enclosed a copy of this letter.

If Consensus can be of further assistance in ensuring that this important legislation is passed, please do not hesitate to call. Steve Schutte is the staff person handing this matter for Consensus and he can be reached at (816) 753-3398.

Again, thank you for introducing this legislation.

Sincerely,

JACK HOLLAND,
President.

TEACHER APPRECIATION WEEK

Mr. LIEBERMAN. Mr. President, May 2-8 is Teacher Appreciation Week. I believe the following statement by Patricia G. Sidas, president of the Parent-Teacher Association of Connecticut, speaks for all parents and everyone who cares about our children's education:

Thank you. A simple expression. One we use quite commonly, often with little meaning behind it. But when we do use it with heartfelt meaning it conveys to the person thanked a deeply felt conviction that we as individuals, as PTA leaders, as parents are the better for having received from the one we thank his or her gift—of time, of self, of intellect, of strength.

Thank you, teachers. Thank you for being so filled with the wonder of humanity that you give your life's work to "leading forth"—educating—humanity's future, our children. Thank you for caring—for the children, for the parents whose struggles sometimes overwhelm their parenting, for the frontiers of knowledge that you always keep before you so that your charges will be ready for the future. Thank you for becoming principals and superintendents and being teachers to your colleagues in the classrooms. Thank you for having the strength to endure the anger, pain, and disrespect of those who are all too ready to condemn but far too unwilling to walk the path you have chosen. Thank you for friendship, for PTA leadership, for tending the great fire of learning. Thank you for going with parents, hand in hand, and heart in heart, to the public for the children. P-T-A * * * Parents and Teachers together. Advocates for children. Together we change the world. Thank you all.

PATRICIA G. SIDAS,
President, Connecticut PTA.

CHAIRMAN JOSIAH NEWTON MOORE, TOHONO O'ODHAM NATION

Mr. DECONCINI. Mr. President, I rise today to pay tribute to Josiah Newton Moore who was chairman of the Tohono O'Odham Nation until his death on April 19, 1993. The State of Arizona, the Tohono O'Odham Nation and this country lost an outstanding native American leader upon the untimely death of Chairman Moore.

Chairman Moore was a native of Ston Shudag which is located in the southwestern corner of the Chukut Kuk District in the Tohono O'Odham Nation in southern Arizona. He was educated at Arizona State University in Tempe, AZ. With a dual degree in elementary and Indian education, he committed himself to improving education programs serving native Americans. His career as an educator included being a counselor and adjunct professor of English at Arizona State University. Chairman Moore also served as the director of the Indian Education Office within the Arizona Department of Education. He was a naturally gifted teacher whose contributions to Indian education will be profoundly felt for generations to come.

In 1983, Chairman Moore was first elected to the Tohono O'Odham Nation's highest public office. Under his leadership, the Tohono O'Odham Nation moved into an era of stronger self-governance with the adoption of a new constitution which separated the tribal government into three independent branches. Chairman Moore also restored to his people their chosen name—Tohono O'Odham—which means the Desert People and ended the practice of having his people called Papagos or the bean eaters in Spanish. Chairman Moore was not one to let historical patterns of public ignorance or neglect go unchallenged.

After being out of office for one term, Chairman Moore was reelected to a second term in 1991, and sought to bring economic stability and autonomy to the reservation communities. He had an unwavering commitment to bettering the lives of the Tohono O'Odham people and proved to be an effective advocate. He was widely respected throughout Arizona and by all who came to know him. He challenged the status quo by insisting upon the fair and equal treatment of all native Americans in his characteristically soft but firm voice.

He demanded respect for the Tohono O'Odham people, and their culture and history. I spoke earlier about how he restored to the Tohono O'Odham people their proper name. I believe that this may perhaps become his greatest legacy. With this single act, he reaffirmed the right of native American people to be treated with dignity and respect. As a result, we all gained a better understanding and appreciation for the Tohono O'Odham people.

Chairman Moore will be missed but not forgotten.

Mr. President, I ask unanimous consent that my entire statement and the April 23, 1993 Arizona Daily Star editorial on Chairman Josiah Moore be printed in the RECORD.

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

JOSIAH MOORE: THE TOHONO O'ODHAM CHAIRMAN TAUGHT WELL

Josiah Moore was a big man with long gray hair and a soft but authoritative voice—the voice of a teacher.

And a teacher is what he was.

That's certainly how his friends said they wanted him to be remembered after his death this week.

He was chairman of the Tohono O'odham nation for six years, presiding over 11 districts in a slice of southwestern Arizona the size of the state of Connecticut.

He guided the reservation into its modern form of government, lured commerce to the tribal capital at Sells and built schools. He was the first tribal chairman under a new form of government and a new name for the 17,000-member tribe, which until 1986 had been known as the Papagos.

Those accomplishments will all endure much longer than the memory of his fight to defend his tribe's right to operate gambling halls—the source of his contemporary fame.

But that fight should be viewed merely as an extension of earlier ones. His life was a struggle not for gambling or supermarkets in Sells or government programs—but a quest for autonomy and a better life for his tribe.

When he first ran successfully for tribal chairman in 1983, Moore said he wanted the tribe to have greater control over its destiny. The road to that goal was a new constitution and centralized tribal authority for a people that for 6,000 years had governed themselves as independent villages.

Some tribal elders complained that the constitutional change to power shared by the chairman, a legislative council and an independent judiciary was a "white man's" system.

To that, Moore simply replied that the model had been first developed by the six Iroquois Nations.

Moore won his crusade for a new constitution that enshrined the tribe's chosen name. "Papago," Spanish for "bean eater," was re-

placed by "Tohono O'odham," or "desert people."

In the first elections held under the new constitution, a year later, Moore lost his chairmanship in a close election.

He won it back in 1991 and became a leader of the intertribal alliance that was fighting the state and the federal government for the tribes' rights to operate gaming parlors.

Moore saw them as an essential tool for economic development, and he forcefully took on the governor and the attorney general when they resisted tribal authority.

Moore's angry statements about the state's treatment of the tribes were unusual for him. Generally, he spoke softly, and bridged the gap between two worlds that often distrusted each other.

Raised in the reservation town of Santa Rosa and the copper camp of Ajo, Moore was educated at Arizona State University as a teacher and specialist in Indian education.

He spent much of his life teaching and developing programs for the state Department of Education.

He wanted better education, housing, jobs and economic prosperity for the Tohono O'odham—and he understood that progress brought with it the potential for harming traditions.

"Some say that progress brings problems, but there sure are problems now," he said.

Moore's life was spent teaching others how to seek improvement without destroying tradition—how to walk in two worlds with grace and without compromise.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the total Federal debt stood down to the penny, at $4,254,084,170,636.01 as of the close of business on Friday, April 30. Averaged out, every man, woman, and child in America owes a part of this massive debt, and that per capita share is $16,561.94.

ACCOLADES TO KEN BYERLY OF LEWISTOWN, MT

Mr. BAUCUS. Mr. President, I rise today having learned that a respected Montanan and a great American, Ken Byerly of Lewistown, has stepped down as publisher of the Lewistown News-Argus. He has done so, Mr. President, having spent more than 40 years of his life devoted to keeping central Montanans informed about their community and their world.

Ken and his wife, Scottie, are very good friends of mine. Not only have I enjoyed this friendship, I have enjoyed working with Ken and meeting with him about the many issues that affect Montanans. Many times, in speaking with Ken in person or on the phone, his insights helped me gauge what Montanans think and believe. This wisdom about Montana is consistently evident in his writing as well.

Ken personifies the best of the journalism profession. Beyond reporting the news, Ken has been involved in virtually every aspect of life in central Montana. In short, the people of Lewistown have no greater friend—no more respected advocate—than Ken Byerly.

As a reader of the News-Argus, I am pleased that Ken will continue to contribute opinion editorials to the paper. And I am sure I will be among the many Montanans who try to get him on the phone at the News-Argus in the mornings, when he will be in office.

I look forward to continuing to work with Ken's son, Dave Byerly, who will be taking over the reins as publisher of the paper. Dave has been managing editor of the News-Argus for some time, and I know his father is quite proud of him.

It is heartening to see that a family business such as the Lewistown News-Argus and News-Argus Printing can continue to thrive these days, especially when so many are unable to do so. And I wish Ken, Dave, Scottie, and the rest of the Byerly family the best of luck as they continue in their efforts to keep central Montanans informed.

PRESIDENT WELCOME AT WICHITA BOATHOUSE ANYTIME

Mr. DOLE. Mr. President, I would like to thank the President of the United States for focusing the national spotlight for at least 48 hours on Wichita, KS—the air capital of the world, home of McConnell Air Force Base, Wichita State University, home of well-known companies including Pizza Hut, the Coleman Co., Rent-a-Center, Beech, Cessna, Lear, Boeing Military, and home of a certain privately funded boathouse along the banks of the Arkansas river.

I have seen a lot of stories about a so-called war of words between the White House and the Republican leader. Well, as far as I am concerned, it is all water under the boathouse. The only capsized fact I would like to turn upright is that there are no Federal dollars at stake in the private renovation of the boathouse, a building scheduled to be torn down if it was not rehabilitated. Local officials, the charitable foundation renovating the building, and the area's Democratic Congressman all agree to this fact. And the Arkansas River Foundation has already said that if the Federal Government does not grant the waiver to change the purpose of this building, it will raise private funds to reimburse the Federal Government.

So, when the White House Communications Director said last night that the "cost to the taxpayers is not as high as" the $23 million cited by the President, he really means the cost to the taxpayers is zero—not $1 million, not $850,000, not $1 is involved.

Although some people passed it off as a joke, believe me, the news media recognized it as hard news, whether it was Sam Donaldson on "The David Brinkley Show" or whether it was the Wall Street Journal or CNN or others. and they followed up with serious questions. My office had an obligation to set the record straight.

I believe the President would agree with me that it is time to put words behind us, and set sail toward the future, charting a course for national challenges such as health care reform, fighting drugs and crime, reducing the deficit, and bringing peace to Bosnia, the North American Free-Trade Agreement, and a number of other issues where I hope we can be working together.

I would also point out that the Arkansas River runs through both Wichita and Little Rock, so whenever President Clinton wants to sail up to Kansas, he is welcome to tie-up his boat at our privately funded boathouse anytime.

TRIBUTE TO PRESIDENT RANASINGHE PREMADASA

Mr. PRESSLER. Mr. President, I rise to express my sadness at the tragic events that have just occurred in Sri Lanka. As my colleagues well know, on Saturday, Sri Lanka's President Ranasinghe Premadasa, was assassinated as a result of a bomb blast that killed 24 individuals and injured scores more. This brutal act of political terrorism came on the heels of the assassination of Sri Lanka's leading opposition leader, Lalith Athulathmudali.

I had the opportunity to meet President Premadasa in December 1991. I know the President's son, Sajith, who volunteered in my office here in Washington, and wrote a number of reports for me and members of my staff. I wish Sajith and his family well during this difficult period.

I also extend my best wishes to all the people of Sri Lanka. When I visited Sri Lanka, I witnessed a country that had enormous potential. It was a country of promise fueled by the innovations of its leader, President Premadasa. I recall one such innovation: the Presidential Mobile Secretariat. In an effort to make government more responsive to citizens in remote regions, President Premadasa literally would bring his government to the people. Four times each year, all 28 government ministries would pick themselves up and relocate to an outlying district for several days. My visit happened to coincide with one of these Mobile Secretariats in the State of Kalutara. I witnessed the Prime Minister, the Minister of Public Administration and Home Affairs, the Foreign Minister and others visiting with the local citizens, addressing their grievances and concerns. Complex issues which require additional consideration were initiated with a promise of followup. I was told this followup did occur. Nobody was turned away without an answer.

Mr. President, this Mobile Secretariat was an extraordinary example of

grassroots government. It symbolized the can-do spirit of President Premadasa. Can-do describes the life of Ranasinghe Premadasa. He was born in poverty, but defied Sri Lanka's caste and class barriers. Premadasa rose from labor union activist to member of Parliament because he impressed party leaders and fellow citizens with his can-do outlook and initiative.

Premadasa was named Prime Minister in 1978 and was elected President in 1989. His Mobile Secretariat was one element in a government that emphasized health care access, educational opportunities, and improved infrastructure. President Premadasa struggled to bring economic opportunities to his country. He knew that more people could rise from the limitations of caste and ethnicity if greater economic opportunity existed. He encouraged business startups through low-interest loans. As a result of his efforts, Sri Lanka is poised to be a leader with the expected south Asian economic boom.

Tarnishing this bright future is a past and present marred by ethnic violence. To his credit, President Premadasa had struggled to break the death grip of violence in his country. There was great hope that differences could be resolved with ballots, not bullets. Yet, in 1 week, years of struggle and progress may have been lost.

The tensions in Sri Lanka are both ethnic and religious. The Sinhalese make up 75 percent of the population, and are mostly followers of Buddha. The Tamils make up the remainder of the population, with Hundus making up a majority of this group.

For more than a decade, the Sinhalese and Tamils have been engaged in a brutal civil war that has claimed 20 thousand lives. The Tamils—concentrated in the northern and eastern regions of the island—seek concessions from the Sinhalese majority ranging from greater political liberties to complete independence. Suicide bomb attacks like the one that took the life of President Premadasa are common. The intensity of the hostilites can be measured by the willingness of some to strap themselves to explosives, or take cyanide should they be captured before their assassination mission is accomplished.

President Premadasa faced opposition from radical elements within both the Sinhalese majority and Tamil minority. The beginning of his presidency was marked by efforts to wipe out a hard-line Sinhalese group known as the People's Liberation Front. Rather than see his island permanently divided along ethnic lines, he sought for 4 years to find a political settlement. Trying to forge a political settlement in the midst of such great hostility was the ultimate test of President Premadasa's can-do spirit.

President Premadasa was a larger than life figure in his country, which explains why his death was deeply mourned or greatly celebrated. Regardless of how one feels, or one's political or ethnic loyalties, all citizens of Sri Lanka can learn from President Premadasa's successes and failures. Ultimately, he believed that the people of Sri Lanka could overcome their ethnic differences. The test of his beliefs now rests with the people of Sri Lanka, whether they be Sinhalese or Tamils, Buddhists, Hindus, or Moslems. Together, they must begin to pick up the pieces and try to resume the ambitious reforms begun by President Premadasa.

During my recent visit to Africa, I had an opportunity to visit with Yoweri Museveni, the President of Uganda. President Museveni argued that for democracy to succeed in Africa, its leaders must not be perceived by either themselves or their citizens as larger or more important than the democratic institutions they were elected to serve. Leaders may come and go, but the institutions of democracy must remain. Assassination must not topple democracy, but instead trigger the democratic process to fill the leadership void and move on.

I agree with President Museveni. His conclusions are true not just for African countries, but for all nations and all people struggling to establish a civil society based on the rule of law. President Premadasa tried to adhere to these principles as well. The greatest tribute the people of Sri Lanka could give to their fallen leader is to continue his work—continue to move toward a free market economy, continue to push for democratic reforms, and continue to push for the resolution of ethnic tensions. These are enormous challenges. If the people of Sri Lanka adopt their fallen President's can-do spirit, these challenges can be met.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

DEPARTMENT OF THE ENVIRONMENT ACT OF 1993

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 171, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 171) to establish the Department of the Environment, provide for a Bureau of Environmental Statistics and Presidential Commission on Improving Environmental Protection, and for other purposes.

The Senate resumed consideration of the bill.

The ACTING PRESIDENT pro tempore. The Senator from Ohio.

Mr. GLENN. Mr. President, we are operating under time agreements, I believe, on all the remaining amendments; is that correct?

The ACTING PRESIDENT pro tempore. On some of the remaining amendments, there are time agreements.

Mr. GLENN. Mr. President, I was unaware that we were going to have some amendments that were not under a time agreement. I thought we had an inclusive time agreement on the amendments that would be permitted and the second-degree amendments thereto. Am I incorrect in that?

The ACTING PRESIDENT pro tempore. Under the order, as I read it to the Senator, I note that on the Baucus amendment, there is a time limit of 40 minutes; the Dole amendment, 30 minutes; the Bond amendment, 90 minutes; and on two others, there does not appear to be a time agreement: One offered by the Senator from Ohio and one offered by the Senator from Delaware.

Mr. GLENN. Mr. President, I see Senator BOND on the floor. His amendment would have a 90-minute time agreement under my control and the control of the minority leader; is that correct?

The ACTING PRESIDENT pro tempore. That is correct; equally divided.

Mr. GLENN. I thank the Chair.

Mr. BOND addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Missouri.

AMENDMENT NO. 340

(Purpose: To provide that a single Federal agency shall be responsible for making technical determinations with respect to wetland or converted wetland on agricultural lands)

Mr. BOND. Mr. President, I rise today to present an amendment with seven cosponsors that will deal with one of the most frustrating bureaucratic hassles that farmers must face in environmental regulation. This measure is similar to the Wetlands Simplification Act that I first introduced in 1991. It provides relief for farmers who now find four different Federal agencies coming on their land and, in many cases giving them four different answers to the question: Is this a wetland? And, if so, what can and what must I do with it?

The 1972 Clean Water Act was the first Federal protection for wetlands, but they were undefined. In the 1985 and 1990 farm bills, Congress created a program known as swampbuster to protect wetland on farmlands. A wetland is defined in the 1990 farm bill.

The lack of consistency resulting from separate determinations made under the swampbuster, the farm bill, and section 404 of the Clean Water Act has led to cumbersome, slow, and unpredictable results.

Congress has created this problem, and it is up to us to fix it, not to rely on Federal agencies to try to work it out themselves.

If you are a farmer, you can be up against four different agencies of the Federal Government: the Army Corps

of Engineers, the Soil Conservation Service, the Environmental Protection Agency, and the Fish and Wildlife Service.

Let me give you an example of how sometimes these four different agencies interact. Two farmers in Andrew County, MO, Jerry Lightle and Ray Bleich, had adjacent farms. The Soil Conservation Service looked at their farms and said, "No wetlands." Then the county came along and dropped a bridge into a creek which diverted the creek onto their lands.

They asked the Soil Conservation Service if it was permissible for them to divert the creek back so they could continue to farm the lands, and they did. They thought that was the end of it, until a representative of the corps came on their land, without their knowing about it, and they got a phone call saying they were in violation and they began to talk about a penalty of $10,000 a day for the violation.

Obviously, this caused a great deal of concern and consternation, not only for Jerry Lightle and Ray Bleich, but for all the other farmers in the area and around the State who heard about it.

As a side note, I might tell you that when one of the representatives of the Corps of Engineers came to look at the land, he looked out across the field and advised the very shocked farmer that he had a real problem because he had a whole field that was wetland. And the farmer asked him, "Why do you think it is wetland?"

He said, "Well, look out there; all those cattails growing in the field."

And the unbelieving farmer turned to him and said, "Sir, that is milo; that is grain sorghum. Those are not cattails."

The Corps of Engineers did not know the difference between a cattail and a head of milo.

That is one of the reasons I say we need to have agriculture wetland determinations made by an agency that knows the difference between a cattail and milo.

Let me tell you another example. About 3 years ago, a farmer in St. Louis County came to my office with a real problem. He had some wet pieces of ground on his land and he had four different agencies coming out to that land telling him different things.

I sent representatives out. The four agencies could not agree. They had swampbuster, they had section 404 regulations in hand. We got two different opinions on the particular wetland problem, and the agencies could not agree on what could and what should be done on that land. It took a great deal of time and effort from my staff and myself to work it out. We finally got the problem resolved, but that is a problem that should never have occurred. It is time to end the regulatory nightmares farmers and ranchers have been experiencing.

Mr. President, I have 400 case studies where farmers and ranchers all over the country have been caught up in the bureaucratic nightmare of wetlands regulation.

I think it is time to end the confusion, to clarify the process, and to allow a farmer what anybody would think a reasonable response from one Federal agency telling him what the Federal Government requires him to do.

I know that the Vice President is heading a task force to streamline Government to save the American public some money. I think this might be a good place for that task force to look, because I think it is absolutely incredible that there are four different agencies with two different pieces of legislation and even different definitions of wetlands.

Recently, the EFA made a decision to join the corps in using the 1987 Corps of Engineers manual when defining a wetland, while at the same time the SCS and the Fish and Wildlife Service are using a different definition from the 1990 farm bill. This amendment will stop one agency from going onto a farmer's land and declaring it a wetland after another agency has just given it a clean bill of health—or the converse situation.

I believe it is time for the Federal Government to speak with one clear understandable voice. In 1991 we introduced this same legislation, which was then S. 2018, with 17 cosponsors. This year with 23 cosponsors, it is S. 824. The amendment I offer today would provide a consistent and single agency for making all wetland delineations on agricultural lands. It does not attempt to define a wetland or to change the definition.

This amendment would give the Soil Conservation Service in consultation with the Fish and Wildlife Service—which is the language established under the 1990 farm bill—the authority to provide consistent interpretations and make all technical determinations concerning wetlands on agricultural lands only. It will not alter in any way the current section 404 regulatory permit system administered by the Corps of Engineers and EPA. The corps must continue to issue permits and make wetland delineations on all nonagricultural lands. It applies only to land that is part of a farming or ranging operation. Any wetland on agricultural land that might be proposed for development would still have to deal with the Corps of Engineers and proceed through the regulatory permitting process.

This amendment will not reduce the oversight authority over wetlands but it will adopt the commonsense proposition that one Federal agency with the most experience be the one-stop shop for farmers and ranchers who seek answers on wetland questions.

If the agricultural land was not a wetland no further steps would be required. If an area was a wetland and a nonagricultural commercial development was proposed, then the landowner would still have to go through the normal permitting process.

I believe we can preserve our wetlands without burying family farmers in redtape, bureaucracy, and paperwork. It is clear we have to improve Federal efficiency when dealing with the wetlands and clear up any confusion in the agriculture community.

To me, this is one of the greatest obstacles to assuring willing compliance with environmental regulations when farmers across our country get different views and different answers to a simple question about what is or is not a wetland.

To summarize, this measure provides a one-stop shop to farmers when seeking answers on wetlands; two, it deals only with agricultural lands; three, it does not try to define a wetland; four, if the land is deemed not a wetland, no further steps are necessary; five, if the land is considered a wetland and nonagricultural commercial development is involved, the landowner goes through the normal permitting process—if it is a wetland and it is to be in agricultural purposes, the 1990 farm bill has very specific limitations and provisions for it.

The Federal Government will speak with one voice and not four. Farmers in America, farmers in my State in particular, have been waiting for 8 long years. They believe and I believe that this is in the right direction to cure the problem.

Mr. President, I send the amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The bill clerk read as follows:

The Senator from Missouri [Mr. BOND], for himself, Mr. MCCONNELL, Mr. CONRAD, Mr. COATS, Mr. NICKLES, Mr. SIMPSON, Mr. HATCH, and Mr. GRASSLEY, proposes an amendment numbered 340.

Mr. BOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . COMPLIANCE WITH WETLAND CONSERVATION REQUIREMENTS.

Section 1222(j) of the Food Security Act of 1985 (16 U.S.C. 3822(j)) is amended by adding at the end the following new paragraph:

"(4) EFFECT OF DETERMINATIONS.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, a technical determination with respect to wetland or converted wetland on agricultural lands (including the identification of wetland under paragraph (1) and the development of a wetland restoration or mitigation plan developed under paragraph (1)) shall be used in the ad-

ministration of section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344).

"(B) CONSISTENCY.—Any area of agricultural land or any activities related to the land determined to be exempt from the requirements of this subtitle shall also be exempt from the requirements of section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) for such period of time as those lands are used as agricultural lands.

"(C) DEFINITION.—As used in this paragraph, the term 'agricultural lands' means cropland, pastureland, native pasture, rangeland, orchards, vineyards, nonindustrial forest land, and any other land used to produce or support the production of an annual or perennial crop of a commodity, acquaculture product, nursery product, or livestock.".

Mr. BOND. Mr. President, this amendment would finally provide the American farmer with a consistent and single agency for making all wetland delineations on agricultural lands.

Farmers make their living from the land, working with it every day. Often their land has been in their family for generations. Many intend to pass it down to their children, God willing. You see, a farm family's land, including a wetland, is precious to them, certainly more precious than it is to any government or environmental group.

Farmers want to protect their lands and comply with the law. It is a heavy-handed government pushed by overzealous activists that makes it difficult. Some people seem more concerned about preserving a wet patch of ground than they are about preserving family farmers.

If you are a farmer with a single wet patch of ground on your land, you are up against four different agencies of the Federal Government, armed with complex and confusing regulations from two very different pieces of legislation overseen by two Senate committees. Even worse, the four Federal agencies probably will not even agree on whether the patch of wet ground on your farm is a wetland or not, let alone how you should handle it. But if you do not handle it right, you could be penalized or fined tens of thousands of dollars.

Any one of these four Government agencies could come on a farmer's land at any time with no warning and tell him one story about his land. The farmer, who works hard every day, struggles to make a living from his land for his family, pays his taxes and obeys the law, then follows this story and does what the Government agent tells him to do. However, the next week another one of these four Government agencies comes on the farmer's land, again with no warning, and tells him a totally different story. Well, that farmer is now surprised, confused and not sure what to do. A week later the farmer gets a letter in his mailbox from the Federal Government threatening legal action and fines.

This is not an isolated case. This story is repeated every day in this country. Farmers across America dread the day they find a Government agent running around uninvited on their land. A neighbor, a friend, someone in the next county—most farmers know or have heard of a story like this. I have heard them all over my State, and enough is enough.

We tried to clear up the wetlands problem during the 1990 farm bill debate. I believe the Soil Conservation Service [SCS] and the Agricultural Stabilization and Conservation Service [ASCS] personnel have done a solid job of educating farmers on sodbuster and swampbuster regulations. I believe the President has announced a common sense approach to wetlands.

Unfortunately, when you throw in section 404 of the Clean Water Act, the wetlands issue becomes mud. The Clean Water Act was designed to prevent pollutants from flowing from one body of water to another. Now regulators use its open-ended terms for a completely different purpose. In less than 20 years, the section 404 program has gone from regulating navigable waters to regulating corn and soybean fields.

Mr. President, here are over 400 case studies where farmers and ranchers all over the country are caught up in bureaucratic wetlands regulation. I want to share a couple of quick stories that took place in my home State of Missouri.

First, a few years ago, I brought four different agencies, corps, SCS, EPA, and the Fish and Wildlife Service, together to work out a wetland program in Missouri. I got two different opinions on this particular wetland and they could not even agree on the proper course of action for this farmer to follow.

Let me cite another example. A little more than a year ago, a Missouri farmer was visited by the corps to discuss a 404 permit problem. The corps representative after looking over the land informed the farmer that he also had a wetland problem which was evident by the standing cattails in his field. The farmer than informed the corps representative that those were heads of milo he was looking at—not cattails.

It is time for legislation that will end these regulatory nightmares that farmers and ranchers have been experiencing. It is time for a commonsense approach to wetlands.

It is absolutely incredible that currently there are four different agencies and two different pieces of legislation that regulate one single wetland.

The inconsistency caused by separate determinations of wetlands substantially burdens farmers and ranchers. The results are unnecessarily cumbersome, slow and unpredictable, and could be alleviated if responsibility for making wetlands determinations was carried out by one agency.

This amendment would give the Soil Conservation Service, in consultation with the Fish and Wildlife Service, the authority to provide consistent interpretations and make all technical determinations concerning wetlands on agricultural lands only.

This amendment will not reduce the oversight authority over wetlands. It is common sense to let the one Federal agency with the most experience be the one stop shop for farmers and ranchers when seeking answers on wetlands.

The Soil Conservation Service has a long history of working with farmers; it knows farmers and farm operations and can apply that understanding to these determinations. With their 3,000 officers nationwide, SCS has a positive working relationship with the farming community in every county of the country.

Out of the nearly 2 million wetland determinations that SCS has made to date, only about 300 have been appealed. This outstanding working relationship is vital to efforts to protect wetland resources because more than 60 percent of the lower 48 States' wetlands are in private ownership.

Wetlands serve as one of our Nation's most valuable natural resources. Protecting and preserving the millions of truly functional wetlands should be a national priority.

However, the 450,000 acres per year that have been largely attributed to agricultural conversion, are inaccurate and does not reflect recent trends. Recent estimates by the USDA, show the total annual wetland losses, both natural and manmade, range from 124,000 to 290,000 acres. Agriculture's share of wetland drainage was only 35 percent of that total.

We can preserve our wetlands without burying family farmers in red tape, bureaucracy, and paperwork. It is clear that we must increase Federal efficiency when dealing with wetlands and clear up any confusion in the agricultural community. This amendment is the cure to the problem.

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

Mr. GLENN. Mr. President, I yield myself such time as I may require.

Mr. President, I compliment the distinguished Senator from Missouri for looking at a problem that really is a problem. I have been approached by many of our farmers in Ohio, and by developers and other people concerned about this same matter: the problem of interpretation of the law as it applies to wetlands and what kind of permitting is required, how penalties are levied, and so on. I think it does need a lot of straightening out.

I agree with the Senator in that regard. I regret I must oppose the amendment offered by Senator BOND, as much as I believe we may need some action in this area, because I strongly believe assigning the responsibility for making wetland jurisdictional determinations for section 404 of the Clean Water Act,

the Soil Conservation Service is not the best way to address a problem that I do agree needs to be addressed.

First, the Army Corps and EPA are charged with administering section 404 of the Clean Water Act. That is under the law. Even if SCS makes all wetland determinations, EPA and/or the corps would be involved with making determinations on agricultural land such as applicability of farming exemptions, whether farmers' activities are covered under general permits, and whether or not proposed section 404 discharges comply with applicable environmental criteria.

Adding yet another Federal agency to this section 404 decision process will complicate, not simplify. That is the main point I want to make. It is adding another Federal agency, putting another level of bureaucracy into this mix on section 404 decisionmaking. It will complicate, not simplify Clean Water Act decisionmaking.

For example, SCS representatives unfamiliar with the very complex farming exemptions and general permitting provisions could erroneously lead a farmer to believe that a permit is required when none is. It is also very important that determinations of, waters of the United States, under the Clean Water Act be consistent across all parts of the act.

While SCS would make determinations for the section 404 program, on the other hand, EPA, or delegated States, would be making determinations for other parts of the act including programs such as industrial, municipal, storm water permitting, oil spills, water quality standards. So, this could result in unacceptable inconsistencies and legal complexities in the administration of the Clean Water Act.

In other words we are taking this one part out—and I agree it is a problem and I agree it has to be addressed—but we are taking it out and addressing it in a way that is inconsistent with the rest of the act and in effect putting another level of control in here, another level of bureaucracy, which I believe would complicate and not simplify Clean Water Act decisionmaking.

The Congress has authorized States to assume the section 404 program, and administering that responsibility includes making section 404 wetland determinations. The amendment will continue a larger Federal involvement in the section 404 program after a State has assumed the program. In other words, EPA approves State programs. The States then administer them. This would bring that back in, the Federal involvement in that section after a State has assumed such a program and been approved by the Federal EPA.

Michigan is a good example of this. Michigan, for example, has assumed the program and then the State would have to turn back responsibility in part to the Federal Government.

Moreover, section 404 Clean Water Act determinations often require more extensive field work than SCS determinations because the exact boundary is important to dischargers. An extensive training and developmental program would be required for a SCS work force to assume this level of program responsibility. Until that is accomplished, SCS determinations could introduce new inconsistencies and confusion in the Clean Water Act Program.

The amendment by the Senator from Missouri would also involve SCS in Clean Water Act enforcement actions and other litigation which often develops in the section 404 program. This is a markedly new role for SCS, which would require extensive adjustments and could adversely affect other SCS missions in working with farmers.

Finally, Mr. President, work is underway in looking into this problem. I would repeat, I compliment the distinguished Senator from Missouri for bringing this up. But I just do not believe this is the way to address the problem. The Soil Conservation Service, EPA, and the Army, have been working closely in recent years to ensure consistency, or trying to get consistency in the way agencies make wetland determinations.

I think progress has been made in that area. For example, section 404 guidance was issued to address prior converted crop lands in the same manner as does SCS. The U.S. Department of Agriculture has been actively involved with EPA and the Army in developing a uniform method for identifying and delineating jurisdictional wetlands.

I would add that the rulemaking process is just in the final stages at this time.

The section 404 agencies do already rely upon SCS work as much as is appropriate for the section 404 programs.

Mr. President, I ask unanimous consent to print in the RECORD a letter from Secretary Browner regarding this amendment and the proposal. They oppose it. They feel they can work out these problems within the agency. I agree that it would be good to let them try.

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

ENVIRONMENTAL PROTECTION AGENCY,
Washington, DC., April 29, 1993.

Hon. JOHN GLENN,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: It is my understanding that an amendment to the bill elevating the Environmental Protection Agency (EPA) to cabinet status may be offered that would assign the responsibility for making certain wetland jurisdictional determinations and decisions regarding mitigation and restoration for Section 404 of the Clean Water Act to the Soil Conservation Service (SCS) in the U.S. Department of Agriculture. Rather than streamline the Nation's wetlands decisionmaking, such an amendment would inevitably introduce greater confusion, complexity, and delay in the regulatory program, which we are currently working to make more effective and more efficient. I have consulted with the Acting Assistant Secretary of the Army for Civil Works, who directs the Corps of Engineers' Clean Water Act Section 404 responsibility, and he shares these concerns. We believe that this amendment would, in fact, make this process considerably more complex for the regulated community, and more costly to the Nation's taxpayers.

The Army Corps of Engineers and EPA are charged with administering Section 404 of the Clean Water Act. If an amendment is enacted and SCS makes all wetland determinations on agricultural lands, EPA and/or the Corps would still be very much involved with making determinations on agricultural lands. These include the applicability of Section 404(f) farming exemptions, whether or not farmers' activities are covered under general permits, and whether or not proposed Section 404 discharges comply with applicable regulatory criteria. In addition, enforcement efforts would be seriously complicated by the inevitable uncertainty and inconsistency associated with a federal agency, having no Clean Water Act enforcement authorities of its own, charged with establishing jurisdiction or making other determinations in certain cases. Adding another federal agency to these decision processes will certainly complicate, not simplify, all aspects of Clean Water Act Section 404 decisionmaking. For example, SCS representatives unfamiliar with the farming exemptions and general permitting provisions of Section 404 could erroneously lead a farmer to believe that a Clean Water Act permit is required in situations where none is.

It is very important that determinations of waters of the United States for the Clean Water Act be consistent across all parts of the Act. While the amendment would provide that SCS would make determinations for the Section 404 program in certain cases, EPA or delegated States would be making determinations for other parts of the Act, including programs such as industrial, municipal and stormwater permitting, oil spills, and water quality standards. This could result in detrimental inconsistencies and legal complexities in the administration of the Clean Water Act. The existing Section 404 framework provides EPA with ultimate responsibility for establishing Clean Water Act jurisdiction, thereby ensuring consistency across Clean Water Act programs.

To further complicate matters, Section 404 determinations for waters of the U.S other than wetlands, such as ponds and streams, in agricultural areas would continue to be made by the Section 404 regulatory agencies while SCS makes the wetland determinations. As a result, farmers may have to deal with multiple agencies on jurisdictional determinations on the same tract of land—one for wetland determinations and another for open water. The overlapping requirements would likely require site visits by both SCS and the Corps, with attendant increases in cost and confusion.

Congress has authorized States to assume the Section 404 program, and administering that responsibility includes making Section 404 wetland determinations. The amendment would continue a larger federal involvement in the Section 404 program after a State assumes the program than under current law. For example, in Michigan, which has assumed the program, the State would have to turn the wetland identification and delineation responsibility back to the federal gov-

ernment for agricultural lands. Several States are actively pursuing or considering assuming the Section 404 program, and the amendment could be a disincentive to them.

Section 404 Clean Water Act determinations often require more extensive field work than SCS determinations, because the exact boundary is important to dischargers. An extensive training and developmental program would be required for the SCS workforce to assume this level of program responsibility. Until that is accomplished, SCS determinations could introduce new inconsistencies and confusion in the Clean Water Act Program, and would potentially put farmers at risk of citizen suit enforcement actions where wetlands boundaries are unclear.

The amendment would inevitably involve SCS in Clean Water Act enforcement actions and other litigation under the Section 404 program. This would be a markedly new role for SCS, which would require extensive adjustments and could adversely affect other SCS missions in working with farmers.

Finally, the amendment is unnecessary. SCS, EPA, and Army have worked very closely in recent years to ensure consistency in the way the agencies make wetland determinations. For example, Section 404 guidance was issued to address prior converted croplands in the same manner as does SCS. EPA and the Corps are in the final stages of rulemaking on this issue. USDA has been actively involved with EPA and the Army in developing a uniform method for identifying and delineating jurisdictional wetlands. The Section 404 agencies do already rely upon SCS work extensively for the Section 404 program. Moreover, the exemption of normal farming practices under Section 404(f) and the availability of general permits for ditch maintenance and other common activities means that farmers rarely are required to seek Section 404 permits. However, we are unclear whether, under the amendment, land acquired for development purposes by large corporations which is then leased for farming for a period of time would qualify for an SCS, rather than a Corps of Engineers, Section 404 jurisdictional or other wetland determination.

In summary, we are working to make the regulatory program as workable as possible and have taken a number of important steps to respond to farmers' concerns. We share the goal of simplifying the program as much as we can while maintaining important protection for wetlands and other waters. However, based upon our extensive experience administering regulatory programs, we can state with confidence that this amendment will move us away from, not toward, that goal.

Sincerely,

CAROL M. BROWNER.

Mr. GLENN. Mr. President, I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Who yields time? If neither side yields time, time will run equally against both sides.

Mr. CHAFEE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island.

Mr. CHAFEE. I wonder if the manager might yield me 5 minutes.

Mr. GLENN. Five or 6, 7? I yield 6 minutes to the Senator from Rhode Island.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, I rise in opposition to the amendment offered by the Senator from Missouri. This amendment, I think, as has been pointed out already, has nothing to do with the bill being debated before us today. Furthermore, Mr. President, this amendment would override key portions of the Clean Water Act.

The members of the Environment and Public Works Committee are working on reauthorization of the Clean Water Act. As a matter of fact, the chairman of our committee has said that that will be his first priority, and we will take that up very shortly. Indeed, we are going to begin hearings in June on the subject of the Clean Water Act.

It seems to me very clear that this amendment should be considered within the process of reauthorizing the Clean Water Act.

(Mrs. BOXER assumed the chair.)

Mr. CHAFEE. Madam President, the stated purpose of this amendment is to simplify the process of making determinations regarding wetlands on agricultural land.

However, it seems to me very clear that rather than simplifying the Federal review of wetlands activities, this amendment inserts a new organization, the Soil Conservation Service, into the wetlands regulatory role and its complicates rather than simplifies the regulatory process.

This amendment would transfer responsibility for identifying wetlands and developing mitigation. Mitigation is where you develop new wetlands when you are perhaps destroying old wetlands. What this would do is transfer responsibility for identifying these wetlands into developing mitigation and restoration plans on "agricultural lands" under section 404 of the Clean Water Act. They would transfer that from the Corps of Engineers and the EPA to the Soil Conservation Service.

Once the Soil Conservation Service makes a wetlands determination, then the rest of the section 404 process reverts back to the Corps of Engineers and the EPA. So it seems to me what we have is an extremely convoluted and complicated arrangement that is being proposed.

What it would do is require another Federal agency, namely the Soil Conservation Service, to become involved in the 404 permitting process. I am not sure how that simplifies matters. It seems to me, Madam President, important to remember that in most cases, farming activities are not even subject to regulation under sections 404 of the Clean Water Act. Ongoing agricultural activities are usually exempt under section 404(f) of the Clean Water Act.

Furthermore, according to a regulatory guidance letter issued by the corps, prior converted crop lands, as defined under swampbuster language, these prior converted crop lands are no longer subject to regulation under section 404. The corps is planning to incorporate this policy into its 404 regulations, which will be issued in mid-June.

Furthermore, this amendment exempts from section 404 of the Clean Water Act any agricultural land or any activity on agricultural land that is determined to be exempt from the swampbuster requirements under the Food Security Act. What is going to happen here, it seems to me, is the creation of endless arguments about what is "agricultural land" and, therefore, who is in charge of making wetlands determinations and specifying the mitigation activities that have to take place.

For example, under the amendment, does land have to be in agricultural production at the time of the wetlands determination or just in production in 3 of the prior 5 years, as required under the swampbuster language? Only recently, after a long, difficult process, the Army Corps of Engineers and EPA agreed to use the same wetlands deliberation method. We finally got agreement. The Agriculture Department, however, currently uses a different delineation process. So how is that for a complication?

Adopting this amendment will result in less rather than more uniformity in wetlands determination. It seems to me what everybody wants is some uniformity so they can understand what is a wetland. And now we have a common delineation between the two principal players, namely, EPA and the Corps of Engineers. And now they are inserting, or the proposal is to insert, another group that has another definition.

So it seems to me this amendment raises more questions than it answers. Next year, the National Academy of Sciences will issue its report on wetlands delineation. In the meantime, it seems to me ill-advised to once again change the way wetlands are delineated under section 404. So because I think that this amendment will create more confusion than it will simplification in the wetlands regulatory process, I urge that it be rejected.

I want to thank the manager for the time.

Mr. GLENN. Madam President, I reserve the remainder of our time on this side.

Mr. BOND. Madam President, I yield 5 minutes to the distinguished Senator from Kentucky.

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

Mr. MCCONNELL. Madam President, wetlands are one of our Nation's most valuable natural resources, but the term wetlands has also become identified with some of the worst regulatory problems within our Government. At least a dozen Federal laws cover the process of protecting or restoring a wetland. A total of four Federal agencies plus various State and local agen-

cies have some jurisdiction over wetlands and their use. The lack of consistency resulting from separate determinations of wetlands has created a bureaucratic nightmare and placed substantial burdens on our Nation's private property owners.

Despite the intent to coordinate and implement a consistent wetlands policy, the four Federal agencies involved in the wetlands management use different guidelines to define a wetland. This inconsistent policy has resulted in a bureaucratic maze through which landowners must maneuver in order to determine if their land is indeed a wetland.

The lead agency for wetlands determinations should be an organization which has knowledge and experience in land use and soils classification. The agency must be accessible to the people most affected by wetland policy, and it should have employees with the technical expertise to understand and implement the regulations in question.

This amendment, which Senator BOND and I are offering today, is intended to clear up some of the confusion which exists in our farm communities over the determination of a wetland. Our amendment would make the Soil Conservation Service [SCS], within the Department of Agriculture, the lead agency in wetland determinations on agricultural lands. The Soil Conservation Service maintains a long history of working with farmers and currently has the experience and technical background to oversee wetland jurisdiction on our Nation's farmlands.

The SCS has been and continues to be in day-to-day contact with many of the wetland areas in our country. One of the primary responsibilities of the SCS is to administer the swampbuster program—the program which gives the U.S. Department of Agriculture the power to deny farm program payments, Federal farm loans, and disaster payments to farmers who drain wetlands. Their hands-on experience and technical knowledge makes SCS the obvious choice for oversight of the wetlands found in our Nation's farms.

There are 98 district conservation offices in Kentucky with a field staff which extends into all 120 Kentucky counties. Each conservation district operates with an elected local advisory committee made up from local residents, and the county and district offices are responsible to a single statewide office. All 50 State offices are then ultimately responsible to the Department of Agriculture. This intimate and direct contact which the SCS has with the stewards of our land makes this agency the logical choice to implement the laws and regulations for wetlands on agricultural lands.

The Kentucky Farm Bureau has documented several instances where farmers have encountered problems with wetlands determinations. The one common denominator in these experiences is the inconsistency of determinations from the four agencies involved. It is not just happening in Kentucky and Missouri, but in almost every State in the Nation. The American Farm Bureau Federation has compiled more than 400 similar examples from 40 States.

The amendment does not intend to reduce the oversight authority of the Government over wetlands, and our amendment does not change the definition of a wetland. We are trying to create consistency, not set aside accountability. It just makes sense to let the Federal agency with the most experience be the one-stop shop for farmers when seeking answers on wetlands.

Ironically, the current hodge-podge of wetlands regulations was never intended to be a comprehensive national wetlands management program. While scientists, politicians, bureaucrats, city planners, landowners, and many others are mired in a debate over the outer limits of defining wetlands, the lack of consistency allows the continued destruction of wetlands and the total disregard of the rights of property owners.

The trend is clear that Government oversight of the use of private lands will continue to increase. While most landowners would not dispute that proper stewardship is essential and protecting our environment is of paramount importance, they are reluctant to trust the Government to fairly and consistently enforce the laws. With more than a decade of inconsistent enforcement and determinations, the mistrust among landowners runs deep. Our amendment will leave no doubt in the minds of landowners as to which agency has responsibility for agricultural wetlands.

Simply put, Federal wetlands protection programs are a mess, and unless we act to streamline and improve the current procedures, thousands of acres of wetlands will be lost and more landowners will be put unnecessarily through the wringer.

Madam President, I want to thank the Senator from Missouri [Mr. BOND] for his leadership on this issue and commend him for his dedication in helping our Nation's farmers. I want to encourage my colleagues to review this legislation and urge their support.

Thank you, Madam President.

Madam President, let me indicate my enthusiasm for the amendment of my good friend from Missouri, Senator BOND. It is our goal with this amendment, which we have both been working on for some time, not to reduce the oversight authority of the Government over wetlands, and our amendment does not change the definition of a wetland.

We tried to create consistency, not set aside accountability. It just makes sense to let the Federal agency with the most experience be a one-stop shop for farmers when seeking answers on wetlands. Let me just say, Madam President, the current situation is simply not workable. Farmers do not know who to deal with. It is the goal of the Senator from Missouri and myself to try to provide one lead agency, to provide coordination in trying to comply with existing law.

We are not trying to redefine the wetlands policy. Frankly, I would be open to that, but that is not what we are doing here in this amendment. Senator BOND is addressing, through this amendment, one of the critical issues in American farming today. This is the biggest issue in western Kentucky, the biggest issue.

I would say to my colleagues who have farmers, who have wetlands issues, the very least we could do for them, it seems to me, is to try to simplify the process so there is some chance of making it through this bureaucratic maze and coming out at the end with some sense of sanity.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator has reserved the remainder of the time on that side.

Who yields time?

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. I yield myself 5 minutes.

I express my sincere thanks to the Senator from Kentucky, who has been a very active participant and a strong supporter of this effort. I hope that all of my colleagues will read his statement at length because he has put a great deal of time and thought and effort into this measure. It is something that I believe is badly needed.

Madam President, a couple of points were raised by my colleagues on the other side of this amendment, one of the points being that somehow this would make a departure and allow the Soil Conservation Service to make determinations with respect to wetlands.

I would point out that in the Food Security Act of 1990, at 104 Stat. 3576, the language reads:

> Determinatons and Plans. Technical determinations and the development of restoration and mitigation plans under this section shall be made with the agreement of the local representative of the Soil Conservation Service and a representative of the Fish and Wildlife Service.

Madam President, this statute recognizes what is in place today. My amendment simply says that we need to give the farmer a simple answer.

My colleagues who oppose this amendment say they could bring in all kinds of convoluted processes. I suggest, Madam President, that if each and every one of my colleagues were to ask his or her farmers, people involved in soil conservation work in their State, what is a convoluted process, what is a problem, what is a bureau-

cratic wrangle, they would find it is the current mess, the bureaucratic nightmare of four different Federal agencies with different responsibilities coming onto their land and giving them different opinions. There is a convoluted process and the farmer is the loser because the farmer, the citizen who pays taxes and votes and tries to earn his or her living from farming, has its servant, the Federal Government, giving different answers.

There are still going to be hassles to be resolved, and it is clear in the Food Security Act that the Conservation Service has to work with Fish and Wildlife. They have to adopt the legislation applied for other agencies. They have to resolve all of those hassles and give the farmer a simple answer.

I suggest to my colleagues that we have as much convolution and as much confusion as anybody could ever imagine. There is no greater hassle facing the farmers in my State, and I suspect all other States, than trying to figure out to which Federal agency to listen.

I suggest the time has come to say that one Federal agency needs to play the lead. That is why it ought to be the Soil Conservation Service. The Soil Conservation Service has explicit responsibility to make wetland determinations. The Soil Conservation Service in my State makes determinations of hydric soil throughout the State. They are involved on a day-to-day basis in looking at all the soils of the State. They understand those soils, and they understand agricultural processes. The Soil Conservation Service representatives may have different training than a 404 Corps of Engineers specialist, but I guarantee you they can tell a head of milo from a cattail.

There have been points made that this gives a markedly new role for the Soil Conservation Service and it gets them into new areas. Once again my simple plea to my colleagues is call home. E.T. call home. Ask the people back home what the problem is. Ask the farmers. Ask the people involved in soil conservation work. Does the Soil Conservation Service know what the rules and the regulations are? You will find the answer is yes. Do other farmers have problems when they get conflicting jurisdictional disputes dumped on their heads? Yes. The Soil Conservation Service needs to resolve those hassles so the farmer does not rely on the word of one agency and then turn around and find himself or herself threatened with a major penalty proceeding to charge thousands of dollars for doing something that one Federal agency said was acceptable.

Madam President, I reserve the rest of my time. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. GLENN. Madam President, I yield 7 minutes to the distinguished Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Madam President, I join all my colleagues on the floor in expressing sympathy for the amendment offered by the Senator from Missouri. It is clear that the swampbuster, wetlands matters very much irritate a lot of Americans. No one disputes that. I know in my State of Montana I hear a good number of complaints from farmers about how swampbuster is administered.

I hear some complaints from others who are concerned about section 404 of the Clean Water Act and whether permits are granted to allow areas that are determined to be wetlands to be filled-in. There is a problem here.

Frankly, I thank the Senator from Missouri for raising this issue. It is an issue that must be addressed.

I am reminded, Madam president, of a comment made by a quite famous journalist from the Baltimore Sun, H.L. Mencken, who said, "For every complicated problem there is a simple solution, and it is usually wrong."

I mention that because it is what comes to mind when I think about the complexities under the law—with the EPA, the Soil Conservation Service, the Army Corps of Engineers all involved. It is a very complicated problem. It also comes to mind when I think of the Senator's solution, a very simple solution, with respect to the swampbuster determinations, let the SCS make the decision.

I do not know if this is really what we want to do. I do not know if this is the best solution that we could have for our people back in our home States.

Why do I say that? I say that for several reasons. I think this is going to cause as many, if not more, problems, more complexities, more uncertainties than farmers now already face.

I say that because it is very unclear what will actually happen under this amendment. For example, the Bond amendment would not streamline the Nation's wetlands decisionmaking; it would cause grater confusion, greater complexity, more delay of section 404 regulatory programs, and that, in turn, is going to be very costly. The Soil Conservation Service may make a determination or an exemption for swampbuster lands. Then what is next? How does a farmer then deal with the SCS or with the EPA or with the Army Corps of Engineers on an adjoining wetland that is not swampbuster wetlands?

The Bond amendment will have two agencies the farmer will have to go to: One for swampbuster wetlands determination, another for open wetlands determinations, in seeking section 404 permits.

The amendment sounds like a good solution on the surface. But it probably is not going to come close to resolving the problems that the Senator would like us to resolve.

I have utmost sympathy with the Senator. I understand what he is trying to do. But the USDA has also said that the SCS does not have the resources to do what Senator BOND calls for. I do not see the U.S. Senate rushing to increase the USDA budget, particularly the SCS budget. What I hear, frankly, is cries all across this country, as we try to reduce the budget deficit, to cut USDA employees.

In fact, as we all know, the Bush administration proposed cutting USDA personnel in the field. We thought some of these personnel cuts would be in Washington, DC, for the midlevel management people. But if we are cutting USDA personnel, and we pass this provision, which sounds good, how will it work? We will say we are taking care of the farmers; SCS is going to do this. But SCS does not have the resources and cannot do it.

I asked the head of the Army Corps of Engineers what his reaction was to this amendment. I happened to be speaking with him just yesterday. He said, "Well, I don't mean to sound self-serving, Senator, but I just have to tell you the SCS does not have the capability to do what the Bond amendment purports to do and what it would like the SCS to do. The SCS cannot do it; it does not have the personnel; it does not have the expertise when it comes to nonagricultural lands. I don't mean to be biased," he told me, "but that is my experience."

In addition, Madam President, the Environment and Public Works Committee is going to be reauthorizing the Clean Water Act this year. This is the first reauthorization we are going to report out of the Committee. The Clean Water Act includes wetlands and we will attempt to resolve a lot of the problems that the Senator from Missouri very ably addresses—and they are very legitimate problems.

I hope we can all find a solution to this problem. As the chairman of the committee, and I know Senator CHAFEE knows as ranking member of the committee, if we do not have a solution, the Senator from Missouri very correctly will be back here on the floor saying, "Look, you tried to solve it in the committee and did not do it." He has the right to offer an amendment. In fact, I would expect him to offer an amendment. If he does not, somebody else will.

But I ask all my colleagues, give the Environment and Public Works Committee a chance to do this right, a chance to figure out some of the answers to the problems that this Senator has raised—to simplify the complexities, for example; and to address the lack of resources facing SCS. There is an opportunity for the Environment and Public Works Committee to address it.

Madam President, in addition, the administration now is conducting a

very significant review of regulatory issues within the executive branch. Our former colleague, Vice President GORE, is approaching this subject with the same tenacity, the same focus, the same intelligence, the same perseverance, the same perception, that he has devoted to other issues. One example that comes to mind in environmental issues is global warming, where he has been a very, very strong leader. He is approaching this issue of regulatory reform with the same tenacity, and he has said by this fall the administration expects to come out with some suggestions on how to make Government work better.

I am sure the White House is watching this debate. I am sure the Vice President's office is watching this debate. I am therefore quite certain that this issue will be dealt with in regulatory reform, and that they will come up with a way to deal with this problem.

Mr. BOND. Madam President, will the Senator yield for a question?

The PRESIDING OFFICER. The Senator has spoken for his 10 minutes. Does the Senator from Ohio yield additional time?

Mr. GLENN. I yield an additional 10 minutes, Madam President.

Mr. BAUCUS. I am happy to yield to my colleague.

Mr. BOND. Madam President, I ask the Senator from Montana, is the Environment and Public Works Committee going to cover wetlands in the discussions of the clean water bill, and is the Environment and Public Works Committee planning on addressing the overlapping responsibilities in the regulatory area?

Mr. BAUCUS. Madam President, if I might respond to my good friend, the very able Senator from Missouri, the answer is yes to all the questions the Senator asked. Absolutely.

Mr. BOND. I thank the Senator.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Will the Senator yield?

Mr. BAUCUS. Yes.

Mr. GLENN. Madam President, I ask the Senator from Montana, the chairman of the committee, is it not correct that EPA and the corps are in the final stages of rulemaking on this issue right now?

Mr. BAUCUS. The Senator is correct.

Mr. GLENN. Madam President, I believe Administrator Browner has indicated that, and has indicated an interest in this particular issue.

A further question I would ask: Is the committee in touch with EPA and the Army Corps on this rulemaking process? I presume that the committee is involved with this and is addressing this question, as well.

I started out by complimenting the Senator from Missouri [Mr. BOND] for bringing this up because it is something that I get asked about all the time back home in Ohio. I complimented him for bringing this up. But I presume the committee is very much involved with the rulemaking over there, to let them know our views about the seriousness with which we take this matter.

Mr. BAUCUS. The Senator is correct, Madam President. I was personally in touch with Carol Browner on this just yesterday. She is very concerned about this general question, concerned from the right perspective, I might add; that is, attempting to find some resolution.

In addition, Madam President, the background of the EPA Administrator, Ms. Browner, very much indicates that she will deal with this honestly, in good faith. When she was the head of the Florida Environmental Department, before she became Administrator of EPA, she was involved in a very important compromise on wetlands in the State of Florida with Disney World.

She worked out an agreement where Disney World, and the State of Florida negotiated with the U.S. Government an agreement to protect wetlands in certain areas and create new wetlands in some other areas, so that Disney and Disney World could go ahead and construct their project in another area.

She worked out an agreement that all sides said was a very good, solid compromise. Therefore, she is very aware of this issue, and her past experience shows that she is committed to finding a good-faith, commonsense, reasonable solution.

Mr. GLENN. Madam President, I reserve the remainder of our time.

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE. I wonder if I might have about 5 minutes?

Mr. GLENN. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 21 minutes.

Mr. GLENN. I yield 5 minutes.

Mr. CHAFEE. I thank the manager for that.

Madam President, let me just say, this whole area of wetlands is extremely complicated. It is fraught with different emotions. For example, if you ask the public of the United States, "Are you for preservation of wetlands," the answer is yes.

The last President of the United States, President Bush, as you recall, campaigned on the policy and spoke frequently on the subject of no net loss of wetlands. That he tried to establish that as a national goal.

So we all believe in that. We recognize the extreme importance not only of saltwater wetlands, but freshwater wetlands, similarly.

Then you get down to the specifics. You get into the situation that the Senator from Missouri is dealing with. What happens to the farmer when he is trying to get approval to plow his fields and there is a prairie pothole that holds some water. In the spring, it is wet; in the summer, it is dry. Is this a wetland?

So I think we are all sympathetic to the situation that the Senator from Missouri is wrestling with. The problem is, it does not present itself of any simplistic solution.

I have a question I would like to ask of the Senator from Missouri in connection with his legislation.

Here it is: Would the alteration of wetlands for agriculture—alterations of wetlands for agriculture that are not covered by swampbuster—as I read his provision, if it is not covered by swampbuster, then it is exempt from the 404 regulations, as I understand his legislation, looking at page 4 of the printed document where it talks, under B, consistency.

So that is the way I read it. But I cannot believe that is really what he means because, for example, would the draining of the Everglades in Florida in order to grow sugarcane be considered exempt from 404? I do not believe he means that, but as I look at his proposal, so it seems to be. As he knows, sugarcane is exempt from the swampbuster regulations because it is not considered a commodity and a subsidized commodity under that definition.

Mr. BOND. Madam President, under the existing Food Security Act, one of the exemptions specifically states, regarding wetlands, that "no person shall become ineligible as a result of production of an agricultural commodity; one, as a result of production of an agricultural commodity"; and subsection (d) "wetland on which the owner or operator of the farm or ranch uses normal cropping or ranching practices to produce an agricultural commodity in a manner that is consistent for the area where such production is possible as a result of natural conditions, such as drought, and is without action by the producer that destroys a natural wetlands characteristic."

So I say that this question really has been addressed in the act passed by Congress, the Food Security Act, where the Agriculture Committee in this body had to deal with the extensive agricultural questions related to wetlands. This entire area has been dealt with. And I believe that only the Soil Conservation Service has the expertise to make those determinations with respect to agricultural lands.

Mr. CHAFEE. Well, I am not sure I understood that. As we all recognize, any time you get into dealing with anything agricultural, it is the most arcane subject known to man. So I have to trespass gently into an area which I know the Senator from Missouri is more familiar with than I.

However, as I understand his amendment, it is that because the growing of sugarcane is exempt from the

swampbuster regulations, therefore, if you proceeded into the wetlands, into the Everglades and started draining them, under the Senator's provision, they would be exempt from the section 404 regulations. I am not sure we want that.

The PRESIDING OFFICER. The time yielded to the Senator has expired. There are 15 minutes on the side of the Senator from Ohio and 35 minutes on the side of the Senator from Missouri.

Mr. CHAFEE. Does the Senator think he might answer on his time?

Mr. BOND. Madam President, I yield myself such time as is necessary. First, I say to my good friend from Rhode Island that I understand what he is talking about when he addresses the complexity of farm legislation. But when he is talking arcane, we are talking wetlands. There is nothing more arcane, unintelligible, or more difficult to comprehend than the rules and regulations dealing with wetlands. That is the whole purpose for this amendment, to say to the producer who has to earn a living for a family that, when it comes to arcane complications and interpretations, you do not have to be subject to whipsawing by four different Federal agencies. We will let the Soil Conservation Service give you an answer.

The Food Security Act clearly says it has to be normal agricultural operations. You would have to get approval by the Soil Conservation Service. We do not change the definitions or the limitations existing in law. What we are saying is that the Government servant who works for the SCS has to look at all of the statutes, has to ask all of the Federal agencies, and has to give the farmer a simple answer—yes or no. Somebody has to work it out. It is a confusing nightmare. It is the nightmare that all farmers dread—finding a wetland on their land—knowing they can get hit from four different sides, potentially, with four different opinions.

We are not changing the law; we are not changing the delineation. To my colleagues who say there are a lot of studies going on, yes, the Corps and EPA are in rulemaking, but they are talking about the delineation, what is a wetlands.

We appropriated money last year—$400,000—for a study by the National Academy of Science to say what is a wetland. It does not say who determines it. It does not deal with the question of which body shall make that determination. It deals with what are the methodologies to identify, measure, and compare wetlands functions and values.

Madam President, I ask unanimous consent that Senator BURNS and Senator FAIRCLOTH be added to cosponsors to this amendment.

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

Mr. BOND. I also would like to say that if Senator WARNER, who is necessarily absent from the Senate today due to official business, were here, he would vote in support of this amendment.

To deal with a couple of more questions that were raised by the distinguished Senator from Montana, he stated that the Environment and Public Works Committee will find a solution. I know the Environment and Public Works Committee has a very heavy backlog. As a matter of fact, in 1991, we asked them to deal with this. We were advised by the EPW Committee in 1991 that they would deal with it. But I note that in the clean water bill introduced last year by the EPA Committee, there was no dealing with wetlands. They overlooked it, and they passed it up.

That is the reason why farmers in my State—and I suspect farmers in other agricultural producing States represented in this body—said 8 years is long enough. We have been hassled and run over. And even if you do not change the regulations—and we have some real battles to go over the regulations and the statistic under the circumstances—at least let one agency give us an answer.

The question has been raised that the Soil Conservation Service does not have the manpower. Nonsense. Talk to the people who are in the soil conservation service in your State. Talk to them and they will tell you, I believe, as they have told me: It would save them time if they could give a simple answer and not have to go through the continuing hassle of being dragged out by some Senator's office to argue with three different Federal agencies over whether this is wetlands or not and what can be done with it. It would be a timesaver for the Soil Conservation Service.

My colleague from Montana spoke very eloquently about the need to cut out unnecessary bureaucrats. I agree. Get the rest of the agencies off of the farmland. Ask your farmers and ranchers in your States, I urge my colleagues, whether they can solve a lot of crop trampling if they got three of the four agencies, now coming on their land to do wetlands determination, off of their land. I am confident they will tell you strongly, as they have told me, "just give us one answer; we at least are entitled to that."

Madam President, I note that my colleague said that the Corps of Engineers says that the Soil Conservation Service does not have the expertise to make wetlands determination.

Now, tell my why I am not surprised about that? Tell me why it comes as no shock that one Federal agency does not want to give up jurisdiction? I understand.

But talking about expertise, does the general know the difference between a cattail and a stock of milo or sorghum? The Soil Conservation Service is given expertise by congressional enactment, the Food Security Act. They are on agricultural lands today. They are mapping the land. They have to understand it, and they know farming practices a lot better than the Corps of Engineers people, who have great training, but not in agriculture.

Madam President, I reserve the remainder of my time and yield the floor.

The PRESIDING OFFICER. The Senator reserves the remainder of his time.

Mr. CHAFEE. Madam President, I wonder if I might have 2 minutes.

Mr. GLENN. Madam President, how much time is remaining?

The PRESIDING OFFICER. Fifteen minutes and thirty-one seconds.

Mr. GLENN. I yield 2 minutes.

Mr. CHAFEE. I thank the Senator.

Madam President, I do wish to stress the problems that are raised by this legislation. I would return once again to the illustration that I previously used.

If you look carefully on page 4 of the legislation submitted, it says: "Any area of agricultural land * * * determined to be exempt from the requirements of this subtitle"—namely, exempt from the so-called swampbuster provisions—"shall also be exempt from" the provisions of section 404.

Therefore, it would seem to me to be very clear that if one wishes to grow sugarcane in the Everglades, draining of those Everglades for the purpose of growing sugarcane would be exempt from the provisions of section 404.

This is a very, very dramatic step that we are undertaking here, perhaps without fully recognizing it.

I would also like to point out another problem raised by the Senator's provision. As you know, under section 404, the Corps of Engineers and EPA can turn over to the States, those States that wish, to assume the authority under section 404.

Now, what happens to them? Take Michigan, for example. Michigan has accepted the authority to police under the section 404. Does Michigan now have to turn around and cede that authority back to the Soil Conservation Service? That is not clear. And I can only assume they would have to, because that is what the legislation does, although it specifically does not cover the areas when it has been turned over to the States as, for example, in the situation of Michigan.

So, Madam President, I urge my colleagues not to accept this amendment. This is accompanied by a sense of frustration which is understandable, but it just simply does not solve the problems and raises a lot more besides.

I thank the Chair and thank the manager.

The PRESIDING OFFICER. Who yields time?

Mr. GLENN. Madam President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator has reserved the remainder of his time.

Who yields time?

The Senator from North Dakota.

Mr. CONRAD. Madam President, I ask my colleague, Senator BOND, for 5 minutes.

Mr. BOND. I am happy to yield to my colleague 8 minutes if he wishes.

Mr. CONRAD. I thank my colleague and the Chair.

Madam President, we have before us an opportunity to do precisely what the American people are asking us to do: To streamline Government, to make it more efficient, to make it more user friendly, to provide the people that sent us here to Washington a sense that we have the ability to make Government work.

Madam President, I want to salute the Senator from Missouri for coming forward with this amendment, because what it does is capture in one simple amendment precisely what the American people are saying we ought to do—simplify this bureaucratic mess in Washington. Do it in a way that is effective. Do it in a way that allows us to have regulations, that create laws that are important to people across this country. But, for goodness sake, do not burden us with four different agencies to do the same thing. That is what is happening to us with respect to wetlands in this country.

I just want to tell my colleagues, in town hall meeting after town hall meeting in my State, farmers of my State express enormous frustration, even anger with the wetlands provisions that they are expected to follow, not only because the underlying wetlands law has some serious questions about it, but also, Madam President, because they are just very irritated and very frustrated having to deal with four separate Federal agencies.

They say to me: "Senator Conrad, can't you straighten out that mess down there? Can't you give us one place that we can go so we know how to comply with the law? Can't there be one agency of the Federal Government for us to deal with? Do we really have to deal with the Soil Conservation Service, with Fish and Wildlife, with EPA? Do we really have to deal with these multiple agencies on every issue of wetlands? Can't you give us one?"

Madam President, that is a pretty good question. That is a pretty fair question. Can we not give the farmers of this country one agency to go to with respect to wetlands questions? Do we have to truck them around, go from Federal agency to Federal agency to Federal agency, as the frustration and the anger grows?

It really does not make any sense. It does not make any sense for those who believe we need wetlands protection in this country to then put in place a system of regulations that frustrates and angers the very people with whom we need to cooperate in order to protect those wetlands. For those who have a sincere concern about wetlands, they ought to be the first ones to sign up for this amendment. They ought to be the first ones. They ought to be the first ones that come forward and say we ought to make these regulations effective and user fees friendly, because this is the way we are going to get a response from the people. We need to protect those wetlands. That would make sense.

But instead we get this bureaucratic mush. That is what I have heard this morning of the reasons not to support this amendment—bureaucratic mush. And it is exactly what is wrong with Government. It is exactly what is wrong in Washington; every bureaucratic tired excuse or reason why we cannot do it, and that is what the American people are absolutely sick of; every excuse why we cannot make things simpler; every kind of excuse why we cannot make it easier for farmers in this country who want to obey the law, who do not want to be out of compliance, who do not want to be disrespectful. They want a chance just to understand what it is that is expected of them. And now we have the chance.

We have the chance to say: You do not need to go to the Army Corps of Engineers; you do not need to go to Fish and Wildlife; you do not need to go to EPA. You only need to go to one place, Soil Conservation Service, one place that is responsible for wetlands regulations.

Madam President, this makes such simple good sense that I hope to see a unanimous vote. I would like to see a unanimous vote. Perhaps we will not get quite a unanimous vote, but a very strong vote, at least, on this amendment that has been carefully crafted, this just did not come up overnight.

Senator BOND did not wake up yesterday morning and say to his staff: Cook this amendment up and we will put out a press release. That was not the way this was done. We know sometimes that is the way things work around here. That is not where this amendment came from.

Senator BOND has been serious about this issue ever since he came to the U.S. Senate. He has worked year after year to craft an amendment that would do the job, do it carefully, preserve the law that is out there to protect wetlands in this country, but to do it in a way that regulations could be written and administered by one agency. Farmers would have a chance to go to one agency, not four.

Madam President, I am very hopeful that this morning we will start a process that might even spread, because if we would take this step we might be able to do it in other areas as well. We might be able to start to send a signal to the American people that there is some common sense in Washington, that there is an ability to structure Government in a way that would be respected by the American people.

Madam President, I very much hope we take that opportunity and we do it this morning by passing the Bond amendment.

I can tell you that my farmers are so frustrated on this issue that they have been moved to real anger.

I can remember a series of meetings I had all across the State of North Dakota when the wetlands law was first being implemented. I will tell you, there was genuine anger at those meetings because not only did they question the underlying law, because there are some very questionable things in the underlying law, but the implementation of that law was utterly baffling to them. Why are we being expected to go to multiple agencies to find out precisely what it is we are to do?

Madam President, that frustration and that anger is understandable. Instead of reacting defensively to it, we ought to learn from it, we ought to listen and we ought to learn. And that is what Senator BOND has done with this amendment. He has listened, he has learned, and he has put together an amendment that I think deals with the problem.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CONRAD. If I may have an additional 30 seconds?

Mr. BOND. I am delighted to yield an additional minute to my colleague from North Dakota.

The PRESIDING OFFICER. The Senator is recognized for an additional minute.

Mr. CONRAD. Madam President, I say to those this morning who believe in wetlands law, who believe we ought to reinvent Government, who believe we ought to improve the efficiency and effectiveness of the Federal Government that we have an opportunity to do it this morning.

So I hope, Madam President, we take that opportunity and overwhelmingly pass the Bond amendment.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Madam President, I yield 7 minutes to the distinguished Senator from California [Mrs. BOXER].

(Mr. GLENN assumed the chair).

Mrs. BOXER. I thank the chairman, the good Senator from Ohio, for yielding me this time and relieving me from the Chair so I may participate in this very important debate.

Mr. President, I rise in opposition to the amendment offered by my colleague from Missouri.

I do not think it is as simple as has been stated on this floor, because this is about a lot more than just changing a lead agency.

With all due respect to my colleague, this amendment, I believe, is inappro-

priate and it should be defeated. It claims to resolve a complex multibillion-dollar issue with a quick fix that has not even been considered by the appropriate committees.

And I think it is very important that the chairman of the Environment and Public Works Committee, Senator BAUCUS, has stated quite directly to his friend and colleague from Missouri that he intends in that committee, on which I serve, to take up this entire issue. And I think that this type of an amendment should wait until that time.

The Nation's wetlands are extremely valuable, both environmentally and economically, and I am deeply concerned that the effect of this amendment would be the further destruction of our wetlands at a time when wetlands losses are reaching massive proportions.

So I urge my colleagues to reject this amendment and allow the committee to do its job.

As a Senator from California—the State with the dubious distinction of having lost the largest percentage of wetlands—I urge my colleagues to reject any attempt to weaken existing wetlands protections.

I understand that the goal of the Bond amendment is to simplify the regulatory process for farmers. I share that goal of streamlining—I represent farmers—and I hope that we can work together, through the established process, to address the legitimate concerns of farmers and others. I have great respect for farmers and the work they do and their attachment to the land, but they benefit from wetlands, too.

The effect of this amendment may be the destruction of many more thousands of acres of wetlands that we cannot afford to lose. California, I say to my friends, has lost 91 percent of its wetlands. According to the Fish and Wildlife Service, Senator BOND's own State of Missouri runs a close third in the destruction of wetlands, ties with Indiana and behind only California and Iowa, with a loss of 87 percent of its original wetlands.

In the continental United States we have lost approximately 53 percent of our historic wetlands with more being lost every year.

We in Congress have sought to address this dramatic loss by regulating the filing and development of wetlands through section 404 of the Clean Water Act and the wetlands provision of the farm bill.

The Bond amendment does three dangerous things.

First, it would transfer all technical determinations regarding wetlands on ag lands from the Army Corps of Engineers to the Soil Conservation Service.

Second, the amendment would give a blanket exemption to all ag lands subject to exemptions under the farm bill wetland provision.

Third, the amendment would adopt a much broader definition of ag lands than the definition of the agriculture lands in the farm bill.

Now we have dealt with definitions before. You know, people talk about reinventing Government, redefining wetlands. What we do here in this amendment, it seems to me, is redefine what agricultural land is. That can lead to the same problem we found when then President George Bush wanted to redefine what a wetland was. He said he wanted to have a no net loss of wetlands. So what did he do when he changed his mind? He tried to change the definition of what a wetland is.

Here we are changing the definition of what ag land is. And the same thing will happen and that is a problem. Because when you dry up the wetland, it could be used for a parking lot. Let us face it, it could be used for development, and it is lost forever. And wetlands have tremendous value to us.

The Soil Conservation Service is a wonderful agency. I have fought very hard to keep offices open in my communities in California, because they really teach the science of the soil to our farmers.

But this amendment minimizes the role of the Fish and Wildlife Service, which has the expertise needed to make the biological determinations regarding wetlands.

While the amendment would require consultation with the Fish and Wildlife Service, there is nothing in the legislation that would require that the Soil Conservation Service take the expert advice of the biologists of Fish and Wildlife. I do not think we can make decisions on wetlands in an information vacuum.

So, as we look at America today, Mr. President, we see that 50 percent of our wetlands are gone. And I do not think we can or should agree to an amendment today on this Senate floor that deals with such an important and complex issue, when you have a very able chairman of the Environment and Public Works Committee indicating that he will give it all he has to come up with a solution to these problems.

I want to talk about why wetlands are so valuable in the time that I have left. Wetlands prevent floods by detaining excess flows and releasing them slowly so they do little or no damage. As testimony to the value of wetlands for flood control, the Army Corps of Engineers recently purchased a parcel of wetlands in Massachusetts as an alternative to building a dam. The decision resulted in savings of roughly $140 million in construction costs and $2.3 million annually in maintenance costs.

Wetlands also serve a variety of other valuable functions. They temper the impacts of storms, dissipating winds and wave energy. Fish and shellfish populations depend heavily on wetlands; probably two-thirds to three-quarters of all commercially harvested fish rely on wetlands for at least part of their life cycle. By providing habitat, feeding and breeding grounds for fish, waterfowl and other wildlife, wetlands also provide recreation opportunities for millions of Americans.

They help ensure water supply and quality by acting as a recharging mechanism for groundwater and filtering and treating nutrients, bacteria, and even some toxic chemicals.

The PRESIDING OFFICER. The time of the Senator has expired.

Does the Senator need additional time?

Mrs. BOXER. I would appreciate it. Two more minutes would be very helpful.

The PRESIDING OFFICER. The Senator is recognized for 2 additional minutes.

Mrs. BOXER. I thank the Chair.

Economists have clearly established that wetlands are an extremely valuable resource. Their destruction should be weighed as seriously as the loss of any other natural resource, such as forests, rivers, or beaches.

So, I have to say to my friend from Missouri that he has received assurances on the floor of this U.S. Senate that the Committee on Environment and Public Works understands the problems. I agree that we need to streamline procedures here, that we need to give certainty here. What I do not agree with is that this amendment is only about streamlining. It goes much further than that. It really will lead to a redefinition of what ag lands are, and because of that, a redefinition, pragmatically speaking, of what a wetland is.

Wetlands are worth billions of dollars. Economists have put their value at hundreds of billions of dollars, and the national estimate of 1.4 trillion dollars' worth of wetlands does not even consider the costs of wetland destruction such as permanent loss of wetland species and loss of biodiversity.

So, I hope Senators will vote down this amendment, not because it is not offered in good faith, but because the result of it could be loss of more wetlands, when we, in California, are already down to 10 percent of wetlands, and nationwide, 50 percent.

I thank the chairman for yielding me this time. I yield the floor.

The PRESIDING OFFICER (Mrs. BOXER). Who yields time?

The Senator from Missouri.

Mr. BOND. Madam President, I yield myself 4 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. BOND. Madam President, there have been a lot of ghosts and goblins raised by this amendment: It is going to get rid of wetlands; it is not going to recognize what a great value wetlands are. I do not need to be told how impor-

tant wetlands are because I understand and deal with them in my State. The Senator form North Dakota, who spoke so eloquently, has dealt with wetlands and dealt with people who are affected by wetlands. And he agrees that what is wrong with Government is that it is too complicated. This is commonsense amendment. It does not change the underlying law. It does not permit somebody to go in and raid and drain the Everglades. It does not change the definition of wetlands. It simply makes a commonsense provision that a farmer or a rancher with a wet spot of ground, gets a simple answer from one Federal agency rather than being whipsawed among four different agencies as it is now.

The Senator from North Dakota talked about the need for common sense. This is a new trend. People would like to have their Government speak with one voice when it comes to a problem that confronts them. The people of America are tired all right, they are tired of a bureaucracy in conflict with itself that dumps its problems on the backs of average citizens who cannot get an answer. This is just one piece of the reason we need to reinvent Government and come up with a simple answer.

If you want people to comply with laws regarding the protection of wetlands, give them an answer they can understand. That is why we say give the responsibility to the Soil and Conservation Service. The current state of confusion, the status quo, the same old thing, same old bureaucratic mess, the same hordes from four different bureaucratic agencies trampling over the croplands, that is what is wrong with the Federal Government. This is what the people expect us to change.

This is not a quick fix, Mr. President. It has been suggested we should let the appropriate committee work with this. I introduced this bill with the help and the leadership of the Senator from North Dakota [Mr. CONRAD] and the Senator from Kentucky [Mr. MCCONNELL] back in 1991 and asked the committee to hold hearings on it. The bill that was introduced by the EPW Committee last year did not even deal with it. That is why we are here today.

For 8 years farmers have been subject to the hassle of conflicting interpretations. We are not changing the basic law. We are just saying the time has come to give a straightforward, simple answer to people who have better things to do than get caught in bureaucratic disputes over what is or is not a wetland. Let the farmers and ranchers farm, raise their crops, raise their livestock, and make the bureaucrats untangle the mess.

I look forward to working with the EPW Committee as we go about straightening out the definitions and all the other substantive problems. We have a lot of work to do. In the meantime, let us take the burden off the back of the constituent who is getting conflicting answers.

I yield 5 minutes to the Senator from Utah.

The PRESIDING OFFICER (Mr. WOFFORD). The Senator from Utah.

Mr. HATCH. Mr. President, I rise today in support of Senator BOND's amendment to S. 171, the Department of the Environment Act of 1993. This amendment is quite similar to legislation introduced last week by Senator BOND, which I am cosponsoring.

The issue of wetlands and wetlands management is causing considerable concern among many Utahns. While Utahns realize there is a need to protect our remaining wetland resources—and I think everybody does—there is also a shared belief that the existing Federal wetland policy is extremely confusing and has created much hardship among landowners throughout the country, and especially in my home State of Utah.

The widespread misunderstanding about what is or is not a wetland is causing problems in my home State. Utah is the second most arid State in the Nation. We have about 1.25 million acres of irrigated farmland in our State, or just over 2 percent of our total land area, and the remainder of the farmable land is dry-farmed. Many of the areas of Utah that would qualify as wetlands have been artificially created through our extensive irrigation system. Population increases demand that we improve the efficiency of our irrigation systems. These improvements include repairing leaky canals and piping or lining canals. Each of these procedures will reduce water loss, an absolute necessity in Utah, but they will also dry up artificial wetlands created by the leaks. However, under current Federal wetland regulations, these necessary improvements can be severely restricted and hurt.

In addition, most wetlands in Utah are on private property. In several instances over the past several years, the Army Corps of Engineers has placed restrictions on private landowners that will clearly decrease the value of those private lands. However, no compensation for this taking of property rights has ever been offered. I hope this particular issue related to wetlands management will be addressed during the 103d Congress.

The complaints I have received concerning the substantive and procedural defects in the current wetland regulations have made it clear to me that there needs to be one agency that defines and manages this Nation's wetlands.

Frankly, especially those wetlands located on agricultural lands, as provided by the amendment of the distinguished Senator from Missouri. I believe the Soil Conservation Service [SCS] is the most appropriate Federal agency to identify, control, develop, and manage these types of wetlands.

The Soil Conservation Service has been assigned the responsibility for identifying wetlands on lands whose owners participate in programs of the U.S. Department of Agriculture. Since 1956, the SCS has been responsible for making wetland identification on agricultural lands. This agency assists individuals and units of Government to achieve their objectives for the sustained use of soil, water, air, plant, and water resources. The agency is replete with soil conservationists, soil scientists, biologists, hydrologists, and plant scientists. For these reasons, I believe the SCS is best equipped because of its experience, practice, and ability to undertake the entire responsibility to make wetland identification on all agricultural lands.

My constituents need consistency and constancy welded into wetlands management. Right now, the Army Corps of Engineers, the Environmental Protection Agency, the SCS, and the Fish and Wildlife Service all have some regulatory role that involves the use of differing definitions of agricultural wetlands. Bringing the important responsibility to manage these scarce resources under the auspices of one Federal agency is an important first step toward providing consistent Federal oversight. As I indicated, I believe the most appropriate Federal agency that can effectively carry out this task is the Soil and Conservation Service.

Mr. President, we are really tired of some of the ridiculous holdings and rulings that have been made by others than the Soil Conservation Service. We believe they are unjust, especially in a State like mine, and I believe in a State like that of the distinguished Senator from Missouri.

Something has to be done. We have people back here who have no understanding of our needs. They have no understanding of our problems and yet here they are defining what wetlands are on an ad hoc, impromptu basis and really to the detriment of the people and to the detriment of the value of their lands, lands they have worked for years and years, some for over a century.

I applaud the distinguished Senator from Missouri [Mr. BOND] and I applaud his efforts today. I urge all of my colleagues to support this amendment. It makes sense. Ultimately, I believe the Supreme Court will decide that some of these arbitrary decisions being made today—because we have not had the sense to put those decisionmaking powers in the Soil Conservation Service—some of these arbitrary decisions are going to amount to takings that are going to cost taxpayers across this country very dearly, and that is the way it should be. People should not have the value of their land taken away from them by arbitrary decree by

people who do not seem to understand the problems of the individual States with their individuals needs and differences.

Mr. President, again, I really appreciate the distinguished Senator from Missouri offering this amendment. It is so like him to come up with amendments that make sense. I ask all Senators to support him on this amendment.

The PRESIDING OFFICER. Who yields time? If Senators do not choose to yield time, time is deducted equally from both sides.

Mr. GLENN. 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. GLENN. 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. LEAHY. Mr. President, I ask the Senator to yield to me 1 minute.

Mr. GLENN. I yield 2 minutes to the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I am a little surprised to see this amendment offered here today.

Last week, a Member from the other side of the aisle stated, in a committee hearing, that he did not believe that the Soil Conservation Service should become a regulatory agency. He said that he wanted SCS to help farmers—not regulate them.

This legislation increases SCS' regulatory role.

How do the supporters of this amendment propose to pay for the massive increase in the workload created for SCS by these provisions?

SCS is already under a terrible burden to meet their existing responsibilities—they need 2,500 to 3,000 additional staff to completely implement conservation compliance soil erosion control plans required on approximately 130 million acres of cropland, and to meet their swampbuster obligations throughout the country. SCS anticipates that nearly 25 percent of all conservation compliance work will take place in this fiscal year.

And many of the traditional SCS functions are being put on hold during this time of heavy conservation compliance workload. SCS is providing less than adequate help to farmers with range and grazing land improvement, irrigation water management, animal waste management, and other water quality protection efforts. All of these important functions are not receiving enough attention now.

What is SCS to do if this amendment becomes law? Should they put aside all current erosion control and water quality protection activities to become the technical regulatory arm of section 404? Should they and farmers give up all hope of SCS ever returning to the neglected SCS functions after conservation compliance is in place? I would like the supporters of this amendment to explain why they want to cripple SCS's ability to help farmers in their traditional functions in favor of these wetlands activities.

The other reason that I am surprised that this amendment is offered here today is that we passed a farm bill in 1990. We established in 1990 a process detailing how the Soil Conservation Service and the Fish and Wildlife Service would work together on agricultural wetlands matters.

Are we breaking the balanced solution that we created?

In the farm bill we required SCS and the Fish and Wildlife Service to consult on many of these wetland matters. Would this amendment destroy that cooperative arrangement, throw the entire arrangement into question?

Why are we amending the farm bill on the EPA cabinet bill—without hearings, without full consideration, without comment from the Department of Agriculture? That is why I am so surprised.

Finally, the Members should be aware that the Soil Conservation Service is using one set of wetland rules, and the Corps of Engineers is using another set of rules. It makes no sense to require that SCS make these delineation, mitigation and restoration rules until all the Federal agencies are using one set of rules.

If this amendment becomes law, a farmer's farm land might be delineated under one set of rules, his and everyone else's other nonfarm land would be delineated under another set of rules, and all of these determinations would be subject to second guessing by another Federal agency.

In summary, I feel this amendment suffers from a number of very serious problems.

It asks SCS to take an unbelievably large and burdensome workload, and it does not offer any indication as to how this work will be paid for. As a result, we must conclude that all the other SCS functions will suffer, and will likely cause many farmers to be in violation of conservation compliance.

In practical terms, this amendment as drafted will result in a regulatory nightmare, with different rules being applied differently to the same types of lands. The result will be neither efficient nor equitable wetlands policy or regulations.

Mr. President, I feel the amendment before us is overbroad and that there are better ways of achieving its goals. I share the frustration of any farmer or rancher who deals with wetlands at not being able to work with one agency, get one answer, and do it quickly.

I am a tree farmer, and I worry about some of the minor wetlands that might be on my own tree farm. But last week, a Member from the other side of the aisle stated in an Agriculture Committee hearing that he did not believe the Soil Conservation Service should become a regulatory agency. He said he wanted SCS to help farmers, not regulate them. But this legislation would increase their regulatory role.

How are we going to pay for the massive increase in workload for SCS under this? They need 2,500 to 3,000 additional staff as it is to completely implement conservation compliance soil erosion control plans on the 130 million acres of cropland needing plans, and to meet their swampbuster responsibilities throughout the country.

As drafted, I think we are going to find that this amendment will result in a regulatory nightmare, with different rules being applied different ways to different lands. The result will be neither efficient nor equitable wetlands policy and regulation.

I understand the distinguished Senator from Montana will offer a second-degree amendment which asks us to figure out in 90 days how we can achieve the objectives the Senator from Missouri rightly asks for; that farmers and ranchers be able to get answers—complete, quick, definitive answers.

Frankly, before we plunge into something which has the potential to become a regulatory nightmare and that could severely cripple our ability to help farmers with all of their natural resource problems, I think we should adopt the approach laid out in the second-degree amendment that will be offered by the Senator from Montana. This approach will give us the time to develop legislation with minimal delay that will answer the specific question, the question that the Senator from Missouri, the Senator from Montana, others, and myself have raised.

I urge my colleagues to support the second-degree amendment.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GLENN. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BOND. Mr. President, how much time remains on both sides?

The PRESIDING OFFICER. Nine minutes and twenty seconds for the Senator from Missouri. The Senator from Ohio has 1 minute and 35 seconds.

Mr. BOND. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I worked very closely with my good friend, the distinguished chairman of the Agriculture Committee, on the 1990 farm bill. Because the wetlands area was so confused, we had to deal with it in the wetlands section of the farm bill. We made the determination at that time

that the Soil Conservation Service was the one agency that understood agriculture, agriculture lands, and we gave them explicit responsibilities with respect to wetlands. We said that if they make a minimal effects determination, a farmer can go ahead. If there were opportunities for mitigation, then the Soil Conservation Service could approve mitigation. There is an appeals set up so that the farmers can appeal SCS determinations, something that does not happen elsewhere.

We already have a regulatory system in place, and I urge my colleagues to do what I have done, to ask the Soil Conservation Service in our State, "How much more burden is this going to put on you?" The answer that I get from my State and other States is that it is going to be less of a hassle because they have to look at all the land, they look at all the soil, at least in my State. They find out where the hydric soils are.

It will save them time by getting bureaucrats from three different agencies out of that area. They still have to consult with them; they still have to have the same responsibilities; they still have to be able to say in making the determination that they have taken into consideration all of the laws—the clean water law, the Food Security Act. They look at the definitions.

When the EPW Committee comes forward with a wetland determination or a fixed delineation based on the study that is ongoing, then they will have to comply with that law. There is a responsibility now in the Soil Conservation Service.

We have waited for many years to give the farmers of America a simple answer, and I hope that my colleagues will join with me in approving this amendment, to say very simply, the Soil Conservation Service shall be the final determinant for agriculture land, so long as it is agriculture land.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. GLENN. Mr. President, is the Senator from Missouri ready to yield back all time?

Mr. BOND. Mr. President, I sense that my colleagues on the other side have something else to say and perhaps something else to do. I am going to save a few minutes to respond to whatever that may be.

Mr. SIMPSON. Mr. President, I am pleased to cosponsor this amendment offered by my colleague from Missouri.

We have heard a spirited debate with regard to this amendment. Almost everyone agrees that we need some changes in the section 404 Wetlands Program. The Senator from Missouri is right on target and this is a most appropriate bill for his amendment.

The central issue here is agricultural wetlands. I hunch that it was never the intent of this body when we passed the Clean Water Act to create a regulatory morass of unnecessary paperwork with regard to wetlands. We are not talking about saltwater marshes rich in wildlife, but instead, we are talking about agricultural activity such as hay meadows and man-made irrigation ditches.

The Soil Conservation Service [SCS] knows agriculture and this amendment would bring the SCS into the process and that would be a great improvement. They have the expertise and the training to make the distinction between a wetland and a ditch with water in it. We need to get some common sense back into the wetland program.

We do not have anything like the Everglades in the West. In fact, Mr. President, Wyoming is technically an alpine desert. We only receive an average of 13 inches of rainfall a year. Compare that with parts or our country where there can be 13 inches of rain in a single week.

The wetlands here in the East are principally natural wetlands—wetlands that result from rain and streams and nature.

In the West, Mr. President, most of our wetlands are created by man and the Government. The Government funded the irrigation projects and the Corps of Engineers projects to improve the land. Some Federal bureaucrats do not really understand these differences.

In many cases, irrigated land is now considered by the bureaucrats to be a wetland. Why, Mr. President? It is because a farmer took some dry land, worked it hard and irrigated, and improved the environment, and is now told, by an entrenched bureaucracy, that suddenly, this irrigation ditch or the area adjacent to it is a rare and environmentally sensitive wetland.

The amendment will not drain the Everglades. Nor would any of us allow such a thing to happen. This amendment, Mr. President, only reduces by a slight amount the paper wetlands—wetlands that exist only by definition in some arcane regulatory manual.

The wetlands program has been twisted and distorted and this amendment would bring some needed simplification into the equation without diluting our efforts to protect the environment. This is a fine amendment and we should adopt it.

Mr. GLENN. There are no speakers on the amendment on this side. I will be prepared to yield back our time if the Senator from Missouri is prepared to do the same on the other side.

Mr. BOND. May I inquire, is there a second-degree amendment to be offered?

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. GLENN. I yield such time as the Senator needs.

Mr. BAUCUS. I say to my good friend from Missouri, I do plan to offer a second-degree amendment. Under the rules of the Senate, I am precluded from offering that second-degree amendment until all time has expired on the pending amendment.

Mr. BOND. Mr. President, might I yield the Senator from Montana 1 minute of our time to describe what the second-degree amendment will be?

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, essentially the amendment will say that in consultation with relevant departments in the U.S. Government, the President himself shall, within 90 days of the date of enactment, make recommendations and report to Congress measures to—

provide that a single Federal agency be responsible for making technical determinations, including identification of wetlands, on agricultural lands with respect to wetland or converted wetland in order to reduce confusion among agricultural producers.

That is exactly the goal the Senator from Missouri is addressing—

And provide that the Soil Conservation Service be the Federal agency responsible for all such technical determinations concerning wetlands on agricultural lands.

This is an amendment designed to accomplish the purposes intended by all Senators here, but in a way that is much more likely to accomplish that result at least in this Senator's judgment.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Chair will note there will be 90 minutes reserved for debate on any second-degree amendment.

The Senator from Missouri.

Mr. BOND. Mr. President, I yield myself such time as I may require.

I thank the Senator from Montana for explaining that there may well be a second-degree amendment which provides another study.

Mr. President, we do not need another study. We have studies on wetlands. I just happen to have here an appendix of four pages of listings of studies. There is lots of work that has to go into the whole question of wetlands. But one thing we do not need is a study. We do not need to defer to the administration or anybody else to make another study. We need to untangle the Gordian knot and say to the farmers that they can get a simple answer on the question of wetlands or not from the Soil Conservation Service. It just makes common sense to allow a citizen of the United States the honor of getting a simple answer from one agency rather than four conflicting answers from four different agencies.

Mr. President, I urge my colleagues, first, to consult with the farmers and the soil conservation people, the soil conservation districts in their States. We have support from the farm organizations, the soil districts in their States. Ask them whether this makes

good common sense. I think the American people know it makes common sense. I urge my colleagues to adopt it.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BOND. I yield back the remainder of my time.

Mr. GLENN. Mr. President, I yield what time I have remaining to the Senator from Montana.

Mr. BAUCUS. Mr. President, I thank the chairman of the committee.

I might say to my good friend from Missouri the second-degree amendment I am about to offer is not another study. I very much understand the American public's reluctance for Congress or any executive department or branch to indulge in another study. I agree with that. This is a direction to the relevant departments for an interagency report that the President must make back to Congress in 90 days. That is not some academic study. That is the departments themselves and the President himself making a recommendation on this very issue.

The PRESIDING OFFICER. All time has now expired.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

AMENDMENT NO. 341 TO AMENDMENT NO. 340

Mr. BAUCUS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Montana [Mr. BAUCUS] proposes an amendment numbered 341 to amendment No. 340.

The PRESIDING OFFICER. Without objection, further reading of the amendment is dispensed with.

The amendment is as follows:

In lieu of the matter proposed, insert the following:

SEC. . WETLAND DETERMINATIONS BY A SINGLE AGENCY.

In consultation with the Secretary of Agriculture, the Secretary of the Environment, the Secretary of the Army, and the Secretary of the Interior, the President shall, within 90 days of the date of enactment of this Act, make recommendations and report to the Congress on measures to—

(1) provide that a single Federal agency be responsible for making technical determinations, including identification of wetlands, on agriculture lands with respect to wetland or converted wetland in order to reduce confusion among agricultural producers; and

(2) provide that the Soil Conservation Service be the Federal agency responsible for all such technical determinations concerning wetlands on agricultural lands.

Mr. GLENN. Mr. President, I ask unanimous consent that I be added as a cosponsor.

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

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, this second-degree amendment is designed to do much more than any other suggestion we have heard so far today to end the confusion over swampbuster, wetlands, section 404, and the uncertainty a lot of farmers and American citizens have as to what agency to go to, SCS, EPA, or Army Corps of Engineers. There is real confusion in America about this wetlands program. We have to solve it.

Again, I commend the Senator from Missouri for raising this issue. It is an issue that must be resolved.

I urge my colleagues, however, to support the second-degree amendment that I just offered, which is a substitute for the Bond amendment. The substitute would direct the President, in consultation with the Departments of Agriculture, Environment, Army, and the Interior, to report back to Congress within 90 days of enactment on measures to reconcile the different requirements of the section 404 program and swampbuster and provide that the Soil Conservation Service be the Federal agency responsible for all wetlands determinations on agricultural lands.

Let me read the amendment because it focuses precisely on the problems we are now discussing. The amendment provides "In consultation with the Secretary of Agriculture, the Secretary of the Environment, the Secretary of the Army, and the Secretary of the Interior, the President shall"—not may—"within 90 days of the date of enactment"—not 6 months, not 1 year;—"within 90 days of the enactment of this act make recommendations and report to the Congress on measures to (1) provide that a single Federal agency be responsible for making technical determinations, including identification of wetlands, on agricultural lands with respect to wetland or converted wetland in order to reduce confusion among agricultural producers"—"and (2) provide that the Soil Conservation Service be the Federal agency responsible for all such technical determinations concerning wetlands on agricultural lands."

That is exactly what this debate is all about, Mr. President.

The Bond amendment, unfortunately, could be a major change in Federal and State regulation of wetland activities today. It goes too far. It creates a lot more unnecessary complexities, a lot more confusion for farmers, even more than they face today which, I grant you, is very confusing.

The Bond amendment amends the 1990 Food Security Act to override the Clean Water Act. Let us be very clear about that. The Bond amendment overrides the Clean Water Act. It removes from the Corps of Engineers and EPA the responsibility under section 404 for identifying wetlands and developing mitigation and restoration plans on agricultural lands. This authority would be given to the Soil Conservation Service.

The problem is the Bond amendment expands the definition of agricultural land, thereby creating additional confusion. The farmer is not going to know, a landowner is not going to know, because of the expanded definition of agricultural land under the Bond amendment, to which agency does he go. A parcel of land may or may not be wetland because of the expanded definition under the Bond amendment. Is it forestland? Farmers will wonder, who do I go to now? Do I go to SCS? I do not know. This is forestland. Maybe I go to the Corps of Engineers. Maybe I go to EPA. I do not know what to do. The Bond amendment presents additional complexity and confusion to the landowners.

Now, there is a fairly strict definition of agricultural land. The Bond amendment expands it to include forestland. Who knows what it is going to be. SCS is going to have to write rules and regulations on the expanded definition. How long is that going to take? That is going to take a long time. I do not know whether that is what we want to do to farmers, to have them sit and wait for these rules and regulations to come out.

Also, it exempts from section 404 any area of agricultural land or any activity on agricultural land that the SCS determines to be exempt from swampbuster requirements under the 1990 Food Security Act.

Farmers and landowners will not know what it is. It gives the SCS an unprecedented role in determining the scope of the Clean Water Act, by giving it authority to determine what activities are exempt from the act based on the swampbuster decisions. That raises another confusion for farmers.

Maybe it is agricultural land. Maybe it is not. We do not know because the Bond amendment changes the definition. Say we determine a piece of land to be agricultural land. Even then, under the Bond amendment a farmer may be confused. He might have to go to SCS for a determination under swampbuster. But if he has a stream right next door, SCS cannot do anything about that stream. He has to go to the Army Corps of Engineers to deal with the stream.

Now we have two sets of regulations facing a farmer on his own land from two separate agencies under the Bond amendment. With that additional confusion and complexity, the farmers are going to throw up their hands. I have to deal with SCS on swampbuster, and EPA and the Army Corps of Engineers on the stream right next to the potential swampbuster land. What will I do about that? Additional complexity and confusion is caused by the Bond amendment.

The general goal of the Bond amendment is quite sound. It is an attempt to create some certainty and simplicity in the present system. It is very well intended. But I think in its simplicity it creates unintended consequences, and unintended additional confusion.

I might say that I do not think that the USDA and the SCS, in fact, have the resources to do all of these additional duties.

Let me just read a letter from the acting chief of Soil Conservation Service which I received today. This is from the acting chief, because the real chief has not been appointed yet. The Soil Conservation Service is going to be charged with all of these additional duties.

The letter is addressed to the chairman of the Agriculture Committee.

From the Department of Agriculture, Office of the Secretary:

Dear SENATOR: This is in response to your request for the Department of Agriculture's views on the proposed amendment to S. 171, the Department of Environment Act of 1993, offered by Senator Bond.

The USDA opposes the amendment at this time.

The department believes that S. 171 is not the appropriate vehicle in which to attempt to resolve jurisdictional issues relating to section 404 of the Clean Water Act.

They are right. What is the department really saying, Mr. President? If you read between the lines, there is a problem. It has to be resolved. But not here at this time. And this is not the amendment.

The letter further states that reauthorization of the Clean Water Act is currently being considered by the Senate Environment and Public Works Committee, and they say that the department believes that this is the appropriate way to resolve the issue.

The USDA is opposed to the Bond amendment.

They really do not have the resources for the additional duties the Bond amendment would require. A whole new area of confusion is going to arise under the Bond amendment. That is because there are different sets of rules on adjacent agriculture and nonagricultural lands.

Say I am a farmer. I have some proposed swampbuster land in my agricultural land. I go to the SCS. They say there is no swampbuster problem here, go ahead and fill. Right next door there may be nonagricultural land, but now a whole different set of regulations apply.

That is going to occur under the Bond amendment. Do we want that? Do we want that additional confusion? I do not think so.

Mr. President, the basic point is this: there is a real problem. Every Senator agrees with that. The Senator from North Dakota [Mr. CONRAD] spoke very strongly about the problems he faces in his home State of North Dakota. Each of us on this Senate floor could make the same or similar statement.

The question though is what is the solution? The Bond amendment is offered as an amendment to the EPA Cabinet bill. There have been no hearings on the Bond amendment. And as we begin to peel away the onion layers of the Bond amendment, we begin to see all of these problems that were not intended, all of these unintended consequences of the Bond amendment, essentially more complexities and confusion.

So we think this onion is the wrong solution. What is the right solution? The right solution is for us to resolve this issue this year, in the Committee. The Senator from Missouri very correctly voices his frustration saying in 1991 you sought to get a commitment from the Environment and Public Works Committee to resolve it. The Environment and Public Works Committee did not resolve it.

But this is 1993. I am now the chairman of the committee. I am trying to give the committee a new look, a new direction to very directly deal with all of these problems, and particularly the Clean Water Act and wetlands.

I will guarantee to the Senator from Missouri that the Environment and Public Works Committee will take up the Clean Water Act this year; will report out the Clean Water Act this year; will, in the Clean Water Act, include section 404 wetlands provision of the Clean Water Act; will address the overlap problems between swampbuster and section 404; will directly deal with the problems raised by the Senator from Missouri. The Senator has that commitment. I, as chairman of that committee, make that commitment.

I must say, in addition, that this second-degree amendment fits very much in with our committee's deliberations. Why? Because it directs the President to conduct an interagency task force to make recommendations on how best to make SCS the lead agency under swampbuster.

We will have the benefit of this interagency task force's deliberations as they work out some of the legitimate problems that I and others have raised so that we can resolve it in the Environment and Public Works Committee.

Now, if for some reason the issue is not resolved to the satisfaction of any Senator, including the Senator from Missouri, he certainly has the opportunity to offer his amendment or some other amendment on the floor. But I think we, as Senators, owe it to our constituents to not only address problems, not only articuate the problems, not only be the vehicle to voice the frustrations the American people have, whether it is with a U.S. Government agency or whatever it might be, we also have an equal responsibility, perhaps even a higher responsibility, to solve it. That is why we are here.

I very respectfully suggest that the amendment offered by the Senator from Missouri, even though it is intended to address the problem and solve it, in fact does not do so, in fact will create additional problems for Missouri farmers, additional complexities, and additional confusion not just for Missouri farmers but for farmers all across this country. In the State of Montana, the farmers will face those additional problems, too.

This amendment has not been thought through. This amendment was suggested for the first time, at least as far as the committee has been put on notice, just a week ago.

That is not the way to legislate. The way to legislate is for us to use the committee process—I know that is an overworked phrase. But if we use the committee process, we are much more likely to think through the legislation and much more likely to not only voice the concerns people have, but also much more likely to find honest-to-goodness, reasonable solutions. I respectfully suggest the Bond amendment is not the solution. I do suggest that the second-degree amendment I have offered will go a long way in the process of developing honest-to-goodness solutions this year.

This Senator, by no stretch of the imagination, wants to postpone this issue for another year. We want to solve it as much as possible this year. That is my intention.

Mr. BOND. May I inquire of the Senator from Montana. I gather there are 90 minutes set-aside for this second-degree amendment. We have already had a discussion about the basic underlying purpose of the first-degree amendment. While this is vitally important to people who are farmers and ranchers, for others it may be more about frogs than they wanted to know about frogs. Would my colleague be interested in shortening the time allocable on both sides?

Mr. BAUCUS. Mr. President, I would be more than willing to enter into an agreement of the time on the second-degree amendment. I have notice here that several Senators wish to speak on the second-degree amendment. Perhaps after they speak, I might be in a better position to shorten the remaining time on the second-degree amendment.

I now yield 5 minutes to the Senator from California, a member of the committee, and I might add a very great addition to the committee.

Mrs. BOXER. Mr. President, I thank my chairman for yielding. I want to compliment him on this second-degree amendment, because what it really does is not order another study at all. It is a very strong amendment. It says the President shall report to this body within 90 days, as to the very questions that have been raised, very ably by the Senator from Missouri. So it is not another study. It is very clear.

Look at the language: "In consultation with the Secretary of Agriculture, the Secretary of Environment, the Secretary of the Army, the Secretary of the Interior, the President shall, within 90 days"—it does not say may; it says shall—"of the enactment of this act, make recommendations and report to the Congress on measures to provide that a single Federal agency be responsible for making technical determinations on wetlands and provide the Soil Conservation Service with the Federal agency responsible for all such technical determinations."

In other words, the very issues that are raised by the Senator from Missouri are raised right here and will be taken to the highest office in the land, that of the President of the United States, after consultation with all of the appropriate agencies. I think this is a very important amendment, and I am going to support it.

I have farmers in California, I have wetlands in California, and I have agricultural land in California, and agriculture is one of the biggest businesses in California. Yet, I do not want to see us, unwittingly, pass an amendment here—which I believe the amendment of the Senator from Missouri is—that would weaken wetlands protection in the name of streamlining it.

The Senator has said over and over that his amendment is about streamlining. We all want that. But, Mr. President, it goes further than that. In addition to designating the Soil Conservation Service as the lead agency on these wetlands determinations—which may or may not be the wise thing—in my view, the Fish and Wildlife Service are the experts on wetlands. Maybe I am wrong and maybe the study and the report from the President will show that SCS is the appropriate agency. But it does more than that, Mr. President. There is a blanket exemption from section 404 of the Clean Water Act for thousands of acres of lands that would not have a blanket exemption.

Third, there is a redefinition of agricultural lands, as my chairman pointed out so clearly, which means that lands that were formerly considered wetlands may be considered agriculture land, and we can see building on those lands, condominiums on those lands.

We had a situation in my home county where wetlands were destroyed, and do you know what we found? We found that they were worth so much to us in terms of clean air and clean water, and we restored those wetlands.

So let us not leap at something that might have unintended consequences. I am not suggesting that the Senator from Missouri has those consequences in mind. But I am saying that it might result in such a consequence, where we lose more wetlands. I told this body before, when I spoke on this issue, that the wetlands in California are worth over $200 billion. The wetlands in the United States of America, even though we have lost 50 percent of them, are worth over $1 trillion.

So let us not redefine wetlands on the floor of the U.S. Senate. We have a great new chairman of the Environment and Public Works Committee, who wants very much to be fair on these matters and who wants very much to have a recommendation from the President on these matters. I hope we will come together as men and women of good faith in this U.S. Senate today and support this amendment.

Mr. President, I thank my chairman, and I reserve the remainder of my time for later.

Mr. BOND. Mr. President, I yield myself such time as I may require.

Mr. President, I ask unanimous consent that Senator MATHEWS be added as a cosponsor to my original first-degree amendment.

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

Mr. BOND. Mr. President, let me correct a few things while my distinguished friend from California is still here.

There was a statement just made that this would redefine wetlands. Let me be clear that it does not redefine wetlands. It does not change the basic laws relating to wetlands. What it does is to say for agricultural lands the Soil Conservation Service shall make the determination. It does not change the basic definition.

No. 2, a question was raised about building condos or shopping centers on this. Let me point out very clearly that this amendment provides for the primacy of Soil Conservation Service determination only—only—for such period of time as those lands are used as agricultural lands.

If somebody wants to move into a farmland and fill a wetland and build a shopping center on it, the land right now is that they would have to go to the Corps of Engineers for a 404 permit.

If my underlying amendment is adopted, they would still have to go to the corps and seek a 404 permit. My colleague from California likes the Fish and Wildlife Service. Perhaps it may not be clear to all of us that the Soil Conservation Service, right now, is required to consult with the Fish and Wildlife Service because in the 1990 farm bill we said that the Soil Conservation Service will have the responsibility for making determinations under the farm bill with respect to wetlands, but in consultation with the Fish and Wildlife Service. We have already made the judgment that the Soil Conservation Service, for all agriculture lands, should have primacy.

My colleague from Montana has said that the USDA opposes this amendment. He suggests that we resolve to send it to the administration, so they can send it back, so that we can resolve it. That is a three-step process. I suggest that the question is simple enough, and that we ought to go ahead and resolve it.

The farmers in my State, the farmers in North Dakota, the farmers in Utah, the farmers in Kentucky, the farmers all across this Nation have been waiting for years as we have kicked this football back and forth. Those who oppose this say it is convoluted and there is confusion. Yes, we know there is confusion, but there is confusion under the current system.

My colleague from Montana said the Soil Conservation Service would have to look at forest land. Well, we provide that nonindustrial, noncommercial forest land should be covered, but they do that now. The Soil Conservation Service already does that.

The Soil Conservation Service has responsibility for looking at agricultural land, and I suggest, across this country they look at all agricultural land. They look at all of the land covered, and they have definitions such as we have incorporated in the legislation.

The Soil Conservation Service now as the authority and are making those determinations to agricultural land. They have definitions for pastureland and rangeland in their working manual.

They are doing the job. And I suggest for anyone who is troubled about this, if we do not vote until after lunch, I understand on this amendment there is plenty of time to do one simple thing—call home. Call home and ask the Soil Conservation Service or ask farmers in your State if this makes good common sense.

Sometimes we are better off asking the people who we represent if something makes common sense. It clears away the fog within the Beltway, because we have worked on this—I have worked with the Senator from Kentucky [Mr. MCCONNELL] and the Senator from North Dakota [Mr. CONRAD] who have been leaders on this. I have worked with the Senator from Alabama [Mr. HEFLIN] who has taken this issue all across the State of Alabama. We have worked for years on this. We have come to the point now where we have an opportunity to make one single commonsense determination and cut three of the four agencies out of the process of telling an individual farmer different things about their land.

The time has come that we ought to move on with this and do something to simplify the process. Instead of four agencies telling a farmer four different things, make one agency responsible.

Now, my colleague from Montana raised a question about a farmer who has some land in a farm program and some land out of the program. He said that land out of the farm program would not go to the Soil Conservation Service or the corps.

Do you know something, Mr. President? He would be better off than he is

today, because right now he has to go to the Soil Conservation Service and then he can wait and have the corps, the Fish and Wildlife, or the EPA come on his agricultural land and tell him that he has violated the law.

I believe giving the Soil Conservation Service the responsibility to make the initial determinations will save a lot of hassle. Certainly, there are very, very able legislators who can raise all kinds of questions and ghosts and goblins about confusion and build dream scenarios where it can be more confusing. But if you ask the people in agriculture in America today, they can tell you it is reality, there is mass confusion. It is not just ephemeral ghosts and goblins but real live bureaucrats from different agencies telling them different things today.

We can take a step that will simplify life for the farmer, for the rancher, and not change the law. That is why I urge my colleagues to defeat the second-degree amendment and support the underlying amendment.

Mr. President, I reserve the remainder of my time. I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Montana.

Mr. BAUCUS. I ask how much time is remaining on each side.

The PRESIDING OFFICER. The Senator from Montana has 22 minutes, and the Senator from Missouri has 38 minutes.

Mr. BAUCUS. Mr. President, I yield myself as much time as I might consume.

Mr. President, I noticed that in the Congressional Daily today, there is an article indicating that several Senators, according to article seven southern Democratic Senators, are urging President Clinton to convene an interagency working group to forge a consensus on wetlands policy. And the article goes on to say that the effort is headed by Senator BREAUX from Louisiana.

The letter asks the President to form a task force comprised of the EPA Administrator, Interior, Agriculture, Defense, Transportation, Energy, and HUD Secretaries to work with Congress and the public on wetlands policy during the Clean Water Act reauthorization. According to the Congressional Daily, this letter was signed by Energy and Natural Resources Chairman JOHNSTON from Louisiana, majority whip, Senator FORD from Kentucky, and Senators PRYOR and BUMPERS from Arkansas, Senator HARLAN MATHEWS and Senator JIM SASSER from Tennessee.

Mr. President, I mention this because the pending second-degree amendment is not identical to that request, but goes very much in the same direction.

The second-degree amendment I have offered essentially directs the relevant departments to come up with a wetlands resolution with respect to swampbuster particularly, finding a good solution where the Soil Conservation Service will be the lead agency.

I think that makes good sense. It makes good sense for the relevant departments to try to find a solution which will provide for SCS to be the lead agency with respect to the swampbuster. I think that is better than the Bond amendment which does not take into consideration the additional complexities which it would create. It would create many more problems than it would solve.

I very much hope, Mr. President, that those Senators will be sympathetic to the second-degree amendment because it goes in the same direction as their request to the President.

As I have already stated, the Environment and Public Works Committee, will report out the Clean Water Act this year. In fact, the Clean Water Act will be the first reauthorization the committee will deal with. And it will necessarily deal with wetlands, and also the question of overlap between swampbuster wetlands on one hand and nonswampbuster wetlands policy on the other.

I know the Senator from Missouri was very frustrated in the past and asked for the committee to deal with this issue. He mentioned 1991. That is when I think he first began this effort and the committee did not respond. But the committee is now under new chairmanship and new committee membership. This is a new Congress, and I can commit and guarantee to the Senator that this committee this year will very definitely respond to his request because it is an issue that affects not only his State but all States.

Mr. President, I now would like, if he is ready, to yield to the Senator from Louisiana 5 minutes.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. I thank the distinguished chairman for yielding.

Mr. President, I will say there is probably no person who has been more involved in the question of wetlands than I have because of the nature of the State that I represent. For over 20 years that I have been in the Congress we have been involved in problems dealing with how we use wetlands, what is needed and required to involve either agricultural operations or commercial operations on areas that have been designated as wetlands.

We have struggled over the years for, in fact, what is a wetland and what is not a wetland. I have argued for years there are differing degrees of wetlands although the Federal law does not seem to recognize that, that all wetlands indeed are not created equal. There are some that have the highest value. There are some that are more marginal. And there are some that are only in theory wetlands as we would commonly interpret the meaning of what a wetland is.

Indeed, some areas are very dry that, in fact, are determined to be wetland under the Federal rules, because of the type of vegetation that may grow or propagate on that property when, in fact, the land itself is very, very dry and receives water only rarely.

We struggled for 20 years on this problem, and I have not been really satisfied with the result. Over half of the State of Louisiana that I represent is classified as a wetland under Federal rules and regulations. That means that over half of the property in my State, if you want to do anything, if you want to farm it, if you want to build a house, if you want to add a porch to your house, or if you want to build a shopping center, if you want to build a plant or a factory you have to go through what I think is a very cumbersome Federal rules and regulation procedure to get a section 404 permit under the Federal Water Pollution Control Act before you can do any dredge or fill activity that would be necessary to do any of the things that I have just mentioned.

So it has been a long and a troublesome problem that we have been trying to rectify.

I would suggest that the amendment that is pending and the substitute that is pending to that amendment really are not the best ways to go about solving this problem. It is far more complicated than that. A complicated problem demands more than a simple solution. While it might be easy to propose one, I suggest that this is not the proper approach that is now currently pending.

I commend the chairman for his efforts in offering a substitute amendment which I will support because I think it clearly indicates that this is something that needs to be looked at in much greater detail. It is too important a decision for those of us on the floor, without the benefit of a recommendation of the policymakers or a recommendation from the committees of jurisdiction, to make the determination that, in fact, the Soil Conservation Service is the proper and approprite place to have these permits filed.

I wanted to mention a letter that I sent on April 28 to President Clinton, joined by a number of Senators: My senior colleague Senator BENNETT JOHNSTON; as well as the distinguished Senator from Tennessee, JIM SASSER; Senator WENDELL FORD from Kentucky; Senator HARLAN MATHEWS from Tennessee; and Senator DALE BUMPERS and Senator DAVID PRYOR from the State of Arkansas. In that letter we have sent to the President of the United States, we say that we are concerned about the future of the Federal wetlands policy.

We point out in our letter that we now have an opportunity to resolve this issue as we move forward with the

reauthorization of a Clean Water Act, which is now in the process of being looked at in this Congress.

We point out to the President something that I think is very important: That when he was chairman of the Lower Mississippi River Delta Commission, when he was Governor of the State of Arkansas, he recognized—and that report says very clearly—that the Nation's wetlands policy was the source of significant problems for Agriculture, aquaculture, and commercial and industrial development.

The Delta Commission, which President Clinton chaired, made a number of recommendations. One of them was that there would be included a clear and fair jurisdictional definition, a recognition of the differences and functions and values of wetlands, incentives for landowner conservation, the reduction of regulatory duplication, the regulation of activities that drain wetlands, and expanding the role of the States and the Federal regulatory program.

These are the recommendations the Commission of the President of the United States made when he was Governor of the State of Arkansas.

Mr. President, what myself and other Members of the Senate ask the President of the United states to do is to establish a working group of all appropriate member of the Cabinet, including the Administrator of the EPA——

Mr. President, I ask for 2 additional minutes.

Mr. BAUCUS. I yield 2 minutes to the Senator.

The PRESIDING OFFICER. The Senator has 2 additional minutes.

Mr. BREAUX. I thank the Senator.

Including the Administrator of the EPA, the Secretaries of Interior, Agriculture, Defense, Transportation, Energy, and Housing and Urban Development, to work together with those of us in the Congress to forge a consensus on this difficult policy issue.

Mr. President, I have been in touch with the administration this morning. They have indicated that they have received the letter. They have indicated, further, that they are prepared to accept out recommendation in our letter and, in fact, to establish a working group of all the appropriate members of the Cabinet in order to discuss this and make a recommendation so that we will have it when we deal with the Clean Water Act.

I suggest that is the appropriate way to deal with the problem the distinguished Senator has raised. And I thank him for raising it. I think the very fact that he has raised it is getting the attention of many Members who are sort of ambivalent about what needs to be done. I think that an accomplishment of his amendment in offering it is to ensure that there will be an interagency task force assigned to this problem that will make recommendations in a timely fashion so an appropriate committee of jurisdiction can handle it.

I think there is more concern about accomplishing a fair and balanced result than when we dealt with the Clean Water Act. I suggest this is an appropriate way to solve this problem. And I indicate my support for the substitute, or an amendment to the amendment offered by the distinguished chairman of the Environment and Public Works Committee, Senator BAUCUS. I think the Senator's amendment is the right way to go.

If the task force does not do the job, if it does not accomplish what we need, we always have the legislative opportunity to fix it.

I suggest we should not legislate before we think. This task force will give us the opportunity to think, but it will also have to make recommendations in a timely fashion. I suggest this is a proper approach and one that I certainly will support.

I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. AKAKA). Who yields time?

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I yield myself such time as I may require.

I commend the distinguished Senator from Louisiana, who has worked long and hard on wetlands. There may be areas with regard to the substantive language on which we would agree, because there are some very real problems in wetlands in his State, just as there are in my State. We do have lots of concerns over wetlands. And I commend the people who have called for an interagency task force and for a study of the underlying problems.

But, Mr. President, we have been studying the underlying problems. We come up with a wonderful interagency solution back in January of 1989—the Federal Manual for Identifying and Delineating Jurisdictional Wetlands.

The Fish and Wildlife Service, the Environmental Protection Agency, the Army Corps of Engineers, and the Soil Conservation Service all got together and they started an even bigger fight.

We have heard here today, in comments quoted by the distinguished Senator from Montana, that the Corps of Engineers says there is no way the Soil Conservation Service has the jurisdiction or the technical expertise or the ability to make any judgments with respect to wetlands on agriculture land.

Well, Mr. President, we have already given the Soil Conservation Service that responsibility in 1990 in the Food Security Act.

It is about time we stop waiting to have some agencies with diametrically opposed views, with big turf battles, trying to figure out who is going to be the lead agency for a very, very important question for farmers.

It is time that we gain hold of the institution, instead of asking those in the institution to think about it some more and make a judgment.

I ask my colleagues to remember that we are not getting into the battle over what is or is not a wetland. This process, as it has been outlined, is obviously going to be a massive process. I do not believe that the interagency study is going to come back with a clearcut solution and get a clearcut direction and get legislation back to us on this floor anytime in the foreseeable future.

We have an opportunity to say something that America's farmers and ranchers have been waiting to hear a long time. We have an opportunity to say to them:

> Look, there is still a hassle going on. It has to be fought out by all the different agencies, with different interests and different expertise, but at last you will be able to rely on one single, simple, clearcut answer from the Federal agencies that are supposed to serve you.

We will not be in the position of having a farmer who has corn land in the program getting an answer from the Soil Conservation Service, only to have the Corps of Engineers come on his land and say, "We are going to fine you $10,000 per violation for what you did"—and I add, parenthetically, in conformity with the views of the Soil Conservation Service—"on your land." That is a situation that exists.

The other side can think of all the convoluted ghosts and goblins and complexities that can come about. Mr. President, how can it be more complex and confusing and convoluted than it is right now with four different agencies? If you are a rancher or a farmer, you have no protection from them.

It is time we made one small step toward reducing some of the hassle that afflicts agriculture, food, and fiber production in our country today. That is to say one agency and one agency alone should make the determination on agricultural lands so long as they are used for agricultural purposes.

It is not the intent of this amendment, nor the purpose of this amendment and it will not be because of the outcome of this bill that all of a sudden agriculture land is going to be converted into shopping centers and condominiums and parking lots. The basic provisions of the Clean Water Act still apply. There will be no change in the substance of the law. Those who raise those extraneous points want to take away from focus on the real question, which is making it simple, getting Government simple, giving one agency the responsibility to bear the headaches that the farmer or the rancher has to bear now trying to sort out the different ideas.

I tell you, it will be a battle royal. ESPN ought to film the sessions when the agencies get together to decide

what is and what is not a wetland and how to delineate it. That is going to be one for the books. That is always a battle because they always disagree. But right now the farmer and the rancher are left at the end of the process and have to take the different views from different agencies and try to determine what to do.

We are saying in this battle for agricultural lands, so long as they are agricultural lands, at least the farmer can rely on the expertise of one agency. And the SCS has been given explicit authority for making wetland determinations under the provisions of the farm bill with respect to agricultural lands.

Mr. President, I urge my colleagues to not accept the second-degree amendment, not resolve to kick this back into the briar patch and wait, and wait, and wait. We have an opportunity to do something today and that is to simplify the procedure. Vote down the second-degree amendment and support the first-degree amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. I yield to my colleague from Ohio.

Mr. GLENN. Mr. President, I know all last week we talked about the advantages and disadvantages of different pieces of legislation here on the floor and what the costs were going to be. It is my understanding the Soil and Conservation Service has indicated if the Bond amendment passed, it would be somewhat burdensome to them; is that correct?

Mr. BAUCUS. I say to the chairman of the committee, CBO has given a preliminary estimate—they have not had a chance to look into this in any great detail—of several millions of dollars in additional cost to taxpayers. And, in a letter signed by the acting head of the SCS, the SCS is opposed to this amendment. It is not a long letter. I just received it today. Essentially we can tell by reading the letter they are very concerned about this amendment.

Mr. GLENN. Yes. SCS did not make their independent estimate of just how burdensome this amendment would be in dollars?

Mr. BAUCUS. I did not ask the SCS to make that determination, so we do not have it. But it is clear, from reading the Bond amendment, there could be very significant additional burdens, placed upon SCS. We do not yet have a final cost estimate on it.

I might mention another reason why this amendment should not go forward at this time. It has been the spirit of other amendments to this bill, some of which have been passed and some not passed, that before this body takes any action, that we have an analysis of the cost of legislation versus its benefits. I am sure the Senator from Missouri voted for all these amendments. I wonder if the Senator from Missouri could give us an indication of what the dollar cost of his amendment would be to SCS. Does he know? Has CBO—has OMB done an analysis on the amendment of the Senator?

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Mr. President, I respond we have had this bill before the EPW committee for 2 years. If there were a good CBO argument to shoot down this bill, you can be confident that argument would have been presented. I can tell you on the basis of common sense, when you say one agency is going to make a determination rather than four agencies, you get at least three of the agencies out of the ballpark and, I suggest, a tremendous saving.

I also say, based on my inquiries to the people in the Soil Conservation Service, it will be saving—it will be a saving because they will get out—they already examined these lands, and they will get out of the hassle of going back and being called by representatives of Senators and Congressmen to refight the battles between the four agencies. So I suggest it is a saving.

Mr. GLENN. Mr. President, whose time is that statement out of?

The PRESIDING OFFICER. The chairman of the committee has the floor.

Mr. GLENN. Mr. President, may I have 1 minute?

Mr. BAUCUS. I yield 1 minute to the Senator from Ohio.

Mr. GLENN. The reason I originally got up was to make certain I understood what Senator BAUCUS was trying to do here. When he says this group will get together and make recommendations and report to the Congress, I want it understood this would include a request for them, by the very nature of this, where possible, to tell us what the cost of this would be that they recommend also.

Mr. BAUCUS. Absolutely.

Mr. GLENN. We spent all last week talking about what things would cost and getting CBO and OMB estimates. I understand that "make recommendations" would include recommendations as to what the different costs are? The bureaucratic options of either saving money or expending more money would be part of their recommendation? Is that the understanding of the Senator?

Mr. BAUCUS. That is my understanding.

Mr. GLENN. I thank the Senator.

Mr. BAUCUS. I would now like to yield to the distinguished majority leader such time as he might require.

Mr. President, might I ask how much time is remaining on this side?

The PRESIDING OFFICER. The Senator from Montana has 5 minutes and 40 seconds.

Mr. BAUCUS. Mr. President, I yield 5 minutes to the Senator from Maine, the distinguished majority leader.

The PRESIDING OFFICER. The majority leader is recognized for 5 minutes.

Mr. MITCHELL. Mr. President, I will now propound a unanimous-consent agreement regarding the disposition of this bill. I ask that this time not come out of the 5 minutes here. This, as I understand it, has been cleared on both sides.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I now ask unanimous consent that at 2:15 p.m. Senator DOLE be recognized to speak for up to 30 minutes on the subject of takings; that there be 15 minutes for debate on the same subject under the control of Senator GLENN; that upon the conclusion, or yielding back of this debate time the Senate vote on, or in relation to the Baucus perfecting amendment No. 341; that upon the disposition of the Baucus amendment the Senate vote on, or in relation to the Bond amendment No. 340, as amended, if amended; that upon the disposition of the Bond amendment the Senate vote on the adoption of the committee substitute, to be followed by third reading and a vote on passage of the bill; that immediately upon passage of the bill; the managers' title amendment be agreed to; with the preceding all occurring without any intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. BOND. No objection.

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

Mr. MITCHELL. Mr. President, I would like now to address the subject of the underlying amendment and the second-degree amendment.

The amendment offered by the Senator from Missouri is, as I understand it, intended to address the frustration felt by many in the farming community when dealing with wetlands. I am familiar with those concerns, and I understand the basis of the frustration. While this is the intent of the amendment, I think, unfortunately, it would have an opposite effect.

It is difficult to assess because there is no cost estimate for the amendment, no hearings have been held, the debate today is the only time the Senate in whole or in part has ever considered this proposal. This is part of a growing pattern in which amendments are offered in the Senate to which there has never been any estimate of cost, there has never been any debate or discussion, and the Senate is forced to vote on something lacking the information that ought to be essential to such decisions.

The underlying amendment provides that the Secretary of Agriculture, through the Soil Conservation Service, would make critical permitting decisions on wetlands permits on agricultural lands. This represents a major change from current policy.

Now it is the Environmental Protection Agency, the Corps of Engineers, and approved States which may issue permits. The underlying amendment could create more bureaucracy, not less, in the administration of the wetlands program because it adds a third Federal Government agency to the wetlands decisionmaking process. So instead of two Federal and one State agency, we would then have three Federal and one State agency in the process.

In addition to adding yet another agency to the debate, with whatever attendant bureaucracy and costs that entails, the amendment may create more confusion because the Soil Conservation Service would be responsible for wetlands permits only on agricultural lands.

Well, Mr. President, what are agricultural lands? This new definition will undoubtedly create more litigation—this will be good for the lawyers—and, no doubt, more confusion. Even more confusion would result because the underlying amendment creates a conflict between the so-called swampbuster requirements under the 1990 Food Security Act, and section 404 of the Clean Water Act, by exempting swampbuster lands from wetlands requirements.

I assume the concept behind this is to treat all agricultural lands under one regime. That is a sensible goal. But it is possible that the effect of the underlying amendment would be actually to make it more difficult to issue wetlands permits on agricultural lands than it is today. For one thing, implementation of the wetlands program, as applied to agricultural lands, could be stalled completely while the Department of Agriculture prepared regulations to implement the program. Such major regulations could take 2 years or more to fully develop and publish, and then would be open to litigation. So you may have a long period in which nothing could happen with respect to such land.

The underlying amendment may also set aside existing State permitting authority in cases involving agricultural lands. The result would be a larger Federal role. Do we want more Federal jurisdiction and less State jurisdiction? I am not sure that farmers want greater Federal involvement in decisions involving their lands over the State.

The underlying amendment requires the Soil Conservation Service to develop expertise it currently does not have and, therefore, would clearly require additional personnel and more Federal money. Once again, we have an amendment that calls for more Federal employees, more Federal spending on Federal employees with no cost estimate, which makes it, of course, difficult to evaluate.

In sum, the underlying amendment would create more confusion, more bureaucracy, more delay and more costs to the Federal program than currently exists.

I want to say, this does not mean that there are not problems with the implementation of the wetlands program now. There clearly are. And I comment the Senator from Missouri for the concern he has expressed on that point. It does mean that we should spend more than 1½ hours debating a major change to the wetlands program on an amendment that has had no analysis, no cost estimate, no reasonable estimate of the actual impact of the amendment on those it is intended to help.

In order to be sure we know what the impacts of the underlying amendment would be, I support Senator BAUCUS' amendment that requires a report on the implications of authorizing the Soil Conservation Service to issue wetlands permits on agricultural lands. Senator BAUCUS has stated previously his specific intent to address the wetlands issue in the context of the Clean Water Act, which is where it should be considered, and that will be considered in this Congress.

He has made a commitment to review these and all other wetlands issues during the reauthorizing that he, the chairman, has been actively pursuing. Therefore, I support Senator BAUCUS' second-degree amendment that will provide us with the information we need before we create a potentially larger problem. We can apply what we learn under this provision to the reauthorization process.

We can find out the impacts of such a change on the program. We can find out how agencies could assure consistency in the definition and delineation of wetlands. It could include discussion of how State programs would be treated, how agricultural wetlands would be addressed.

I strongly urge all my colleagues, including those who are sympathetic to the goals of this amendment—and I think that includes every Member of the Senate because we are sympathetic to that concern—to support Senator BAUCUS' amendment so we can first determine what the effect, the implications, the costs and, most of all, what benefits will flow from this action.

Mr. President, I thank my colleague for his cooperation, and I yield the floor.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Mr. President, I yield myself such time as I may require.

While our good friend, the very able and distinguished majority leader, is on the floor, perhaps since we had discussions earlier on, I might explain to him why we have taken the step of offering the amendment on this bill.

This has been a major concern for farmers and ranchers throughout America ever since we got into the wetlands business. We have had problems and conflicts in jurisdiction with four different agencies telling farmers four different things. So in 1991—with 17 cosponsors, I introduced the wetlands simplification bill. We asked the Environment and Public Works Committee to hold hearings on it, to move on it. Last year, the Environment and Public Works Committee introduced a clean water bill that left wetlands completely out. We were not in a position to hold a hearing because that was in the jurisdiction of EPW. This year we have 23 cosponsors.

This is not something we have taken up lightly. This is something that responds to a legitimate cry of outrage from farmers all across this country: "Why do you have four different agencies coming on my land and giving me four different opinions and directions with respect to what may or may not be a wetland?"

Mr. President, there is no good answer to that. That is why we need to make a simple decision to make one agency responsible for giving the farmer a clear-cut answer until and unless we can simplify this measure so everybody can understand wetlands. That will be the day when we can come up with a simplified answer on wetlands. But I do not think that is going to happen today, tomorrow, or any time in the near future. And in the meantime it makes more sense to say that the Federal agency which deals with the farmers should have that responsibility.

I ask the majority leader to take a look at the amendment that I have presented because it does not change the permits, it does not change the permitting process. If you want a permit to fill a wetland to build a shopping center, you still have to go the 404 route.

He has said that it goes beyond the expertise of the Soil Conservation Service. But, Mr. President, in the 1990 Food Security Act, we explicitly and expressly gave the Soil Conservation Service the responsibility for making determinations on agricultural land. We told them to do it; they are doing it; they are doing it today; they can do it tomorrow; and they do it throughout our States.

This is not a question of giving new responsibilities to the Soil Conservation Service. We mandated them to make wetland determinations and to develop that expertise in the 1990 Food Security Act. This is a common-sense approach to cutting out unnecessary layers of bureaucracy dealing directly with individual farmers and ranchers.

We could send this back for more study, and we could ask the administration to get a big fight going among all the agencies and then come back to us, and it would take them longer than 90 days and it would take us longer than 90 days and we will be here in 1994 and 1995 saying: "Remember when we

talked about wetlands simplification in 1993?''

I urge my colleagues to resist the temptation to send the issue to somebody else to discuss it so they can send the issue back to us, and resolve it today by voting down the second-degree or perfecting amendment in supporting the underlying amendment. I reserve the remainder of my time.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I inquire of the Chair, it is my understanding that under the previous order the Senate was scheduled to recess for the party conferences at 12:30.

The PRESIDING OFFICER. The majority leader is correct.

Mr. MITCHELL. And then under a further separate order just obtained, we were to have the 30 minutes for Senator DOLE and 15 minutes to respond beginning at 2:15 p.m.; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. MITCHELL. But there remains time for debate on this matter under the control of the Senator from Missouri and the Senator from Montana.

The PRESIDING OFFICER. That is correct.

Mr. MITCHELL. Might I inquire of the Senators, if they wish to use the rest of their time that they do so now before we go into the caucus luncheon. Otherwise, they would be foreclosed from doing so. Or, if they have completed the debate they could yield the time back.

Mr. BOND. Mr. President, we have discussed this at great length, and that may be charitable. Others may have different terminologies. If the other side is willing to yield back, I would be happy to yield back all time on this side.

Mr. BAUCUS. If the majority leader might yield, I believe we can accommodate the leader. It is a bit moot because we do not have much time remaining. We have 40 seconds. The distinguished minority ranking member of the Environment and Public Works Committee might want to speak on the amendment.

Mr. MITCHELL. Will the Senator from Missouri agree to the following: The Senator from Rhode Island being recognized for 2 minutes, and the Senator from Missouri to be recognized for 2 minutes to respond, and then the Senate would go into recess?

Mr. BOND. Mr. President, I would gladly do that.

ORDER OF PROCEDURE

Mr. MITCHELL. I ask unanimous consent that the Senator from Rhode Island be recognized for 2 minutes, the Senator from Missouri be recognized for 2 minutes, and then the Senate go into recess as under the previous order.

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

Mr. CHAFEE. Mr. President, I thank the majority leader for these arrangements.

Mr. President, I would like to make one correction if I might in a statement that the Senator from Missouri made; that is, that we reported out a clean water bill that did not cover the situation. There is a little misunderstanding there.

We did not report out a clean water bill. What he might be referring to is that the Senator from Montana and I introduced a bill. In that bill we did not cover the particular situation because we had not had hearings on it, and as we previously indicated this is a very, very complicated matter.

Mr. President, I very strongly urge support for the second-degree amendment that was offered by the Senator from Montana. It seems to me that this covers the situation as we mentioned before. We are getting into an area that, one, there have been no hearings whatsoever on. It is an area where there are already two agencies in on it, the Corps of Engineers, and the Environmental Protection Agency. To have the Soil Conservation Service brought into a matter dealing with the so-called sodbuster sections, which were devised to deny subsidies, if you handle your land in a certain way, to suddenly twist that, shift that around, and give the responsibility to the Soil Conservation Service to declare what is a wetlands problem and what is not, where with great difficulties in the delineation in the definition of what is wetlands, suddenly to toss that over into an agency that has not dealt with this I think raises some very, very serious problems.

Therefore, Mr. President, I would hope that the second-degree amendment by the Senator from Montana would be adopted.

Mr. BOND. Mr. President, I appreciate the clarification of my colleague from Rhode Island. I did mean to say that a measure had been introduced, not reported out.

But the problem remains that this is a tremendous headache for farmers all across this country, who have been waiting for Congress to act for years and years. We introduced the measure, referred it to the Environment and Public Works Committee in 1991. Nothing has been done. The second-degree amendment asks that we send it back so that there can be another all-out, knockdown bureaucratic battle, so they can send it back to us.

I am urging my colleagues today to join with me to say that the second-degree amendment is more of the same. It is sending it back in the process, waiting for them to send something back to us so then we can act.

We need a commonsense resolution to a problem. There is great confusion on wetlands definition. Anyone listening to this debate today would hear that. But what we are saying is that to save the farmer from being caught up in an impossible catch-22 where he or she relies on the advice of one agency and is told by another agency that we are going to fine you $10,000, we say that at least while this mess is going on, let the farmer rely on the word of one agency, which we have already given responsibility to make wetland determinations under the Food Security Act.

If my colleagues support the second-degree amendment, it is a vote for continued confusion, the status quo. If we want a simplified governmental response, a commonsense answer, support the underlying amendment and allow us to have the Soil Conservation Service as the lead agency and give one single answer the farmer deserves.

Mr. President, I ask unanimous consent that Senator COVERDELL be listed as a cosponsor of the underlying amendment.

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

Mr. BOND. Mr. President, I move to table the second-degree amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

RECESS UNTIL 2:15 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:36 p.m., recessed until 2:16 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. KERRY].

DEPARTMENT OF THE ENVIRONMENT ACT OF 1993

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Under the previous order, the Republican leader is to be recognized for a period of up to 30 minutes.

Mr. GLENN. 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. GLENN. 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. GLENN. Mr. President, if we put in a quorum call awaiting arrival of people on the floor, are we charging time against Senator DOLE and the opposition?

The PRESIDING OFFICER. If that is the Senator's intention, and he so requests, time will be charged to both sides.

Mr. GLENN. I was not suggesting that at all. I wanted to know if time was running against either side when I suggested the absence of a quorum.

The PRESIDING OFFICER. Time has not been charged.

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

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

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that I be allowed to speak as if in morning business for not to exceed 2 minutes.

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

The Senator from Alaska is recognized.

Mr. MURKOWSKI. I thank the Chair.

THE PRIVATE PROPERTY RIGHTS ACT OF 1993

Mr. MURKOWSKI. Mr. President, it is my understanding that the minority leader will be discussing very shortly the Private Property Rights Act of 1993. It is my intention to encourage my colleagues to support the private property interests of Americans all over the country whether they be in the mining industry or victims of wetland designations.

The act would indeed ensure that the Government assess whether or not a regulation may result in the taking of private property so as to avoid such taking when possible.

By supporting this legislation, our membership has an opportunity to assume a real leadership role in creating a positive relationship between private property rights and the protection of the environment.

This is of particular concern in my home State of Alaska where we have significant Federal intervention. There are numerous examples of people losing the value of their property without compensation. I can cite specifics relative to wetlands designation where individuals looking forward to retirement suddenly find themselves in front of reality that their property, after having been designated a wetland, no longer carries with it the value. As a consequence they are left in a state of not knowing whether indeed that property has a real value. It has created a confusing situation among local governments where the taxing authorities do not know whether to lower or basically attach levies as a consequence of the designation of wetlands.

Of course, the mining area is the very significant issue where both unpatented claims that have been worked for years and claims that have been perfected are victims of taking by regulatory authority primarily through National Park Service action.

Mr. President, I ask unanimous consent to have printed in the RECORD an extended statement relative to taking of various properties in the Kantishna Hills by the Park Service with no compensation of any kind to the individuals.

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

REGULATORY TAKING OF GOLD KING MINES, INC.

In 1903, gold was discovered in the Kantishna Hills, which is located in interior Alaska, north of the Alaska Range and Mt. McKinley ("Denali"). The Kantishna Mining District was created around 1905, and the area has been subject of several thousand prospectors ever since. The mining district pre-existed enactment of organic legislation for the National Park Service in 1916, along with creation of Mt. McKinley National Park in 1917.

The Kantishna Hills were open to mineral entry as BLM public land through the 1960s, and early 1970s, depending on location. In 1962, fifteen placer mining claims were located in the Glen Creek drainage of the Kantishna Hills. The original locators were father and son, John H. Wieler and Mark Wieler Rogers. Through the years, the claims were mined profitably by two other sons, Eric and Paul Wieler. In 1976, a closely held corporation, Gold King Mines, Inc., was formed which acquired a portion of the title.

In 1980, Congress passed the Alaska National Interest Lands Conservation Act ("ANILCA") designating the Kantishna Hills as part of Denali National Park and Preserve. The Park Service then took on surface management of the Kantishna Hills mining claimants through the Mining in the Parks Act of 1976. In years 1980 through 1984, Gold King was able to mine its claims and receive regulatory approvals from the Park Service.

In 1985, however, a citizens' lawsuit was brought challenging the Park Service's environmental review of mining plans. The U.S. District Court agreed with the plaintiffs and enjoined the Park Service from approving any further mining in the Kantishna Hills until a cumulative environmental impact statement was approved. It took the Park Service between 5-6 years to finalize its EIS and get the injunction lifted in 1991.

Since 1985, there has been no mining allowed in the Kantishna Hills. Many mining claimants, including Gold King, were forced into, or had already filed for, bankruptcy. As of 1991, the Park Service acknowledged that land acquisition of the mining claims was the preferred management alternative. In the interim, the Park Service was also holding out that "approvable" mining operations would be allowed.

Predictably, the Park Service has refused to allow mining in the Kantishna Hills, despite at least 20 plans of operation having been submitted for its approval since the 1985 injunction. The Park Service's typical response has been that applicants should submit more detailed plans, with engineering details costing several thousands of dollars. Confidentially, however, Park Service personnel have acknowledged that no mining would ever be allowed in the Kantishna Hills.

An additional burden imposed upon the mining claimants is the Park Service's onerous regulations concerning access to in-holdings, including the mining claims in the Kantishna Hills. The Wielers and other mining claimants have been subjected to numerous versions of Park Service rules on who, what, where and when is allowed onto the claims. Moreover, pattern of invidious discrimination can be discerned through the Park Service's favorable treatment of lodge owners and their guests vis-a-vis the mining claimants. This invidious treatment of the Wielers and other mining claimants persists notwithstanding that Congress, through AN ILCA, conferred special rights of access for economic and other purposes upon in-holders.

One mining claimant, K.L.K. Inc., was able to get its mining plan denied on the merits after four years. KLK has since filed a regulatory taking action against the Park Service, and the government has conceded a taking. With this background, Gold King asked the Park Service to rule on its mining plan submitted in 1992. The Park Service has refused to do so, contending that further engineering details are required on the assumption that Gold King's plan is "approvable." Gold King considers the Park Service's treatment of its plan a ruse in order to avoid a regulatory taking.

The bankruptcy trustee for Gold King requested the Park Service make an offer to purchase the mining claims in 1989. Four years later, the Park Service has offered $267,000 for the claims. Gold King considers the Park Service's offer a pittance against its proven or probable mineral reserves. By way of illustration, a lessee operating on only a few of the Gold King claims in 1983 produced 742 ounces of gold in 28 days. This limited 1983 production approximates the Park Service's offer for all fifteen of Gold King's claims.

While the Park Service persists in frustrating Gold King from mining its claims, its land acquisition program is an apparent failure. Since enactment of the Mining in the Parks Act in 1976, the Park Service has been unsuccessful in negotiating a single purchase of mineral estate in unpatented mining claims. Although the Park Service has purchased patented mining claims, it will only recognize surface value for these properties.

Through ANILCA §202, Congress instructed the Interior Department to study and report on the mineral resources in the Kantishna Hills, along with costs of mining claim acquisition. Interior funded a $1.6 million study with substantial field work performed by professional geologists and engineers. Several reports were produced from the ANILCA §202 study process, including one report regarding claim acquisition costs. That report estimates the total value of approximately 240 mining claims in 1984 dollars at $150 million. The Gold King claims were valued at $4.5 million, using a discounted cash flow approach. Needless to say, the Park Service disregards these studies.

The case of the Kantishna Hills mining district, and the Wielers' Gold King claims in particular, demonstrates the hidden costs and havoc that can be wrecked upon private property interests subject to federal legislation. Thoughtful persons would today contend that this historic and economically viable mining district should never have been included within Denali National Park. But the lands management and environmental agenda of Congress dictated otherwise. If public policy of this country supports this result, then Congress should support fair compensation to impacted persons, business and property owners. Unfortunately, it appears that Congress would rather fund an

army of Park Service bureaucrats with an agenda to extinguish private property rights.

Submitted by Lawrence V. Albert, Attorney at Law, on behalf of Eric and Paul Wieler, and Gold King Mines, Inc.

Mr. MURKOWSKI. Mr. President, it is my hope that the legitimacy of the reviewing, the reality that we own the public consideration when there is a taking, be directed. I look forward to the statement of the minority leader relative to the Private Property Rights Act of 1993. It is my urging that we consider this matter at the earliest possible time.

I thank the Chair, and I yield the floor.

DEPARTMENT OF THE ENVIRONMENT ACT OF 1993

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Republican leader is recognized for a period not to exceed 30 minutes.

Mr. DOLE. Mr. President, at the request of a number of my colleagues, I had intended to offer an amendment comprised of the text of S. 177, a bill I introduced to require Federal agencies to review regulatory actions for any potential of a taking of private property.

Our Founding Fathers deeply believed in the right of American citizens to hold private property and that Government should not invade upon that right. In fact, that right is granted in two places—the 5th amendment which protects citizens against the Federal Government and the 14th amendment which protects citizens against State and local governments.

When I introduced S. 177, I mentioned that its intention might seem curious—requiring Federal employees to uphold the Constitution—an activity in which they swore to engage before they were hired. Maybe we should get everyone in Government to take an oath every year so they would not forget.

I was also somewhat taken aback to learn there was opposition to the amendment. Let me tell you I was startled, because it contains only three very fundamental basic points: First, when issuing regulations, agencies should review them to determine whether it would result in a taking of private property; second, strive to reduce takings; and third, have the Attorney General certify that the first and second points have been undertaken. The amendment does not ban takings, it does not mandate a percentage reduction, all it does is to require a review of regulations so we know what we are requiring of our citizens and what we are doing to their constitutional rights.

I am aware that were I to offer my amendment today, a Senator of the other side of the aisle would offer an amendment in the second degree to gut what little there is in S. 177. I am also aware that the head counters and armtwisters have been turned loose on this effort.

Mr. President, this issue is too important to be lost due to whatever erroneous arguments are being used against it. I have decided, with a number of my colleagues, some on the floor—the Senator from Texas, Senator GRAMM, the Senator from Alaska, Senator MURKOWSKI, and a number of others. We decided, therefore, to engage those Americans who believe in the right to own property without having it seized or otherwise taken by the Government without just compensation.

I can tell you the amendment will be offered later this year, once we have had time to explain it. I think a lot of colleagues who have not focused on the amendment, I think once they have a chance to focus on the amendment on both sides of the aisle they will understand.

It is a very important amendment, but it is not that difficult to understand, and the bottom line is it underlies the importance of protecting the American property owner from overzealous Government agencies. I think that is something very important. I tell you it is very important for property owners in my State, the Sate of Kansas.

I would hope that some time later this year at the appropriate time we could have maybe a bipartisan effort. Maybe the amendment will be acceptable to my colleagues on the other side after we have had some time to educate everyone in the Chamber about the importance of this amendment to the American people, not to the bureaucrats, but to the American people.

I am happy to yield to my cosponsor and colleague from the State of Texas, Senator GRAMM.

Mr. President, I ask unanimous consent to have printed in the RECORD a copy of the amendment, so it will be available to other Members.

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

At the appropriate place, insert the following new section:

SEC. . PROTECTION OF PRIVATE PROPERTY.

(a) DEFINITIONS.—As used in this section:

(1) The term "agency" means any executive branch agency, including any military department of the United States Government, any United States Government corporation, any United States Government-controlled corporation, or any other establishment in the Executive Branch of the United States Government.

(2) The term "taking of private property" means an activity with respect to which private property is taken in such manner that compensation to the owner of the property is required by the Fifth Amendment to the Constitution of the United States.

(b) PROTECTION OF PRIVATE PROPERTY.—No regulation promulgated after the date of enactment of this Act by the head of an agency shall become effective until the Attorney General certifies that the issuing agency is in compliance with Executive Order 12630, entitled "Governmental Actions and Interference with Constitutionally Protected Property Rights" (commonly known as the "Takings Executive Order"), as in effect in 1991.

(c) REQUIREMENTS.—The requirements of Executive Order 12630, as in effect in 1991, shall apply to any assessment of the potential for the taking of private property in a Federal regulatory activity. The goal of the application of the requirements shall be to minimize the potential for the taking of private property where possible.

(d) JUDICIAL REVIEW.—(1) A judicial review of an action taken pursuant to this section shall be limited to whether the Attorney General has certified the issuing agency to be in compliance with Executive Order 12630, as in effect in 1991, or similar procedures, and shall be permitted in the same forum and at the same time as the issued regulations are otherwise subject to judicial review.

(2) Only a person adversely affected or aggrieved by an agency action shall have standing to challenge an action referred to paragraph (1) as contrary to this section.

(3) In no event shall a review under this subsection include any claim for which the United States Claims Court has jurisdiction.

(4) Nothing in this subsection shall affect any right to judicial review of agency action available under other law.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, our distinguished Republican leader has brought to the floor of the Senate a very fundamental issue, and the fundamental issue has to do with property rights in America.

Basically, what has happened is that the Constitution has been subverted by the evolution of a new kind of takings, regulatory takings. The courts have been very clear that if the Government comes in and says, "I am going to build a highway across your property and I am going to take a certain amount of it," that they have to provide you due compensation.

The Constitution is very clear on this. It says "* * * nor shall private property be taken for public use without just compensation."

But what has happened in recent years is that a new form of taking has become more common than condemnation. That new form of taking is a regulatory taking.

All over the country under new wetland provisions, whole counties in States like Texas and Maryland have found that the Government has changed the designation of what is a wetland and in the process has dramatically changed a property owner's ability to use their property.

In the Northwest, people have found that because a spotted owl, an endangered species, was nesting in their trees, that there has been a taking because they cannot now cut their trees.

In east Texas, a red-cockaded woodpecker could fly into your woodlands and all of a sudden you are subject to

a potential taking, where the Government can say, "You planted these pine trees, you made an investment in them, but now we are not going to let you cut them."

So what the amendment of the distinguished Senator from Kansas would do is simply say, in setting public policy, that when the Government is going to engage in an activity that might represent a taking, they have to identify that a taking did occur.

Second, since every official in the country, appointed or elected, swears to uphold, protect, and defend the Constitution, that the Government, to the maximum extent possible and practical, should try to minimize takings.

Finally, it seems to me that this amendment is very important because it refocuses attention on the constitutional rights of the American people.

My position, Mr. President, is simply this: If our society decides to protect wetlands, that may be a rational decision. It may be something that is in society's interest. But if the Government enacts a policy change which takes away from farmers the ability to use land which they paid for and have a right to use, and in the process the change in policy takes away productive value from their land, there has been a taking and farmers should be compensated. If we decide, in a society, that we are going to protect the spotted owl, we have a right to do that. We might debate the rationality of it, but clearly we have a right to do that.

What we do not have a right to do, it seems to me, is to say to someone who planted trees to pay to send their grandchildren to college, to come in and say, "Mr. Brown, I have bad news for you. The bad news is you have the spotted owl nesting in your lumber, and you are not going to be able to cut these trees; but it is for society's good."

Mr. President, my view is, if it is for society's benefit, society ought to pay Mr. Brown for the lost economic value that he has suffered as a result of having his property taken.

There is a big legal debate about this issue. The value of the amendment that Senator DOLE is talking about today, that we will offer later this year—and we are going to ask people all over America to join in this debate to protect private property—the value of this amendment is focusing attention back on the takings provision.

I believe very strongly, Mr. President, that if someone's property is taken or limited by Government action, or if their property to any significant extent is diminished in value by a zoning decision, by a wetlands designation, or by an endangered species designation, and that if society decides that the cost is justified—I believe that society should bear that cost and not the property owner who, in essence, has his property taken for a public benefit.

If we have all of these things we want to do as a society, we as a society should pay for it. We should not impose the cost on people who have their property taken.

I think that is clearly unconstitutional, at least in spirit. I hope this amendment will be a first step toward legislatively defining a taking as any Government action that substantially and significantly diminishes the value of property, and that when the Government takes somebody's property, they ought to have to pay for it. I think the American people are for that.

I would have to say in conclusion, Mr. President, I suspect that the Founding Fathers would never have dreamed that such a debate would be occurring in America. I assert that the Founding Fathers, who put private property in front of virtually every other basic right as fundamental to a free society, would never have envisioned that our Government could evolve policy in such a way that we would be taking people's property and not compensating them for that taking.

It is a great paradox of modern America that any two consenting adults can engage in any kind of behavior and have total constitutional protection as long as that behavior does not involve the use of property or the engagement in business or commerce or job creation; however, when people are exercising their economic rights, they are unprotected. I do not think the Founding Fathers would have foreseen that this could happen.

This amendment is a very enlightened amendment. It is a very important first step.

I congratulate our Republican leader for his leadership on this amendment. I am happy to be a cosponsor of this amendment and a faithful follower on it. I want to pledge to our Republican leader that I want to work with him to help every landowner and to help the working men and women of America who see their property rights trampled on every day in their cities and counties and villages. I want to help them have their voices heard against all the special interests who have these grandiose designs to reengineer society at the expense of the people who own property, who till the soil, and who produce the goods and services in our country.

So I congratulate our leader.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, before yielding to the Senator from Wyoming, who has also been a leader in this early, long before the Senator from Kansas became involved in it, I wish to say that I want to thank my former colleague, the former Senator from Idaho, Senator Symms, and Senator CRAIG and Senator KEMPTHORNE from Idaho, who sort of picked up where Senator Symms left off.

This was an idea that Senator Symms had. He worked on it very hard. Since he retired from the Senate, the issue has been taken up by others of us who understand—we hope we understand—the full impact of it.

I again commend my former colleague, Senator Steve Symms.

I am happy to yield 5 minutes to my distinguished colleague from Wyoming.

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

Mr. WALLOP. I thank the Senator from Kansas, and I thank the Chair.

Mr. President, we ought not to be debating this. It ought not to have to occur to us, and yet it is.

All over America, one thing I find taking place is that people are now actively terrified of their Government and its power. The average person cannot afford—cannot afford—to defend his or her right to property. The Federal Government operates at an enormous deficit, and every agency within it is able, through the use of the courts, to contest the average American's right to his property far beyond the capacity of that citizen to defend that right.

This year alone, there are between 100 and 150 takings cases before the Court of Federal Claims. That is up from 69 last year and 52 the year before.

Mr. President, something is desperately wrong when the EPA will go to a person and suggest that they will create a charge of a willful violation if that person seeks to defend a given property right. That has happened in my State.

It has happened with the Corps of Engineers. It has happened around and about, all over this country, where ordinary citizens, thinking they are doing the appropriate thing with their property, believing in their Government and its Constitution, are simply challenged in the right to use their property.

Nobody suggests, least of all the Senator from Wyoming, that the right to use property is without limit. I just do not suggest that. But the problem that we have is that to contest over the amount of the Government's authority to limit the use of property is beyond the reach of Americans. In the Energy Committee today, the nominee to be solicitor of the Department of the Interior is a man whose writings display a very casual, cavalier attitude toward the issue of takings. In my conversations with him, his first concern about the issue of takings was the exposure of the Government. I had hoped to hear that anybody's first concern on the issue of takings was the fairness to the property holder. And that means being extraordinarily sensitive as a government—which this Government and the

one which preceded it, I would say to my friends, that of President Bush, became very, very cavalier about. The power to coerce is complete.

All over this land there are national parks with private in-holdings. There probably is not a State amongst us who does not have some national park that has been authorized by this Congress and yet refused to be funded. The owners of those properties are not allowed to build on their property or to use it in ways which take away from its qualities as parkland, and therefore they cannot sell it to anybody else because they cannot use it for that purpose, or for any other purpose, either. They have the privilege of paying tax on it until this Government and this Congress gets around to paying them.

There is a class action suit against the U.S. Government that is terribly close to ripe, Mr. President. It is probably over 5 billion dollars' worth of property of Americans that this Congress has authorized our Government essentially to take but will not appropriate money to compensate for that taking. This amendment, or one like it, somewhere along the line this year, must pass if Americans are to believe that the fifth amendment to the Constitution is a right which they indeed hold and can be defended against a government which cares less and less every day about how seriously that particular right is viewed.

I will have printed in the RECORD some of the writings that caused my concern today about the nominee for solicitor for the Department of the Interior, and I will also have printed in the RECORD some of the statements of the new Secretary of the Interior which give me pause, as to how committed he may be to the issue of takings of private property. But, above all, if the Government of the United States, Republican or Democratic, does not think first of the property holder, then sooner or later there is no right that can be defended by the average citizens of this country to have and to hold property against a Federal taking.

Mr. President, I ask unanimous consent the material to which I referred be printed at this point in the RECORD.

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

JOHN LESHY QUOTES SOLICITOR NOMINEE FOR DOI

MINING LAW

Reforming the Mining Law: Problems and Prospects, Public Land Law Review, vol. 9, 1988.

"I argued in my book that Mining Law reform is cosmetic if it is wholly prospective; that is, if it does not apply to existing claims. These claims blanket most areas of mineral potential, and abusive or nuisance claims would, if they survived reform, remain as potential roadblocks to mineral development and to sound management of federal lands for other purposes.

"* * * There are any number of ways for these claims to be converted to leases, or even extinguished, without posing problems of unconstitutionally 'taking' private property interests without compensation. A number of modern court decisions * * * make plain that the government's interest in ridding its lands of stale, inactive, nuisance, or abusive claims is generally strong enough to overcome the loss of whatever modest property interests might exist in them.

"Even claims supporting genuine 'discoveries' or active mining operations could be converted to leases and subjected to broader regulation, so long as some opportunity to mine is protected, within relatively broad limits." (pp. 17–18)

"What the constitution protects is the essence of the property right, and in a mining claim, it is only that opportunity to mine in a manner that does not seriously endanger other important values." (p. 18)

"[with regard to oil shale claims] The House * * * has passed such a bill, but it is being held up in the Senate Committee * * * by Wyoming Senator Malcolm Wallop, who relies on the extravagant concern that repeal of the patent provision takes property right." (p. 20)

The Mining Law—A Study in Perpetual Motion, Resources for the Future, 1987.

"Despite the miners' 'property rights' rhetoric, it is plain that Congress may require holders of valid existing claims to convert them to leases or otherwise conform them to the provisions of a reformed hardrock leasing system. If a reasonable period of time is allowed for conversion and the property interest in valid existing claims is not wholly extinguished (even though it may be made subject to substantial new regulation), the constitutionality of such a procedure seems assured." (p. 321)

"This is not to say that existing claims do not deserve careful treatment, both to provide fairness to those who actually have genuine claims and to otherwise comport with constitutional requirements." (p. 322)

"The case for assigning to the claimant the burden of presenting a strong prima facie case showing for the validity of a mining claim is particularly compelling, given the onslaught of environmental regulatory laws in the past few years. * * *

"* * * The imposition of these new regulatory costs should be sufficient, in other words, to place the burden of going forward, as well as the ultimate burden of proof, on the claimant." (pp. 322–324)

NFMA AND FLPMA

Unraveling the Sagebrush Rebellion: Law, Politics and Federal Lands, U.C. Davis law Review, vol. 14, no. 2, Winter 1980.

"Part of the FLPMA's regulatory scheme is designed to achieve environmental restoration and protection on all the public lands and, beyond that, to preserve part of the public lands in their natural condition. This does not go down easily with those who, by experience or cultural inculcation, regard the natural environment as their enemy.

"* * * Increasing competition means increasing regulation * * * Needless to say, such regulations does not please those whose private pursuits re regulated in order that the public's resources may be preserved for use by others, including future generations. It takes a certain maturity or breadth of perspective to appreciate the common good which flows from this kind of regulations." (pp. 345–346)

GENERAL VIEWS OF FEDERAL AUTHORITY

"Sharing Federal Multiple-Use Lands", chap 11 of Rethinking the Federal Lands, Sterling Brubader, ed, Resources for the Future, 1984.

"The continued existence of sovereign power to regulate uses of purely private land suggests that there need be no real concern over removing multiple-use lands from federal ownership. If it turns out, for example, that wildlife or esthetic values are downgraded when a tract of national forest land is sold to a timber company, then the federal government need only enact legislation to provide protection for such values on those lands. The fact that restrictive federal regulation comes after unrestricted transfer should not limit its effectiveness."

[Comparing federal authority over private lands with federal lands] "Although the latter is essentially without limitations, the former is restricted, at least formally, by such constitutional requirements as assuring a connection to interstate commerce and, under the Tenth Amendment, the integrity of state governments." (p. 240)

Litigation and Forest Policy, a Colloquy on the Role of the Judiciary, Journal of Forestry, July 1977.

"I don't think its unethical to bring a lawsuit for purposes of delay, so long as the lawsuit is grounded in some basis of law." (p. 415)

The PRESIDING OFFICER. The Senator from Ohio, under the previous order, is recognized for a period not to exceed 15 minutes.

Mr. GLENN. Mr. President, I yield 10 minutes to the distinguished Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana is recognized for 10 minutes.

Mr. BAUCUS. Mr. President, I listened with great interest to the statement of the distinguished Republican leader as well as the statements of the Senators from Wyoming and Texas. One of the strengths of our country has been the protection of private property rights. A fact that I think distinguishes this country from every other country is the degree to which we Americans protect private property rights. It is enshrined in the Constitution. It is an issue that each Senator takes very seriously. After all, each of us swears to uphold the Constitution of the United States when we take our oath of office. It is an issue that Democrats and Republicans take seriously.

The Senator from Kansas has introduced a bill, S. 177, that deals with this issue. While he is not going to offer it as an amendment today to the EPA evaluation bill, it is fair to say this is an issue that will be revisited.

Mr. President, this debate is not a debate about private property rights. After all, we are all very much in favor of private property rights. Rather, because of the way the Senator's bill is worded, it is a debate about politics, about tying the President's hands, and about denying him the opportunity to put his own program in place.

Why this debate is not about private property rights? The takings clause of the fifth amendment provides that private property may not be taken for public use without just compensation. That is the fifth amendment. Just last year, in the Lucas decision, the Su-

preme Court strongly reaffirmed that the takings clause applies to Government regulations.

We heard earlier the Senator from Texas wondering about the application of the takings clause, saying that historically it applied to highway condemnation and other obvious takings like that.

But now he alleges that the U.S. Government through regulations is, in effect, taking private property without just compensation. But let me repeat, just last year in the Lucas decision, a South Carolina case, the Supreme Court strongly reaffirmed that the takings clause does apply to Government regulations.

So if a Government regulation deprives someone of the use of their property, that person can then bring a claim for compensation. Obviously, the courts must review claims carefully because takings law is very complex. The scenario develops incrementally through case-by-case decisions. If anyone disputes them, I urge them to go back and read the Supreme Court cases on takings. They are very complex. The circumstances around each taking issue is usually different from the other. There is no absolute definition that automatically determines what is and what is not a taking.

Courts certainly do review takings claims. There are currently 156 takings claims pending in the Court of Claims.

The basic point is clear: In writing the takings clause in the fifth amendment of the U.S. Constitution, James Madison protected private property rights. That was the intent of the provision. That is what it does. We do not need to try to improve upon his work today or certainly under the formulation of S. 177. It sounds good, sounds like the way to help protect private property, but if one begins to look more deeply, more clearly at the actual language of the bill and begins to think through its consequences, one will begin to realize it will probably cause more harm than good.

It looks good on its surface, just as last year's amendment on this subject made surface sense. That was the amendment offered by the Senator from Idaho, Senator Symms. The Senate adopted that amendment. But, in fact, S. 177 is very different from the Symms amendment. It is also much worse.

The key difference is that S. 177 freezes into place a 1988 Executive order, an Executive order promulgated by another President. S. 177 freezes that Executive order by law into place.

That means our new President cannot review it. He cannot modify it. He cannot adopt it to changed circumstances. He is stuck with it. That is unprecedented. I am not aware of any instance in which the Congress has codified, that is, enacted into law, an Executive order, particularly of a previous President. It has never happened before.

Oh, you might ask, so what? What is the big deal? It is simply this: Bill Clinton won the election. He is the President, the Chief Executive, the person responsible for running the executive branch of our Government. Let us give him a chance to do his job.

The 1988 executive order was very controversial. Some commentators believe it was an ideological hatchet job. The Congressional Research Service concluded that the Executive order overestimates the likelihood of a taking. The Congressional Research Service also concludes that Executive order fails to consider many factors relevant to a taking and imposes unjustified demands on Government agencies acting to protect public health and safety.

Now the new administration is reviewing the executive order. Let us give the new administration some time, time to determine whether to apply the same theory of takings, time to determine whether new circumstances justify changes and time to integrate takings considerations with the administration's regulatory review effort.

In fact, the administration says that S. 177 "would greatly hamper the administration's ability to fashion its own approach to regulatory review and instead force us to adhere chapter and verse to a key element of the last administration's regulatory review program."

Attorney General Reno has written that the amendment "represents an unnecessary incursion upon the executive authority of the President and accordingly should not be adopted."

Why is that important? Why is the statement by the Attorney General saying that it should not be adopted so important? Very simply, because the bill designates the Attorney General as the arbiter to ride herd on all Government agencies' rules and regulations that have anything to do with takings. And almost by definition any regulation would have something to do with a potential taking. Our Attorney General does not want that. Our Attorney General says that that bill should not be adopted.

In addition, by codifying the previous administration's Executive order, S. 177 would create judicial and administrative chaos. If this bill were to become law, we would have two versions of the takings clause. One would be the version of James Madison, Oliver Wendell Holmes, and the long line of distinguished jurists who have interpreted the takings clause in scores of Supreme Court decisions and hundreds of lower court rulings.

The other would be the version of a gaggle of faceless bureaucrats in the Reagan Justice Department whose work S. 177 would elevate and enact it into law.

If there is a conflict between the two, whose version applies? The version of Madison and Holmes, evolving through careful case-by-case judicial decisions, or the version of the Reagan Justice Department?

There is another issue. We may be overriding many environmental and other laws without careful consideration. Currently the various legal standards established in executive orders do not override any statutes. As a legal matter, an Executive order cannot override a statute.

The PRESIDING OFFICER. The Senator's 10 minutes has expired.

Mr. BAUCUS. Mr. President, I ask unanimous consent that I might have 5 more minutes. As I understand, the minority leader was willing to yield back some time to this side because they had 30 minutes and we had 15.

Mr. GLENN. Senator DOLE indicated he would be glad to give us some time if we needed some.

Mr. COHEN. Yes.

The PRESIDING OFFICER. The Senator from Montana is recognized for an additional 5 minutes, of the minority's time.

Mr. BAUCUS. Mr. President, I thank the Senator. Remember I said earlier, Mr. President, under current law, as a legal matter, an Executive order cannot override a statute. Again, the 1988 Executive order is currently in existence, but the Executive order itself cannot override a statute.

But S. 177 provides expressly the entire text of the Executive order "is hereby incorporated by reference and enacted into public law." It codifies and makes a statute a previous Executive order which Congress has never done before.

This could have a significant effect on other laws. For example, the Executive order provides that any Federal action to protect public health or safety which has arguable takings implications may only be undertaken in response to a "real and substantial threat" and must be no greater than is necessary to achieve the health and safety purpose and must not impose restrictions that are disproportionate to public health or safety risks.

(Mrs. MURRAY assumed the chair.)

Mr. BAUCUS. Madam President, those are fine words, but what do they mean and how do they square with other statutes, not Executive orders, but other statutes that apply different health and safety standards? What about section 6(a) of the Toxic Substances Control Act? It requires the administrator to act to protect the public against toxic substances that "present an unreasonable risk or injury to health or the environment."

What about section 3004 of the Resource Conservation Recovery Act?

It provides that the administrator must issue such regulations providing for hazardous waste facilities as may

be necessary to protect human health or the environment.

What about section 104 Superfund? It authorizes the President to act whenever there is release of a hazardous substance into the environment.

The point is this: These important provisions were enacted after months, in some cases after years, of careful consideration and compromise. How does the amendment square with our health standards and our environmental laws. Does it replace them? If so, are we prepared to do that total replacement in one fell swoop?

Madam President, I understand that many of us want to provide protection for private property rights. I certainly do. But in doing so, we should not provide less protection for human health and safety. Both private property rights and public health and safety are important and both need protection.

Madam President, I understand many Senators want to go on record to support the private property rights. We all want to. It is the basis of our Constitution. But S. 177 is unnecessary. The Constitution already protects private property rights and the courts enforce it. Moreover, the bill goes way beyond last year's Symms amendment. It ties the President's hands. The Symms amendment did not. It will create judicial and administrative chaos. The Symms amendment did not. And such chaos is not in the interest of property owners, nor in the interest of protection of public health and safety. Though well intentioned S. 177 is not a path that Congress should travel.

Mr. FORD. Madam President, do we have time? Could I have a couple of minutes?

Mr. GLENN. We have 5 minutes left.

The PRESIDING OFFICER. That is correct.

Mr. GLENN. Two minutes.

Mr. FORD. Madam President, I thank the floor manager. I want to just draw the attention of my colleagues to a statement that was made by the distinguished Senator from Wyoming a few months ago. He stood on this floor and admitted previous administrations—at least the Bush administration—had been cavalier in the takings.

I am one who voted for the Symms amendment. I supported the Symms amendment on takings. I am 1 of the 55, I think, that voted for it the last time. This is not the Symms amendment. I want to agree with my distinguished friend from Montana. But also, the Senator from Texas when he said now we have a form of taking. We have had the wetlands. All of these things are bad. When did they start and how did we get them?

Now we find the other side getting up, shaking their fists, and saying we are not going to allow them to trample on the property rights of the working men and women of this country. Yet the Senator from Wyoming says they were cavalier about taking. What has happened here in the 100 days? It seems that this administration is responsible for all of this.

Now we hear the other side coming with all of these amendments saying how bad they were, they want to get them changed. Or, they want the support of this President on the North American Free-Trade Agreement. They want to go to aid for Russia—all those things that were approved under the previous administration, except domestic.

I just want to compliment the Senator from Wyoming for making the point that the previous administrations were cavalier and part of the problem is theirs, and now they are trying to correct their own problems they created.

Mr. GLENN. Madam President, I yield myself such time as may be required.

Madam President, we all agree that we need a lot of additional work on this whole takings problem. I am the first to agree with that. I think a lot of times we implement rules and regulations that have untoward efforts out there. We do not know what they are going to do. We pass something in the interest of whatever group it is, and we think we are helping in this country. It needs help. And yet the impact on that when you get down to the user out there is quite different than we intended here.

So we have to be very careful in this area of regulatory takings, as it is called. This is not the usual takings where we are using the right to eminent domain to take over property or something like that, a takings in the traditional sense of the word. It is a takings, in effect, that comes from something dealing with safety and health or whatever, the impacts on a business, and, in effect, reduces the benefit, reduces the overall value of that property.

That is what we are talking about here. The courts have moved on in this area quite a lot in the last decade or so. In fact, the Executive order that was put out by President Reagan was signed March 15, 1988. So we have had an Executive order out there since this time in 1988, March 15.

This amendment—which I am very glad the distinguished minority leader did not choose to go ahead and put in and bring to a vote right now—what it basically does is to take that Executive order and make it the law of the land. It codifies it. It would lock it in so there could be no change by the current administration or other administrations on down the line unless we change the law here on Capitol Hill.

That was Executive Order No. 12630. It said that each agency of Government, in considering this area of takings, would get its plan into place for that particular agency and get the Attorney General to approve it. When the Attorney General approved it, then that would let the plan be in operation for that particular agency to go ahead through the normal process which is required by Executive Order No. 12291, in which proposed rules and regulations are submitted to the Office of Management and Budget for review.

OMB, in that case, does a cost-benefit analysis. They do a cost-benefit analysis now. That is what is required of them. So what we really need in this, it seems to my mind, is a simple solution. It would be for OMB to include this cost to individuals in their deliberations right now, whether we pass this Executive order or whether we codify this Executive order or not.

Will the Senator yield 5 minutes on the other side?

Mr. ROTH. I yield 5 minutes.

Mr. GLENN. Madam President, what we need is to simplify this and let OMB include their cost to individuals in their analysis that they do right now, and it seems to me that would take care of the whole process.

What is going on in the meantime is, the Vice President has been commissioned by the President to look into this whole area of regulatory review. We have letters here, which I would like to ask unanimous consent to have printed in the RECORD: A letter from the Attorney General of the United States and also from the Vice President of the United States indicating their objection to this approach and asking that they be permitted, the Vice President in particular, to go ahead and conclude his whole review of the regulatory review process and what changes may be made in OMB and to consider this specific item; this specific area of takings that was covered by the Executive order and which would have proposed what Senator DOLE would have proposed had he submitted his amendment for a vote, would have proposed codifying into law.

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

OFFICE OF THE VICE PRESIDENT,
Washington, April 26, 1993.

Hon. JOHN GLENN,
U.S. Senate, Washington, DC.

DEAR JOHN: I appreciate your asking for my views on how the so-called "takings" amendment (to the EPA elevation bill) might affect regulatory review in the Clinton-Gore Administration.

I feel strongly, as you know, that this amendment should not be adopted, precisely because, among other things, it would greatly hamper the Administration's ability to fashion its own approach to regulatory review and, instead, force us to adhere chapter and verse to a key element of the last administration's regulatory review program.

As you know, the President has asked me to coordinate the Administration's study of the regulatory review process and to make recommendations to him for regulatory review reform. For over two months, I have been reaching out to interested business and

public interest groups and Congressional leaders like yourself, working with the policy councils within the White House, and consulting with over 150 agency economists and lawyers. I will be making recommendations to the President in the next four to six weeks and hope that he will be able to begin implementing changes in this area soon thereafter.

In formulating these changes, I would hope that our hand would not be forced. We are considering every aspect of regulatory review, including how to treat the outstanding executive order on "takings." We strongly urge that any amendment to codify that order or otherwise to preempt the administration's review be rejected.

Thank you for your consideration.

Sincerely,

ALBERT GORE, Jr.

OFFICE OF THE ATTORNEY GENERAL,
Washington, DC, April 26, 1993.

Hon. JOHN GLENN,
U.S. Senate, Washington, DC.

DEAR SENATOR GLENN: I am writing to express the Administration's concern about S. 177, legislation that would codify Executive Order 12630 issued by President Reagan in 1988. It is my understanding that an amendment to this effect may be offered when the Senate considers your bill to elevate the Environmental Protection Agency to Cabinet Department status.

This legislation would require federal agencies to engage in an additional, elaborate process of review of proposed regulations. It would prohibit any regulation from becoming effective until the Attorney General has certified that the agency is in compliance with the terms of the Executive Order "as in effect in 1991."

This Administration is, of course, committed to protecting the legitimate property rights of American citizens. We believe, however, that freezing this Executive Order into law would be unwise. Codifying the Order as it stood in 1991 would prevent this and any future administrations from revising the Order to make it consistent with interpretations of the law governing takings, as enunciated by the Supreme Court. Finally, the legislation would create a private right of action that would extend beyond that now available under the Fifth Amendment to the Constitution.

I respectfully suggest that this legislation represents an unnecessary incursion upon the executive authority of the President and, accordingly, should not be adopted. Thank you for your consideration of this important issue.

Sincerely,

JANET RENO.

Mr. GLENN. I am glad that he did not do that today. I think this is something we need to address. It is a problem. I agree with him. I agree with the other statements on the other side of the aisle about the problem that this poses for us for the whole Nation, and something I believe we have to act upon.

I am glad that we are going to have a discussion on this later in the year because I think it is something we really should be addressing.

So, Madam President, since this is not going to be brought to a vote, I yield the remainder of the time I was given by Senator COHEN.

The PRESIDING OFFICER. The Senator from Kansas has 4 minutes remaining.

Mrs. BOXER. Mr. President, I rise in opposition to the amendment offered by my colleague, Senator DOLE.

We in the Congress are justifiably proud of the environmental progress that has been made over the past two decades.

While much remains to be done, it is clear that our air is cleaner, our rivers and oceans less polluted than they were in the early 1970's. There can be little doubt that our land and water are far less polluted than they would be if the Congress had failed to pass landmark environmental legislation such as the Clean Air Act, the Clean Water Act and the Safe Drinking Water Act.

There are not many Senators who would express opposition to those pieces of legislation.

Yet here we are today debating a proposal that would undermine existing environmental law and seriously weaken our ability to respond to current and future environmental problems.

In the guise of protecting private property rights, the Dole amendment would impede important regulations that are necessary to protect not only the environment, but worker safety and public health. This amendment purports to advance the rights of individual property owners, without regard to the rights of others or the community at large. It would divert resources from other important duties of the regulatory agencies and lead to unnecessary delays and litigation.

Mr. President, I am pleased that no vote will be taken on this amendment today, and strongly urge my colleagues to reject this approach should it be offered in the future.

Mr. GLENN. Madam President, what is the parliamentary situation now?

The PRESIDING OFFICER. Under the previous order, the question will now occur on the motion to table amendment No. 341 offered by the Senator from Montana [Mr. BAUCUS].

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. BUMPERS], the Senator from Georgia [Mr. NUNN], and the Senator from Rhode Island [Mr. PELL] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Indiana [Mr. LUGAR], the Senator from Alaska [Mr. STEVENS], and the Senator from Virginia [Mr. WARNER] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 40, nays 54, as follows:

[Rollcall Vote No. 113 Leg.]

YEAS—40

Bennett	Faircloth	McCain
Bond	Gorton	McConnell
Boren	Gramm	Murkowski
Brown	Grassley	Nickles
Burns	Hatch	Packwood
Coats	Heflin	Pressler
Cochran	Helms	Roth
Conrad	Johnston	Sasser
Coverdell	Kassebaum	Shelby
Craig	Kempthorne	Simpson
Danforth	Krueger	Thurmond
Dole	Lott	Wallop
Domenici	Mack	
Dorgan	Mathews	

NAYS—54

Akaka	Feingold	Lieberman
Baucus	Feinstein	Metzenbaum
Biden	Ford	Mikulski
Bingaman	Glenn	Mitchell
Boxer	Graham	Moseley-Braun
Bradley	Gregg	Moynihan
Breaux	Harkin	Murray
Bryan	Hatfield	Pryor
Byrd	Hollings	Reid
Campbell	Inouye	Riegle
Chafee	Jeffords	Robb
Cohen	Kennedy	Rockefeller
D'Amato	Kerrey	Sarbanes
Daschle	Kerry	Simon
DeConcini	Kohl	Smith
Dodd	Lautenberg	Specter
Durenberger	Leahy	Wellstone
Exon	Levin	Wofford

NOT VOTING—6

Bumpers	Nunn	Stevens
Lugar	Pell	Warner

So the motion to lay on the table the amendment (No. 341) was rejected.

Mr. GLENN. Madam President, I move to reconsider the vote by which the motion was rejected.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GLENN. Madam President, may we have order in the Senate, please?

The PRESIDING OFFICER. The Senate will be in order.

(Later the following occurred:)

Mr. GRASSLEY. Madam President, I ask unanimous consent that my vote on rollcall vote 113 on the motion to table the Baucus amendment be changed from "nay" to "yea."

I was not aware that it was a motion to table as opposed to up or down. This request has been cleared with the two leaders and will not affect the outcome of the vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

The PRESIDING OFFICER. The question now occurs on agreeing to amendment No. 341.

The amendment (No. 341) was agreed to.

Mr. GLENN. Madam President, what is the parliamentary situation? Do we move to final passage now?

The PRESIDING OFFICER. The question now occurs on agreeing to amendment No. 340, offered by the Senator from Missouri.

The yeas and nays have been ordered.

Mr. BOND. Madam President, I ask unanimous consent that the call for a rollcall vote be vitiated.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The question now occurs on agreeing to amendment No. 340.

Mr. GLENN. I ask that the amendment be agreed to.

The amendment (No. 340) was agreed to.

Mr. SIMPSON. Madam President, I come to the floor today knowing full well that not many Senators are going to vote against this measure. But I do want to speak against the proposal to elevate the Environmental Protection Agency to a Cabinet-level department. I feel that this is neither a necessary nor a prudent move, and I did oppose the creation of the Department of Veterans Affairs as well.

At the outset, let me point out the fact that my opposition to this bill is in no way an indication that I am somehow antienvironment. This is always the peril that you run into when you decide to go against the conventional wisdom that we need a new Cabinet post to protect this group or that. Yet, I did, in fact, devote the better part of a decade, along with the majority leader and later President Bush, to hammer out a clean air act that will not only make our air cleaner, but will do it in such a way that will preserve our Nation's productivity and competitiveness. We just observed Earth Day, and there is no better time than today to remember the Democrats and Republicans alike who fought long and hard for the Clean Air Act, Superfund, the Clean Water Act and other monumental environmental accomplishments. I am proud to have been a part of all that.

Some of the supporters of the bill we are considering today have, and will, argue again that somehow the environment is being neglected or overlooked or ignored in the overall scheme—and nothing could be further from the truth. In budgetary matters, the EPA is very well looked after by this Congress. The President has budgeted the EPA at $6.7 billion—the largest EPA budget ever. We all can agree that environmental protection deserves our support—and it does get it. That should not even be part of this debate.

Let us make no mistake why we are engaging in this exercise at this very moment. There is one reason and one reason alone—good old politics—the creation of a new Cabinet is really a symbolic gesture. That is the only reason to do what the Senate is about to do. As a matter of fact, if, indeed, we must prove our commitment to the environment, then certainly we are simultaneously saying we think less of every other constituency group in the United States. How about a Cabinet post for small business? Do we care less about small business? We keep talking about our concern for small businesses in this country. How about a Cabinet post for minorities? For senior citizens? For the kids?

As the ranking member on the Veterans' Affairs Committee I voted against elevating the VA to a Cabinet-level status. Not because I am antiveteran—I am a lifetime member of the Veterans of Foreign Wars and a member of the American Legion. I am also a member of AMVETS where I was honored and privileged to have received their highest award, "The Silver Helmet." So I really do not need to have my credentials checked whether it be veterans affairs—or environmental protection.

My earnest concern about the environment has been well proven, and I certainly do not need this opportunity to support bad government in order to convey that commitment to a number of particular interest groups. Every once in a while it would do us well to restrain our political appetites by voting responsibly, and I would certainly hope that we might do that today by rejecting this ill-conceived measure.

Mr. ROTH. Madam President, I wish to compliment the chairman for his leadership on the EPA elevation legislation. As I stated nearly 2 weeks ago, when we began consideration of the bill, the President's Cabinet is already rather large. The Cabinet should be reorganized as part of a top-to-bottom restructuring of the executive branch. I have introduced legislation, S. 15, to accomplish that and believe and hope that the Committee on Governmental Affairs will soon be acting on such legislation.

In the meantime, however, it is important and appropriate to point out that no matter what is in store for future restructuring, the environment ranks very high in our Nation's values and should be represented with Cabinet-level status.

The lengthy debate and the multitude of amendments to the bill have reinforced my original belief that the administration and the committee should have opted for a clean bill strategy. While that suggestion was rejected, I still hold firm in my support of EPA's elevation.

It is important to elevate EPA both for domestic policy and international purposes. Domestically, elevation will ensure that environmental regulations and considerations will have an advocate of equal stature to those favoring competing values.

Internationally, elevation will enable America to send officials of the highest rank to negotiate agreements with foreign nations on environmental matters. Such agreement will be of growing importance in the years to come as we seek to compete with trading partners who have lower environmental standards. Upgrading these standards will be one of the major assignments of the Secretary of the Department of Environmental Protection.

In closing, I observe that most of the debate during the past 2 weeks has focused on the end fact of burdensome regulations. This is a subject squarely within the jurisdiction of the Committee on Governmental Affairs. And in passing the elevation legislation, we have hardly seen the last of this issue; it is a vexing issue that troubles the American people.

It is my hope that the committee will address the question of regulatory burden in the very near future and report to the Senate legislation that will allow us to achieve our national goals with a minimum of regulatory burden.

Madam President, I yield the remainder of my time.

Mr. DANFORTH. Madam President, I rise to explain why I am opposing the Department of the Environment Act of 1993.

I believe strongly in the importance of environmental protection. Protecting our Nation's rivers and streams, ensuring safe drinking water and clean air, and enforcing many of the other laws for which the Environmental Protection Agency is responsible are important missions for the Federal Government.

At the same time, I am very concerned about growth in Government and the message we are sending by creating yet another Cabinet department. Mr. President, we have 14 Cabinet departments. Three have been created in the last 16 years. History shows that Cabinet departments grow after they have been created. Outlays for the Department of Housing and Urban Development were $2.5 billion in 1966, the year after it was created. In 1992, outlays were $24.5 billion. In constant dollars, that is more than a 200-percent increase. The Department of Energy, created in 1977, spent $5.3 billion in its first year of operation. In 1992, it spent $15.5 billion, an increase in constant dollars of one-third.

Calling an agency a Cabinet department does not, by itself, increase its size. Congress and the President do that by passing laws and promulgating regulations. However, the act of elevating an agency to a Cabinet department sends the wrong signals. It sends the signal that we are not very concerned about the regulatory burden our businesses face, and that we are not very serious about cutting the budget deficit. President Clinton has promised to reinvent Government, and has signed an executive order which calls for reductions in employment in the executive branch of 1 percent in 1993, 2.5 percent in 1994, and 4 percent in 1995. I look forward to working with the President on this endeavor. I do not believe that creating a new Cabinet department is consistent with this goal. As a result, I am voting against this measure.

Mr. DURENBERGER. Madam President, I rise today to support final passage of this legislation to make the Environmental Protection Agency a Cabinet department. I want to commend the distinguished chairman of the Governmental Affairs Committee, Senator GLENN, and the ranking Republican member, Senator ROTH, for their tireless efforts on behalf of this bill.

Over the past 5 years I have many times urged the Senate to take this step.

I first introduced a bill to elevate EPA to Cabinet status on June 28, 1988. I was joined on that bill by several Republican colleagues including Senator JOHN CHAFEE, the ranking Republican member of the Environment and Public Works Committee which has the principal oversight role on EPA programs here in the Senate.

Also on that bill was Senator RICHARD LUGAR, the ranking Republican member of the Agriculture Committee which has jurisdiction over the pesticide programs administered by EPA. Other Republican Senators, including Senator ROTH, Senator Robert Stafford and Senator John Heinz, joined on that bill. All of the cosponsors were Republican Senators.

Our purpose was to send a message to George Bush about the environment. We were in the midst of a Presidential campaign in June 1988. But at that date serious debate on the environmental issues had not begun. We thought George Bush should be talking about environmental issues and we believed that a proposal to elevate EPA to Cabinet rank would be a good way to get the discussion going. In addition several of the cosponsors were running for reelection to the Senate and it was a way to signal that environmental issues were important to us.

When the 101st Congress convened in January 1989, I introduced the EPA Cabinet bill a second time. By then the effort had become bipartisan. Congressman Jim Florio, now the Governor of New Jersey, introduced the bill on the House side, and on the Senate side, the distinguished Senator from New Jersey, Senator LAUTENBERG, became the principal cosponsor. S. 276 had 25 Senate cosponsors when it was introduced in January 1989.

In January of 1990, President Bush gave the nod to a Department of the Environment and Senator GLENN introduced his bill, S. 2006. A companion bill was introduced on the House side by Representative JOHN CONYERS, chairman of the House Government Operations Committee.

Upon securing the endorsement of the President, I had expected the legislative path for this bill would be clear and enactment would follow shortly. Elevating an existing agency to departmental status is a simple proposition. There was strong bipartisan support for the bill. The chairmen of the committees with jurisdiction took up the issue and introduced their own bills. So, it seemed that Cabinet status might be enacted quickly.

But as sometimes happens, the legislation was loaded down with amendments in the House and the Senate that were controversial and on which there was strong disagreement. Those controversies killed the bill in the 101st Congress.

In the 102d, Senator GLENN again introduced a bill and reported it promptly for consideration in the Senate. Although the bill passed the Senate late in the first session and was sent to the House, it failed to get consideration in that body. Although there was broad support for the policy decision, there was unexplained inertia in the legislative process.

Although the legislative hurdles have been difficult, the underlying proposal is simple. This bill takes what is now an executive branch agency created by President Nixon in 1970 and makes it a Cabinet department headed by a Secretary of the Environment.

The principal benefit to be gained by putting EPA at the Cabinet table is to involve the President directly in setting environmental policies.

President Bush and Bill Reilly worked together and made environmental protection one of the previous administration's highest priorities. Their work to produce the Clean Air Act Amendments of 1990 is an example of why the President should be involved in these questions. By all accounts, it was the President's decision to support clean air legislation that broke a 10-year deadlock here in the Congress on the issue of acid rain and allowed a comprehensive reauthorization of the Clean Air Act to become law.

One might conclude from this example that Presidents can choose to involve themselves on environmental issues without EPA in the Cabinet. That is true. But we can go beyond the example set by one President by establishing that commitment as an institutional arrangement which assures access and involvement by every President in the future.

A second concern is the relationship between the Environmental Agency and the other Cabinet departments. Unfortunately, some of our worst polluters and agencies and departments of the U.S. Government. We have big problems with hazardous wastes sites at Defense and Energy facilities. It may cost DOE as much as $30 billion to come into compliance with environmental laws at its currently operating facilities and many times that amount to cleanup the residue of previous activities.

EPA needs to be on an equal footing with those departments as the cleanup efforts at Federal facilities are designed and carried out.

There is a third dimension of the relationship issue which can be cited in support of this legislation. Environmental protection is a growing aspect of our international relations. We will increasingly see agreements like that recently signed to protect the ozone layer which reflect an international commitment to solve global environmental problems. Many of our most difficult environmental problems—air pollution, global warming, and marine protection—can only be dealt with in an international context.

We are encouraged by the strong role that the United States took in developing the ozone protocol. Although we have fallen behind the aggressive posture of some other nations on the larger question of global warming, Cabinet rank for EPA may be just the kind of signal which is needed to bring the whole of the executive branch into serious consideration of policies that can avert the calamity that current trends foreshadow. And surely our voice in the international arena will be stronger if it is the voice of a Cabinet Secretary with direct access to the President.

On this point it is interesting to note that environmental protection is a cabinet function in almost every developed and many developing nations. Ministries of the Environment are to be found in Australia, Austria, Belgium, Canada, Denmark, Finland, West Germany, India, Ireland, Japan, Luxembourg, Malaysia, Mexico, Netherlands, New Zealand, Norway, the Philippines, Poland, Sweden, Switzerland, the United Kingdom, and the U.S.S.R. Among the OECD nations we stand with Italy as one of the few who have not made environmental protection a ministerial function.

A review of the cabinets of the American States would demonstrate the same point. In governments in many places and under many different circumstances, environmental protection is accorded the highest rank in the councils which make and implement policy.

Madam President, there is a provision of this bill that I believe is ill-advised. Section 112 of the bill abolishes the Council on Environmental Quality and transfers its functions, principally oversight of the National Environmental Policy Act, to the new Department of the Environment.

Some try to justify the abolition of the CEQ by saying that it will improve environmental policy. At the time he announced abolition of CEQ, President Clinton also indicated that he was establishing a White House Office of Environmental Policy to be headed by a deputy assistant to the President for environmental affairs. It was claimed that this new Office would be much better able to direct the administration's environmental work than CEQ. But a deputy assistant to the President for environmental policy is not a new

position. President Bush had one. And President Bush had CEQ, too. It is hard to see how the policymaking process will be improved by this step.

In addition to its role coordinating environmental policy among the Federal departments and agencies, CEQ is also charged with assuring faithful implementation of the National Environmental Policy Act. This is the law that requires preparation of an environmental impact statement, an EIS, for each Federal action that may have a significant affect on environmental quality. CEQ is there to assure that each agency lives up to the NEPA mandate.

President Clinton proposes to transfer this function to the new Department of the Environment. That is troublesome, partly because EPA has a less than commendable record in fulfilling its own NEPA obligations and partly because the Department of Environment will not have the broad policy perspective that CEQ brought to the table. An EIS is intended to assure that all values and interests are balanced. CEQ could perform that balancing function; it is not part of the mission of the new Department.

Madam President, abolition of CEQ is a mistake. But I will nevertheless support this bill to make EPA a Cabinet department.

Elevation of EPA to Cabinet rank has broad public support. It is endorsed by all of the major environmental organizations. All of the previous EPA administrators are in favor of Cabinet status and urge us to adopt this bill. President Clinton is in support of the bill as was his Republican predecessor.

Madam President, it is time to elevate the environmental function of the National Government to Cabinet rank.

Mr. GRAHAM. Madam President, I join my colleagues in support of the second-degree amendment by Senators BAUCUS and GLENN to the amendment offered by Senators BOND and MCCONNELL.

As Senator BAUCUS has stated, I have been chairman of the Clean Water, Fisheries and Wildlife Subcommittee of the Committee on Environment and Public Works for just 3 months. Working with Senator BAUCUS, I have pledged to work quickly to schedule hearings on the reauthorization of the Clean Water Act this summer. We are acting quickly so that we can bring a bill to this floor by the end of the year.

We will be conducting hearings on several issues as part of this important review of the Clean Water Act. This review will include wetlands issues and the very concerns expressed by those who support the Bond amendment. Issues as complex as wetlands delineation on agricultural land should proceed through the committee process. So should any proposal to so significantly impact the regulation of wetlands under the Clean Water Act. The subcommittee can take testimony from all affected parties and bring to this floor a proposal that reflects the best public policy based on full and fair consideration in committee.

That series of hearings will begin in June, just 6 weeks from now.

Madam President, the study called for in the Baucus-Glenn amendment fits perfectly into the schedule we have adopted for consideration of these issues in our committee. For these reasons, I urge my colleagues to support the Baucus-Glenn amendment.

Mr. KERREY. Madam President, I rise today in opposition to S. 171, to establish the U.S. Department of the Environment.

Before we say "yes" to the creation of a new Federal Cabinet position we need to say "yes" to the destruction of a few. Taxpaying citizens are constantly treated to speeches about tough choices and the need to say "no" to special interests. Well, Madam President this legislation is a good place to begin.

Making an observation about changes in baseball, Yogi Berra once said "if Casey Stengel were alive today he would roll over in his grave." The same could be said of our Founding Fathers, Thomas Jefferson, Thomas Paine, and James Madison, who placed great hope in our capacity to keep the size and price of the Federal Government within the reach of our customers. Thomas Jefferson was the most outspoken often stating his support for "a Government rigorously frugal and simple." In an 1824 letter to William Ludlow, Jefferson wrote:

> I think, myself, that we have more machinery of government than is necessary, too many parasites living on the labor of the industrious. I believe it might be much simplified to the relief of those who maintain it.

My opposition to elevating the Environmental Protection Agency to Cabinet level is not a reflection of my views on protecting the environment. Enactment and enforcement of strong, sensible environmental laws is critically important. My opposition reflects my strong will to restructure Government; to streamline the growing bureaucracy, thus enabling our Government to effectively serve its customers, the American people. This effort is not helped by the establishment of another Cabinet department.

On February 24, I introduced the Federal Streamlining and Efficiency Act of 1993 with my colleague from Connecticut, Senator LIEBERMAN. The central message of the Federal Streamlining and Efficiency Act is that Government should do more with less. And the only way to accomplish that goal is to make Government more efficient; to cut wasteful spending and restructure and rethink the way in which Government relates to the people it is supposed to serve.

There is a great deal of support for the restructuring of Government. Besides the legislation introduced by Senator LIEBERMAN and myself, three other major restructuring proposals have been introduced in the Senate. In September, we expect to receive the results from the President's National Performance Review chaired by the Vice President.

In view of all these proposals, the Clinton administration and Senators advocating an overhaul of Government agreed last month to work together to make Government more responsible to the people. The message from Capitol Hill last month signaled to the American people that we are serious about making the long-term structural changes needed to put our Government on the right track. Government is simply too big and inefficient and something must be done.

So what does Congress do? We make our problem bigger by proposing to establish another department in the bureaucracy before any comprehensive reform is taken. A vote for the elevation of the Environmental Protection Agency, or any agency for that matter, to Cabinet level status is a step in the wrong direction. It indicates to the American people that we in Congress say one thing, and then turn around and do another. Instead, we must demonstrate to the American people that we are serious about restructuring and making Government work better for them. At this time, we should be concentrating our efforts on cutting back, not expanding Government.

Our objective ought to be to protect the majority and make the Government accountable in their eyes. When asked about Government restructuring, the majority of Americans will roll their eyes and tell you that it is not possible. With our actions today, there can be no wonder why they feel this way.

The following are some examples which illustrate that taxpayers are not getting their money's worth and makes the case for restructuring of functions rather than simply elevating the agency to a Cabinet department.

There exist several EPA regulations that are created with good intentions, but through implementation, become very burdensome and illogically connected to their original purpose. Just last week, I received a call from the mayor of Fairfield, NE. Fairfield is a town of 450. The mayor informed my office that because of regulations resulting from the 1986 amendments to the Safe Drinking Water Act, his town's water costs will increase from $915 in 1993 to $7,270 in 1995. This is a 700-percent increase. By November of this year, small communities will be required to monitor for 84 contaminants and by 1997, the number will increase to 111. We are asking a great deal of our States and communities. We need to identify and implement a

strategy to allow States and localities to focus resources on controlling the most significant real public health risks. Environmental protection should enhance economic growth, not stifle it. Our communities should not be allowed to fail because they don't have resources.

On a larger scale, are the costs of the Superfund Program. The original appropriation for the Superfund in 1980 was $1.6 billion. to date, over $10 billion has been spent, but over half of the $10 billion spent has been for legal actions.

Outside contracting is another serious problem facing the Environmental Protection Agency. President Clinton's budget request for fiscal year 1994 highlights EPA contract management as one of the high-risk areas for wasteful spending, citing persistent, wide-spread problems in contract management. At risk is the $1.2 billion that the EPA will spend in fiscal year 1993 on contracts, environmental safety, and assurance that contract dollars are being spent efficiently and effectively. In fact, the EPA has requested and received $5.4 million for fiscal year 1993 specifically to improve contract accountability for the Superfund Program. Administrator Carol Browner stated before the Subcommittee on Oversight and Investigation of the House Committee on Energy and Commerce that she is "appalled at her agency's total lack of management, accountability, and discipline."

I understand that the Glenn bill establishes a Presidential commission on Improving Environmental Protection which will recommend ways to improve the new department. While the EPA has several serious problems, the examples I just cited are not unique to the EPA. Mismanagement and abuse can be shown throughout our Government. To effectively streamline and improve efficiency of our Government, we must look at the Government as a whole—how various agencies work together, where areas overlap and duplication can be eliminated; and where responsibilities can be better organized. I believe that the Presidential Commission established in Senator GLENN's bill will accomplish some worthwhile improvements, but I believe the correct approach is to look at the problem as a whole and come up with the most efficient overall plan. A piecemeal approach will only provide shortsighted answers.

The protection of the environment deserves our greatest attention and my opposition to the elevation of EPA to Cabinet-level status does not diminish that attention. I oppose the Glenn bill because I believe that Government restructuring is absolutely necessary and it is urgently needed. In my judgment, it makes no sense to add to the problem before we seriously work to resolve it.

Mr. HELMS. Madam President, I must oppose elevating the Environmental Protection Agency to cabinet level status. It will inevitably lead to more bureaucrats, more bureaucracy and more harassment of well-intentioned American citizens.

Every time Congress creates a new department, it costs the taxpayers more money. The Congressional Budget Office estimates the cost of this bill will exceed $39 billion. The bill in part provides raises for five present EPA positions costing $700,000 a year.

This new Department will extend its tentacles across America like an octopus, bringing every farmer and every small business within its grasp. Once the EPA becomes a department, this huge bureaucracy will grow and grow and grow.

Madam President, we should not reward the EPA with a seat at the Cabinet level. There are countless examples of EPA bureaucrats' overzealous enforcement of environmental laws.

Let me cite just a few examples: First, there is the case of Larry Gerbaz, a rancher in Colorado. A river running adjacent to his property jumped its banks, endangering his house and family. Mr. Gerbaz frantically tried to get a permit from the EPA to put stones on the banks to stop the flooding. The EPA refused. And when he tried to protect his property, the EPA prosecuted him for water pollution, and slapped him with millions of dollars in fines.

Madam President, there is also the case of John Pozsgai of Pennsylvania who decided to clean up an old junkyard that he had purchased. Well, the EPA decided to prosecute this Hungarian immigrant for placing topsoil in so-called wetlands. This piece of property was not a swamp or a marsh nor a habitat for exotic animals or rare plants. No, this piece of land was called a wetlands because of the presence of skunk cabbage, which is a common weed.

EPA special agent Blodget videotaped Mr. Pozsgai cleaning up the land and then these so-called special agents stormed his house with guns and arrested him. And for this horrible crime, Mr. Pozsgai was sentenced to 3 years in jail and fined $202,000. The Washington Legal Foundation appealed this outrageous sentence on Mr. Pozsgai's behalf.

I ask unanimous consent that several articles be printed in the RECORD at the conclusion of my remarks.

(See exhibit 1.)

Mr. HELMS. Then, Madam President, there is the Superfund boondoggle. This is a classic example of bureaucratic mismanagement, cost overruns, and harassment of American citizens. A Washington Post article of June 19 exposed the EPA's abuse of the Superfund money. The article claims that one-third of the $200 million Superfund budget is actually spent on administrative expenses and consulting fees.

An EPA official conceded: "We have a mess on our hands—we have too much equipment out there, we have too many contractors traveling to conferences."

This is merely one example of the type of bureaucratic mismanagement at the EPA.

I ask unanimous consent that an article regarding the Superfund Program be printed in the RECORD at the conclusion of my remarks.

(See exhibit 2.)

Mr. HELMS. Then there is the EPA's questionable policy of risk assessment. The agency has built inaccuracies and over-estimations into the system. As a matter of fact, OMB issued a report last year criticizing EPA's risk assessment methods.

In 1989, the EPA's own risk assessment scientists conceded in a report that the cancer risk of toxic pollutants was overstated by 10 to 100 times.

Madam President, it is no wonder that American businesses are struggling to stay afloat when they are faced with this flood of environmental regulation, which is based on questionable scientific evidence. The EPA's exaggerated risk assessment practices have been described in several newspaper articles.

I ask unanimous consent that several articles describing the EPA abuses be printed in the RECORD at the conclusion of my remarks.

(See exhibit 3.)

Mr. HELMS. Madam President, this EPA policy of fudging the numbers was prevalent during the clean air debate. The EPA actually ignored the 10-year, $500 million NAPAP study which concluded that acid rain caused minimal harm. The report refuted the need for the stringent provisions in the clean air bill. Nevertheless, the EPA pushed for acid rain provisions that will cost $4 to $6 billion a year and tens of thousands of jobs.

CBS's 60 Minutes program did a great exposé on how EPA and Congress ignored the NAPAP report. As Senator GLENN stated on the program, "We spent over $500 million on the most definitive study on acid precipitation * * * and then we don't want to listen to what they say."

I ask unanimous consent that the transcript of that program be printed in the RECORD at the end of my remarks.

(See exhibit 4.)

Mr. HELMS. Madam President, these are merely a few examples of EPA mismanagement. In light of this bad record, it seems highly inappropriate to reward the EPA. We need less government bureaucracy, not more.

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

EXHIBIT 1

[From the Wall Street Journal, Jan. 11, 1990]

PROPERTY BUSTERS

Fans of "Ghostbusters" will recall that the movie featured a pompous bully from the En-

vironmental Protection Agency. Well, life is imitating art in Morrisville, Pa., where a flabbergasted truck mechanic is discovering how little regard the EPA has for property rights. Somehow only Bill Murray could muster the bemused astonishment needed for this role.

John Pozsgai is a 57-year-old self-employed mechanic who bought and tried to improve what amounted to an illegal dump next to his home. For his trouble, he's earned a criminal sentence of three years in prison and a $202,000 fine for fouling U.S. "wetlands." If his experience is the shape of environmental law enforcement to come, Mr. Pozsgai can be forgiven for wondering why he ever fled Communist Hungary in 1956.

Mr. Pozsgai set off on his crime spree when he bought a nearby lot to expand his backyard truck-repair business. The 14-acre lot would remind no one of the Everglades. It's bordered by a tire shop, lumberyard and four-lane expressway, and for 20 years was used by neighbors as an unofficial dump site. Its only endangered species were 7,000 old tires, rusting cars and assorted junk. Mr. Pozsgai proceeded to clear the mess and spread a layer of clean landfill eagerly deposited by area contractors, as the nearby photos attest.

Somehow his enterprise offended the EPA's enforcers, apparently energized by George Bush's "no net loss of wetlands" campaign pledge. Most Americans probably figure that means protecting Cape Cod or the great blue heron. And indeed the Pozsgai parcel was not even listed on the U.S. National Wetland Inventory Map. But the EPA judged that Mr. Pozsgai's vacant lot contained a stream—dry for most of the year—that somehow crossed the expressway and ran into a glorified ditch known as the Pennsylvania Canal. The EPA also cited as evidence the presence of skunk cabbage, a common weed, and sweet gum, a common tree. By this definition of "wetlands," just about any large American rain puddle will qualify as protected.

The Feds began to harass Mr. Pozsgai to get a permit for his property improvement, though Mr. Pozsgai claims state officials told him he could go ahead without one. The doughty Feds even staked out the property with a video camera to tape trucks dumping dirt. After the Feds got a restraining order, Mr. Pozsgai obliged by putting up barricades, but a few uninformed truck drivers still dumped their unhazardous dirt—providing more evidence against the evil emigre.

The Justice Department then charged him with 40 violations of the Clean Water Act, though the act never even uses the word "wetlands." The act merely bans the polluting of "navigable waters" of the U.S. The bar against polluting "wetlands" is a bureaucrat's interpretation of this typically ambiguous congressional law. The jury that convicted Mr. Pozsgai can be forgiven if it was as confused as the prosecutors.

At the sentencing, U.S. Attorney Seth Weber invoked President Bush's campaign pledge and claimed, "A message must be sent to the private landowners, the corporations and developers of this country." Presumably that message is that property owners who offend the government's environmental zealots will end up as indicted felons. Drug dealers can plea bargain, but "landowners" go directly to jail. In a similar case in Pensacola, Fla, a man and his son have been convicted for cleaning out a drainage ditch. Mr. Pozsgai would be in the slammer already if his case hadn't been appealed by the Washington Legal Foundation, a public-interest group. An appellate ruling may come as soon as Friday.

We've thought for some time that environmentalism and property rights are on a collision course. A free society should have room for both, but that's impossible so long as EPA Administrator William Reilly and his crusaders think individual rights have to be sacrificed to their view of the public good. John Pozsgai knows what that means.

[From Forbes Magazine, Jan. 22, 1990]

DANGEROUS CRIMINAL NABBED!

Who is the most notorious environmental criminal in the U.S.? Would you believe a Hungarian immigrant named John Pozsgai? Pozsgai, who owns a small truck repair shop, was convicted in late 1988 of violating the Clean Water Act. His sentence: three years in the slammer and a $202,000 fine, the stiffest penalty ever for an environmental violation. His crime? Filling in 5 acres of a 14-acre parcel he owns in Morrisville, Pa., near Trenton, without a permit.

Pozsgai, 58, came to the U.S. in the aftermath of the 1956 Hungarian uprising. In 1987 he bought the 14-acre tract so he could expand his business. The property had been used as a dump for years, so Pozsgai began cleaning it up, hauling away more than 7,000 used tires and other debris. He also began filling in the land with clean fill and topsoil.

Unfortunately, Pozsgai's property had been classified as federal wetlands because of a small stream that runs along its edge in wet weather. And he got repeated warnings from local and federal environmental authorities that he could not fill in this land without the proper permits. Pozsgai contends that a series of engineers he hired could not figure out how to file the necessary forms.

The sentence was the maximum allowed, unheard of in a case that involved no hazardous chemicals and no prior convictions, according to the Washington Legal Foundation, which has taken up Pozsgai's case. Pozsgai knowingly and repeatedly violated the law, say the feds, and now must pay the price.

The wetland outlaw's appeal is scheduled to be heard this month.

[From the Washington Post, Jan. 3, 1990]

EPA ACCUSED OF MUDDYING ITS "JACKBOOTS" IN PENNSYLVANIA WETLANDS

(By Howard Kurtz)

MORRISVILLE, PA.—With his thick, blackened hands, grease-stained flannel shirt, soiled work boots and pronounced Hungarian accent, John Pozsgai seems the very model of the hard-working immigrant as he fixes trucks at his garage in this small Delaware River town.

Yet this 57-year-old mechanic has the unhappy distinction of fighting the harshest sentence ever imposed in an environmental case—three years in prison and $202,000 in fines.

Pozsgai's problems began when he deposited clean topsoil on a ragged, weed-covered lot bordered by a four-lane state highway, a tire shop, a lumberyard and a junkyard filled with smashed cars. Although no toxic waste is involved, the government contends that the property is wetlands that must be protected under the Clean Water Act.

"I didn't even know why I was sentenced. . . . We never did anything wrong to that property except improve it," Pozsgai said recently in the small kitchen of his wood-shingled home across the river from Trenton, NJ.

Pozsgai's cause has been taken up by the Washington Legal Foundation, a conservative advocacy group that has delighted in portraying him as a gray-haired grandfather victimized by an aggressive Justice Department and by "jackboots" of the Environmental Protection Agency (EPA).

The foundation is representing Pozsgai before the 3rd U.S. Circuit Court of Appeals in Philadelphia, which is to take up his case next week.

"You've got the EPA, the Army Corps of Engineers and a zealous prosecutor trying to make an example of this poor Hungarian immigrant, thinking it's an easy hit," said Paul D. Kamenar, the foundation's executive legal director. "It's overkill. It's bad policy and simply unjust."

But Assistant U.S. Attorney Seth Weber said public sympathy for Pozsgai is misplaced because he ignored "repeated warnings, notices and a court order" not to fill in the 14-acre property across the road from his house.

"The evidence was really overwhelming that his property was a wetland," Weber said. "It's not a Cape Cod kind of wetlands, but it's a wetland under the law. . . .

"He basically said, 'The law doesn't apply to me because it's my land and I can do whatever I want with it.' That's still his attitude," Weber said.

Keith Onsdorff, EPA's acting associate enforcement counsel, said there have been three other criminal convictions since 1986, when Congress changed some Clean Water Act violations from misdemeanors to felonies.

"We've made it a priority because we were dissatisfied with the level of deterrence provided by civil penalties, which could be passed on as a cost of doing business," he said.

Wetlands are valued by environmentalists as habitat for birds and other wildlife and for their role in flood control. But federal and state enforcement has been spotty until recent years, and half of U.S. wetlands once in existence have been lost.

Still, the Pozsgai property along West Bridge Street is no marshy bog where snowy egrets might lay eggs. It is an unsightly stretch of hard brown soil, bordered on one side by a narrow stream where Bucks County residents for two decades have dumped tires and debris illegally.

"I talked to many engineers," Pozsgai said. "This piece of land will never qualify as a wetland. They cannot tell you, actually, what makes it a wetland," he said, pronouncing it "vetland."

A strong-willed man who fled Hungary after the 1956 uprising. Pozsgai said he wanted the property to expand the backyard repair shop that he uses to support himself and his ailing wife, Gizella. Pozsgai works seven days a week at the garage, which he opened after his longtime employer, International Harvester, closed its Trenton plant several years ago.

Pozsgai bought the land in June 1987 and helped to haul away thousands of tires and debris. He then used topsoil, gladly provided by area contractors looking for a place to dump excess dirt, to fill in and grade part of the site.

At his trial, however, several witnesses contradicted Pozsgai's insistence that he never know that the property was wetlands. The real estate agent who handled the sale said the price was reduced from $175,000 to $142,500 after an engineering firm hired by Pozsgai found wetlands at the site.

A Corps of engineers inspector said he told Pozsgai to obtain a permit before filling in the land and later served him with a "cease and desist" letter. A local official said that he warned Pozsgai "seven or eight times"

against putting down more topsoil but that Pozsgai told him "to get the [expletive] off the property." Neighbors said their basements had been flooded, and one allowed the EPA to set up a surveillance camera at her home.

Pozsgai disputed these accounts, saying federal officials told him that he did not need a permit. Police arrived at his house in August 1988 with a court order barring further filling of the property.

Pozsgai drove to Harrisburg in a fruitless attempt to resolve the dispute with Pennsylvania officials, saying: 'I didn't know about the law, and I didn't have no lawyer." In the meantime, Pozsgai said, he was unaware that contractors were continuing to dump topsoil on his lot, which he ways was blocked with barrels and tree stumps.

Days later, police handcuffed Pozsgai and took him to jail until his daughter, Victoria, posted $10,000 bail. He was represented at trial by a neighborhood lawyer who he says bungled the case. A jury convicted Pozsgai on the last day of 1988.

Prosecutor Weber said at sentencing that the case was a harbinger of President Bush's policy to prevent net loss of wetlands. "A message must be sent to the private land owners, the corporations, the developers of this country." he said.

U.S. District Judge Marin Katz called Pozsgai a "stubborn violator" of environmental laws and said the prison terms should "serve as a deterrent to others who will doubtless be tempted by economic pressures."

Victoria Pozsgai, 24 a marketing researcher who spends most of her spare time on the case, said that she approached several Washington law firms about handling her father's appeal but that they asked for $30,000 to $40,000 up front. Then she heard about the Washington Legal Foundation, which agreed to handle the appeal without charge.

"It was just a godsend," she said. "We don't have the resources to fight the government. We're a family. We're not a big corporation."

The foundation's brief says Pozsgai's sentence violates the Eighth Amendment ban on "cruel and unusual" punishment and is "grossly disproportionate" to the probation and fines usually imposed in hazardous-waste cases. The Justice Department says the penalty is well within federal sentencing guidelines.

Other parts of the appeal turn on such arcane questions as whether the small stream along the property becomes a tributary of the Pennsylvania Canal and whether that canal formerly was used in interstate commerce.

Pozsgai refuses to concede even inadvertent wrongdoing. "We thought this was a free country here—you buy a piece of land; you use it," he said.

[From the Washington Times Dec. 20, 1989]

WETLANDS FIRST, PEOPLE SECOND

John Pozsgai probably didn't expect any medals for cleaning up an unsightly dump site to put his business there. The Hungarian emigre just wanted a chance to expand his small truck-repair business to help support his wife and daughters. Well, not to worry about the medals. If the Environmental Protection Agency gets its way. Mr. Pozsgai's reward will be three year in prison.

His crime? In removing the more than 7,000 tires, the rusted auto parts and assorted junk that had piled up over the years at his Morrisville, Pa., property, Mr. Pozsgai put down top soil and earth. That, said the EPA, is a violation of wetlands protections laid out in the Clean Water Act.

There is, you see, a small stream that, when it's not bone dry, runs along the eastern edge of the 14-acre property. That supposedly makes a junkyard a wetland, even if it's bounded by two major highways, a tire dealership, and an automobile salvage yard. Never mind that it's not on the Department of Interior's National Wetland Inventory Map. Never mind that, as the government acknowledges, Mr. Pozsgai put no pollutants or hazardous waste on the property. Or that he didn't threaten endangered species or water quality.

Under the prodding of EPA officials waving President Bush's "no-net-loss-of-wetlands" campaign pledge, a district court sentenced him to the maximum three years in jail and fined him more than $200,000. This is the longest jail term ever for environmental violations, even for real polluters.

Mr. Pozsgai's real crime in this case seems to be that neither he nor the engineers he consulted were immediately able to negotiate the regulatory maze that allows you to put topsoil on your property. It takes a permit to do that on a wetland, depending on which regulations you read, whose advice you get and what day of the week it is. Washington Legal Foundation lawyers representing Mr. Pozsgai, who had no prior criminal record, say he didn't need a permit. But EPA undercover-types, who secretly filmed trucks bringing the illicit topsoil to the property, say he did. An appeals court has tentatively scheduled a hearing on the case next month.

Mr. Pozsgai, unfortunately, isn't the only one to run afoul of the wetlands police. A Florida retiree and his son were jailed after putting a half-acre of clean fill and topsoil on his property without permit, although state officials told him none was needed. And Alaska officials are understandably worried that a no-net-loss policy would mean no net growth and no new oil there because more than half the state, and almost all the 37-million-acre oil-rich North Slope, is considered wetlands.

These are the sorts of problems that occur when save-the-whales-style environmentalism jumps off the bumper stickers and starts chasing real people in real life. Acid-rain legislation means throwing coal miners out of their jobs, global-warming activists want to keep the Third World in pristine low-emission poverty—all for uncertain benefit.

Likewise, wetlands worship may be nice in the abstract, but in practice it means putting the nation's energy security on hold and beating up on small businessmen. The irony is that Mr. Pozsgai, who fled communist oppression in Hungary, now finds his freedom trampled under the EPA jackboot. If this is what Mr. Bush and EPA Administrator William Reilly mean by a kinder and gentler America, let them explain it to John Pozsgai.

EXHIBIT 2

[From the Washington Post, June 19, 1991]

ADMINISTRATIVE COSTS DRAIN "SUPERFUND"

(By Michael Weisskopf)

Nearly one-third of the $200 million spent by the federal government since 1988 to clean up the nation's worst toxic waste sites has been spent not to clean up anything, but to pay the administrative expenses of private contractors.

In the jargon of the Environmental Protection Agency (EPA), which runs the clean-up program, the money has gone to "program management"—a loosely defined category of overhead covering everything from fringe benefits to office rents, business cards and parking fees of the engineering firms hired to carry out the work.

Program management is supposed to compensate firms for the costs of paperwork and coordination of cleanup projects under the EPA's "Superfund," created by Congress in 1980 to rescue communities from poisonous debris dumped by industry for decades. But the agency has so broadly defined those costs, and so widely distributed its largess under a new structure set up three years ago that administrative expenses have risen to twice the hourly rate of earlier Superfund contracts and nearly three times the spending target of agency planners.

The payments go far beyond the terms of most government contracts, which they pay only for the actual time and expenses needed to administer their projects. Under program management, the EPA agreed in advance to set up semi-permanent offices for 45 companies hired since 1988 to plan, arrange for and supervise cleanups they are contracted to carry out. Rent and salaries are paid, business costs such as training and recruitment are covered, and profit and bonuses are awarded—regardless of how many cleanup jobs they have to manage.

Congressional critics—frequently complain of too few cleanups—64 of the currently listed 1,200 Superfund sites have been completed with the $7.5 billion spent since 1981. Yet there has been no public examination of how appropriations to one of the nation's largest public works projects actually are spent.

A close look at the Superfund budget since 1988 reveals an increasing share for administration—$62 million in all—paid to some of the nation's largest engineering firms for services only remotely related to the cleanup of toxic waste. Existing 10-year contracts are expected to cost $6.5 billion between 1988 and 1998. At the current rate, program management would consume nearly $2 billion of that.

According to interviews and an extensive review of EPA records obtained by The Washington Post under Freedom of Information Act requests, program management includes a number of questionable expenses, none of which appears to fall outside the broadly drawn EPA limits. For example:

The EPA has paid millions of dollars in "start-up" money to the program management offices of contractors before they had a cleanup project to manage.

Four West Coast firms among them received $855,000 in the spring and summer of 1989 without having to visit a single toxic waste site. For the $260,000 paid one of them—URS Consultants Inc.—its Sacramento, Calif., branch spent four months basically gearing up its administrative apparatus and lining up subcontractors.

The EPA has paid some firms twice as much money to administer cleanups as the firms spent on the cleanups themselves.

One such firm is the New England office of Roy F. Weston, Inc., which has received $635,000 to administer Superfund fieldwork that cost $340,000.

Not everything EPA buys its contractors is obviously related to cleaning up toxic waste. The Dallas office of Fluor Daniel Inc., for example, collected $162 for potted plants, $400 for business cards and $4,200 for technical books and journals.

The EPA has paid for millions of dollars worth of pollution-detection devices for which contractors short of cleanup assignments have no immediate use.

For example, half the $445,000 worth of equipment bought for Malcolm Pirnie Inc., of New York since August 1989 sits unused in a warehouse leased by the EPA for $30,000 a year. Identical devices also were purchased for other firms in the area.

The EPA has awarded tens of thousands of dollars in bonuses for program management, even though agency officials had sharply criticized the same programs for excessive costs, tardiness, wastefulness, sloppiness and unresponsiveness.

In Kansas, for example, Jacobs Engineering Group was criticized in 1989 for failing to demonstrate "cost consciousness" and control of its labor costs. But the firm was given a quarterly bonus of $6,785 for program management. Five months later, the EPA again chided Jacobs for not reining the costs, then approved a $3,000 bonus.

The EPA pays contractors for travel costs, expenses and time spent at professional conferences.

In 1989, the EPA hosted more than 80 new contractor representatives at an orientation session in Dallas. The tab for the two-day conference came to $210,000, all of which was picked up by the agency.

The EPA pays for nearly any activity remotely connected to program management, including the writing of self-evaluation to justify bonuses. The New Jersey office of Ebasco Services Inc. wrote a 70-page appraisal in 1989 that the EPA characterized as repetitious, but for which it paid the firm $6,000 to produce.

In another case, the San Francisco branch of Bechtel Environmental Inc. listed a single item under "significant accomplishments" in its activities report for April 1990—"achieved required target of $60,000" in monthly program management costs. Looking ahead to "major activities" in May, it noted plans to "prepare a new manhour and cost forecast" and "compile data" for an upcoming EPA review of its books.

An EPA analyst cited the entry as reason to "call into question the scope of the [program management] function" and recommended that staffing levels in Bechtel's program management office be reevaluated.

Some EPA officials move beyond criticisms of individual firms to question the cost-effectiveness of a system in which program management expenses have doubled from the 1988 average of $17 an hour to $35 an hour and up to $120 for one firm. As the costs swell, the EPA is scrambling to transfer other work to program management offices and pondering the penalties of breaking the contracts.

WE HAVE A MESS

"We're spending too much money for program management," said David J. O'Connor, the EPA's director of procurement and contracts management. "We have a mess on our hands."

In the Superfund branch, however, officials defend program management offices as necessary to administer contracts of such size and technical complexity. They assure reliable record-keeping, issue monthly reports to the EPA on the progress of site work, purchase equipment to investigate pollution, hire cleanup crews, and make sure that federal guidelines for health, safety and work quality are met.

"We envisioned these would be very large contracts, there'd be a lot of time pressures, dollar pressures, socio-political pressure from working with communities," said Paul Nadeau, acting director of the EPA's hazardous site division. "That kind of contract warranted very careful management."

Nadeau said that costs are high because polluters are doing more of the cleanup themselves, rather than risk a court order to pay for the work of an EPA contractor. The agency can recover cleanup costs if it can identify the polluter, and it has stepped up enforcement in recent years.

Because program management payments to EPA-paid contractors are largely fixed, and payments for cleanup work have declined, the administrative units are eating up a bigger portion of total outlays.

But critics point to the very number of Superfund contracts, each requiring a separate administrative unit with identical obligations, as the reason for high costs.

Each of the 45 program management offices has monthly reporting duties to EPA, regardless of workload; each has to maintain equipment; and each had to draft a series of initial management strategies governing, among many other things, safety and health conditions for employees. The Atlanta branch of CH2M Hill Inc., for example, billed the EPA $28,000 for one plan that largely duplicated the plans of each of the other 44 contractors.

"There's too much redundancy," said O'Connor. "We have too much equipment out there, too many contractors traveling to conferences. Instead of having five jobs under one contractor and five under another, it could be done more efficiently at less cost if one contractor handled all 10."

Initially, the EPA used three engineering firms to oversee Superfund. But because of the slow pace of cleanups, officials decided that breaking their dependence on such a small number of contractors and decentralizing the program would breed efficiency. For the work of the 1990's, 45 firms were thought to be needed. They were signed up in 1988 and 1989 to contracts extending over a 10-year period.

The nation was carved into regions and several firms were assigned for each region to share cleanup assignments from the agency to evaluate pollution levels, design cleanups and hire subcontractors to carry out the plans. In the new generation of contracts, with a budget of $6.5 billion, EPA earmarked about 11 percent of the total for program management.

But because of the unexpected increase in the number of sites cleaned up by the polluters themselves, the EPA overestimated the need for its own contractors. Locked into the 10-year contracts, the agency keeps picking up the management costs, even though the large number of cleanups anticipated never materialized.

Contractor payments were divided into two accounts, one for fieldwork and one for program management. For both services, the EPA agreed to cover costs, guarantee a 2 to 3 percent profit and pay bonuses of up to 7 percent depending on the quality of work.

The Dallas orientation meeting was called in October 1989 to mark the new contracting ers. The EPA was flush with Superfund money, appropriated by Congress at a higher rate than the agency had spent during the previous three years. The time seemed right for a national conference to discuss new management procedures "in a forum that will allow all parties to gain a concurrent and clear understanding of EPA policies," as the EPA invitation letter put it.

When the 84 "guests" filed their expense accounts, the totals came to more than many of their firms would earn for cleanup work for months. Air fare, meals and rooms—the essentials—came to $75,000, EPA records show. But the contractors also claimed wages for the two days of meetings and travel time. And they billed for "indirect" corporate costs. For the program manager and deputy manager of Ebasco's New Jersey branch, the total came to $6,116. This included more than $4,000 for their 41 hours of participation.

One lesson contractors did not need to be taught at Dallas was how to justify the administrative payments from the EPA before the firms had their first job to administer at a toxic waste site.

URS Consultants of Sacramento, Calif., reported a series of "start-up" activities for the $260,754 that it received for program management in the four months waiting for site work. The firm drafted plans and manuals, culled documents, attended meetings and got its staff and subcontractors in place, according to reports filed with the EPA.

A URS spokesman declined further comment, he said, on the advice on the EPA. He said the agency believes it "furnished you with complete information concerning the matter."

HEAVY INITIAL COSTS

The EPA sank heavy initial costs into program management offices before knowing how busy they would be. For Fluor Daniel, the agency rented office space in Dallas for up to $6,500 a month, furnished it and provided three vehicles for $84,000, covered $50,000 in living expense for two company officials to work there the first year and relocated two other employees for $13,000.

But there has not been enough work to justify the full-time presence of the program manager and the contracts manager. So they stay at Fluor Daniel headquarters in Irvine, Calif., and the EPA pays to fly them to Dallas for meetings.

The trips have cost $40,000 in travel and living expenses since 1989, the firm's invoices show, not including labor costs billed for travel time during work hours. Fluor Daniel's long-distance connection also has pushed its phone bills to more than $25,000 since 1989, the invoices show.

A spokesman for Fluor Daniel said the EPA had insisted on putting the office in Dallas, and decided on the long-distance link as the most "cost-effective" way of operating until the workload increased.

For most contractors, the number of cleanup jobs has increased to a point where they have earned the contractor more than program management payments. In other words, for every dollar spent on management, at least another dollar's worth of planning or oversight is done. But several contractors have never caught up.

In the Boston office of Roy F. Weston, $2 of every $3 paid by Superfund has gone to program management. In its first year, the firm got $311,000 for administrative services while devoting less than the time of one full-time employee to site work.

Weston vice president, Peter B. Lederman said the lopsided payments reflect the lack of EPA cleanup assignments, not wasteful program management practices. He said that even in slack times, at least three employees are needed to maintain files and equipment, respond to EPA inquiries and issue reports and invoices.

"We don't get rich off it," he said of program management.

The EPA has criticized Weston's program management office several times for poor cost control and poor performance, concluding in 1990 that despite its "limited workload," the company "has a hard time managing what they have been assigned."

AGENCY PAYS BONUSES

But neither Weston nor any of the 45 contractors has been fired. Instead, EPA offi-

cials say, they pay large bonuses to reward efficient program management offices and smaller ones to the less efficient. Each firm used to be evaluated four times a year, now twice a year.

In practice, however, contractors often end up with substantial bonuses despite negative reviews. Even contractors cited for "unsatisfactory" performance have received awards.

EPA officials said bonuses are calibrated to reward any level of achievement in program management, not overall performance. For a good job in three of 10 projects, for example, a firm is entitled to 30 percent of its maximum bonus. A firm may exceed its budget but still get a bonus for timely reports.

The Kansas office of Jacobs Engineering was rewarded with nearly $10,000 over a nine-month period, despite critical evaluations by the EPA. The firm was blamed for an "unacceptable" rate of labor costs—$154,000—for four of the months.

Roger Williams, senior vice president for Jacobs Engineering, said labor costs initially were high because the firm assembled a large administrative staff for what was expected to be a heavy workload. When the cleanup work failed to materialize, the company reassigned superfluous staff members, he said.

Labor is the largest single cost of program management—and the hardest to monitor. Each contractor must have a management team in place, even if part time. That means, for one thing, Superfund pays for 45 health and safety officers and 45 equipment supervisors.

For each hour worked, the staff members claim wages plus a negotiated rate of overhead covering such items as insurance, utilities, rent and fringe benefits. Their labor costs also include the general administrative expenses of the home office, including corporate salaries and corporate-wide services.

What the staff does for its wages is vague. Most monthly invoices list costs of "direct labor" without accounting in detail for hours and tasks performed. A "progress report" is supposed to fill in the details. But it, too, can be vague, listing undocumented activities as "maintained general liaison with EPA project officer" and "preparation of input to monthly progress report."

Without clear-cut guidelines, contractors bill labor costs for such "efforts" as answering EPA inquiries about their bills or drafting complaints about EPA regulations.

Indeed, an EPA official in Boston balked when asked to provide the name of a contractor official to a reporter, fearing the official would charge the EPA for the time taken by an interview.

The $6,000 billed by Ebasco to write its 70-page self-evaluation consumed 72 hours of labor, the EPA said. Although the EPA reviewer criticized the report as "bulky," it was written "in good faith" to demonstrate the scope of the firm's work and not designed to run up labor costs, said Ebasco program manager Dev Sachdev.

Bechtel, the San Francisco firm whose program management activities were questioned by an EPA analyst, did more for its $60,000 payment in April 1990 than meet a spending target, the highlight of its monthly report. It also revised and reviewed health plans for four sites and surveyed its laboratory needs, the report shows.

Company spokesman Mike Kidder said the payment reflects the labor hours needed to "work through very detailed reporting requirements."

But, as a regional EPA official said of Superfund contractors in general, "We really don't know what they're doing. There's really no way to account for their time."

Nor is there precise accounting of routine office costs, such as supplies. O'Connor's staff reviews the billing procedures of firms every two years but, he said, relies on independent auditors for a detailed look. The auditors are years behind on Superfund work.

Fluor Daniel's charges were found in unusually detailed invoices. A company spokesman said the technical journals and books billed to the EPA were needed to handle government contracts, the business cards were printed to identify employees in their Superfund capacity, and the plants were "normal accouterments" of a business office.

The EPA authorized program management offices to buy equipment because Superfund work is so new and complex. But the sheer number of contractors, all needing basic gear from respirators to radios, led to widespread and wasteful duplication, EPA officials conceded.

EQUIPMENT EXCEEDS NEED

A total of $5.5 million worth of scientific instruments, vehicles and protective garb was purchased, too much for the slower-than-expected pace of EPA-sponsored cleanups, records show.

Malcolm Pirnie, for example, has never used $226,200 worth of its equipment, according to an April utilization report filed with the EPA.

On the unused list are eight devices for analyzing organic vapor, bought in June 1990 for $69,500. Four other firms in the same New York region were outfitted with a total of 25 similar devices costing $194,000, EPA records show.

Malcolm Pirnie vice president John Henningson said it bought the equipment on the basis of a company protection of equipment needs sought by the EPA before any cleanup work had been assigned to it and before the need for government contractors declined.

He said the firm expects to use "the majority" of the equipment over the 10-year life of the contract.

Whether the contracts run out their lifetime is uncertain. EPA officials are weighing whether it would be cheaper to break the contracts and absorb penalties expected to run from $500,000 each to several million dollars each.

Nadeau said a spurt in cleanup activity for the contractors is still possible. "It's still premature to terminate," he said.

But O'Connor believes the EPA should cut its losses. Recalling that the reason for expanding the number of contractors was to inject competitiveness into the system, he recommended that as many as a quarter of the contractors be "jettisoned."

"We have too many contractors, and some are not performing well," he said. "We don't need them all."

EXHIBIT 3

[From Inside EPA, Sept. 13, 1991]

INDUSTRY CHARGES INTERNATIONAL PUSH TO CUT LEAD EXPOSURE OVERSTATES RISKS

An EPA-led international effort to reduce lead exposures is moving towards restrictions on low-level lead exposures despite scientific evidence which indicates negligible health risks of such small doses, lead industry sources charge. The effort has also come under fire from environmentalists who charge that the international body is being too cautious in its moves to limit lead exposures.

EPA has taken the lead in drafting a lead risk-reduction strategy for the international Organization for Economic Cooperation & Development, in part, agency sources say, in response to complete bans on toxic substances such as lead suggested by Sweden last year (Inside EPA, April 20, 1990, p2). A draft report prepared by EPA—and expected to be adopted by OECD at a meeting this fall—suggests a variety of international risk reduction strategies for lead, from bans on uses for which there are readily available substitutes to taxes on products for which there are no known substitutes. The draft also suggests encouraging recycling of products containing lead and discouraging new uses of lead where possible.

But an international industry group argues in comments recently filed that the draft is mistaken in its conclusion that "effects associated with low level exposure to lead are (a) harmful and (b) causally related to lead." The industry comments, filed by the International Lead Zinc Research Organization, point out that the draft report acknowledges that "there remains uncertainty in the global scientific community about the casual relationship between low level lead exposure and lead in children." Yet the report also argues that "there is no apparant threshold for developmental effects in children" and provides rough estimates of health benefits expected from various exposure reduction scenarios. But given that lead is a natural element which "is found in the bodies of even the most remote populations at levels close to the mean levels in the U.S. today," the industry comments argue that "it would seem clear that the OECD document has overstated the health impact of low level lead exposure."

An industry source adds that the primary causes of recognized health problems are high blood lead (PbB) levels resulting from discontinued, highly-dispersive uses of lead, such as leaded gasoline or lead paint. This source argues that the international organizations should be spending their resources on abating lead from past uses and locating and treating children with high PbB levels, instead of developing plans for attacking low exposures of questionable concern.

But an environmentalist says "the science is as definitive as science can be," and there can be no reasonable argument that lead is not hazardous even at the lowest levels. This source argues that the only scientific controversy over lead health effects is caused by industry's claims that lead is safe. The flaw in the OECD document, this source says, is that "it is not nearly strong enough." Focussing only on past uses of lead would be a mistake because current uses may prove equally problematic later, this source argues.

An EPA source says the agency "sympathizes more with the environmentalists" on the debate, but that the agency will probably never go as far as the environmentalists would like. Industry "mounted quite an aggressive campaign to discredit the "report," this source says, but EPA is not recommending that countries "go ripping solder out of radios." This source says the report represents a moderate position that unnecessary uses of lead, such as inks and lead solders, should be phased out, while alternatives should be encouraged for uses that have high benefits. This source expects that the report will be largely supported by the full OECD meeting scheduled for November.

[From the Los Angeles Times, Aug. 20, 1991]

SEEKING THE TRUTH IN TOXICS

Whatever else the chemical compound dioxin may do, it is going to haunt efforts by

regulators to protect industrial societies from their byproducts for a long time.

Fused in a meeting of heat and chlorine, dioxin has for years been at the head of the list of dangerously toxic chemicals that are loose in the U.S. environment.

It got there because in the 1960s and 1970s guinea pigs died from exposure to it in a matter of weeks. It also got to the top of the danger list because techniques for determining its toxicity to humans were less sophisticated then.

Some scientists now are backing away from previous assessments. The U.N.'s World Health Organization is saying that American standards are 1,600 times tougher than necessary. The Environmental Protection Agency plans to spend a year reviewing the evidence on dioxin.

Some environmentalists are fighting back, claiming that all of the second-guessing is designed to save manufacturers the cost of cleaning up after spills and around their plants.

William K. Reilly, who heads EPA, recognizes that he is hitting a hornet's nest with a stick and that he will be damned if he does look back and damned if he doesn't.

In a gem of understatement, Reilly says, "There is not much precedence . . . for pulling back from a judgment of toxicity," but that new data suggests a lower risk.

Juries have awarded millions of dollars in damages to people who made the case that dioxin ruined their health. Dioxin is blamed for causing cancer among Vietnam veterans, and birth defects in their children. It was a key ingredient of the defoliant Agent Orange, which was sprayed on forests in Southeast Asia.

One scientist who is having second thoughts is Dr. Vernon N. Houk of the Federal Centers for Disease Control. He urged all 2,240 residents of Times Beach, Mo., evacuated in 1982, because its roads were contaminated with dioxin.

He says he had no choice then because his lab was producing chilling reports on dioxin. Now the data says differently. It makes no case for a wholesale review of toxics, but on the matter of dioxin Reilly has no choice, either.

[From the Washington Times, Apr. 10, 1991]

BOMBS AWAY ON POLYSTYRENE?

(By Warren Brookes)

Bombing is something the Bush administration does well. While the Pentagon was blowing the Iraqi economy back into the Stone Age, the Environmental Protection Agency has been unloading regulatory munitions on the U.S. economy from apples to autos, from construction to chemicals, from Detroit to Phoenix.

This week the EPA will "dumb bomb" the polystyrene industry. EPA Public Affairs Director Lewis Crampton confirmed the agency has put polystyrene in the "C" category as a "possible carcinogen," based not on human epidemiology but rodent tests. Even though there is no evidence of any human danger, and no published research, everything from meat trays in supermarkets to coffee cups at the deli will be stigmatized as "carcinogenic."

The campaign against polystyrene foam culminating in the decision by McDonald's last fall to replace foam hamburger containers with some kind of coated paper.

That decision ran so counter to solid scientific analyses done for McDonald's and others that show actual environmental impacts favor foam over coated paper, there is a persistent rumor McDonald's was warned by the Environmental Defense Fund (EDF) that the EPA was soon to make a carcinogenic finding on the product.

Just as the National Resources Defense Council worked closely with EPA in destroying the apple industry with Alar, EPA has apparently cooperated with the EDF to slay the polystyrene monster.

What is gratuitously obscene about this is that it comes on the heels of growing scientific skepticism about the validity of EPA risk models, caused in part by the dioxin case. For years dioxin, the principal ingredient in Agent Orange, has been regarded by EPA as the most dangerous carcinogen extant, many hundreds of times as potent as the next chemical risk.

Based on that "modeled" assumption, Congress and the Bush administration recently awarded what could be as much as $200 million to $1 billion in payments to Vietnam veterans who contract soft-tissue sarcoma. That decision is spurring the legal profession to seek out veterans' cases against the manufacturers. The number of such cases is expected to reach 250,000.

But the modeled assumptions of dioxin risk in these cases are predicated entirely on feeding rodents massive doses (up to 30,000 times human exposures) of dioxin-saturated foods. From these high-dose results, the EPA uses a straight-line "no threshold" (linear multi-stage) basis for extrapolating human danger. In other words, no matter how small the dose, it's dangerous.

But that "no threshold" assumption—which underlines all EPA chemical risk assessments—has been blown away, as one epidemiology study after another has failed to confirm dioxin's alleged toxicity. As Science Magazine reported on Feb. 8, "Even among highly exposed groups, like the people who lived near the chemical plant that exploded in Seveso, Italy, in 1976, the only undisputed effect until recently has been the skin disease chloracne."

Ironically, last January, the first study ever to show even a weak link between dioxin and human cancer published in the New England Journal of Medicine, in fact destroyed EPA's risk model.

That study carried out by the National Institute for Occupational Safety and Health (NIOSH) under the leadership of Marilyn Fingerhut was the most comprehensive look at human dioxin exposure ever done, involving 5,172 workers and at 12 plants in the United States that produced the dioxin-containing pesticides and defoliants.

The average exposure of these workers was 80 times to 500 times U.S. average background levels, and up to 200 times the exposure levels of even the most exposed Vietnam era veterans, the Ranch Hands Air Force personnel who did the Agent Orange spraying.

If the EPA model were correct, these workers should have shown at least 5 to 10 times the expected level of cancers for non-exposed persons. Instead, the researchers found, "Mortality from several cancers previously associated with [dioxin/Agent Orange], stomach, liver, and nasal cancers, Hodgkin's disease, and non-Hodgkin's lymphoma, was not significantly elevated in this cohort. Mortality from soft-tissue sarcoma was increased, but not significantly." (Emphasis ours.)

As Science reported on Feb. 8, scientists meeting at Cold Spring Harbor Laboratory in January agreed that "before dioxin can cause any of its myriad [alleged] toxic effects, be they cancer or birth defects, it must first bind to and activate a receptor. That implies there is a 'safe' dose or practical 'threshold' below which no toxic effects occur."

"And that in turn means that the model EPA uses is wrong. 'It topples the linear multistage model,' exclaims Michael Gallo of the Robert Wood Johnson Medical School in New Jersey."

The whole foolish notion there is no safe level of anything proven to be "toxic" in animals (at thousands of times human exposure or more) has repeatedly been blown away as excessive. While EPA regulates dioxin exposure at 0.006 picograms per kilogram of body weight per day, Canada and Europe have been correctly regulating at 1 to 10 picograms, or 170 to 1,700 times higher.

Given this, one would have thought the agency would be cautious about destroying yet another industry on the basis of an animal test and at least 50 unproven, and unscientific assumptions. After all, they've had to back down on asbestos, dioxin, EDBs and, most recently, fluoride.

But that ignores the fact that today's EPA is under the direction of an ideologue with strong ties to a movement whose deepest conviction is that economic growth is bad for the environment and technology is the enemy of the planet. Bombs away.

[From the Washington Times Nov. 28, 1990]

RADON RISK IN OUR WATER?

(By Warren Brookes)

Even as the scientific community is seriously questioning the Environmental Protection Agency's exaggeration of the risk of residential radon, the EPA was (and may still be) planning an even more preposterous $17 billion to $34 billion boondoggle against state and local water services and their taxpayer/customers.

Until it was temporarily embarrassed by a scathing report from its Scientific Advisory Board (SAB), which surfaced publicly on Nov. 2, the agency was planning to rule that drinking water should not exceed 300 picocuries/liter (pCi/L).

While that may seem high when compared with the present EPA "danger level" for homes (4 pCi/L), the risk factors for water are altogether different because so little water is ingested.

The equivalent risk ratio is 10,000 to 1 air to water, so 300 pCi/L in water is the equivalent to only 0.3 pCi/L in air. The average background level on radon in U.S. homes is about 1.2 pCi/L or 40 times the proposed regulation for water.

To put it another way, the 4 pCi/L "action" standard used by EPA for homes is 133 times as high as the proposed water rule. Yet, as the Oct. 22 editorial in Science magazine pointed out, even that residential standard is now under attack by radiation/cancer researchers who have yet to find any evidence of raised lung cancer death rates even in areas where average residential levels are well over 8 pCi/L. Canada's "action" level is 20 pCi/L because it saw no evidence of public health risk even at that level.

Even if we were to regulate water equivalent to U.S. residential background levels, EPA would have to set a water regulation of 12,000 pCi/L. (See Table.) But the number of wells over 12,000 pCi/L is so tiny such a regulation would be meaningless.

In California, for example, the State department of health services surveyed 252 major ground-water wells operated by some 41 separate water agencies around the state and found only six (2 percent) with levels above 1,500 pCi/L and none above 4,000.

By contrast, under a 300–500 pCi/L standard, nearly 70 percent of its wells would have to be "remediated." The Association of California Water Agencies estimated that as

many as 14,000 ground-water wells would be affected. Although radon levels could easily be reduced by charcoal filtration, EPA opposes that method because the filters then would constitute a radioactive waste to be disposed.

The EPA-recommended remediation is construction of aeration towers around every ground-water well feeding more than 10 homes, at an estimated cost of $100,000 to $200,000 per tower, or a cost range for the state of California alone of $1.4 billion to $2.8 billion.

And that is for a state that already has the lowest tested indoor radon levels for the nation. For the nation as a whole, this suggests a cost of $17 billion to $34 billion.

The good news is the SAB report ripped apart the EPA's support for this madness, saying "the overall quality" of this science "was not good." It found that the support documents contained "irrelevant information and incorrect definitions of fundamental technical terms," and "were inconsistent in their approach to risk assessment. . . ." The bad news is that the EPA desperately needs to protect the radon risk estimate because theoretically it is by far the most "dangerous" substance it regulates.

The agency's own newsletter "Inside EPA" reported this major embarrassment saying, "the subcommittee's [SAB's] report in the words of one subcommittee member will be 'damning.' saying EPA 'did a lousy job.'" The job was so bad the entire project had to be transferred out of the EPA's water division to its Air and Radionuclides Division, and the EPA's Jan. 21 deadline for complying with a court order had to be postponed.

Once again the EPA has embarrassed itself on a major regulatory issue with bad science. No wonder EPA Administrator William Reilly is reportedly growing nervous that the radon program may become just as big a fiasco as the asbestos removal program.

And just as costly. For example, an analysis by the New England Radon Committee (NERC) estimates that in its six-state region even a 500 pCi/L standard would require mitigation of 678,000 wells, at a total cost for the region of $1.4 billion. That translates into $24 billion for the nation as a whole.

In a March 1989 report to the EPA, the NERC said a standard even as low as 500 pCi/L would make no sense from a health benefit standard "since living area radon concentrations are approximately 1.2 to 1.4 pCi/L and the 500 pCi/L would only add 0.05 pCi/L to this." It said "the financial burdens on affected state programs would be disproportionate to demonstrate health benefits" and "would result in rate increases to consumers which cannot be justified by commensurate health benefits."

A 1988 letter to the EPA by David Brown, chief of toxic hazards for the Connecticut Department of Health Services, calculated "the radon content of a water supply that would have to be exceeded in order for a health effect to be demonstrable" and arrived at a figure of 5,000 pCi/L. That's more than 10 times the level being proposed by the EPA.

The EPA overkill on radon clearly is an act of desperation by an agency now confronted with a very real "hazard" to its own health safety regulation: If as Science now suggests, residential radon is increasingly shown to be a modest risk, the EPA's entire health regulation program is endangered.

That is why the EPA is trying to force the U.S. public to ratify its ridiculous risk models at a cost of tens of billions. It's a growing scandal.

EPA IN YOUR BEDROOM?

(By Warren Brookes)

Liberal Democrats are always complaining that conservatives want to invade our bedrooms when it comes to our reproductive behavior. Now it turns out liberals want the Environmental Protection Agency to invade and inspect our houses for something called "indoor pollution."

No kidding. On April 24, the Senate Environment and Public Works Committee marked up and sent forward S. 657, the Indoor Air Quality Act. Its initial $49 million price tag is a tiny down payment on what could be hundreds of billions of dollars in costs to homeowners. The inventor of this nano-nannyism is Senate Majority Leader George Mitchell who wants to establish an Office of Indoor Air Quality and a Council on Indoor Air Quality.

What will these new bureaucratic meddlers be doing? They will be conducting "a coordinated research program on indoor air contamination, to institute a process for directing and focusing authorities of existing federal statutes to reduce indoor contamination and to demonstrate and develop state and local responses to indoor air contamination problems."

In other words, the same environmental police force the EPA will be assembling from the Clear Air Bill will begin to cast its turf-building eyes toward every household in America.

It's only a matter of time before homeowners who want to sell their houses will have to get an EPA-approved "air-quality test" of their home, and spend thousands of "mitigate" and "problems" before they can sell.

That's already happening on radon. Recently an employee of a very large computer company told us of a horror show in which a relocator service forced him to spend nearly $2,000 trying unsuccessfully to get a 4.3 pCi/1 basement reading down below 4. Yet the living space level was very likely to have been 1 or less, and presented absolutely no health danger. Even though EPA can't "regulate" radon. It is now working with real-estate groups and Congress to make such costly foolishness mandatory.

Mr. Mitchell's 66-page Indoor Air Quality bill calls on the EPA to issue "Indoor Air Contaminant Health Advisories" and develop "National Indoor Air Quality Response Plans" and to work with states to develop similar plans.

The premise for all of this is that "contaminants in the air indoors pose a serious threat to human health." and "federal and state governments have not responded adequately to this problem."

In its 1989 "Unfinished Business" document, the EPA ranked "Indoor Air Pollutants Other Than Radon" fourth in their "Consensus ranking of environmental problems," right behind "pesticide residues on foods." (See Table.)

EPA says its "quantitative assessment estimates 3,500–6,500 cancers annually," from indoor air pollution of which the majority (3,700) comes from secondary tobacco smoke. The rest supposedly come from a whole range of household pollutants from friable asbestos to hair spray and furniture polish.

Since EPA used essentially the same risk-assessment procedures to generate these indoor cancer estimates as to predict 6,000 annual cancer cases due to pesticide residues. Americans can relax about their health if not about the bureaucratic threat from the EPA to make mincemeat of their real-estate values.

Food and Drug Administration's top toxicologist Dr. Robert Scheuplein told the American Association for the Advancement of Science last winter that contrary to the EPA's alarmism, pesticide residues and chemical additives account for less than .01 percent of all cancer deaths. When we asked him if this meant "less than 50" he said, "Oh, much less than 50." When we pressed him for a number he said: "I won't give you one because I don't honestly believe anyone has ever died from consuming pesticide residues on food."

Most serious risk assessors feel the same way about indoor air pollution other than cigarette smoke. Even there, the incidental tobacco smoke estimates are wildly exaggerated on the presumption that you can extrapolate cancer estimates in a straight line from the actual high-dose experience of smokers to the very low exposure of nonsmokers.

One of the nation's top risk assessors, Michael Gough, director of the Center for Risk Management at Resources For Future, estimates that the regulatable risk of indoor air pollution is 1,240 cancer deaths, using EPA's risk-assessment formulae, or 124, using the methods similar to those used by the FDA, which he considers more realistic. While most risk assessors like Mr. Gough are glad to have a growing focus on the very real danger of tobacco use, they are skeptical about a "national program" to deal with a problem as simple as opening your window more often.

Indeed, the national push for energy conservation, also federally driven, has produced the more recent problems of "sick buildings" and has increased indoor air contamination in some new construction. As the EPA states it: "The Department of Energy has estimated that air-exchange rates in new construction are, on average, 50 percent lower than the national average."

EPA should know. To this date it has what one leading indoor air consultant in the Washington area told us the "sickest buildings" in the city. Instead of passing this zaniness, Congress should tell EPA to air out its own house, first.

[From the Washington Times, Apr. 25, 1990]

50,000 PREMATURE DEATHS?

(By Warren Brookes)

Advocacy groups routinely exaggerate their cause—and occasionally drift into what amounts to lying. In this respect, the environmental movement runs even more true to form, turning lying into an art form. So much so, we may well be in greater danger from the greenies' "statoxics" (poisonous statistics) than the alleged risks we are being urged to mitigate.

What is troubling is when the government's top environment officer engages in this process. On April 1, two days before the Senate approved the Clean Air Act, Environmental Protection Agency Administrator William Reilly claimed air pollution was causing "50,000 premature deaths a year." This statement stunned the Washington risk assessment community, including many within the EPA itself, where there is absolutely no scientific analysis to support it. Mr. Reilly's spokesman, Lewis Crampton, said his boss was using "a study by the American Lung Association." But that study has no epidemiological foundation and never was peer reviewed or professionally published.

In 1989, the EPA's own risk assessment team of 50 scientists and statisticians developed a report called "Unfinished Business"

which concluded that the entire cancer risk associated with "hazardous toxic air pollutants" was from 1,027 to 2,054, and even those numbers are based on risk models that deliberately overstate risk by at least 10 to as much as 100 times.

This means the likely real risk of air pollution is between 100 and 200 additional cancer deaths a year, nationwide, and a major share of those cannot even be remediated by EPA regulation. What's more, EPA knows this. The March 1988 EPA "Regulatory Impact Analysis" on sulfur dioxides (SO2) the precursors of acid rain, reviewed all studies on SO2 and found "none of the available laboratory data support the notion that steady long-term exposure to acid sulphates at levels [characteristic of the United States] produce any measurable health effects." In its cost-benefit analysis, it assigned no dollar value to SO2 controls' ability to reduce mortality risk even at strict interpretation of present SO_2 air-quality standards. Similar EPA analyses exist on surface ozone.

This may come as a shock to a general public that has been frightened to death by exaggerated reports of the dangers of environmental pollution. The other day at a Washington luncheon, a well-educated career woman and mother was holding forth on the health dangers of pesticides and dirty air. We asked her, "What percentage of cancers do you think are caused by the environment?" She paused for a moment, and then said, "Well I guess I would say 60 or 70 percent, but that's probably too low." "Would you believe less than 2 percent?" we asked. "Of course not, she said, "that's ridiculous." Not so. In 1981, the world's two leading epidemiologists, Oxford's Sir Richard Doll and Richard Peto, concluded after exhaustive analysis comparing animal test data with actual health statistical trends that indeed pollution was the cause of only 2 percent of all cancers—while 75 percent were caused by human lifestyle, diet, smoking, sexual and reproductive behavior.

That study was directed by Michael Gough, one of the nation's top risk assessors who was then at the Congressional Office of Technology Assessment. Mr. Gough, now director of the Center for Risk Management at Resources for the Future, points out that despite heavy criticism, "the Doll/Peto estimates have come to be regarded as conventional wisdom."

In fact, EPA has largely accepted the Doll/Peto parameters. In its 1989 "Unfinished Business" analysis, EPA shows a range of 6,214 to 11,054 for all "pollution"-caused cancers, or between 1.2 and 2.5 percent of all cancer risks.

Furthermore, those total risk numbers do not reflect the actual potential benefits of EPA regulation, since so many of them cannot be reached by even the most stringent controls.

In a paper for Risk Analysis last January, Mr. Gough looked at the question "How Much Cancer Can EPA Regulate Away?" and discovered it wasn't very much: "The total number of cancer cases that might be prevented by EPA regulatory efforts . . . range from between 1,200 and 1,600 to between 6,200 and 6,600, depending on how risk from animal data are estimated. Those estimates represent between 0.25 percent and 1.3 percent of the annual cancer mortality of 485,000 deaths." On air pollution, Mr. Gough's numbers range from 231 to 1,028. (See table.)

The range represents Mr. Gough's application of the much more realistic risk assessment method used by the Food and Drug Administration and the Centers for Disease Control compared with the deliberately extreme exaggeration of the EPA methods.

This is not the judgment of an industry shill, but an environmental expert of absolutely impeccable credentials who is frankly surprised by the way in which officials like Mr. Reilly use their office to spread unsubstantiated data.

What is more troubling to risk assessors is that such exaggeration is leading the nation into pouring more and more resources into smaller and smaller benefits. Even as we are turning down $300,000 bone marrow transplants and $500,000 dialysis machines (which actually save real people) we are about to spend another $46 billion on a theoretical risk of less than 200 to 1,000 lives.

[From the Washington Times, Apr. 11, 1990]

HOLE IN SENATE HEADS RIVALS OZONE GAP

(By Warren Brookes)

Two weeks ago, we got an urgent call from a top adviser to President Bush concerning something they had only just discovered in the Clean Air Act compromise: "Did you know the bill calls for the total banning of methylchloroform (MCF) by the year 2000?" he asked.

We asked back, "Where have you been? That passed the Senate back on Jan. 31, 95 to 2. Only Jesse Helms and Steve Symms voted against it."

"Do they realize what this would do to the entire U.S. electronic industry?" he asked. No. But it would send what's left of it to Japan, which has refused to consider such a ban.

The conversation was yet another reminder that, in the current environmental debate on Capitol Hill, the collective hole in White House and legislative heads may be larger and more permanent than the one that shows up every fall in the ozone layer over the Antarctic—and more dangerous to our economic and ecologic health.

The Senate rationale for the total MCF ban was that "scientists say these substances are destroying the stratospheric ozone layer which shields the Earth from the sun's harmful ultraviolet radiation."

Yet MCFs were developed precisely because they are one-tenth as destructive of ozone as chlorofluorocarbons (CFCs) and have a much shorter life in the stratosphere. MCFs have been a godsend to theelectronics industry for which CFCs had been central to the production of computer chips and circuit boards. A total MCF ban would leave this industry and its defense products naked.

When an electronics representative asked a Southern conservative Republican senator why he voted for this ban he said: "My mother died of melanoma (skin cancer) and I have had problems with the same condition."

There are just three little problems with the senator's empathy: "First, the levels of ultra violet-B radiation (UVB) over the United States have actually fallen by about 10 percent since we started measuring them in 1974. Second, the rise in melanoma in this country started in 1935, 25 years before the use of CFCs. Third, the only ozone thinning has been over the South Pole.

In short, neither CFCs nor MCFs have anything to do with melanoma. Indeed, there is very little hard scientific evidence that CFCs have been the significant cause of a thinning ozone layer or even that that alleged thinning is permanent.

The only theoretically predictive evidence comes from the discovery of a large "ozone hole" over the Antarctic in 1985 by British scientists led by Robert Watson. This "new discovery" was immediately seized upon as evidence supporting the 1974 theory of two California scientists, F. Sherwood Rowland and Mario Molina, that CFCs could "eat up" as much as 10 percent of the world's ozone layer.

Since 1985, scientists have measured the size of this ozone hold to see how much destruction was going on while environmentalists successfully pushed the nations of the world to an effective CFC ban by 2000, to keep the hole from "swallowing up our entire ozone layer," as one EPA "scientist" told The New York Times.

Yet in the midst of this political drive, growing scientific evidence suggests the hole is not a new phenomenon and may well have been reappearing periodically throughout Earth's history.

It now turns out that the first discovery of significant ozone thinning over the South Pole was not in 1985 but in 1956, before CFCs were even in general use. It was identified by the world's leading ozone layer researcher Gordon Dobson who at the time said the "ozone hole" appeared to be a natural anomaly.

Indeed no. The ozone layer itself is not something static but dynamically created through the interaction of the sun's ultraviolet rays and the Earth's oxygen. So long as there is sunlight and oxygen, there will always be an ozone layer.

For precisely that reason, however, the layer thins out over the poles during winter seasons when there is very little sunlight, and very extreme cold. While the size of this "hole" seems to have grown substantially in recent years there is still a major controversy over CFCs relative causative role.

Fred Singer, a University of Virginia physical scientist, with some of the longest continuous experience of investigating the ozone layer told us: "The scientific evidence of the relationship between the ozone layer and CFCs is still very incomplete. The remarkable scientific investigation now going on suggests the more we know the less sure we are about making policy."

NASA found this out when with much fanfare in March 1988 they announced that the ozone layer had decreased by a full 3 percent since 1970 and warned the 1988 hole would be even larger than the 1987 episode. But NASA provided no peer-reviewed analysis to back up either its claim or its prediction.

Just six months later we learned the 1988 hole plunged in size by 60 percent largely because of an unexpected heat wave over the South Pole. This confirmed Mr. Singer's simultaneous, peer-reviewed article in Eos, the house journal of the American Geophysical Union, which said the hole itself could be "an ephemeral phenomenon" which could disappear rapidly with changes in the upper atmosphere temperatures and the solar cycle itself.

Later this month, Mr. Singer has been invited to present a scholarly paper to NASA's International Conference on the Climate Impact of Solar Variability in which he will raise the question "Is the reported decline of stratospheric ozone a solar-cycle effect?"

There is a sound basis for his question. NASA's contention of a 3 percent decline in stratospheric ozone since 1970 is not only much larger than can be explained by current CFC levels of theory, but depends entirely on the selection of the time frame. And 1970 just happens to have been a solar-cycle maximum-activity year, while 1986 was a solar-cycle minimum.

This, Mr. Singer will suggest, means "the reported decline could at least be partly due to a secular variation of ultra-violet radi-

ation, matching observed secular trends in solar activity."

He points out that the variability of ozone over recent solar cycles is on the order of 5 percent, far more than the decline supposedly "measured" by NASA in their "unpublished paper." Mr. Singer in short is about to call NASA's bluff, even as the Senate has played its blind man, driving premature stakes through the heart of the nation's already beleaguered electronics industry.

[From the Washington Times, Jan. 17, 1990]

BILLIONS INTO THE AIR-TOXICS BREEZE

(By Warren Brookes)

A top career executive in the Environmental Protection Agency was asked how he would spend his budget to achieve the maximum reduction in premature cancer deaths.

"I would give it all to the American Cancer Society," he is reported to have said without hesitation.

The story which has been circulated widely might well be apocryphal, but it has a serious point, well-illustrated by the Air Toxics section (Title III) of the Clean Air Amendments (S 1630) now before the U.S. Senate.

Industry groups now estimate the likely cost of this section alone to the U.S. economy is between $20 billion and $30 billion. That's 10 to 15 times the $1.8 billion we now spend on the National Cancer Institute for a disease killing 470,000 per year.

Yet, the EPA estimates that even using the most-extreme-risk models only 1,700–2,700 cancer cases are caused by air toxics. Since 900–1,600 of those are blamed on motor-vehicle emissions (covered by other controls) the total range for all industrial air toxics is only 700 to 1,100.

And, because the bill only targets those plants emitting 10 tons or more of any one pollutant, its maximum potential remediation is said to be between 350 and 500, even assuming the Senate bill's insistence on cutting effective risk to 1 in 1 million.

That represents a cost per cancer avoided of between $40 million and $86 million each. If these numbers shock you, read the careful analysis of the air-toxics madness in the winter issue of Regulation Magazine, out next week from Cato Institute.

In it, two engineers, Frederick Rueter and Wilbur Steger, admittedly consultants to industry, nevertheless use the EPA's own data to show the costs and benefits of dealing with just two of the key air toxics, coke oven emissions, and benzene.

The EPA itself estimates air toxics from coke ovens are responsible for 6.9 cancer cases a year nationwide, and benzene emissions for about 3.9 cases. (See Table.)

Last year, the EPA issued a proposed NESHAP (National Emissions Standards for Hazardous Air Pollutants) rule on coke emissions. It said that using "best-available technology" (BAT) coke emissions could be reduced enough to cut cancer incidence from 6.9 per day to 4.0, a net saving of 2.9 cases, at a cost of $19.3 million per year, (an implied capital cost of $200 million). That's $6.8 million per case.

On benzene, EPA's NESHAP ruling last September called for cutting the total cancers presumed from that emission source from 3.9 to .5 per year, a saving of 3.4 cancers per year, at a cost of $200 million a year (an implied capital cost of $2 billion).

Messrs. Steger and Rueter say, "This amounts to more than $58 million per life prolonged. It should not be difficult to find other applications for $200 million per year that would achieve much larger reductions in cancer risk * * *."

That's especially true since "the EPA's cancer risk estimates are extremely overestimates of the actual risks" for air toxics. Why? Virtually all those are extrapolated for the general population from epidemiological studies of workers actually employed on the emitting source sites, or from high-dosage rodent tests.

But as Messrs. Rueter and Steger point out, that assumes a straight-line risk relationship between very high exposure and very low exposure. Now only is there no such connection with low-exposure workers (whose cancer rates are uniformly below EPA risk-model expectations) but none exists in the general population.

For example, they looked at the largest concentration of industrial coke ovens in the nation, Allegheny County, Pa. They calculated the age-adjusted cancer rates for the 30 geographic areas in that county for the period from 1969–1971, well before substantial emissions reductions took place, in order to get the maximum possible health effect.

Even so, they found no pattern of raised rates. Indeed around two of the three coke plants, cancer rates were from 20 to 40 percent lower than the county as a whole. They concluded "the risk levels are so low they cannot even be detected in epidemiological studies of population exposures to outdoor concentrations of coke-oven emissions that were (1969–1971) substantially higher than those prevalent currently."

The EPA admits its technique of extrapolating risk from high to low exposure has "no solid scientific basis." Worse, the EPA risk model assumes the average individual is exposed to the maximum possible ambient level of the pollutant for 24 hours a day through his entire 70-year life span. Since most of our life is spent inside our homes, and since we move on average every six years, such an assumption is a ludicrous exaggeration.

For coke, the two engineers conclude; "EPA assumptions result in the overestimate of those cancer risks by at least a multiple of 100." So, the likely national risk for all coke emissions currently is 0.07 cancers per year. The likely reduction from investing $200 million in capital is 0.03 cancers per year, or about 1 every 30 years or so.

For investing $20 billion to $30 billion on all air toxics, the likely reduction in cancers is not 350 to 500 a year, but something on the order of 3 to 5, or $4 billion to $9 billion per life prolonged.

As the EPA executive suggested, there must be myriad better ways to spend our money on health improvement than this.

EXHIBIT 4

ACID RAIN

Mr. KROFT. Acid rain and ecological catastrophe: two phrases that in many people's minds have become almost synonymous. Acid rain—poisons falling out of the sky, killing our forests and ravaging the countryside, and all of it coming from the sulfur-polluting smokestacks of the Midwest. But the most expensive and exhaustive scientific study even conducted on an environmental problem, which took 10 years, hundreds of millions of dollars and thousands of scientists to conduct, is about to publish its final report, which takes the conventional wisdom about acid rain and shoots it full of holes.

JAMES MAHONEY. Acid Rain Expert. I think we can be very simple about it. Acid rain is definitely a problem that needs improvement. It is not an ecological catastrophe at the levels we see here in the United States.

Mr. KROFT. [voice-over] Dr. James Mahoney is director of the National Acid Precipitation Assessment Program—. NAPAP for short. What he and his scientists found out while conducting the government study is really quite different from what most people have come to believe about acid rain.

Mr. MAHONEY. I think our science clearly shows that the effects are less severe by quite a bit than the most extreme stories we sometimes hear.

Mr. KROFT. [voice-over] And what are some of those stories? Well, here's an example. Earlier this year, Newsday reported that wispy clouds creeping silently through the Northeast's forests are slowly killing off trees.

Mr. MAHONEY. I think that's in the sense of poetic characterization.

Mr. KROFT. Overblown?

Mr. MAHONEY. In a word.

Mr. KROFT. [voice-over] In fact, the NAPAP study says acid rain isn't killing trees—period. We quote: "There is no evidence of a general or unusual decline of forests in the United States and Canada due to acid rain. The study did find that acid rain may be harmful to one kind of tree, the red spruce at very high elevations, but that natural stresses like forest and insects are more significant factors in the loss of those trees.

Mr. MAHONEY. There is a broad view that acid rain kills trees on a broad basis. The scientific community, I believe even the environmentally active scientific community now understands that this is not what we see.

Mr. KROFT. You certainly wouldn't get that impression reading news stores about acid rain.

Mr. MAHONEY. Our job is to carry out these scientific studies and to do the best job we can of being scientific fact-finders. News stories are much more likely to take an extreme position. It's much easier to write a story about a problem and to characterize it as being caused by acid rain.

Mr. KROFT. [voice-over] And what about the effect of acid rain on lakes? Well, for the past 10 years it's been widely reported that lakes in the Northeast are dying by the thousands and a report by the National Academy of Sciences in 1981 predicted that the number of acid-dead lakes would nearly double by the year 1990.

[interviewing] Has that happened?

Mr. MAHONEY. No, definitely not.

Mr. KROFT. What's the increase been?

Mr. MAHONEY. Our best estimate is that the level of—the number of acid lakes is probably just about the same now as it was a decade ago, and that's a fundamental difference compared to the commentary that the National Academy of Sciences made 10 years ago.

Mr. KROFT. [voice-over] The study found that acid rain does contribute to the acidity of lakes and streams, and it did find a large number of lakes to be acidic, particularly in New York's Adirondack Mountains, more than 200 out of several thousand. But most of those affected lakes are small in size, representing about 2 percent of the surface water in the Adirondacks, and many of those lakes were acidic before the industrial revolution, before there was acid rain. Acid rain, the study says, is one of many factors which causes acidity in lakes. The other Leasons: acidic soil and wild vegetation.

Mr. MAHONEY. Interesting, the percentage of acidic lakes and streams is highest in the nation in Florida, by quite a bit. We know that the causation in many of these is natural. It has nothing to do with acid rain.

KROFT. [voice-over] The study did confirm some concerns about acid rain. The sulfur emissions that cause it affect visibility. Acid rain itself does damage buildings and statues. But the problem is getting better, not worse. Sulfur emissions are down more than 25 percent since the Clean Air Act of 1970 went into effect, and those emissions will continue to drop as more and more old coal-burning factories are phased out and replaced.

Soil scientist EG KRUG [sp?] was one of many NAPAP scientists who looked into the effects of acid rain on lakes and he says it's not a crisis.

EG KRUG, Acid Rain Expert. We believe that the effects of acid rain are there, but they are subtle. They're difficult to find. We can see other environmental insults very easily but acid rain—it speaks that it's not a particularly large problem.

Mr. KROFT. The New York Times reported recently that over the last 10 years, while NAPAP has been doing its study, the number of lakes turned into aquatic death-traps multiplied across New York, New England and the South, stretches of forest along the Appalachian spine from Georgia to Maine, once lush and teeming with wildlife, were fast becoming ragged landscapes of dead and dying trees. True?

Mr. KRUG. No. No. I don't know where they got that from. It appears to be another assertion, unsubstantiated, because we've spent hundreds of millions of dollars surveying the environment to see if that was occurring and we do not see that occurring.

Mr. KROFT. [voice-over] To be exact, they spend $570 million of government money and they are more than 3,000 scientists from places like Yale, Pennsylvania, Dartmouth and the National Laboratories at Oak Ridge and Argon [sp?].

Senator DANIEL PATRICK MOYNIHAN. (D-NY).

Good science—world-class science.

Mr. KROFT. [voice-over] Senator Daniel Patrick Moynihan wrote the bill which started this 10-year study because he was concerned about the lakes and the streams in his home State of New York.

Senator MOYNIHAN. We didn't know but what we were going to lose all our lakes and half our forests and God knows what else. It's good news to find that you don't have a devastating problem. It's also good news to know what kind of problem you have.

Mr. KROFT. [voice-over] It's not, however, been received as good news by most environmental groups. David Hawkins [sp?], a lobbyist for the National Resources Defense Council, says there's not much new in the NAPAP study. Hawkins says it confirms that acid rain is a problem and that the scientific community knew that 10 years ago.

DAVID HAWKINS, Environmental Lobbyist. The environmental community has spent almost no effort attempting to even monitor the progress of this program because we felt that this program was essentially a misdirection of resources and that our resources were better spent in trying to deal with the facts that we already have in hand about the damages due to acid rain. We have been working on trying to get legislation in Washington to clean up the problem, actually attack the pollution problem.

Mr. KROFT. So you've been working the political angle of it?

Mr. HAWKINS. I've been working the legislative angel of it, yes, trying to get a new law to control the pollution.

Mr. KROFT. Wait a minute. You seem to be saying it doesn't matter what the scientists say. What matters is passing the legislation.

Mr. HAWKINS. No, what we're saying is that you don't need additional years of documenting facts that we already have enough information about to know that the risks are so great that we should control pollution now rather than wait for additional years of research.

Mr. KROFT. [voice-over] HAWKINS says that even if acid rain isn't a crisis, he considers it serious enough to require action and the legislation he's talking about is the tough acid rain provision of the new Clean Air Act, which his group, other top environmental lobbyists, the President and the Congress pushed through at the end of this last session. It will cost U.S. industries $4 billion to $7 billion a year to cut emissions that cause acid rain in half.

[on camera] What about the NAPAP study? It wasn't even a factor. The study received a one-hour hearing before a Senate subcommittee and was never even formally presented to the House of Representatives.

Senator JOHN GLENN (D-OH). We spend over $500 million on the most definitive study of acid precipitation that's ever been done in the history of the world anyplace, and then we don't want to listen to what they say.

Mr. KROFT. [voice-over] Senator John Glenn is concerned that the new legislation to cut down smokestack emissions will have a devastating effect on his home state of Ohio, not to mention Pennsylvania, West Virginia, Kentucky and parts of Indiana where high-sulfur coal, long blamed for causing acid rain, is not only the main source of energy but a major source of employment. Factories will be forced to install expensive new pollution control equipment. Utility rates are expected to jump by as much as 30 percent and 100,000 people could end up losing their jobs, many of them coal miners.

ROBERT MURRAY [sp?], Owner, Ohio Valley Coal Company. We're out of business. We're out of business. Our jobs are gone.

Mr. KROFT. [voice-over] Robert Murray owns the Ohio Valley Coal Company. He says more than 400 jobs are at stake at his company alone and he can't understand why no one is listening to the scientists.

Mr. MURRAY. The networks, the electronic media, the written media, have placed acid rain up to the point that our teachers, our students are totally confused about this issue, yet when the NAPAP study came out, you found it on page 34 of *The New York Times*. You didn't find it on CNN, CBS, ABC at all!

Mr. KROFT. You're very upset about this.

Mr. MURRAY. I am damned mad because this political issue is a human issue to me!

Mr. KROFT. [voice-over] About the only person who has written about the NAPAP study is this man, syndicated columnist Warren Brooks [sp?], who's made it a crusade.

WARREN BROOKS, Syndicated Columnist. It's sort of like trying to kill a gnat with a blunderbuss. I mean, it's just—we have this tendency to overdo it in this country. We just throw money at problems and I think we all agree that we don't have that kind of money to throw any more.

Mr. KROFT. [voice-over] Brooks has read the reports, studied the science and his conclusions have become the gospel for a growing number of people convinced that America is suffering from environmental hypochondria and that this acid raid legislation is just the most recent example.

Mr. BROOKS. If it's a crisis, we should act. We should—you know, damn the torpedoes, full speed ahead. What this study shows clearly is it's not a crisis. We should not damn the torpedoes. We should do it sensibly so we don't throw people out of work unnecessarily.

Mr. KROFT. Why has nobody listened to it?

Mr. BROOKS. Well, the point is that once their minds are made up—that is, "We're going to do something on acid rain. We're going to do something"—the politics is, "We're going to do something—

Mr. KROFT. That's happened. That's what's going on here.

Mr. BROOKS. That's what's going on.

Mr. KROFT. [voice-over] Brooks says the political agenda was set by candidate George Bush when he pledged to become the "environmental president" and to do something about acid rain. Brooks claims that Congress, looking at public opinion polls, decided voting against clean air was like voting against motherhood.

[interviewing] So you're saying this has a lot more to do with politics than it does with science.

Mr. BROOKS. Absolutely. Absolutely.

Mr. KROFT. There are votes in it.

Mr. BROOKS. Yeah. Very simple.

Mr. HAWKINS. We live in a representative democracy and if the public believes that environmental protection is important and they are prepared to spend more of our wealth in protecting the environment, then it's responsive to do that.

Mr. KROFT. And you think the American public is well-informed on this issue.

Mr. HAWKINS. I think the American public can look out their windows and see what we're doing to the environment. They can read about it in papers. They can read about it in books.

Mr. KROFT. [voice-over] So what are we going to get for those billions spent to control acid rain, not to mention the lost jobs? Well, according to Warren Brooks, the only certain benefit will be the recovery of about 75 small lakes out of several thousand in New York's Adirondack Mountains.

Mr. BROOKS. Now, that's at $5 billion a year for, whatever, 50 years. That comes out to about $4 billion a lake.

Mr. KROFT. [voice-over] The Bush administration and environmental groups say there's much more to it than that, that what we're getting is cleaner air, better visibility, less damage to buildings and an insurance policy in case there are any unknown effects on human health which simply haven't been seen yet.

Mr. HAWKINS. We have very crude scientific tools. Even though we spent lots of money on it, the idea that a team of scientists can take a few years, wander around the forests and come up with "the answer"—well, the Greeks had a word for it. It's hubris. It's pride. And they're saying that because we spent a few years backpacking around these forests with a lot of instruments and we can't find anything, we should assume there is nothing.

Mr. KRUG. Actually, we do know a lot. We know that the acid rain problem is so small that it's hard to see, so it's the difference between an optimist and a pessimist, the classic example of whether the glass is full or empty. In this case, there's a couple of drops in the bottom of the glass and people are saying it's full and the rest of us are looking down and saying. "It looks mostly empty."

[From the Detroit News, Oct. 24, 1989]

THE ACID RAIN BOONDOGGLE

We invite your attention to excerpts of some congressional testimony reprinted on the opposite page. We stumbled across the testimony in the course of reporting on

President George Bush's proposal to reduce sulfur dioxide emissions from coal-burning power plants by 10 million tons a year, a 45-percent reduction on top of the 31-percent reduction already accomplished since 1973.

The testimony makes for some entertaining reading, conducted as it was by the witty Democrat, Sen. Daniel Patrick Moynihan of New York, and the acerbic Republican, Sen. John Chafee of Rhode Island. But it should also make disturbing reading for American electricity consumers, who would have to fund the Bush proposal to the tune of $4-6 billion a year, or as much as $120 billion over the next two decades. Most of the cost would be borne by electricity consumers in the Midwest and Southeast, with costs ranging between $98 and $180 a year in Michigan, but up to $900 per home in Ohio.

The bottom line on the expert testimony: This vast expenditure will achieve almost nothing. It might—might—help clean up about 75 of America's tens of thousands of lakes, but at a cost of billions—billions—per lake.

President Bush made this decision even though his economic advisers warned him there was no solid scientific or economic cost-benefit basis for such a reduction. The target of 10 million tons of sulfur dioxide was plucked out of thin air as a compromise between an industry proposal for a six million ton reduction and the environmental extremists' position of 14 million tons.

President Bush was advised to wait for the final 1990 report of the National Acid Precipitation Assessment Project (NAAPAP), created by Congress in 1980 to study this problem. It will be the most authoritative, extensive study of acid rain ever conducted. Despite an interim report last year indicating that acid rain might not be the serious problem it is cracked up to be. Mr. Bush's Environmental Protection Agency Administrator William Reilly successfully argued in favor of immediate action.

On Oct. 5, members of the Senate Subcommittee on Environmental Protection found out why Mr. Reilly was so eager to rush ahead. NAPAP Director James Mahoney admitted that the Bush program would do very little, even in 50 years, to change lake acidity in the Northeast. Even if nothing were done, he testified, there "would be no significant change" in the number of acidic lakes.

The senators also learned that NAPAP could find no evidence that acid rain was measurably hurting either crops or forests, and that it was only one of a number of factors affecting lake acidity. Or as Sen. Moynihan concluded: "It suggests to me that the sky is not falling."

Indeed it isn't Sen. Moynihan was particularly shocked to learn that in 20 years only 25 lakes would actually be "de-acidified" by spending $80-120 billion, or $4-6 billion a year on the Bush program. That's $5 billion per lake.

The fact is NAPAP's study completely vindicates the Reagan administration's refusal to spend vast amounts of the consumers' money on sulfur dioxide reduction programs and completely destroys the scientific or economic premise for the Bus program.

The scandal is not only that the administration went ahead despite this, but that so far not a single House committee working on that program has invited NAPAP or Dr. Mahoney to present their findings.

House Energy and Commerce Committee Chairman John Dingell, D-Mich., has expressed concern about the impact of a big acid rain cleanup on Michigan and other Midwestern states. He might want to ask his subcommittee chairman on Energy and Power, Phil Sharp, how he could hold four days of hearings on acid rain in the last three weeks and never include NAPAP, by now the country's foremost expert on acid rain.

Does Rep. Sharp know that Tennesseans face up to $464 more per year in electric bills under the Bush program? Or is his mind made up in advance of the facts?

The exchanges in the Senate subcommittee are so devastating that we decided to print extended excerpts, so the consumers can judge firsthand whether the new regulations are worth it. We think you will be as shocked and outraged at this boondoggle as we are. This country is rich, but it's not rich enough to throw away money like that.

[From Human Events, Nov. 4, 1989]

BUSH'S ACID RAIN PLAN: "EXPENSIVELY FUTILE"

(BY WARREN T. BROOKES)

At a hearing on October 5, members of the Senate Subcommittee on Environmental Protection discovered that the Bush Administration's acid rain program is expensively futile.

A preview of the 1990 final report by the National Acid Precipitation Assessment Project shows the Bush proposal to spend up to $4 billion to $6 billion a year to cut sulphur dioxide emissions will deacidify only 26 lakes in the Northeast after 20 years—and only 75 lakes after 50 years.

This means a 20-year cumulative cost of almost $5 billion per deacidified lake and after 50 years about $4 billion per lake. (By contrast, the 20-year cost of liming the average lake is less than $50,000.)

In his report to the Senate, James Mahoney, NAPAP director, admitted that even this scandalously small projection of benefits from the proposed Clean Air Program was iffy because: "There are significant uncertainties about the role that watershed mineral processes, organic acids and nitrates (in the soils) may play in the acidification and recovery process."

This is "science-ese" for admitting that, despite protestations, NAPAP knows there is very little correlation between acid-rain levels and acid lakes.

For example, Mahoney acknowledged that the highest acid lake concentration in any U.S. state is in Florida. Yet Florida gets hardly any acid-rain deposition, and, as Mahoney noted, its acid lakes were the result of natural causes.

Also contrary to spurious "new [but unreleased] research" by the Environmental Protection Agency, published geological core studies show that more than 80 percent of the acidic Northeast lakes were acidic in pre-industrial times.

Mahoney had to tell the Senate that "determining the precise percentage of acidic waters due wholly or in part to acidic deposition carries with it scientific and statistical uncertainties." This statement directly counteracted the propaganda with which EPA Director William Reilly had practically insisted Mahoney lead off his statement.

Mahoney granted that "the effects of constant, increased and decreased acid-rain deposition are not always statistically significant." Indeed they are not, either here or abroad.

In fact, the EPA's own data show that land use and soil composition are at least three times as statistically significant "causes" of acidic lakes as acid rain.

This is why NAPAP was forced to project that even if we do nothing, the number of acidic lakes in the Northeast will actually *decline* by one in the next 20 years, to a total of 161 and will only rise to 186 by the end of the next 50 years. Mahoney admitted, "What that really means, statistically, is no change at all."

Worse, even if we do as the Bush proposal suggests and cut SO_2 emissions by 10 million tons a year, raising electric bills in the Midwest by as much as $900 a year in Ohio, $630 in Indiana and Pennsylvania, $520 in Missouri, and more than $400 a year in Tennessee, West Virginia and Illinois, little will change.

When Democratic Sen. Daniel Patrick Moynihan of New York, a co-sponsor of the Bush Clean Air Program, heard this, he began to raise some carefully soft spoken hell: "No matter what legislation we pass, about 10 per cent of the lakes are going to be acidic beyond the lifetime of anybody in this room? We have to ask ourselves, is that the best way to spend $4 billion a year?"

It is especially questionable when *all* of the lakes in North America could *definitely* be deacidified immediately by boat-liming at a cost of less than $400,000 a year total!

But what about the other effects of acid rain on forests and crops? NAPAP Director Mahoney admitted: "Research has established that there is no measurable and consistent adverse crop-yield response from the direct effects of acidic rain at ambient levels in North America."

On the contrary, "an evaluation of the nutritional enrichment of some agricultural soils through the input of sulfur and nitrogen from acidic deposition indicates indirect benefits associated with decreased fertilizer requirements."

But what about trees? NAPAP said that "other than for red spruce, extensive surveys of forest condition have indicated no evidence of widespread forest decline in North America related to acidic deposition."

Even on red spruce, NAPAP said the effects were limited to about 6 per cent of the forests, all at high elevations (about 2,600 feet), and added, "Several natural stresses are related to these declines (droughts, freezes, disease, etc); and acid rain *may* intensify the effects of the natural stresses." (Emphasis added.)

In short, the NAPAP analysis shows now what it did in 1987: Acid rain is *not* a serious environmental problem (Moynihan concluded, "the sky is not falling"), and the cost of SO_2 reduction are ludicrously out of line with the benefits.

It's scandal waiting to be legislated.

Mrs. BOXER. Madam President, I rise to express my views on S. 171. Along with my distinguished colleagues, I strongly support the elevation of the Environmental Protection Agency to the status of a Cabinet-level Department of the Environment. Environmental protection is as important to the citizens of our Nation as are adequate programs for health, education, agriculture, commerce, and defense.

This bill will establish a long-overdue permanent place in the President's Cabinet for the EPA—an agency that has accomplished much since its creation in 1970 but which has many important national and international issues to address if we are to enter the next century with an environment that is cleaner, healthier, and better protected for future generations than it is now.

I would be remiss, however, if I did not express concern over one element of this otherwise excellent bill. Section 112 would abolish the Council on Environmental Quality [CEQ] and transfer its authority to oversee implementation of the National Environmental Policy Act [NEPA] to the new Environment Department. This transfer is opposed by most of the national environmental organizations, as well as by other distinguished scholars and practitioners of environmental law, primarily on two grounds.

First, it would remove the statutory basis for any environmental voice within the Executive Office of the President, leaving recognition of environmental concerns within that office entirely at the discretion of the President. Second, it would transfer oversight of our Nation's most fundamental environmental statute from the President's office to one department among many.

The Executive Office of the President has long included offices established in law to advise the President and to coordinate national policy with regard to the budget, national security, economic policy, and international trade, as well as the environmental. It is not at all clear to me why, given the growing importance of national and international environmental issues, we should now agree to repeal the basis in law for such an environmental policy office, or why any newly structured office should not retain a statutory foundation. The purpose for such a foundation is to assure that the office will endure from one administration to the next, providing a stable, professional source of advice and expertise to whoever occupies the White House.

CEQ has fulfilled that purpose for 23 years; I believe that if it is to be replaced by another office, that office should retain at least some of the statutory basis that has allowed CEQ to serve five successive Presidents.

Similarly, the incorporation of environmental concerns into the day-to-day activities of all Federal agencies that has taken place over the past 20 years has occurred in large part because Congress wisely placed the primary responsibility for overseeing and implementing the National Environmental Policy Act within the Executive Office of the President. Since all Federal agencies are required to carry out the requirements of NEPA, it seems only logical that the oversight responsibility for this fundamental statute remain at that level, rather than having it turned over to any one department or agency. There are serious practical and political problems inherent in having one department, no matter how well-intentioned, oversee or criticize the environmental programs and activities of another.

Madam President, we have not yet learned from Administrator Browner how she plans to address the staffing, budget, and administrative problems presented by this proposed transfer of NEPA authority; nor have we yet received a persuasive argument from the White House as to why, alone among the units within the Executive Office of the President, the environmental office should lack statutory authority or direction from Congress. I hope that these issues and concerns will be addressed as this legislation moves forward, and I urge my colleagues in both Houses to seek a resolution that will achieve the streamlining the White House seeks while advancing the cause of environmental protection.

The PRESIDING OFFICER. Under the previous order, the committee substitute, as amended, is agreed to, and the bill is considered read the third time.

The question now occurs on final passage of the bill, as amended.

Mr. GLENN. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been deemed read the third time, the question is, Shall the bill pass? The yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. BUMPERS], the Senator from Georgia [Mr. NUNN], and the Senator from Rhode Island [Mr. PELL] are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island [Mr. PELL] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Indiana [Mr. LUGAR], the Senator from Alaska [Mr. STEVENS], and the Senator from Virginia [Mr. WARNER] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 79, nays 15, as follows:

[Rollcall Vote No. 114 Leg.]

YEAS—79

Akaka	Dodd	Kennedy
Baucus	Dole	Kerry
Biden	Domenici	Kohl
Bingaman	Dorgan	Krueger
Bond	Durenberger	Lautenberg
Boren	Exon	Leahy
Boxer	Faircloth	Levin
Bradley	Feingold	Lieberman
Breaux	Feinstein	Lott
Brown	Ford	Mack
Bryan	Glenn	Mathews
Burns	Gorton	McCain
Byrd	Graham	McConnell
Campbell	Grassley	Metzenbaum
Chafee	Gregg	Mikulski
Coats	Harkin	Mitchell
Cochran	Hatfield	Moseley-Braun
Cohen	Heflin	Moynihan
Conrad	Hollings	Murray
Coverdell	Inouye	Packwood
D'Amato	Jeffords	Pryor
Daschle	Johnston	Reid
DeConcini	Kassebaum	Riegle
Robb	Sasser	Wellstone
Rockefeller	Shelby	Wofford
Roth	Simon	
Sarbanes	Specter	

NAYS—15

Bennett	Helms	Pressler
Craig	Kempthorne	Simpson
Danforth	Kerrey	Smith
Gramm	Murkowski	Thurmond
Hatch	Nickles	Wallop

NOT VOTING—6

Bumpers	Nunn	Stevens
Lugar	Pell	Warner

So the bill (S. 171, as amended) was passed as follows:

S. 171

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Department of Environmental Protection Act of 1993".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title and table of contents.

TITLE I—ELEVATION OF THE ENVIRONMENTAL PROTECTION AGENCY TO CABINET LEVEL

Sec. 101. Short title.
Sec. 102. Findings.
Sec. 103. Establishment of the Department of Environmental Protection.
Sec. 104. Assistant Secretaries.
Sec. 105. Deputy Assistant Secretaries.
Sec. 106. Office of the General Counsel.
Sec. 107. Office of the Inspector General.
Sec. 108. Small business compliance assistance.
Sec. 109. Small governmental jurisdiction compliance assistance.
Sec. 110. Bureau of Environmental Statistics.
Sec. 111. Grant and contract authority for certain activities.
Sec. 112. Study of data needs.
Sec. 113. Miscellaneous employment restrictions.
Sec. 114. Termination of the Council on Environmental Quality and transfer of functions.
Sec. 115. Administrative provisions.
Sec. 116. Inherently governmental functions.
Sec. 117. References.
Sec. 118. Savings provisions.
Sec. 119. Conforming amendments.
Sec. 120. Additional conforming amendments.
Sec. 121. Sense of the Senate.
Sec. 122. Office of Environmental Justice.
Sec. 123. Human health and safety or the environment final regulations.
Sec. 124. Wetland determinations by a single agency.

TITLE II—ESTABLISHMENT OF THE COMMISSION ON IMPROVING ENVIRONMENTAL PROTECTION

Sec. 201. Establishment; membership.
Sec. 202. Commission responsibilities.
Sec. 203. Report to the President and Congress.
Sec. 204. Commission staff.
Sec. 205. Advisory groups.
Sec. 206. Termination of Commission.
Sec. 207. Funding; authorization of appropriations.

TITLE III—EFFECTIVE DATE

Sec. 301. Effective date.

TITLE I—ELEVATION OF THE ENVIRONMENTAL PROTECTION AGENCY TO CABINET LEVEL

SEC. 101. SHORT TITLE.

This title may be cited as the "Department of Environmental Protection Act".

SEC. 102. FINDINGS.

The Congress finds that—

(1) recent concern with Federal environmental policy has highlighted the necessity of assigning to protection of the domestic and international environment a priority which is at least equal to that assigned to other functions of the Federal Government;

(2) protection of the environment increasingly involves cooperation with foreign states, including the most highly industrialized states all of whose top environmental officials have ministerial status;

(3) the size of the budget and the number of Federal civil servants devoted to tasks associated with environmental protection at the Environmental Protection Agency is commensurate with departmental status; and

(4) a cabinet-level Department of Environmental Protection should be established.

SEC. 103. ESTABLISHMENT OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION.

(a) REDESIGNATION.—The Environmental Protection Agency is hereby redesignated as the Department of Environmental Protection (hereafter referred to as the "Department") and shall be an executive department in the executive branch of the Government. The official acronym of the Department shall be the "U.S.D.E.P.".

(b) SECRETARY OF ENVIRONMENTAL PROTECTION.—(1) There shall be at the head of the Department a Secretary of Environmental Protection who shall be appointed by the President, by and with the advice and consent of the Senate. The Department shall be administered under the supervision and direction of the Secretary.

(2) The Secretary may not assign duties for or delegate authority for the supervision of the Assistant Secretaries, the General Counsel, the Director of Environmental Statistics, or the Inspector General of the Department to any officer of the Department other than the Deputy Secretary.

(3) Except as described under paragraph (2) of this section and section 104(b)(2), and notwithstanding any other provision of law, the Secretary may delegate any functions including the making of regulations to such officers and employees of the Department as the Secretary may designate, and may authorize such successive redelegations of such functions within the Department as determined to be necessary or appropriate.

(c) DEPUTY SECRETARY.—There shall be in the Department a Deputy Secretary of Environmental Protection, who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Secretary shall perform such responsibilities as the Secretary shall prescribe and shall act as the Secretary during the absence or disability of the Secretary or in the event of a vacancy in the position of Secretary.

(d) OFFICE OF THE SECRETARY.—The Office of the Secretary shall consist of a Secretary and a Deputy Secretary and may include an Executive Secretary and such other executive officers as the Secretary may determine necessary.

(e) REGIONAL OFFICES.—The Secretary is authorized to establish, alter, discontinue, or maintain such regional or other field offices as he may determine necessary to carry out the functions vested in him or other officials of the Department.

(f) INTERNATIONAL RESPONSIBILITIES OF THE SECRETARY.—(1) In addition to exercising other international responsibilities under existing provisions of law, the Secretary is—

(A) encouraged to assist the Secretary of State to carry out his primary responsibilities for coordinating, negotiating, implementing and participating in international agreements, including participation in international organizations, relevant to environmental protection; and

(B) authorized and encouraged to—

(i) conduct research on and apply existing research capabilities to the nature and impacts of international environmental problems and develop responses to such problems; and

(ii) provide technical and other assistance to foreign countries and international bodies to improve the quality of the environment.

(2) The Secretary of State shall consult with the Secretary of Environmental Protection and such other persons as he determines appropriate on such negotiations, implementations, and participations described under paragraph (1)(A).

(g) AUTHORITY OF THE SECRETARY WITHIN THE DEPARTMENT.—Except as provided under section 112, nothing in the provisions of this Act—

(1) authorizes the Secretary of Environmental Protection to require any action by any officer of any executive department or agency other than officers of the Department of Environmental Protection, except that this paragraph shall not affect any authority provided for by any other provision of law authorizing the Secretary of Environmental Protection to require any such actions;

(2) modifies any Federal law that is administered by any executive department or agency; or

(3) transfers to the Department of Environmental Protection any authority exercised by any other Federal executive department or agency prior to the date of the enactment of this Act, except the authority exercised by the Environmental Protection Agency.

(h) APPLICATION TO THE DEPARTMENT OF ENVIRONMENTAL PROTECTION.—The provisions of this Act apply only to activities of the Department of Environmental Protection, except where expressly provided otherwise.

(i) ISSUANCE OF PERMITS.—

(1) GUIDES.—At the time a person or small business concern (as defined in section 3 of the Small Business Act), including family farms, contacts an officer or employee of the Department to obtain a permit to engage in an activity under the jurisdiction of the Department, the Secretary shall make available, on request of the person, an employee of the Department to—

(A) act as a guide for the applicant in obtaining all necessary permits for the activity in the least quantity of time practicable; and

(B) facilitate the gathering and dissemination of information with respect to the Federal agencies and departments and agencies of States and political subdivisions of States that have a regulatory interest in the activity to reduce the period required to obtain all such necessary permits.

(2) DUTIES OF SECRETARY.—In issuing a permit to an applicant to carry out an activity under the jurisdiction of the Department, the Secretary shall—

(A) provide assistance and guidance to, and otherwise facilitate the processing of the application for, the applicant; and

(B) set reasonable deadlines for action to be taken on an application for the permit.

(3) USE OF GUIDES.—An applicant that chooses to use the services of a guide referred to in paragraph (1) may subsequently choose not to use the services at any time after requesting the guide.

SEC. 104. ASSISTANT SECRETARIES.

(a) ESTABLISHMENT OF POSITIONS.—There shall be in the Department such number of Assistant Secretaries, not to exceed 12, as the Secretary shall determine, each of whom shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES OF ASSISTANT SECRETARIES.—(1) The Secretary shall assign to Assistant Secretaries such responsibilities as the Secretary considers appropriate, including, but not limited to—

(A) enforcement;

(B) compliance monitoring;

(C) research and development;

(D) air;

(E) radiation;

(F) water;

(G) pesticides;

(H) toxic substances;

(I) solid waste;

(J) hazardous waste;

(K) hazardous waste cleanup;

(L) emergency response;

(M) international affairs;

(N) policy, planning, and evaluation;

(O) pollution prevention;

(P) congressional affairs;

(Q) intergovernmental affairs;

(R) public affairs;

(S) administration and resources management, information resources management, procurement and assistance management, and personnel and labor relations; and

(T) regional operations and State and local capacity.

(2) The Secretary may assign and modify any responsibilities at his discretion under paragraph (1), except that the Secretary may not modify the responsibilities of any Assistant Secretary without prior written notification with explanation of such modification to the appropriate committees of the Senate and the House of Representatives.

(3) One of the Assistant Secretaries referred to under paragraph (1) shall be an Assistant Secretary for Indian Lands and shall be responsible for policies relating to the environment of Indian lands and affecting Native Americans.

(c) DESIGNATION OF RESPONSIBILITIES PRIOR TO CONFIRMATION.—Whenever the President submits the name of an individual to the Senate for confirmation as Assistant Secretary under this section, the President shall state the particular responsibilities of the Department such individual shall exercise upon taking office.

(d) CONTINUING PERFORMANCE OF FUNCTIONS.—On the effective date of this Act, the Administrator and Deputy Administrator of the Environmental Protection Agency shall be redesignated as the Secretary and Deputy Secretary of the Department of Environmental Protection, Assistant Administrators of the Agency shall be redesignated as Assistant Secretaries of the Department, the General Counsel and the Inspector General of the Agency shall be redesignated as the General Counsel and the Inspector General of the Department, and the Chief Financial Officer of the Agency shall be redesignated as the Chief Financial Officer of the Department, without renomination or reconfirmation.

(e) CHIEF INFORMATION RESOURCES OFFICER.—(1) The Secretary shall designate the Assistant Secretary whose responsibilities include information resource management functions as required by section 3506 of title 44, United States Code, as the Chief Information Resources Officer of the Department.

(2) The Chief Information Resources Officer shall—

(A) advise the Secretary on information resource management activities of the Department as required by section 3506 of title 44, United States Code;

(B) develop and maintain an information resources management system for the Department which provides for—

(i) the conduct of and accountability for any acquisitions made pursuant to a delegation of authority under section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759);

(ii) the implementation of all applicable government-wide and Department information policies, principles, standards, and guidelines with respect to information collection, paperwork reduction, privacy and security of records, sharing and dissemination of information, acquisition and use of information technology, and other information resource management functions;

(iii) the periodic evaluation of and, as needed, the planning and implementation of improvements in the accuracy, completeness, and reliability of data and records contained with Department information systems; and

(iv) the development and annual revision of a 5-year plan for meeting the Department's information technology needs; and

(C) report to the Secretary as required under section 3506 of title 44, United States Code.

SEC. 105. DEPUTY ASSISTANT SECRETARIES.

(a) ESTABLISHMENT OF POSITIONS.—There shall be in the Department such number of Deputy Assistant Secretaries as the Secretary may determine.

(b) APPOINTMENTS.—Each Deputy Assistant Secretary—

(1) shall be appointed by the Secretary; and

(2) shall perform such functions as the Secretary shall prescribe.

(c) FUNCTIONS.—Functions assigned to an Assistant Secretary under section 104(b) may be performed by one or more Deputy Assistant Secretaries appointed to assist such Assistant Secretary.

SEC. 106. OFFICE OF THE GENERAL COUNSEL.

There shall be in the Department the Office of the General Counsel. There shall be at the head of such office a General Counsel who shall be appointed by the President, by and with the advice and consent of the Senate. The General Counsel shall be the chief legal officer of the Department and shall provide legal assistance to the Secretary concerning the programs and policies of the Department.

SEC. 107. OFFICE OF THE INSPECTOR GENERAL.

The Office of Inspector General of the Environmental Protection Agency, established in accordance with the Inspector General Act of 1978, is hereby redesignated as the Office of Inspector General of the Department of Environmental Protection.

SEC. 108. SMALL BUSINESS COMPLIANCE ASSISTANCE.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary of Environmental Protection shall establish within the Department a Small Business Ombudsman Office (hereafter in this section referred to as the "Office"). The Office shall be headed by a Director designated by the Secretary.

(2) DUTIES.—

(A) IN GENERAL.—The Director shall report directly to the Secretary. The Secretary, acting through the Director, shall develop and carry out programs of environmental compliance and technical assistance for small business concerns (as defined in section 3 of the Small Business Act), including family farms.

(B) SPECIFIC DUTIES.—The duties of the Office shall include—

(i) providing to small business concerns—

(I) confidential compliance assistance;

(II) explanations of environmental regulatory requirements; and

(III) available environmental reports and documents;

(ii) assembling and disseminating to small business concerns information on approaches to achieving compliance with environmental laws and improving environmental performance and product yield, including new environmental technologies and techniques for preventing pollution;

(iii) carrying out the functions assigned to the Small Business Ombudsman under section 507 of the Clean Air Act Amendments of 1990;

(iv) serving as the Department's liaison to and advocate for the small business community;

(v) ensuring, as appropriate, consideration of the concerns of small business in the regulatory development process, including ensuring that reporting requirements are consistent and avoid unnecessary redundancy across regulatory programs, to the extent possible, and ensuring effective implementation of the Regulatory Flexibility Act;

(vi) coordinating the Department's small business compliance and technical assistance programs with other Federal and State agencies having responsibilities for carrying out and enforcing environmental laws; and

(vii) providing assistance in permitting, where appropriate.

(b) COORDINATION WITH NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.—Not later than 180 days after the date of enactment of this Act, the Secretary of Environmental Protection and the Secretary of Commerce shall enter into such agreements as may be necessary to permit the Department to provide technical assistance and support to the Manufacturing Technology Centers administered by the National Institute of Standards and Technology of the Department of Commerce. Such assistance shall include—

(1) preparing environmental assistance packages for small business concerns generally, and where appropriate, for specific small business sectors, including information on—

(A) environmental compliance requirements and methods for achieving compliance;

(B) new environmental technologies;

(C) alternatives for preventing pollution that are generally applicable to the small business sector; and

(D) guidance for identifying and applying opportunities for preventing pollution at individual facilities;

(2) providing technical assistance to small business concerns seeking to act on the information provided under paragraph (1);

(3) coordinating with the National Institute of Standards and Technology to identify those small business sectors that need improvement in environmental compliance or in developing methods to prevent pollution; and

(4) developing and implementing an action plan for providing assistance to improve environmental performance of small business sectors in need of such improvement.

(c) COORDINATION WITH OTHER FEDERALLY SUPPORTED EXTENSION PROGRAMS.—The Secretary of Environmental Protection may coordinate with other small business and agricultural extension programs and centers, as appropriate, to provide environmental assistance to small businesses.

SEC. 109. SMALL GOVERNMENTAL JURISDICTION COMPLIANCE ASSISTANCE.

(a) IN GENERAL.—The Secretary of Environmental Protection shall develop and carry out programs of environmental compliance and technical assistance for small governmental jurisdictions as defined in section 601(5) of title 5, United States Code.

(b) SPECIFIC DUTIES.—The duties of the Secretary of Environmental Protection shall include—

(1) providing to small governmental jurisdictions—

(A) compliance assistance;

(B) explanations of environmental regulatory requirements; and

(C) available environmental reports and documents;

(2) assembling and disseminating to small governmental jurisdictions information on approaches to achieving compliance with environmental laws and improving environmental performance, including new environmental technologies and techniques for preventing pollution;

(3) designating liaisons to serve as advocates for small governmental jurisdictions, as appropriate;

(4) ensuring, as appropriate, consideration of the concerns of small governmental jurisdictions in the regulatory development process, including ensuring that reporting requirements are consistent and avoid unnecessary redundancy across regulatory programs, to the extent possible, and ensuring effective implementation of the Regulatory Flexibility Act; and

(5) coordinating the Department of Environmental Protection's small governmental jurisdiction environmental compliance and technical assistance programs with other Federal and State agencies having responsibilities for carrying out and enforcing environmental laws; and

(6) providing assistance in permitting, where appropriate.

SEC. 110. BUREAU OF ENVIRONMENTAL STATISTICS.

(a) ESTABLISHMENT.—(1) There is established within the Department a Bureau of Environmental Statistics (hereafter referred to as the "Bureau"). The Bureau shall be responsible for—

(A) compiling, analyzing, and publishing a comprehensive set of environmental quality statistics which should provide timely summary in the form of industrywide aggregates, multiyear averages, or totals or some similar form and include information on—

(i) the nature, source, and amount of pollutants in the environment; and

(ii) the effects on the public and the environment of those pollutants;

(B) promulgating guidelines for the collection of information by the Department required for the statistics under this paragraph to assure that the information is accurate, reliable, relevant, and in a form that permits systematic analysis;

(C) coordinating the collection of information by the Department for developing such statistics with related information-gathering activities conducted by other Federal agencies;

(D) making readily accessible the statistics published under this paragraph; and

(E) identifying missing information of the kind described under subparagraph (A) (i) and (ii), reviewing these information needs at least annually with the Science Advisory Board, and making recommendations to the appropriate Department of Environmental Protection officials concerning extramural and intramural research programs to provide such information.

(2) Nothing in the provisions of paragraph (1) shall authorize the Bureau to require the collection of any data by any other Department, State or local government, or to establish observation or monitoring programs. The Bureau shall not duplicate the information collection functions of other Federal agencies.

(3) Information compiled by the Bureau of Environmental Statistics, which has been submitted for purposes of statistical reporting requirements of this law, shall not be disclosed publicly in a manner that would reveal the identity of the submitter, including submissions by Federal, State, or local governments, or reveal the identity of any individual consistent with the provisions of section 552a of title 5, United States Code (the Privacy Act of 1974). This paragraph shall not affect the availability of data provided to the Department under any other provision of law administered by the Department. The confidentiality provisions of other statutes authorizing the collection of environmental statistics shall also apply, including but not limited to, section 14 of the Toxic Substances Control Act (15 U.S.C. 2613), section 2(h) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136h), section 114(c) of the Clean Air Act (42 U.S.C. 741(c)), and section 1905 of title 18, United States Code.

(b) DIRECTOR OF ENVIRONMENTAL STATISTICS.—The Bureau shall be under the direction of a Director of Environmental Statistics (hereafter referred to as the "Director") who shall be appointed by the President, by and with the advice and consent of the Senate. The term of the Director shall be 4 years. The Director shall be a qualified individual with experience in the compilation and analysis of environmental statistics. The Director shall report directly to the Secretary. The Director shall be compensated at the rate provided for at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(c) ENVIRONMENTAL STATISTICS ANNUAL REPORT.—On July 1, 1995, and each July 1 thereafter, the Director shall submit to the President an Environmental Statistics Annual Report (hereafter referred to as the "Report"). The Report shall include, but not be limited to—

(1) statistics on environmental quality including—

(A) The environmental quality of the Nation with respect to all aspects of the environment, including, but not limited to, the air, aquatic ecosystems, including marine, estuarine, and fresh water, and the terrestrial ecosystems, including, but not limited to, the forest, dry-land, wetland, range, urban, suburban, and rural environment; and

(B) changes in the natural environment, including the plant and animal systems, and other information for a continuing analysis of these changes or trends and an interpretation of their underlying causes;

(2) statistics on the effects of changes in environmental quality on human health and nonhuman species and ecosystems;

(3) documentation of the method used to obtain and assure the quality of the statistics presented in the Report;

(4) economic information on the current and projected costs and benefits of environmental protection; and

(5) recommendations on improving environmental statistical information.

(d) CONTINUING PERFORMANCE OF THE FUNCTIONS OF THE DIRECTOR PENDING CONFIRMATION.—An individual who, on the effective date of this Act, is performing any of the functions required by this section to be performed by the Director may continue to perform such functions until such functions are assigned to an individual appointed as the Director under this Act.

(e) ADVISORY COUNCIL ON ENVIRONMENTAL STATISTICS.—The Director shall appoint an Advisory Council on Environmental Statistics, comprised of no more than 6 private citizens who have expertise in environmental statistics and analysis (except that at least one of such appointees should have expertise in economics) to advise the Director on environmental statistics and analyses, including whether the statistics and analyses disseminated by the Bureau are of high quality and are based upon the best available objective information. The Council shall be subject to the provisions of the Federal Advisory Committee Act.

(f) REVIEW OF REGULATIONS.—For each proposed new regulation and each proposed change to existing regulations the Director shall publish in the Federal Register as part of the notice of the proposed rulemaking, a comprehensive assessment of specific costs and benefits resulting from implementation of the proposed new regulation or the proposed regulatory change including an assessment of the total number of direct and indirect jobs to be gained or lost as a result of implementation of the proposed new regulation or the proposed regulatory change. Such assessment shall be required to the extent that the Department of Environmental Protection is not in compliance with any applicable Executive Order requiring an analysis of costs and benefits for proposed regulations submitted to the Office of Management and Budget for review. The assessment required by this subsection shall not be construed to amend, modify, or alter any statute and shall not be subject to judicial review. Nothing in this section shall be construed to grant a cause of action to any person.

SEC. 111. GRANT AND CONTRACT AUTHORITY FOR CERTAIN ACTIVITIES.

The Secretary may make grants to and enter into contracts with State and local governments, Indian tribes, universities, and other organizations to assist them in meeting the costs of collecting specific data and other short term activities that are related to the responsibilities and functions under section 108(a)(1) (A), (B), (C), and (D).

SEC. 112. STUDY OF DATA NEEDS.

(a) STUDY OF DATA NEEDS.—(1) No later than 1 year after the start of Bureau operations, the Secretary of the Department of Environmental Protection, in consultation with the Director of the Bureau and the Assistant Secretary designated as Chief Information Resources Officer, shall enter into an agreement with the National Academy of Sciences for a study, evaluation, and report on the adequacy of the data collection procedures and capabilities of the Department. No later than 18 months following an agreement, the National Academy of Sciences shall report its findings to the Secretary and the Congress. The report shall include an evaluation of the Department's data collection resources, needs, and requirements, and shall include an assessment and evaluation of the following systems, capabilities, and procedures established by the Department to meet those needs and requirements:

(A) data collection procedures and capabilities;

(B) data analysis procedures and capabilities;

(C) the ability to integrate data bases;

(D) computer hardware and software capabilities;

(E) management information systems, including the ability to integrate management information systems;

(F) Department personnel; and

(G) the Department's budgetary needs and resources for data collection, including an assessment of the adequacy of the budgetary resources provided to the Department and budgetary resources used by the Department for data collection needs and purposes.

(2) The report shall include recommendations for improving the Department's data collection systems, capabilities, procedures, data collection, and analytical hardware and software, and for improving its management information systems.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as necessary to carry out the provisions of this section.

SEC. 113. MISCELLANEOUS EMPLOYMENT RESTRICTIONS.

(a) PROHIBITED EMPLOYMENT AND ADVANCEMENT CONSIDERATIONS.—Except as otherwise provided in this Act, political affiliation or political qualification may not be taken into account in connection with the appointment of any person to any position in the career civil service or in the assignment or advancement of any career civil servant in the Department.

(b) REPORTS ON IMPLEMENTATION.—One year after the date of the enactment of this title and again 3 years after the date of the enactment of this title, the Secretary shall report to the Senate Committees on Appropriations, Governmental Affairs, and Environment and Public Works and to the House of Representatives on the estimated additional cost of implementing this title over the cost as if this title had not been implemented, including a justification of increased staffing not required in the execution of this title.

SEC. 114. TERMINATION OF THE COUNCIL ON ENVIRONMENTAL QUALITY AND TRANSFER OF FUNCTIONS.

(a) TRANSFER OF FUNCTIONS OF THE COUNCIL ON ENVIRONMENTAL QUALITY.—(1) Except as provided under paragraph (2), all functions of the Council on Environmental Quality under titles I and II of the National Environmental Policy Act (42 U.S.C. 4321 et seq.) and under any other law, are transferred to the Secretary. The Secretary is authorized to take all necessary action, including the promulgation of regulations, to carry out these functions.

(2) Referrals of interagency disagreements concerning proposed major Federal actions significantly affecting the quality of the human environment under section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 102(2)(C)) and concerning matters under section 309(b) of the Clean Air Act (42 U.S.C. 7609(b)) shall be made to the President for resolution.

(b) TERMINATION OF THE COUNCIL ON ENVIRONMENTAL QUALITY.—(1) Section 204 of the National Environmental Policy Act (42 U.S.C. 4344) is amended by striking out "Council" and inserting in lieu thereof "Secretary of Environmental Protection".

(2) Sections 202, 203, 205, 206, 207, and 208 of the National Environmental Policy Act (42 U.S.C. 4342, 4343, 4345, 4346, 4346a, and 4346b) are repealed.

(3) The Environmental Quality Improvement Act of 1970 (42 U.S.C. 4371 through 4375) is repealed.

(4) Section 204 of the National Environmental Policy Act (42 U.S.C. 4344) (as amended by paragraph (1) of this subsection) is redesignated as section 202 of such Act.

(5) The heading for title II of the National Environmental Policy Act is amended to read as follows:

"TITLE II

"ENVIRONMENTAL QUALITY REPORT".

(c) REFERENCES IN FEDERAL LAW.—Reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to the Council on Environmental Quality—

(1) with regard to functions transferred under subsection (a)(1), shall be deemed to refer to the Secretary; and

(2) with regard to disagreements and matters described under subsection (a)(2), shall be deemed to refer to the President.

(d) AVAILABILITY OF FUNDS.—Unobligated funds available to the Council on Environmental Quality shall remain available to the Department until expended for the gradual and orderly termination of the Council and transfer of Council functions as provided in this Act.

(e) SAVINGS PROVISIONS.—(1) All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(A) which have been issued, made, granted, or allowed to become effective by the President, by the Council on Environmental Quality, or by a court of competent jurisdiction, in the performance of functions of the Council on Environmental Quality, and

(B) which are in effect at the time this Act takes effect, or were final before the effective date of this Act and are to become effective on or after the effective date of this Act,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary of Environmental Protection, or other authorized official, a court of competent jurisdiction, or by operation of law.

(2) The provisions of this Act shall not affect any proceedings or any application for any license, permit, certificate, or financial assistance pending before the Council on Environmental Quality at the time this Act takes effect, but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this paragraph shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(3) The provisions of this section shall not affect suits commenced before the date this Act takes effect, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this Act had not been enacted.

(4) No suit, action, or other proceeding commenced by or against the Council on Environmental Quality, or by or against any individual in the official capacity of such individual as an officer of the Council on Environmental Quality, shall abate by reason of the enactment of this Act.

(5) Any administrative action relating to the preparation or promulgation of a regulation by the Council on Environmental Quality may be continued by the Department or the President with the same effect as if this Act had not been enacted.

(6) The contracts, liabilities, records, property, and other assets and interests of the Council on Environmental Quality shall, after the effective date of this Act, be considered to be the contracts, liabilities, records, property, and other assets and interests of the Department.

SEC. 115. ADMINISTRATIVE PROVISIONS.

(a) ACCEPTANCE OF MONEY AND PROPERTY.—(1) The Secretary may accept and retain money, uncompensated services, and other real and personal property or rights (whether by gift, bequest, devise, or otherwise) for the purpose of carrying out the Department's programs and activities, except that the Secretary shall not endorse any company, product, organization, or service. Gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be credited in a separate fund in the Treasury of the United States and shall be available for disbursement upon the order of the Secretary.

(2) The Secretary shall prescribe regulations and guidelines setting forth the criteria the Department shall use in determining whether to accept a gift, bequest, or devise. Such criteria shall take into consideration whether the acceptance of the property would reflect unfavorably upon the Department's or any employee's ability to carry out its responsibilities or official duties in a fair and objective manner, or would compromise the integrity of or the appearance of the integrity of a Government program or any official involved in that program.

(b) SEAL OF THE DEPARTMENT.—(1) On the effective date of this Act, the seal of the Environmental Protection Agency with appropriate changes shall be the seal of the Department of Environmental Protection, until such time as the Secretary may cause a seal of office to be made for the Department of Environmental Protection of such design as the Secretary shall approve.

(2)(A) Chapter 33 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 716. Department of Environmental Protection Seal

"(a) Whoever knowingly displays any printed or other likeness of the official seal of the Department of Environmental Protection, or any facsimile thereof, in, or in connection with, any advertisement, poster, circular, book, pamphlet, or other publication, public meeting, play, motion picture, telecast, or other production, or on any building, monument, or stationery, for the purpose of conveying, or in a manner reasonably calculated to convey, a false impression of sponsorship or approval by the Government of the United States or by any department, agency, or instrumentality thereof, shall be fined not more than $250 or imprisoned not more than 6 months, or both.

"(b) Whoever, except as authorized under regulations promulgated by the Secretary of Environmental Protection and published in the Federal Register, knowingly manufactures, reproduces, sells, or purchases for resale, either separately or appended to any article manufactured or sold, any likeness of the official seal of the Department of Environmental Protection, or any substantial part thereof, except for manufacture or sale of the article for the official use of the Government of the United States, shall be fined not more than $250 or imprisoned not more than 6 months, or both.

"(c) A violation of subsection (a) or (b) may be enjoined at the suit of the Attorney General of the United States upon complaint by any authorized representative of the Secretary of the Department of Environmental Protection.".

(B) The table of sections for chapter 33 of title 18, United States Code, is amended by adding at the end thereof:

"716. Department of Environmental Protection Seal.".

(c) ACQUISITION OF COPYRIGHTS AND PATENTS.—The Secretary is authorized to acquire any of the following described rights if the property acquired thereby is for use by or for, or useful to, the Department:

(1) copyrights, patents, and applications for patents, designs, processes, and manufacturing data;

(2) licenses under copyrights, patents, and applications for patents; and

(3) releases, before suit is brought, for past infringement of patents or copyrights.

(d) ADVISORY COMMITTEE COMPENSATION.—The Secretary is authorized to pay members of advisory committees and others who perform services as authorized under section 3109 of title 5, United States Code, at rates for individuals not to exceed the per diem rate equivalent to the rate for level V of the Executive Schedule under section 5316 of title 5, United States Code.

SEC. 116. INHERENTLY GOVERNMENTAL FUNCTIONS.

(a) GOVERNMENT OFFICERS AND EMPLOYEES.—(1) Inherently governmental functions of the Department shall be performed only by officers and employees of the United States. For purposes of this section, the term "inherently governmental function" means any activity which is so intimately related to the public interest as to mandate performance by Government officers and employees. Inherently governmental functions include those activities which require either the exercise of discretion in applying Government authority or the use of value judgment in making decisions for the Government. The Secretary shall promulgate regulations or internal guidance to implement this section. This section is not intended, and may not be construed, to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, the Department, its officers, or any person.

(b) CONFLICTS OF INTEREST.—(1) The Secretary shall by regulation require any person proposing to enter into a contract, grant, or cooperative agreement whether by sealed bid or negotiation, for the conduct of research, development, evaluation activities, or for consulting services, to provide the Secretary, prior to entering into any such contract, agreement, or arrangement, with all relevant information, as determined by the Secretary, bearing on whether that person has a possible conflict of interest with respect to—

(A) being able to render impartial, technically sound, or objective assistance or advice in light of other activities or relationships with other persons; or

(B) being given an unfair competitive advantage.

(2) Such person shall ensure, in accordance with regulations prescribed by the Secretary, compliance with this section by subcontractors of such person who are engaged to perform similar services.

(3) For purposes of this subsection, the term "consulting services" includes—

(A) management and professional support services;

(B) studies, analyses, and evaluations;

(C) engineering and technical services, excluding routine engineering services such as automated data processing and architect and engineering contracts; and

(D) research and development.

(c) REQUIRE AFFIRMATIVE FINDING; CONFLICTS OF INTEREST WHICH CANNOT BE AVOIDED; MITIGATION OF CONFLICTS.—(1) Subject to the provisions of paragraph (2), the Secretary may not enter into any such contract, agreement, or arrangement, unless he affirmatively finds, after evaluating all such information and any other relevant information otherwise available to him, either that—

(A) there is little or no likelihood that a conflict of interest would exist; or

(B) that such conflict has been avoided after appropriate conditions have been included in such contract, agreement, or arrangement.

(2) If the Secretary determines that such conflict of interest exists and that such conflict of interest cannot be avoided by including appropriate conditions therein, the Secretary may enter into such contract, agreement, or arrangement, if the Secretary—

(A) determines that it is in the best interests of the United States to do so; and

(B) includes appropriate conditions in such contract, agreement, or arrangement to mitigate such conflict.

(d) PUBLIC NOTICE REGARDING CONFLICTS OF INTEREST.—The Secretary shall promulgate regulations which require public notice to be given whenever the Secretary determines that the award of a contract, agreement, or arrangement may result in a conflict of interest which cannot be avoided by including appropriate conditions therein.

(e) DISCLAIMER.—Nothing in this section shall preclude the Department from promulgating regulations to monitor potential conflicts after the contract award.

(f) CENTRAL FILE.—The Department shall maintain a central file regarding all cases when a public notice is issued. Other information required under this section shall also be compiled. Access to this information shall be controlled to safeguard any proprietary information.

(g) REGULATIONS.—No later than 120 days after the effective date of this Act, the Secretary shall promulgate regulations for the implementation of this section.

SEC. 117. REFERENCES.

Reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining—

(1) to the Administrator of the Environmental Protection Agency shall be deemed to refer to the Secretary of Environmental Protection;

(2) to the Environmental Protection Agency shall be deemed to refer to the Department of Environmental Protection;

(3) to the Deputy Administrator of the Environmental Protection Agency shall be deemed to refer to the Deputy Secretary of Environmental Protection; or

(4) to any Assistant Administrator of the Environmental Protection Agency shall be deemed to refer to an Assistant Secretary of the Department of Environmental Protection.

SEC. 118. SAVINGS PROVISIONS.

(a) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(1) which have been issued, made, granted, or allowed to become effective by the President, by the Administrator of the Environmental Protection Agency, or by a court of competent jurisdiction, in the performance of functions of the Administrator or the Environmental Protection Agency, and

(2) which are in effect at the time this Act takes effect, or were final before the effective date of this Act and are to become effective on or after the effective date of this Act, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary of Environmental Protection, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) PROCEEDINGS NOT AFFECTED.—The provisions of this Act shall not affect any proceedings or any application for any license, permit, certificate, or financial assistance pending before the Environmental Protection Agency at the time this Act takes effect, but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(c) SUITS NOT AFFECTED.—The provisions of this Act shall not affect suits commenced before the date this Act takes effect, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this Act had not been enacted.

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Environmental Protection Agency, or by or against any individual in the official capacity of such individual as an officer of the Environmental Protection Agency, shall abate by reason of the enactment of this Act.

(e) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by the Environmental Protection Agency may be continued by the Department with the same effect as if this Act had not been enacted.

(f) PROPERTY AND RESOURCES.—The contracts, liabilities, records, property, and other assets and interests of the Environmental Protection Agency shall, after the effective date of this Act, be considered to be the contracts, liabilities, records, property, and other assets and interests of the Department.

(g) SAVINGS.—The Department of Environmental Protection and its officers, employees, and agents shall have all the powers and authorities of the Environmental Protection Agency.

SEC. 119. CONFORMING AMENDMENTS.

(a) PRESIDENTIAL SUCCESSION.—Section 19(d)(1) of title 3, United States Code, is amended by inserting before the period at the end thereof the following: ", Secretary of Environmental Protection".

(b) DEFINITION OF DEPARTMENT, CIVIL SERVICE LAWS.—Section 101 of title 5, United States Code, is amended by adding at the end thereof the following: "The Department of Environmental Protection".

(c) COMPENSATION, LEVEL I.—Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following: "Secretary of Environmental Protection".

(d) COMPENSATION, LEVEL II.—Section 5313 of title 5, United States Code, is amended by striking out "Administrator of Environmental Protection Agency" and inserting in lieu thereof "Deputy Secretary of Environmental Protection".

(e) COMPENSATION, LEVEL IV.—Section 5315 of title 5, United States Code, is amended—

(1) by striking out "Inspector General, Environmental Protection Agency" and inserting in lieu thereof "Inspector General, Department of Environmental Protection"; and

(2) by striking each reference to an Assistant Administrator of the Environmental Protection Agency and by adding at the end thereof the following:

"Assistant Secretaries, Department of Environmental Protection (12).

"General Counsel, Department of Environmental Protection."; and

(3) by striking out "Chief Financial Officer, Environmental Protection agency" and inserting in lieu thereof "Chief Financial Officer, Department of Environmental Protection".

(f) COMPENSATION, LEVEL V.—Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following:

"Director of the Bureau of Environmental Statistics, Department of Environmental Protection.

"Executive Director of the Commission on Improving Environmental Protection.".

(g) INSPECTOR GENERAL ACT.—The Inspector General Act of 1978 is amended—

(1) in section 11(1), by inserting "Environmental Protection," after "Energy,"; and

(2) in section 11(2), by inserting "Environmental Protection," after "Energy,".

SEC. 120. ADDITIONAL CONFORMING AMENDMENTS.

After consultation with the Committee on Governmental Affairs and the Committee on Environment and Public Works and other appropriate committees of the United States Senate and the appropriate committees of the House of Representatives, the Secretary of Environmental Protection shall prepare and submit to the Congress legislation which the Secretary determines is necessary and appropriate containing technical and conforming amendments to the United States Code, and to other provisions of law, to reflect the changes made by this Act.

SEC. 121. SENSE OF THE SENATE.

It is the sense of the Senate that building the capacity of State and local governments to more efficiently and effectively implement and manage environmental regulations should be a primary mission of the Department of Environmental Protection.

SEC. 122. OFFICE OF ENVIRONMENTAL JUSTICE.

There is established within the Department the Office of Environmental Justice. The Office of Environmental Justice shall—

(1) develop a strategic plan to ensure equality in environmental protection;

(2) evaluate whether environmental policy is helping individuals who suffer the highest exposure to pollution, and identify opportunities for preventing or reducing such exposure;

(3) compile an annual report on progress in achieving environmental equity;

(4) require the collection of data on environmental health effects so that impacts on different individuals or groups can be understood;

(5) identify environmental high impact areas which are subject to the highest loadings of toxic chemicals, through all media; and

(6) assess the health effects that may be caused by emissions in the environmental high impact areas of highest impact.

SEC. 123. HUMAN HEALTH AND SAFETY OR THE ENVIRONMENT FINAL REGULATIONS.

(a) In promulgating any final regulation relating to human health and safety or the environment after the date of enactment of this Act, the Secretary of Environmental Protection shall publish in the Federal Register—

(1) an estimate, performed with as much specificity as practicable, of the risk to the health and safety of individual members of the public addressed by the regulation and its affect on human health or the environment and the costs associated with implementation of, and compliance with, the regulation;

(2) a comparative analysis of the risk addressed by the regulation relative to other risks to which the public is exposed;

(3) the Secretary's certification that—

(A) the estimate under paragraph (1) and the analysis under paragraph (2) are based upon a scientific evaluation of the risk to the health and safety of individual members of the public and to human health or the environment and are supported by the best available scientific data;

(B) the regulation will substantially advance the purpose of protecting the human health and safety or the environment against the specified identified risk; and

(C) the regulation will produce benefits to the human health and safety or the environment that will justify the cost to the Government and the public of implementation of and compliance with the regulation.

(b) In the event that the Secretary cannot make the certification required under subsection (a), the Secretary shall report to Congress that such certification cannot be made and shall include a statement of the reasons therefor in such report and in the final regulation.

(c) The certification required by this section shall not be construed to amend, modify, or alter any statute and shall not be subject to judicial review. Nothing in this section shall be construed to grant a cause of action to any person.

SEC. 124. WETLAND DETERMINATIONS BY A SINGLE AGENCY.

In consultation with the Secretary of Agriculture, the Secretary of Environmental Protection, the Secretary of the Army, and the Secretary of the Interior, the President shall, within 90 days of the date of enactment of this Act, make recommendations and report to the Congress on measures to—

(1) provide that a single Federal agency be responsible for making technical determinations, including identification of wetlands, on agricultural lands with respect to wetland or converted wetland in order to reduce confusion among agricultural producers; and

(2) provide that the Soil Conservation Service be the Federal agency responsible for all such technical determinations concerning wetlands on agricultural lands.

TITLE II—ESTABLISHMENT OF THE COMMISSION ON IMPROVING ENVIRONMENTAL PROTECTION

SEC. 201. ESTABLISHMENT; MEMBERSHIP.

(a) ESTABLISHMENT.—There is established the Commission on Improving Environmental Protection (hereafter referred to as "the Commission") whose 13 members including the Chairman shall be composed of experts in governmental organization (with emphasis on environmental organization), management of organizations and environmental regulation and improved environmental governmental service delivery, consisting of—

(1) 7 members to be appointed by the President;

(2) 2 members to be appointed by the Speaker of the House of Representatives;

(3) 1 member to be appointed by the Minority Leader of the House of Representatives;

(4) 2 members to be appointed by the Senate Majority Leader; and

(5) 1 member to be appointed by the Senate Minority Leader.

(b) CHAIRMAN.—The Chairman of the Commission shall be appointed by the President.

(c) POLITICAL PARTY AFFILIATION.—Notwithstanding any other provision of this section, no more than 7 members of the Commission may be from the same political party.

SEC. 202. COMMISSION RESPONSIBILITIES.

(a) RESPONSIBILITIES.—The Commission shall be responsible for examining and making recommendations on the management and implementation of the environmental laws and programs within the jurisdiction of the Department of Environmental Protection in order to enhance the ability of the Department to preserve and protect human health and the environment. The Commission shall make recommendations and otherwise advise the President and the Congress on the need to—

(1) enhance and strengthen the management and implementation of existing programs within the Department;

(2) enhance the organization of the Department to eliminate duplication and overlap between different programs;

(3) enhance the coordination between different programs and offices within the Department;

(4) enhance the consistency of policies throughout the Department;

(5) establish new and enhanced small business and small governmental jurisdictions compliance assistance programs, and to strengthen organizational mechanisms in the Department for providing better compliance and technical assistance to small businesses and small governmental jurisdictions; and

(6) enhance the capacity of State and local governments to manage, finance, and implement environmental laws (including regulations).

(b) RECOMMENDATIONS.—The Commission shall provide specific steps and proposals for implementing the Commission's recommendations including an estimate of the costs of implementing such recommendations, except that the Commission shall not suggest substantive changes in the policy expressed by existing laws.

(c) CONFLICT OF INTERESTS.—For purposes of the provisions of chapter 11 of part I of title 18, United States Code, a member of the Commission (to whom such provisions would not otherwise apply except for this subsection) shall be a special Government employee.

SEC. 203. REPORT TO THE PRESIDENT AND CONGRESS.

The Commission shall report to the President and the Congress on its investigation, findings, and recommendations in an interim report no later than 12 months after the effective date of this title, and in a final report no later than 24 months after the effective date of this title. The interim report shall be made available for public review and comment, and the comments taken into account in finalizing the report.

SEC. 204. COMMISSION STAFF.

The Commission shall appoint an Executive Director who shall be compensated at a rate not to exceed the rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code. With the approval of the Commission the Executive Director may appoint and fix the compensation of staff sufficient to enable the Commission to carry out its duties.

SEC. 205. ADVISORY GROUPS.

The Chairman shall convene at least one advisory group to assist the Commission in developing its recommendations. One advisory group shall be composed of past staff of the Department of Environmental Protection and its predecessor Environmental Protection Agency, other Federal and State officials experienced in administering environmental protection programs, members of the regulated community and members of public interest groups organized to further the goals of environmental protection. The Executive Director is authorized to pay members of advisory committees and others who perform services as authorized under section 3109 of title 5, United States Code, at rates for individuals not to exceed the per diem rate equivalent to the rate for level V of the Executive Schedule under section 5316 of title 5, United States Code. The advisory group shall be subject to the provisions of the Federal Advisory Committee Act.

SEC. 206. TERMINATION OF COMMISSION.

No later than 90 days after the date on which the Commission submits its final report, the Commission shall terminate unless otherwise directed by the President.

SEC. 207. FUNDING; AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $2,000,000 in fiscal year 1993 and $2,000,000 in fiscal year 1994 to carry out the provisions of this title.

TITLE III—EFFECTIVE DATE

SEC. 301. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on such date during the 6-month period beginning on the date of enactment, as the President may direct in an Executive order. If the President fails to issue an Executive order for the purpose of this section, this Act and such amendments shall take effect 6 months after the date of the enactment of this Act.

The title was amended so as to read:

Amend the title so as to read "A bill to establish the Department of Environmental Protection, provide for a Bureau of Environmental Statistics and a Presidential Commission on Improving Environmental Protection, and for other purposes.".

Mr. GLENN. Madam President, I move to reconsider the vote by which the bill was passed.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LOBBYING DISCLOSURE ACT OF 1993

The PRESIDING OFFICER. Under the previous order, the clerk will now report Calendar No. 54.

The assistant legislative clerk read as follows:

A bill (S. 349) to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Governmental Affairs, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 349

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 "Lobbying Disclosure Act of 1993".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) responsible representative Government requires public awareness of the efforts of paid lobbyists to influence the public decisionmaking process in both the legislative and executive branches of the Federal Government;

(2) existing lobbying disclosure statutes have been ineffective because of unclear statutory language, weak investigative and enforcement provisions, and an absence of clear guidance as to who is required to register and what they are required to disclose; and

(3) the effective public disclosure of the identity and extent of the efforts of paid lobbyists to influence Federal officials in the conduct of Government actions will increase public confidence in the integrity of Government.

(b) PURPOSE.—The purposes of this Act are to—

(1) provide for the disclosure of the efforts of paid lobbyists to influence Federal legislative or executive branch officials in the conduct of Government actions; and

(2) afford the fullest opportunity to the people of the United States to exercise their constitutional right to petition their Government for a redress of grievances, to express their opinions freely to their Government, and to provide information to their Government.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) The term "agency" has the same meaning as such term is defined under section 551(1) of title 5, United States Code.

(2) The term "client" means any person who employs or retains another person for financial or other compensation to conduct lobbying activities on its own behalf. An organization whose employees conduct lobbying activities on its behalf is both a client and an employer of the lobbyists. In the case of a coalition or association that employs or retains others to conduct lobbying activities on behalf of its membership, the client is the coalition or association and not its individual members.

(3) The term "covered executive branch official" means—

(A) the President;

(B) the Vice President;

(C) any officer or employee of the Executive Office of the President other than a clerical or secretarial employee;

(D) any officer or employee serving in an Executive level I, II, III, IV, or V position, as designated in statute or executive order;

(E) any officer or employee serving in a Senior Executive Service position, as defined under section 3232(a)(2) of title 5, United States Code;

(F) any member of the uniformed services whose pay grade is at or in excess of O–7 under section 201 of title 37, United States Code; and

(G) any officer or employee serving in a position of a confidential or policy-determining character under Schedule C of the excepted service pursuant to regulations implementing section 2103 of title 5, United States Code.

(4) The term "covered legislative branch official" means—

(A) a Member of Congress;

(B) an elected officer of Congress;

(C) any employee of a Member of the House of Representatives, of a committee of the House of Representatives, or on the leadership staff of the House of Representatives, other than a clerical or secretarial employee;

(D) any employee of a Senator, of a Senate Committee, or on the leadership staff of the Senate, other than a clerical or secretarial employee; and

(E) any employee of a joint committee of the Congress, other than a clerical or secretarial employee.

(5) The term "Director" means the Director of the Office of Lobbying Registration and Public Disclosure.

(6) The term "employee" means any individual who is an officer, employee, partner, director, or proprietor of an organization, but does not include—

(A) independent contractors or other agents who are not regular employees; or

(B) volunteers who receive no financial or other compensation from the organization for their services.

(7) The term "foreign entity" means—

(A) a government of a foreign country or a foreign political party (as such terms are defined in section 1 (e) and (f) of the Foreign Agents Registration Act of 1938, as amended (22 U.S.C. 611 (e) and (f)));

(B) a person outside the United States, other than a United States citizen or an organization that is organized under the laws of the United States or any State and has its principal place of business in the United States; or

(C) a partnership, association, corporation, organization, or other combination of persons that is organized under the laws of or has its principal place of business in a foreign country.

(8) The term "lobbying activities" means lobbying contacts and efforts in support of such contacts, including preparation and planning activities, research and other background work that is intended for use in contacts, and coordination with the lobbying activities of others. Lobbying activities include grass roots lobbying communications (as defined in regulations implementing section 4911(c)(3) of the Internal Revenue Code of 1986) to the extent that such activities are made in direct support of lobbying contacts.

(9)(A) The term "lobbying contact" means any oral or written communication with a covered legislative or executive branch official made on behalf of a client with regard to—

(i) the formulation, modification, or adoption of Federal legislation (including legislative proposals);

(ii) the formulation, modification, or adoption of a Federal rule, regulation, Executive order, or any other program, policy or position of the United States Government; or

(iii) the administration or execution of a Federal program or policy (including the negotiation, award, or administration of a Federal contract, grant, loan, permit, or license) except that it does not include communications that are made to officials serving in the Senior Executive Service or the uniformed services in the agency responsible for taking such action.

(B) The term shall not include communications that are—

(i) made by public officials acting in their official capacity;

(ii) made by representatives of a media organization who are primarily engaged in gathering and disseminating news and information to the public;

(iii) made in a speech, article or other publication, or through the media;

(iv) made on behalf of a foreign principal and disclosed under the Foreign Agents Registration Act of 1938, as amended (22 U.S.C. 611 et seq.);

(v) requests for appointments, requests for the status of a Federal action, or other similar ministerial contacts, if there is no attempt to influence covered legislative or executive branch officials;

(vi) made in the course of participation in an advisory committee subject to the Federal Advisory Committee Act;

(vii) testimony given before a committee, subcommittee, or office of Congress, or submitted for inclusion in the public record of a hearing conducted by such committee, subcommittee, or office;

(viii) information provided in writing in response to a specific written request from a Federal agency or a congressional committee, subcommittee, or office;

(ix) required by subpoena, civil investigative demand, or otherwise compelled by statute, regulation, or other action of Congress or a Federal agency;

(x) made in response to a notice in the Federal Register, Commerce Business Daily, or other similar publication soliciting communications from the public and directed to the agency official specifically designated in the notice to receive such communications;

(xi) not possible to report without disclosing information, the unauthorized disclosure of which is prohibited by law;

(xii) made to agency officials with regard to judicial proceedings, criminal or civil law enforcement inquiries, investigations or proceedings, or filings required by statute or regulation;

(xiii) made in compliance with written agency procedures regarding an adjudication conducted by the agency under section 554 of title 5, United States Code, or substantially similar provisions;

(xiv) written comments filed in a public docket and other communications that are made on the record in a public proceeding; and

(xv) made on behalf of an individual with regard to such individual's benefits, employment, other personal matters involving only that individual, or disclosures by that individual pursuant to applicable whistleblower statutes.

(10) The term "lobbyist" means any individual who is employed or retained by another for financial or other compensation to perform services that include lobbying contacts, other than an individual whose lobbying activities are only incidental to, and are not a significant part of, the services provided by such individual to the client.

(11) The term "organization" means any corporation (excluding a Government corporation), company, foundation, association, labor organization, firm, partnership, society, joint stock company, or group of organizations. Such term shall not include any Federal, State, or local unit of government

(other than a State college or university as described under section 511(a)(2)(B) of the Internal Revenue Code of 1986), organization of State or local elected or appointed officials, any Indian tribe, any national or State political party and any organizational unit thereof, or any Federal, State, or local unit of any foreign government.

(12) The term "public official" means any elected or appointed official who is a regular employee of a Federal, State, or local unit of government (other than a State college or university as described under section 511(a)(2)(B) of the Internal Revenue Code of 1986), an organization of State or local elected or appointed officials, an Indian tribe, a national or State political party or any organizational unit thereof, or a Federal, State, or local unit of any foreign government.

SEC. 4. REGISTRATION OF LOBBYISTS.

(a) REGISTRATION.—(1) No later than 30 days after a lobbyist first makes a lobbying contact or agrees to make lobbying contacts, such lobbyist (or, as provided under subsection (c)(2), the organization employing such lobbyist), shall register with the Office of Lobbying Registration and Public Disclosure.

(2) Notwithstanding paragraph (1), any person whose total income or total expenses in connection with lobbying activities on behalf of a particular client do not exceed, or are not expected to exceed, $1,000 in a semiannual period is not required to register for such client.

(b) CONTENTS OF REGISTRATION.—Each registration under this section shall be in such form as the Director shall prescribe by regulation and shall contain—

(1) the name, address, business telephone number and principal place of business of the registrant, and a general description of its business or activities;

(2) the name, address, and principal place of business of the registrant's client, and a general description of its business or activities (if different from paragraph (1));

(3) the name of any organization, other than the client, that—

(A) contributes more than $5,000 toward the lobbying activities in a semiannual period;

(B) significantly participates in the supervision or control of the lobbying activities; and

(C) has a direct financial interest in the outcome of the lobbying activities;

(4) the name, principal place of business, and approximate percentage of equitable ownership in the client (if any) [or] *of* any foreign entity that—

(A) holds at least 20 percent equitable ownership in the client;

(B) directly or indirectly, in whole or in major part, supervises, controls, directs, finances, or subsidizes the activities of the client; or

(C) is an affiliate of the client that has a direct interest in the outcome of the lobbying activity;

(5) a statement of the general issue areas in which the registrant expects to engage in lobbying activities on behalf of the client and, to the extent practicable, a list of specific issues that have already been addressed or are likely to be addressed; and

(6) the name of each employee of the registrant whom the registrant expects to act as a lobbyist on behalf of the client and, if any such employee has served as a covered legislative or executive branch official in the 2 years prior to the date of the registration (or a report amending the registration), the position in which such employee served.

(c) GUIDELINES FOR REGISTRATION.—(1) In the case of a registrant representing more than one client, a separate registration shall be filed for each client represented.

(2) Any organization that has one or more employees who are lobbyists shall file a single registration for each client on behalf of its employees who engage in lobbying activities on behalf of such client.

SEC. 5. REPORTS BY REGISTERED LOBBYISTS.

(a) SEMIANNUAL REPORT.—No later than 30 days after the end of the semiannual period beginning on the first day of each January and the first day of July of each year in which it is registered, each registrant shall file a report with the Office of Lobbying Registration and Public Disclosure on its lobbying activities during such semiannual period.

(b) CONTENTS OF REPORT.—Each semiannual report filed under this section shall be in such form as the Director shall prescribe by regulation and shall contain—

(1) the name of the registrant, the name of the client, and any changes or updates to the information provided in the initial registration;

(2) for each general issue area in which the registrant engaged in lobbying activities on behalf of the client during the semiannual filing period—

(A) a list of the specific issues upon which the registrant engaged in significant lobbying activities, including a list of bill numbers and references to specific regulatory actions, programs, projects, contracts, grants and loans, to the maximum extent practicable;

(B) a statement of the Houses and committees of Congress and the Federal agencies contacted by lobbyists employed by the registrant on behalf of the client during the semiannual filing period;

(C) a list of the employees of the registrant who acted as lobbyists on behalf of the client; and

(D) a description of the interest in the issue, if any, of any foreign entity identified under section 4(b)(4);

(3) in the case of a registrant lobbying on behalf of a client other than the registrant, a good faith estimate of the total amount of all income from the client (including any payments to the registrant by any other person to lobby on behalf of the client) during the semiannual period, other than income for matters that are unrelated to lobbying activities; and

(4) in the case of a registrant lobbying on its own behalf, a good faith estimate of the total expenses that the organization and its employees incurred in connection with lobbying activities during the semiannual filing period.

(c) ESTIMATES OF INCOME OR EXPENSES.—For the purpose of this section, estimates of income or expenses shall be made as follows:

(1) Income or expenses of $200,000 or less shall be estimated by the following categories:

(A) At least $1,000 but not more than $10,000.

(B) More than $10,000 but not more than $20,000.

(C) More than $20,000 but not more than $50,000.

(D) More than $50,000 but not more than $100,000.

(E) More than $100,000 but not more than $200,000.

(2) Income or expenses in excess of $200,000 shall be estimated and rounded to the nearest $100,000.

(3) Any registrant whose total income or total expenses are less than $1,000 in a semiannual period (as estimated under subsection (b) (3) or (4), or under paragraph (4) of this subsection, as applicable) is deemed to be inactive during such period and may comply with the reporting requirements of this section by so notifying the Director, in such form as the Director may prescribe.

(4) In the case of registrants that are required to report or identify lobbying income or expenses under sections 6033 and 6104 of the Internal Revenue Code of 1986, regulations developed under section 6 shall provide that the amounts required to be disclosed under such sections, or a good faith estimate of such amounts, may be reported (by category of dollar value) to meet the requirements of subsection (b) (3) or (4) of this section.

(5) In estimating total income or expenses under this section, a registrant is not required to include—

(A) the value of contributed services for which no payment is made; or

(B) the expenses for services provided by an independent contractor or agent of the registrant who is separately registered under this Act.

(d) CONTACTS WITH CONGRESSIONAL COMMITTEES.—For purposes of subsection (b)(2), any contact with a member of a congressional committee, an employee of a congressional committee, or an employee of a member of a congressional committee regarding a matter within the jurisdiction of such committee is a contact with the committee.

(e) EXTENSION FOR FILING.—The Director may grant an extension of time of not more than 30 days for the filing of any report under this section, on the request of the registrant, for good cause shown.

SEC. 6. ADMINISTRATIVE DUTIES OF THE OFFICE OF LOBBYING REGISTRATION AND PUBLIC DISCLOSURE.

(a) ESTABLISHMENT.—(1) There is established within the Department of Justice an Office of Lobbying Registration and Public Disclosure, which shall be headed by a Director. The Director shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall be an individual who, by demonstrated ability, background, training, and experience, is especially qualified to carry out the functions of the position.

(2) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following:

"Director of the Office of Lobbying Registration and Public Disclosure, Department of Justice.".

(b) DUTIES.—The Director of the Office of Lobbying Registration and Public Disclosure shall—

(1) after notice and an opportunity for public comment, and consultation with the Secretary of the Senate, the Clerk of the House of Representatives, and the Administrative Conference of the United States, prescribe such rules, forms, penalty schedules, and procedural regulations as are necessary for the implementation of this Act;

(2) provide guidance and assistance on the registration and reporting requirements of this Act, including, to the extent practicable, the issuance of published decisions and advisory opinions;

(3) review and make such supplemental verifications or inquiries as are necessary to ensure the completeness, accuracy, and timeliness of registrations and reports;

(4) develop filing, coding, and cross-indexing systems to carry out the purposes of this Act, including computerized systems designed to minimize the burden of filing and

maximize public access to materials filed under this Act;

(5) ensure that the computer systems developed pursuant to paragraph (4)—

(A) allow the materials filed under this Act to be accessed by the name of the client, the lobbyist, and the registrant; and

(B) are compatible with computer systems developed and maintained by the Federal Election Commission, and that information filed in the two systems can be readily cross-referenced;

(6) make copies of each registration and report filed under this Act available to the public in electronic and hard copy formats as soon as practicable after the date on which such registration or report is received;

(7) preserve the originals or accurate reproduction of registrations until such time as they are terminated, and of reports for a period of no less than 2 years from the date on which the report is received;

(8) maintain a computer record of the information contained in registrations and reports for no less than 5 years after the date on which such registrations and reports are received;

(9) compile and summarize, with respect to each semiannual period, the information contained in registrations and reports filed during such period in a manner which clearly presents the extent and nature of expenditures on lobbying activities during such period;

(10) make information compiled and summarized under paragraph (9) available to the public in electronic and hard copy formats as soon as practicable after the close of each semiannual filing period;

(11) provide, by computer telecommunication and other means, to the Secretary of the Senate and the Clerk of the House of Representatives copies of all registrations and reports received under this Act and all compilations, cross-indexes, and summaries of such registrations and reports, as soon as practicable (but not later than 2 working days) after such material is received or created; and

(12) transmit to the President and the Congress an annual report describing the activities of the Office and the implementation of this Act, including—

(A) a financial statement for the preceding year;

(B) a summary of the registrations and reports filed with the Office in the preceding year;

(C) a summary of the registrations and reports filed on behalf of foreign entities in the preceding year; and

(D) recommendations for such legislative or other action as the Director considers appropriate.

SEC. 7. INFORMAL RESOLUTION OF ALLEGED NONCOMPLIANCE.

(a) ALLEGATION OF NONCOMPLIANCE.—Whenever the Office of Lobbying Registration and Public Disclosure has reason to believe that a person may be in noncompliance with the requirements of this Act, the Director shall notify the person in writing of the nature of the alleged noncompliance and provide an opportunity for the person to respond in writing to the allegation within 30 days or such longer period as the Director may determine appropriate in the circumstances.

(b) INFORMAL RESOLUTION.—If the person responds within 30 days or other time limit set by the Director, the Director shall—

(1) take no further action, if the person provides adequate information or explanation to determine that it is unlikely that a noncompliance exists;

[(2) treat the noncompliance as a minor noncompliance and, if appropriate, assess a penalty under section 8, if the person agrees that there was a noncompliance and corrects such noncompliance; or]

(2) if the person admits that there was a noncompliance and corrects such noncompliance—

(A) in the case of a minor noncompliance, take no further action; or

(B) in the case of a significant noncompliance, treat the matter as a minor noncompliance for the purpose of section 8; or

(3) make a determination under section 8, if the information or explanation provided indicates that a noncompliance may exist.

(c) FORMAL REQUEST FOR INFORMATION.—If the person fails to respond in writing within 30 days or other time limit set by the Director, or the response is not adequate to determine whether a noncompliance exists, the Director may make a formal request for specific additional information (subject to applicable privileges) that is reasonably necessary for the Director to determine whether the alleged noncompliance in fact exists. Each such request shall be structured in a way to minimize the burden imposed, consistent with the need to determine whether the person is in compliance, and shall—

(1) state the nature of the conduct constituting the alleged noncompliance which is the basis for the inquiry and the provision of law applicable thereto;

(2) describe the class or classes of documentary material to be produced thereunder with such definiteness and certainty as to permit such material to be readily identified; and

(3) prescribe a return date or dates which provide a reasonable period of time within which the material so requested may be assembled and made available for inspection and copying or reproduction.

(d) NONDISCLOSURE OF INFORMATION.—Information provided to the Director under this section shall not be made available to the public without the consent of the person providing the information, except that—

(1) any new or amended report or registration filed in connection with an inquiry under this section shall be made available to the public in the same manner as any other registration or report filed under section 4 or 5; and

(2) written decisions issued by the Director under sections 8 and 9 may be published after appropriate redaction to ensure that confidential information is not disclosed.

SEC. 8. DETERMINATIONS OF NONCOMPLIANCE.

(a) NOTIFICATION AND HEARING.—If the information provided to the Director under section 7 indicates that a noncompliance may exist, the Director shall—

(1) notify the person in writing of this finding and, if appropriate, a proposed penalty assessment and provide such person with an opportunity to respond in writing within 30 days;

(2)(A) in the case of a minor noncompliance, afford the person a 30-day period in which to request an oral hearing before an independent presiding official; and

(B) grant such a request made during such period for good cause shown; and

(3) in the case of a significant noncompliance, afford the person an opportunity for a hearing on the record under the provisions of section 556 of title 5, United States Code, if requested by such person within 30 days.

(b) DETERMINATION.—Upon the receipt of a written response, the completion of a hearing, or the expiration of 30 days, the Director shall review the information received under this section and section 7 and make a final determination whether there was a noncompliance and a final determination of the penalty, if any. If no written response or request for a hearing was received under this section within the 30-day period provided, the determination and penalty assessment shall constitute a final and nonappealable order.

(c) WRITTEN DECISION.—If the Director makes a final determination that there was a noncompliance, the Director shall issue a public written decision—

(1) requiring that the noncompliance be included in a publicly available list of noncompliances, to be reported to the Congress on a semiannual basis;

(2) directing the person to correct the noncompliance; and

(3) assessing a civil monetary penalty in an amount determined as follows:

(A) In the case of a minor noncompliance, the amount shall be no more than $10,000, depending on the nature and extent of the noncompliance.

(B) In the case of a significant noncompliance, the amount shall be more than $10,000, but no more than $100,000, depending on the nature and extent of the noncompliance.

(d) CIVIL INJUNCTIVE RELIEF.—If a person fails to comply with a directive to correct a noncompliance under subsection (c), the Director shall refer the case to the Attorney General to seek civil injunctive relief.

(e) PENALTY ASSESSMENTS.—(1) No penalty shall be assessed under this section unless the Director finds that the person subject to the penalty knew or should have known that such person was not in compliance with the requirements of this Act. In determining the amount of a penalty to be assessed, the Director shall take into account the totality of the circumstances, including the extent and gravity of the noncompliance and such other matters as justice may require. The Director shall not assess a penalty in an amount greater than that recommended by an administrative law judge after a hearing on the record under subsection (a)(3) unless the Director determines that the recommendation of the administrative law judge is arbitrary and capricious or an abuse of discretion.

(2) Regulations prescribed by the Director under section 6 shall define minor and significant noncompliances. Significant noncompliances shall be defined to include a knowing failure to register and any other knowing noncompliance that is extensive or repeated.

SEC. 9. OTHER VIOLATIONS.

(a) LATE REGISTRATION OR FILING; FAILURE TO PROVIDE INFORMATION.—If a person registers or files more than 30 days after a registration or filing is required under this Act, or fails to provide information requested by the Director under section 7(c), the Director shall—

(1) notify the person in writing of the noncompliance and a proposed penalty assessment and provide such person with an opportunity to respond in writing within 30 days; and

(2)(A) afford the person a 30-day period in which to request an oral hearing before an independent presiding official; and

(B) grant such a request made during such period for good cause shown.

(b) DETERMINATION.—Unless the Director determines that the late filing or failure to provide information was justified, the Director shall make a final determination of noncompliance and a final determination of the penalty, if any. If no written response or request for a hearing was received under this section within the 30-day period provided,

the determination and penalty assessment shall constitute a final and unappealable order.

(c) WRITTEN DECISION.—If the Director makes a final determination that there was a noncompliance, the Director shall issue a public written decision—

(1) in the case of a late filing, assessing a civil monetary penalty of $200 for each week by which the filing was late, with the total penalty not to exceed $10,000; or

(2) in the case of a failure to provide information—

(A) including the noncompliance in a publicly available list of noncompliances, to be reported to the Congress on a semiannual basis; and

(B) assessing a civil monetary penalty in an amount not to exceed $10,000.

(d) CIVIL INJUNCTIVE RELIEF.—In addition to the penalties provided in this section, the Director may refer the noncompliance to the Attorney General to seek civil injunctive relief.

SEC. 10. JUDICIAL REVIEW.

(a) FINAL DECISION.—A written decision issued by the Director under section 8 or 9 shall become final 60 days after the date on which the Director provides notice of the decision, unless such decision is appealed under subsection (b) of this section.

(b) APPEAL.—Any person adversely affected by a written decision issued by the Director under section 8 or 9 may appeal such decision, except as provided under sections 8(b) or 9(b), to the appropriate United States court of appeals. Such review may be obtained by filing a written notice of appeal in such court no later than 60 days after the date on which the Director provides notice of the Director's decision and by simultaneously sending a copy of such notice to the Director. The Director shall file in such court the record upon which the decision was issued, as provided under section 2112 of title 28, United States Code. The findings of fact of the Director shall be conclusive, unless found to be unsupported by substantial evidence, as provided under section 706(2)(E) of title 5, United States Code. Any penalty assessed or other action taken in the decision shall be stayed during the pendency of the appeal.

(c) RECOVERY OF PENALTY.—Any penalty assessed in a written decision which has become final under this Act may be recovered in a civil action brought by the Attorney General in an appropriate United States district court. In any such action, no matter that was raised or that could have been raised before the Director or pursuant to judicial review under subsection (b) may be raised as a defense, and the determination of liability and the determination of amounts of penalties and assessments shall not be subject to review.

(d) ATTORNEYS' FEES.—In any appeal brought under this section, in which the person who is the subject of such action substantially prevails on the merits, the court may assess against the United States attorneys' fees and other litigation costs reasonably incurred in the administrative proceeding and the appeal.

SEC. 11. RULES OF CONSTRUCTION.

(a) PROHIBITION OF ACTIVITIES.—Nothing in this Act shall be construed to prohibit, or to authorize the Director or any court to prohibit, lobbying activities or lobbying contacts by any person, regardless of whether such person is in compliance with the requirements of this Act.

(b) AUDIT AND INVESTIGATIONS.—Nothing in this Act shall be construed to grant general audit or investigative authority to the Director, or to authorize the Director to review the files of a registrant, except in accordance with the requirements of section 7 regarding the informal resolution of alleged noncompliances and formal requests for information.

SEC. 12. AMENDMENTS TO THE FOREIGN AGENTS REGISTRATION ACT.

The Foreign Agents Registration Act of 1938, as amended (22 U.S.C. 611 et seq.) is amended—

(1) in section 1—

(A) by amending subsection (b) to read as follows:

"(b) The term 'foreign principal' means a government of a foreign country or a foreign political party.";

(B) by striking out subsection (j);

(C) in subsection (o), by striking out "the dissemination of political propaganda and any other activity which the person engaging therein believes will, or which he intends to, prevail upon, indoctrinate, convert, induce, persuade, or in any other way influence" and inserting in lieu thereof "any activity which the person engaging in believes will, or which he intends to, in any way influence";

(D) in subsection (p) by striking out the semicolon and inserting in lieu thereof a period; and

(E) by striking out subsection (q);

(2) in section 3(g) (22 U.S.C. 613(g)), by striking out "established agency proceedings, whether formal or informal." and inserting in lieu thereof "judicial proceedings, criminal or civil law enforcement inquiries, investigations or proceedings, or agency proceedings required by statute or regulation to be conducted on the record.";

(3) in section 4(a) (22 U.S.C. 614(a))—

(A) by striking out "political propaganda" and inserting in lieu thereof "informational materials"; and

(B) by striking out "and a statement, duly signed by or on behalf of such an agent, setting forth full information as to the places, times and extent of such transmittal";

(4) in section 4(b) (22 U.S.C. 614(b))—

(A) by striking out "political propaganda" and inserting in lieu thereof "informational materials"; and

(B) by striking out "(i) in the form of prints or" and all that follows through the end of the subsection and inserting in lieu thereof "without placing in such informational materials a conspicuous statement that the materials are distributed by the agent on behalf of the foreign principal, and that additional information is on file with the Department of Justice, Washington, District of Columbia. The Attorney General may by rule define what constitutes a conspicuous statement for the purposes of this subsection.";

(5) in section 4(c) (22 U.S.C. 614(c)), by striking out "political propaganda" and inserting in lieu thereof "informational materials";

(6) in section 6 (22 U.S.C. 616)—

(A) in subsection (a), by striking out "and all statements concerning the distribution of political propaganda";

(B) in subsection (b), by striking out ", and one copy of every item of political propaganda"; and

(C) in subsection (c), by striking out "copies of political propaganda,";

(7) in section 8 (22 U.S.C. 618)—

(A) in subsection (a)(2), by striking out "or in any statement under section 4(a) hereof concerning the distribution of political propaganda"; and

(B) by striking out subsection (d); and

(8) in section 11 (22 U.S.C. 621), by striking out ", including the nature, sources, and content of political propaganda disseminated or distributed.".

SEC. 13. AMENDMENTS TO THE BYRD AMENDMENT.

Section 1352(b) of title 31, United States Code, is amended—

(1) in paragraph (2), by striking out subparagraphs (A), (B), and (C) and inserting in lieu thereof the following:

"(A) the name of any registrant under the Lobbying Disclosure Act of 1993 who has made lobbying contacts on behalf of the person with respect to that Federal contract, grant, loan, or cooperative agreement; and

"(B) a certification that the person making the declaration has not made, and will not make, any payment prohibited by subsection (a).";

(2) in paragraph (3), by striking out all that follows "loan shall contain" and inserting in lieu thereof "the name of any registrant under the Lobbying Disclosure Act of 1993 who has made lobbying contacts on behalf of the person in connection with that loan insurance or guarantee."; and

(3) by striking out paragraph (6) and redesignating paragraph (7) as paragraph (6).

SEC. 14. REPEAL OF CERTAIN LOBBYING PROVISIONS.

(a) REPEAL OF THE FEDERAL REGULATION OF LOBBYING ACT.—The Federal Regulation of Lobbying Act (2 U.S.C. 261 et seq.) is repealed.

(b) REPEAL OF PROVISIONS RELATING TO HOUSING LOBBYIST ACTIVITIES.—(1) Section 13 of the Department of Housing and Urban Development Act (42 U.S.C. 3537b) is repealed.

(2) Section 536(d) of the Housing Act of 1949 (42 U.S.C. 1490p(d)) is repealed.

(c) REPEAL OF REGISTRATION REQUIREMENT RELATING TO PUBLIC UTILITY LOBBYING ACTIVITIES.—Section 12(i) of the Public Utility Holding Company Act of 1935 (15 U.S.C. 791(i)) is repealed.

SEC. 15. CONFORMING AMENDMENTS TO OTHER STATUTES.

(a) AMENDMENT TO COMPETITIVENESS POLICY COUNCIL ACT.—Section 5206(e) of the Competitiveness Policy Council Act (15 U.S.C. 4804(e)) is amended by inserting "or a lobbyist for a foreign entity (as the terms 'lobbyist' and 'foreign entity' are defined under section 3 of the Lobbying Disclosure Act of 1993)" after "an agent for a foreign principal".

(b) AMENDMENT TO TITLE 18, UNITED STATES CODE.—Section 219(a) of title 18, United States Code, is amended by inserting "or a lobbyist required to register under the Lobbying Disclosure Act of 1993 in connection with the representation of a foreign entity as defined under section 3(7) of such Act," after "an agent of a foreign principal required to register under the Foreign Agents Registration Act of 1938, as amended,".

(c) AMENDMENT TO FOREIGN SERVICE ACT OF 1980.—Section 602(c) of the Foreign Service Act of 1980 (22 U.S.C. 4002(c)) is amended by inserting "or a lobbyist for a foreign entity (as defined in section 3(7) of the Lobbying Disclosure Act of 1993)" after "an agent of a foreign principal (as defined by section 1(b) of the Foreign Agents Registration Act of 1938)".

(d) AMENDMENT TO THE FEDERAL ELECTION CAMPAIGN ACT.—Section 319(b) of the Federal Election Campaign Act (2 U.S.C. 441e(b)) is amended—

(1) in paragraph (1) by striking out "or" after the semicolon;

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

"(2) a foreign entity, as such term is defined by section 3(7) of the Lobbying Disclosure Act of 1993; or".

SEC. 16. SEVERABILITY.

If any provision of this Act, or the application thereof, is held invalid, the validity of the remainder of this Act and the application of such provision to other persons and circumstances shall not be affected thereby.

SEC. 17. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

SEC. 18. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this section, the provisions of this Act shall take effect 1 year after the date of the enactment of this Act.

(b) ESTABLISHMENT OF OFFICE.—The provisions of sections 6 and 17 shall take effect on the date of the enactment of this Act.

(c) REPEALS AND AMENDMENTS.—The repeals and amendments made under sections 12, 13, and 14 of this Act shall take effect as provided under subsection (a), except that such repeals and amendments—

(1) shall not affect any proceeding or suit commenced before the effective date under subsection (a), and in all such proceedings or suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this Act had not been enacted; and

(2) shall not affect the requirements of Federal agencies to compile, publish, and retain information filed or received before the effective date of such repeals and amendments.

(d) REGULATIONS.—Proposed regulations required to implement this Act shall be published for public comment no later than 270 days after the date of the enactment of this Act.

Mr. MITCHELL. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. DOMENICI. Parliamentary inquiry, are we on the bill?

The PRESIDING OFFICER. The Senate is considering S. 349.

THE PRESIDENT'S BUDGET SUBMISSION

Mr. DOMENICI. Madam President, I rise to share a few thoughts with fellow Senators about the budget submission that the President sent to the Congress while we were out on recess a couple of weeks back, and on a few matters that have come to my attention regarding our country's economy.

As often happens with the release of new economic figures, there is great discussion of what they mean. Shortly after the President submitted his in-depth budget, and shortly after the lengthy debates on the so-called stimulus package, the quarterly gross national product and inflation statistics for the country came out. We received information that the GDP growth for the first quarter was 1.8 percent and the President indicated more than once that this means we should have adopted his so-called stimulus package.

Madam President, on that score I want to point out that the Republican leader argues that the quarterly GDP figure explains why we should not adopt the Clinton economic plan.

There is more reason to be concerned about the President's tax plan and it being adopted than there is concern about not having adopted a stimulus package. Let me just be very simple on that score and proceed on to some other objective findings that I believe are there.

First, if you look at the President's budget submission, it is not any different than his vision statement that preceded it. And what Americans and business and those who want jobs, ought to be worried about, is that the President's tax package will impose in the year 1993, $26 billion in new taxes, much of which is retroactive taxation.

Let me point out to anyone with even the slightest concern about jobs, that the so-called stimulus package would have spent—aside from the unemployment compensation—$3 billion in 1993, not $16 billion or $19.5 billion.

Now I ask, will $3 billion, much of which has no stimulus at all, help the economy as much as $29 billion in taxes on that economy would hurt it? Ten-to-one is the ratio, if my numbers are right—about $30 billion in new taxes on businesses and individuals who invest and cause jobs to be created, versus $3 billion in the so-called stimulus.

So for those who were worried about stimulus, you better be worried about the destimulating effect of the $30 billion in the first partial year of new taxes on the American people.

(Mr. ROBB assumed the chair.)

Mr. DOMENICI. From what I understand, you could almost ignore the $3 billion when you look at the $29 to $30 billion that is up against it. Clearly, the answer for why America may not grow as some think it should grow for the remainder of this year has more to do with the taxes to be imposed or the threat thereof rather than the lack of spending more public money.

Let me remind everyone that we already have about $300 billion in stimulus because stimulus is the amount by which you are spending in excess of the revenues. We are $300 billion in the red. So we have already created $300 billion in stimulus, much of which is made up of the same kind of programs as the President asked for in the stimulus package.

So in all of this talk about the 1.8-percent growth, I submit that we ought to not lose sight of our objective, which is to foster economic growth and create permanent private-sector jobs for American workers.

I believe the reasons for not passing the President's economic plan, much less his stimulus package, are as strong as ever. We cannot deficit finance our way to prosperity. We cannot create programs and spend Government money with enough real reliability that it will create new, permanent jobs, no matter how cleverly more Government spending or our economy is characterized.

The economic stage is set for the likelihood of strong growth ahead—and I give the Senate a big "if"—if the Government does not put pressure on American business with taxes and roadblocks to competitiveness. While there is a role for Government in helping to create private-sector growth, that role is not more Government but indeed less Government intervention. It is not more taxes on business but less pressure on business regarding the cost of employing new workers.

In light of the interpretations of recent economic statistics, we need to keep the facts and be straight about this economy. Over eight consecutive quarters, the gross domestic product has grown. It is now $110 billion higher than its previous peak in 1990, just before the recession. Real growth increased 4.7 percent in the fourth quarter, and I remind everyone that is the most significant new growth in 5 years. So we should not be surprised that the GDP growth stepped down from that pace. It probably cannot keep up that pace under circumstances of today's world markets.

In particular, those who look at the numbers say bad weather dampened economic statistics in March, the final month of the quarter, temporarily slumping economies abroad reduced our export sales, and defense spending declined precipitously. With recently improved weather, some statistics already suggest a much more optimistic outlook. So far in April, store sales have picked up, weekly jobs claims continue to come down, car sales are above February's level, mortgage applications remain high, and, yes, just a few days ago we learned that new home sales rose a solid 4.7 percent in March despite this bad weather.

It is really the underlying pace of economic growth that is most important. On this front, I think the stage is set for solid growth if we can formulate a budget that does not put more pressure on American business. The Nation's job machine is American business. Anybody that thinks the American job machine is Government does not understand the American economy. We have to provide incentives for business to hire people by lowering the cost of employment. The challenge before us is to energize our economy and to create stable, long-term growth. We are in a position to do just that. An examination of the recent numbers revealed that this economy may be

poised on the edge of a substantial vigorous economic resurgence. I say that because the past 6 months have seen substantial job creation—new full-time job growth. In the past 6 months there has been a real surge in full-time job growth far outpacing the previous 18 months.

There is another fact that is good for America and America's future, but creates an anomaly. Productivity growth of 2.8 percent in 1992 was the fastest in 20 years. Both manufacturing and nonmanufacturing productivity is increasing at dramatic rates. As businesses seek to become leaner operations, and thus more competitive, increased productivity gives American business new muscle to succeed where we asked them to succeed, in competition at home and abroad.

The anomaly is this productivity growth bodes well for America's future, but it bodes not so well for today because it means businesses can produce more goods, service, and manufactured products with less rather than more employees. At this time we must find out not how to prime the pump with more Government spending, but what to do to address an economy that is growing, increasing productivity, but where our businesses will not hire more people, or cannot under current policies.

Next keep in mind that purchases of business equipment have risen at a very strong rate, 14.2 percent over the last year. Rising capital formation questions the need for an investment tax credit. Since late 1991, investment is moving back up, bringing into question whether we need a policy that gives an investment tax credit or a policy that gives small business some kind of relief from the enormous new costs imposed on them for every new worker. With rising health care, Social Security taxes, workmen's compensation, and regulations, business is saying, work overtime, work part time, but before we add new employees let us wait until we know more about the risks and costs of new employees.

We cannot argue with the market on that. We cannot say to business, hire them anyway. They must see daylight and see profits from new employment, not more costs and more risks associated with their businesses.

In addition, the corporate debt rate has come down. The ratio of interest payments to cash-flow has improved. Compared to the low point in 1983, the corporate debt service ratio now is comparatively good and going in the right direction. Whether that will continue is very important.

It does not seem to this Senator that a short-term stimulus package has much to do with improving this situation. It does seem to me, however, that improving investment, jobs, and business debt has a lot to do with new tax impositions, new regulations, and a failure on our part to set policies that will reduce the costs of adding new employees.

The same is true for American households. We all know that consumer debt was too high, along with corporate debt and national debt. Service cost on that debt is moving in the right direction also, coming back down again.

Mortgage refinancing continues to add to households' purchasing power; that has been the case in the last 18 to 20 months. It has continued unabated. Profits continue to rise in the fourth quarter and have risen a strong 24 percent in the past year, boding well for investment demand. We should not adopt policies that pressure American business in the wrong direction with either taxes or worker impositions, that cost higher and higher dollars each year.

These are the good signs that point to renewed economic activity. But, there is a fundamental restructuring now underway in our economy and the world economy. We should not kid ourselves. Job creation has been slow to appear, but it is because of a restructuring, not because of something you can fix with speeches or government spending stimulus, unless you are willing—given our debt-laden American Government, with debt and debt service growing—to spend astronomical amounts of money, which nobody says we should. For those who say let us deficit spend like Japan which has a huge spending program, they are ignoring the fact that Japan has very little debt compared to ours, a very small deficit compared to ours, and gigantic savings compared to ours. If we try what they are trying, we would send the American economy and inflation in the wrong direction. It would have very bad negative effects.

Let me be very clear. More Government spending for public sector part-time, temporary, bureaucratic jobs is no solution for the creation of private sector full-time, permanent, goods and service-producing jobs. That is the very essence of the difference of opinion about the direction of Government. More Government spending for public sector part-time, temporary bureaucratic jobs is not a solution to the problem we have just described in terms of an American economy that is growing or poised to grow; but going through structural reformation.

It is not a mystery why private sector jobs have not developed as quickly as some would like in this current recovery. A lot of it has to do with the cost of doing business, regulations, and health care costs borne by business. I surmise that if there are business people watching what I am talking about today, they are saying: Amen, we cannot hire any more people because between health costs and the other items that I have enumerated, the cost of hiring people is going up so fast that we cannot take the risk. When I talk about this to groups, you see the small business people nodding their affirmation.

Herb Stein, former Chairman of the President's Council of Economic Advisers and a very pragmatic man, made the following assessment:

> The Clinton economics of 1993 goes along with the primacy of growth and the need for investment. But it does not accept the desirability of leaving investment to the private savers and leaving them to reap the main returns from the investment. Instead, it would tax private income recipients more and have the Government do more of the investing. * * * It maintains that the Government can do a larger share of investment better.

This is not to say that the Government should not be a policy partner, helping to build a climate for the future. Government has a role in keeping markets open and free for trade. This is particularly true in a world more interconnected in trade and finance than ever before. Government has a responsibility when collecting revenues, to do so in a neutral manner that does not favor consumption over savings and investments. We are not doing that today. There needs to be a major overhaul of tax policies.

Government has a role in lowering the cost of doing business, with particular attention to small business. One reason Republicans said that in any package we consider we ought to put additional loan money in for SBA is because there is a great demand for investments and it produces jobs. We cannot easily budget for it because demand goes in spurts, but we ought not let it run out of money in making loans to small business.

Unfortunately, while the President says he is for jobs and growth, I do not believe the President's policies and formal budget released early this month truly addresses the issue of the Government's partnership with the private sector, which I believe should be mostly policy, not programs.

I sadly must conclude that the President's policies will exacerbate our economic problems, not solve them. During the last recess, the President released his budget, the first detailed budget we had this year. It was on April 8 that it was presented. As is often the case, "the devil is in the details." I would like to highlight some of the details of that submission, as many have not looked at it because it was submitted during a recess.

First and foremost, the Vice President at a press conference releasing this budget said:

"Combined with the congressional budget resolution," deficit reduction in the plan would total over $514 billion over the next 5 years. Nothing could be further from the truth. This is like combining apples and oranges. The congressional budget resolution rejected some of the President's vague proposals in drafting its resolution. The President cannot then come back and claim Congress would add some of these rejected items back into the plan, such as western user fees and the like.

Correctly counted by the Congressional Budget Office, the President's budget in its entirety reduces the defi-

cit by even less than the budget Congress adopted. Even the chairman of the Senate Budget Committee, Senator SASSER, noted that Congress had moved beyond the President on deficit reduction. According to the Congressional Budget Office, the President's plan reduces the deficit not by $514 billion, but by $362 billion.

According to that same office, the President's budget deficit reduction plan is made up primarily of taxes and user fees—$284 billion or 86 percent of the total deficit reduction package.

The second major finding, in looking at the details, is the unbelievable fact that the administration's own budget plan does not comply with the legally binding spending caps, which are the only major, positive residual of the 1990 agreement.

Based on the President's own numbers, discretionary spending will exceed the current law's legally binding outlay caps by nearly $18 billion in both 1994 and 1995. In fact, the President's budget would probably be ruled out of order on its own if it had come to the Senate floor in the form of a budget resolution, because it breaks the legally binding caps and brings into play a point of order requiring a supermajority to override.

Even more disturbing than this is the fact that the President chose, in addition to what I have just described, not to tell us how he would stay within the current law spending limits.

Indeed, the President's $16.4 billion domestic "investment" package—where you recall the President talks of investment instead of spending, so we will use his words—is outside of these legally binding caps.

What this simply means is that the Appropriations Committee will have a very difficult time funding the President's "investment" package, because there was no willingness on the part of the executive branch to cut lower priority spending to make room for the so-called investments. So I wonder if very much of the investment spending will even be made if left to the Appropriations Committee to find room for what is heralded as a very vital and important part of the future.

Buried at the end of his budget document was a little surprise to all of us. A general language provision for appropriations was included in the budget, saying that moneys for the President's investment package—cannot be spent until the reconciliation bill is passed and then when the caps are adjusted upwards.

Does anybody really believe that the U.S. Senate is going to vote openly and knowingly to lift the legal restraints on spending which are the only positive things left from the 5-year agreement? We would have received this in deficit reduction even if we had not elected President Clinton, because the law prescribes it and Congress would have to change the law.

I am afraid that what we have seen here is that the President has it backwards. He should have funded his investment package, within the current spending caps if as he says it is critical spending for the country's future. He should have provided for it.

Recently the Secretary of Labor in testimony before the House Appropriations Committee said that the administration is not asking for an increase in the spending caps.

I am confused. And I am sure when the Appropriations Committee sits down within the next few weeks to allocate the spending among committees they too will be confused.

What are the President's priorities? Do they want to raise the caps? What do they want to cut to make room for the so-called priorities?

In offering the first budget document, the President has not provided us a distinct vision for the future. I surmise it is, at the very best, a blurred view.

In the February speech, before Congress President Clinton issued a clarion call for deficit reduction. He solicited support for tough measures so our economy might grow, and he summoned the people to rally around the standard of sacrifice for the future.

I lauded him that night for bringing us to that stage in our country. But, sadly, in this budget the reality falls far short of the rhetoric. Stripped of the packaging, its shortcomings are clear. It is a plan that will not reduce the deficit permanently. Rather it relies upon tremendous tax increases and cuts in defense spending to produce a short-term dip in the deficit.

We can try and fool ourselves that we are going to resolve the deficit dilemma and the debt problem, but we know better. It is not going to happen. We will not create new jobs by increasing the tax burdens on American business, and in particular, small business, many, many thousands of which are going to be hit by the new marginal rate increases regardless of how long and how vociferously the proponents of the new taxes claim it only taxes the very rich.

In fact, I believe 65 percent of those will suffer a new marginal rate increase which is rather dramatic. A 29-percent marginal increase is the lowest of the two. I believe 65 to 70 percent are small business men and women and small business entrepreneurs in this country. If they get taxed some more on top of the growing cost of employment, clearly there will not be more jobs. There will be fewer.

So the only good thing that I believe can be said about Congress' budget is at least it is a little more clear in its intent to raise taxes and cut defense than was the President's.

I think we ought to work together, Democrats and Republicans, alike to give the President's budget a "spring cleaning", to kind of sweep away the huge new tax increases, throw all the increased Government spending that will suppress economic growth and inhibit job creation. Let's look around for positive action by way of policy that will limit the pressure on small business.

I think we ought to essentially cut spending, not raise taxes, and relieve small business of more of the burdens that are currently imposed rather than add some new ones.

Mr. President, I ask unanimous consent to have printed in the RECORD a table containing Clinton fiscal year 1994 Domestic "Investment" Proposals.

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

CLINTON FISCAL YEAR 1994 DOMESTIC INVESTMENT PROPOSALS

[In millions of dollars]

	1993 enacted		1994 request		1994 investment		1994 R&D investment	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
Subcommittee:								
Agriculture and rural development	12,505	12,186	11,872	12,206	1,083	515	46	15
Commerce, Justice, State and the Judiciary	16,168	17,077	16,759	17,496	987	488	230	75
Defense	221	137	[1]0	75	(2)	(2)	(2)	(2)
District of Columbia	688	698	705	705				
Energy and Water Development	9,968	10,026	10,385	9,748	360	207	167	68
Interior and related agencies	12,793	13,247	13,385	13,837	557	314	105	34
Labor, HHS, and Education	63,436	64,529	64,420	67,822	7,134	2,578	271	112
Legislative branch	2,275	2,387	2,642	2,635				
Transportation and related agencies	12,621	34,432	12,766	37,368	888	524	(1)	100
Treasury—Postal service, and general government	11,387	12,232	11,336	11,991	105	66	(1)	(1)
Veterans Affairs, HUD, independent agencies	66,627	67,671	63,631	72,231	4,909	979	503	232
Allowances	(1)	(1)	−838	−747				
Investment programs	(1)	(1)	16,417	5,773	394	103		
Total domestic investment	208,689	234,622	223,480	251,140	16,417	5,773	1,322	636

[1] Less than $1,000,000.

[2] The President's investment proposals include $331,000,000 for Department of Defense programs, including $71,000,000 for O&M for energy efficiency and community planning grants, and $260,000,000 for advanced dual—use technology R&D, bringing the total investment package to $16,700,000,000 for fiscal year 1994.

Note.—Totals may not add due to rounding.

[In millions of dollars]

	1994 investment		1994 R&D investment	
	Budget authority	Outlays	Budget authority	Outlays
Program by subcommittee:				
Agricultural Research Service	7	6	7	6
Cooperative State Research Service	39	9	39	9
Extension Service	1	1		
Rental Assistance Program	75	3		
Rural Housing Voucher Program	75	1		
Very low-income housing repair grants	18	17		
Rural Housing Insurance Fund Program account	77	63		
Rural water and waste disposal grants	140	6		
Rural development grants	30	3		
Rural Development Insurance Fund Program account	67	7		
Rural Development Loan Fund Program	79	8		
Rural Electrification and Telephone Admin. Loans Program account	3	(1)		
Rural Telephone Bank Program account	(1)	(1)		
WIC	350	320		
Emergency Food Assistance Program	40	40		
FSIS: Salaries and expenses inspectors	18	14		
FDA: S&E vaccine safety, et al	65	18		
Subtotal, Agriculture and rural development	1,083	515	46	15
Economic: Development Administration	33	3		
NIST: Scientific and tech. research and Services	37	29	37	29
NIST: Industrial Technology Services	142	46	142	45
NIST: Working capital fund (transfer)	9	4		
NTIA: Salaries and expenses	3	2		
NTIA: Information infrastructure grants	51	1	51	1
NOAA: Operations, research, and facilties	228	132		
NOAA: Construction	15	2		
DoJ: Federal/State partnerships	100	19		
DoJ: Support of U.S. prisoners	88	53		
DoJ: Salaries and expenses, community relations service	7	4		
FBI: Salaries and expenses	19	12		
INS: Salaries and expenses	26	20		
Federal Prison System: Salaries and expenses	151	104		
Small Business Administration—loan subsidy appropriation	68	44		
EEOC: Salaries and Expenses	11	10		
Subtotal, Commerce, Justice, State and the Judiciary	987	488	230	75
Corps of Engineers, operation and maintenance, general	96	77		
General science and research activities	36	27		
Energy supply research and development activities	228	103	163	65
Subtotal, Energy and water development	360	207	163	65
National Forest System	47	40		
Construction	32	16		
Forest research	10	8	10	8
State and private forestry	25	20		
International forestry	30	24		
Fossil energy research and development	14	6	14	6
Energy conservation	182	54	81	20
Management of land and resources	23	20		
Oregon and California grant lands	5	4		
USGS: Surveys, investigations and research	13	8		
FWS: Resource management	43	34		
Operation of the National Park System	90	67		
BIA: Construction	18	4		
Indian Health services	22	6		
Energy Information Administration	4	3	4	3
Subtotal, Interior and related agencies	557	314	109	37
Education reform	585	167		
Compensatory education for the disadvantaged	227	27		
School improvement programs	75	9		
Bilingual and immigrant education	1	1	1	1
Special education	37	4		
Student financial assistance	25	2		
Higher education	25	3		
Education research, statistics, and improvement	30	8	15	5
Health resources and services	542	175		
Disease control, research, and training	500	136		
National Institutes of Health	214	90	214	90
Substance abuse and mental health services	115	59		
Health care policy and research	30	8	30	8
Public Health Service Management	26	7	11	8
Program management—new program grants (Medicaid)	400	400		
Supplemental Security Income Program—computing	105	105		
Payments to States for child care assistance	40	30		
Children and families services programs—Head Start	1,299	814		
DoL: Training and employment services	2,688	339		
Community service employment—Older Americans	20	4		
State unemployment insurance and employment services	150	30		
Social Security—disability determination service	(345)	160		
Subtotal, Labor, HHS, and Education	7,134	2,578	271	111
Federal-aid highways	(2,657)	415		
Highway traffic and safety grants	(32)	6		
High-speed ground transportation, net	35	−73		
Trust fund share of high-speed ground transportation	(100)	100	(100)	100
Formula grants	699	35		
Grants-in-aid for airports	(30)	5		
FAA: Facilities and equipment	107	21		
FAA: Research, engineering and development	13	8		
Coast Guard: Acquisition, construction and improvements	35	6		
Subtotal, transportation and related agencies	888	524	(100)	100
IRS: Processing tax returns—productivity savings	−9	−8		
IRS: Tax law enforcement—productivity savings	−31	−29		
IRS: Information systems—tax system modernization	138	96		
GSA: Federal buildings fund	7	7		
Subtotal, Treasury—Postal Service, and general Government	105	66	0	0
Community development banks	60	45		
Annual contributions for assisted housing	646	24		
Flexible subsidy fund	66	16		
Community partnerships against crime	90	6		
Revitalization of severely distressed public housing projects	175	(1)		
Community development grants	90	4		
Home Investment Partnerships Program	511	10		
Supportive Housing Program	166	(1)		
Opportunities for Youth: Youthbuild	30	(1)		
VA: Medical care	584	534		
VA: Construction, minor projects	5	2		
EPA: Research and development	31	11	31	11
EPA: Abatement, control and compliance	27	8	27	8
EPA: Water infrastructure financing	1,328	74		
EPA: Drinking water state revolving funds	599	24		
NASA: Research and development	74	46	74	46
NSF: Research and related activities	371	167	371	167
NSF: Education and human resources	57	9		
Subtotal, Veterans Affairs, HUD, independent agencies	4,909	979	503	232
Unassigned (National Service initiative)	394	103		
Total	16,417	5,773	1,321	635

[1] Less than $1,000,000.

Note.—Totals may not add due to rounding. Numbers in parentheses do not add to totals, reflecting increases in loan or obligation limitations. The $16,400,000,000 in domestic discretionary "investment" spending is above the current statutory spending cap. The President's budget proposes language providing for the availability of these funds only upon enactment of an omnibus budget reconciliation act that contains amendments providing adjustments consistent with these amounts offset by savings.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Tennessee [Mr. SASSER].

Mr. SASSER. Mr. President, I thank the Chair for recognizing me, and I will be brief this afternoon.

Mr. President, just 2 weeks ago now the President's jobs bill which was presented to the country in an effort to stimulate the economy was defeated here on the floor of the U.S. Senate. It was not defected by a majority vote, because the Republican side, the minority, refused to allow a vote on the President's jobs bill, on his stimulus package, that would have created jobs.

Now, the President indicated in presenting this stimulus package or this jobs bill to the Congress and to the country that the economy was in a very fragile condition. And there was some thought among a number of economists that the economic growth was too slow, that the economy was not producing jobs fast enough, and further that unless some stimulus or some effort to create jobs took place here on the front end of his economic recovery program the economy could fall off into a recession once more.

Our friends on the other side of the aisle defeated that proposal, as I say not by majority vote. They simply prevented the U.S. Senate using the rules of the Senate, what we commonly call a filibuster. They prevented a majority in this Senate from voting, because they knew a majority would support the President's jobs bill.

Having done that, I think what we are beginning to see now is a weak defense of that defeat of that jobs bill. They are looking around now trying to point the finger in another direction as to why the economy is going downhill and why they are not responsible in defeating the jobs bill which was supposed to stimulate the economy.

It is interesting to me that this defense would take place on a day in which we are getting economic news. An Associated Press story by Mr. David Skidmore, dateline today says:

"The Government's chief economic forecasting gauge plunged 1 percent in March, the worst decline since the middle of the recession more than 2 years ago," the Commerce Department said today.

The drop slightly steeper than predicted by analysts was a sign of dramatic slowdown

that has gripped the economy this year compared with the brief period of robust growth last year.

Furthermore, the story quotes a number of distinguished economists. Mr. Laurence H. Meyer, a St. Louis based economic consultant says, "We are in a very subdued economy. There is nothing very buoyant going on."

The economist Sung Won Sohn of Norwest Corp. in Minneapolis said, "The economy is sort of scraping the bottom right now." He went ahead to say, "I call my colleagues' attention to this. The fundamental problem with this economy is not creating enough jobs to support the kind of spending necessary to have even moderate, even moderate economic growth." So says the distinguished Minneapolis economist.

That is precisely what this jobs bill that President Clinton presented to the Congress and the American people was supposed to do—to create jobs, to stimulate this economy, and to cause economic growth so that we could move forward, then, into the next phase of his economic recovery program.

What have we seen? We have seen a dip in consumer confidence, as measured by the University of Michigan survey and reported in this same Associated Press story. We have seen a decline in orders and contracts for new commercial buildings and business equipment, such as factory equipment and computers, as reported in this Associated Press story. We have seen a drop in new orders to factories for consumer goods. We also see a decrease in the inflation-adjusted money supply.

So what we are seeing, Mr. President, is precisely what President Clinton was trying to counteract with the jobs bill or stimulus program that he presented to the U.S. Senate and to the country. We are seeing now the beginning of a slow down of the so-called recovery. We are beginning to see the economy coast downhill again. And the American people are saying in polls that are taken that the country is off now, once again, in the wrong direction, and that is a function of poor economic performance.

My friends on the other side of the aisle try to justify their defeat of the jobs bill by saying, "Oh, well, it was just a modest stimulus and we already have 300 billion dollars' worth of stimulus in this economy anyway, because that is the size of the deficit."

Even a first-quarter student in economics, in beginning economics, would know that the measure of economic stimulus is the measure of increase in the structural deficit, and the measure in economic contraction is the measure of contraction in the structural deficit. And the structural deficit is entirely different from what the actual deficit might be from year to year.

This beginning student in economics would learn within the first 6 weeks of beginning economics 101 that the structural deficit is defined as the difference between revenues and outlays when you have a full employment economy or a near-full employment economy; and if there is a deficit, that is the structural deficit.

The truth is that the structural deficit in 1993 is lower than it was in fiscal year 1992. So it is clear that there is no stimulus at all. What you are getting here is an economic contraction. And this economic contraction, because the structural deficit is less in 1993 than it was in fiscal year 1992, is further exacerbated by the spending cuts and the revenue increases that are a part of the President's economic recovery package.

The President anticipated all of this and he told us at the outset that we must take this program in toto; that we should not take it apart piece by piece.

Well, that is exactly what happened here on the floor of the U.S. Senate. The jobs portion, the economic stimulus portion of the President's program, was defeated right here on the floor of the U.S. Senate; or, to borrow the words of the distinguished chairman of the Senate Appropriations Committee, Senator ROBERT BYRD, the President's jobs bill was murdered right here on the floor of the U.S. Senate.

What we are hearing now is, "Well, you know, we have problems in the economy, but it is simply because productivity is not increasing enough. Anyway, we have enough stimulus because we have a $300 billion deficit," when every economist knows that there is no stimulus, no economic stimulus, in this deficit that we presently have.

And then they would have us believe, well, the reason the economy is slowing down is because the President has announced that there are going to be some tax increases in the future, and he did not have enough spending cuts in his budget plan or economic recovery program to begin with.

How in the world tax increases or revenue increases that are simply being contemplated and have not even taken effect yet are going to have any significant impact on the economy, I do not know. Our friends on the other side would have you believe that simply the prospect of some taxes will kill a recovery, but spending cuts are a tonic that will make the economy well. That is a strange economic doctrine, if I have ever heard one.

But it gets even weirder than that, Mr. President. They say that spending cuts are economically good, unless they happen to be cuts in military spending. And if those cuts take place in military spending, that is a disaster. Now they are telling us that these cuts in military spending are not good because they cost jobs. That is what some of them are saying.

This is the argument that is being offered here seriously on the floor of the U.S. Senate by those who killed President Clinton's legislation to create jobs. They are saying, "Well, the economy now is not doing well because people think there are going to be some taxes put on them in the future. And the economy is not doing well because the President did not enact enough spending cuts. But if he enacts spending cuts in military spending, that is going to make the economic disaster even worse."

Frankly, I want to give my friends on the other side of the aisle the benefit of every doubt, but to me that logic just does not wash. It simply does not make sense.

I think what we are seeing here, Mr. President, on the floor of the Senate today is the beginning of what I believe will be a number of efforts to try to distract the American people's attention away from the fact that it was our friends on the other side of the aisle who killed the President's jobs bill, who killed what he called an insurance policy to guarantee that this economy does not slow down, and they are going to be trying to blame that on other factors.

I do not think they are going to be successful in persuading the American people of that, because they know full well who is responsible for killing the President's jobs bill. They know full well that there was vote after vote after vote after vote on the floor of this body, not on the merits of the president's jobs bill, but votes in an effort to break the filibuster so that the majority of Senators could simply pass judgment on the merits of the President's jobs bill and vote it up or down. They would not even let us vote on this jobs bill.

Now they are trying to make us believe that there are other reasons the economy is falling off. Anyway, even if we pass this jobs bill now they are saying it was not large enough, I say to my friends from Arkansas. They are demeaning it because they are saying it only spent $3 billion in fiscal year 1993.

But they were saying just a few weeks ago it spent too much; that it was frivolous, unnecessary Government spending. Now they are saying it did not make any difference anyway because it just simply did not spend enough, it only spent $3 billion in creating jobs. I do not agree with their mathematics on that. Much more of this jobs bill was directed to creating jobs than $3 billion. But that is what they are trying to tell us.

So I think I just wanted to come to the floor today and set the record straight as I see it. I am going to remind our colleagues—and I expect there will be others out here doing likewise as this economy, if indeed it does, follows these economic statistics

that we received today—if the economy does continue to slow down, we are going to be reminding our colleagues, and the American people, who was against the jobs bill, who killed that jobs bill, who prevented that economic stimulus package from coming forward and stimulating this economy and giving us the insurance policy on economic recovery that President Clinton asked for.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Maine [Mr. COHEN].

LOBBYING DISCLOSURE ACT OF 1993

The Senate continued with the consideration of the bill.

Mr. COHEN. Mr. President, I wish the Senator from New Mexico had been able to remain on the floor for these remarks because I wanted to indicate to him that I do not think there is a more sincere or hard-working or reasonable-minded public servant in this body. I think he is a very thoughtful and responsible Senator. in fact, I think his lack of ideological fervor, or purity, if you will, may very well keep him from occupying a position of leadership in our own party, which I think is a tragedy.

Nonetheless, I think in listening to what he has to say and the response from the Senator from Tennessee, we can see there is something desperately wrong in this country and in this town. We are suffering, I think, from self-inflicted wounds. We have just passed a milestone. President Clinton has been judged on his first 100 days. We are asked to give him passing or failing grades: A, B, C, D, E, F. Each of us is called upon, "How do you rank him?" The rhetoric has become overheated.

The President over the weekend suggested, even in jest, that perhaps Senator DOLE had been hypocritical in opposing the stimulus plan. Senator DOLE responded yesterday by saying the President had issued a $23 million lie.

About the stimulus package, as we were just hearing, reasonable people can disagree. There are people on our side who felt it was not a stimulus package but a spending package; Senator DOMENICI and I and others feel that, if it is important enough to have his programs, we should pay for them. President Clinton, we are told, will now argue the economy is faltering because the $16 billion in new spending was not authorized. Senator DOMENICI suggests that the problem is that business is frozen in fear of higher taxes for more programs, higher taxes for health care program, higher taxes for long-term care, further regulations which stifle the entrepreneurial spirit.

This is a matter we can openly debate. There are philosophical issues that clearly separate our parties. But there is something I think very dangerous going on here. It is poisoning this Nation's spirit and we are reaching the point where we are returning to war councils, plotting strategy on how we can either roll over the Republicans or stop the Democrats rolling over us.

There is going to be time enough to hold President Clinton accountable in the 1994 elections, the 1996 elections. There is going to be time enough to blame the Republicans for their opposition. But there are people who are in desperate need out there—desperate need of help, but even more important, desperate need of hope. And that, to me, is one of the most critical things facing us right now is when we start to read the recent polls conducted by the Washington Post, or ABC News, that only 27 percent of the American people are hopeful; 71 percent are apprehensive.

We have to put aside these partisan differences, or at least quests for partisan advantage. I think the President is understandably disappointed his stimulus package, or spending package, did not pass. But I think the White House does owe Senator DOLE an apology for suggesting, even in jest, that Senator DOLE was being a hypocrite. I think the minority leader, in turn, should make it clear that he and other Republican Senators are willing to reach out to the President, and to the First Lady, as well, on health care reform, on other issues, to strike a course that will lead us to a period of renewal, of economic renewal and of spiritual renewal in this country.

The most important thing we can do for this Nation is to instill a sense that we can recover confidence, that wonderful book written by John Gardner many years ago, "The Recovery of Confidence." Because without a recovery of confidence, without the belief that we can gain control over our destiny, we are going to see polls cited that the American people are watching this country swirl at ever faster levels and paces down a drain of despair.

Mr. President, I hope we can lay aside the accusations and counter-accusations and really try to find a common ground. There are people in this Chamber right now of good will who seek to strike a course of responsible political progress. I hope we can do that in the coming days, rather than trying to blame one party or the other, the President or the minority leader, for our current predicament. We have enough problems with which to contend. I hope there will be a measure of good will in this body to overcome what currently is taking place.

The PRESIDING OFFICER. The Chair recognizes the Senator from Michigan [Mr. LEVIN].

Mr. LEVIN. Mr. President, first let me say the Senator from Maine has set a very bipartisan tone in his remarks and it is reflected in this bill, which is a bipartisan bill. It is a Levin-Cohen bill with a lot of other cosponsors in governmental affairs, including our chair, Senator GLENN, ranking Republican, Senator ROTH, and others.

What we are bringing to the floor is an effort, about 40 years overdue, to reform the lobbying registration laws of this country. The only way this is going to work, the only way this bill is going to pass, there are some real challenges to it from different directions, is if the bipartisan spirit which was set forth by the Senator from Maine is able to continue through the deliberations on this bill.

It is a complicated bill. It sounds easy but it is really complicated. If it were not complicated it would have been corrected 40 years ago when President Truman, in 1948, appointed a commission to reform lobbying registration laws. They had been passed a couple of years before, and the purpose of these laws was to let the public know who is lobbying the Congress, on what issues, for pay, and how much are they being paid. That was the purpose of the key laws we are going to, hopefully, reform and to consolidate and to strengthen.

Congress did not heed President Truman's call in 1948 to reform the lobbying registration laws. By then they were so full of loopholes, there were so many holes in the Swiss cheese that there were more holes than cheese. That was just a couple of years after they had been passed.

We are here today because in the 1950's, Senator McClellan's reform efforts reached a deadend. And we are here today because the lobbying reform bill that passed the Senate in 1960 was never taken up in the House, although it was endorsed by President Johnson. We are here today because lobbying reform bills that were approved by both Houses of Congress in 1976 could not be reconciled in conference. And we are here today because, after the House of Representatives approved a lobbying reform bill in 1978, which was the last time we seriously considered reform of the lobbying registration laws, the Senate Governmental Affairs Committee was so divided that it could not even report a bill for consideration by the full Senate.

A lot of different issues defeated lobbying registration reform bills over these last four decades.

Sometimes it was the definition of lobbying. Sometimes it was whether or not the executive branch should be covered. Sometimes it was the threshold for coverage. Sometimes it was the disclosure of grassroots expenditures or the disclosure of contributors to lobbying organizations. Decade after decade after decade we have taken up reform of these lobbying registration laws, and decade after decade after decade there have been reasons that no reform passed.

And so we are here today in a very bipartisan spirit because time after time, every time Congress has considered reforming the worn-out lobbying registration laws, we found ourselves pinioned between those who would say that we have called for too much disclosure and those who would call for greater disclosure, or some other issue which would divide us.

So I am proud to stand before you today as we begin consideration of S. 349, which is the first comprehensive lobbying registration bill to reach the floor of either House of Congress in more than 15 years. And I am proud to bring to this body today a bill that has been introduced in both Houses of Congress on a bipartisan basis; as I said, a bill which is cosponsored by Senator COHEN, who is the ranking Republican on my subcommittee of Governmental Affairs and has also been sponsored by Senators GLENN, ROTH, BOREN, CAMPBELL, STEVENS, MCCAIN, DECONCINI, and BRYAN. I am gratified that the President has endorsed this legislation and called for speedy enactment.

Our existing lobbying registration laws have been characterized by the Department of Justice as ineffective and unenforceable. And, by the way, that was the Department of Justice under President Bush, and I know this current Department of Justice has the same view. Our existing lobbying registration laws breed disrespect for law because they are so widely ignored. They have been a sham and a shambles since they were introduced almost 50 years ago. At a time when the American public is increasingly skeptic that their Government really belongs to them, these laws leave more professional lobbyists unregistered than are registered. At a time when public conference in elected officials has reached an all-time low, our lobbying registration laws remain an inside-the-beltway joke.

Mr. President, if we stand together, we can put an end to the decades-long trail of failure that surrounds efforts to reform these laws, but we have to stand together because we will find ourselves, like past Congresses, importuned by those who would change the definition of lobbying or who would narrow the coverage of the bill or who would require the disclosure of a contributor's list or seek more detailed itemization of specific activities. If we learn our lessons from the failures of four decades plus, we can finally put to rest one of Washington's oldest problems: The patchwork of loopholes and exceptions that currently pass for lobbying registration law.

This law is not intended to address campaign finance reform. That is another day. It may be another week, it may be another month, but that is another reform issue that we must address. It is not intended to address revolving-door issues. That is another issue which hopefully is going to be addressed. It is not intended to address our gift laws and rules. Those also need reform and should be addressed. But that is not what this bill is intended to address. This is just one chapter in a book of reforms that is needed. This chapter is on disclosure registration of paid lobbyists so we know who in this town is being paid how much and by whom to influence legislation, executive branch action and other public policy matters.

On the lobbying issue, the right to petition Government is a constitutionally protected right. Lobbying is every bit as much a part of our Government process today, as on-the-record rulemaking or public hearings. But the public does have a right to know and the public should know who is being paid how much by whom to lobby on what issue. We cannot expect the public to have confidence in our actions unless we conduct our business in the sunshine.

As I said, lobbying is a constitutionally protected right, but the registration of lobbyists is also constitutionally achievable when you have paid professional lobbyists. That is the line which the law attempted to draw four decades ago and that is the line which we now want to enforce with this bill. Lobbying disclosure is not a cure-all, but it will enhance public confidence in Government by ensuring that the public is aware of the efforts that are made by paid lobbyists to influence public policy. In some cases, such disclosure could encourage lobbyists and their clients to be sensitive to even the appearance of improper influence. In other cases, it is likely to alert other interested parties of the need to provide their own views of decisionmaking.

The registration laws that we have on the books today achieve none of those objectives. Over the last 2½ years, the Subcommittee on Oversight of Government Management, which I chair and Senator COHEN is the ranking Republican, has held a series of hearings on the lobbying disclosure laws. We have learned that these laws are plagued by loopholes, confusing provisions and almost a total absence of guidance on how to comply or how to enforce them against those who do not comply.

Let me just describe some of the problems with our existing laws. Starting with the Federal Regulation of Lobbying Act, which is one of the principal laws that is on the books, it is intended to cover lobbying of Congress. There are huge gaps in its coverage. The most obvious one is that it only covers lobbying of the Congress on matters of legislation and not the executive branch.

I got into this issue during our subcommittee investigation of the Wedtech matter when the executive branch was lobbied in order to get contracts for a firm from the Army and the existence of those lobbyists, paid lobbyists, and their efforts to persuade the executive branch were not disclosed in any way. Nor are all the other hosts of efforts to lobby the executive branch disclosed under this principal law called the Federal Regulation of Lobbying Act. So the biggest loophole is it does not cover a big deal of the lobbying in this town at all, executive branch lobbying.

Another huge loophole: It only covers lobbying of Members of Congress themselves. So that is another big loophole. It does not apply in the case of lobbying of staff.

Another one: It has been interpreted by many to cover only those people who spend a majority of their time lobbying; in other words, to those who spend more than 50 percent of their time actually meeting with Members of Congress. I think that we all know that that definition is so narrow that it arguably includes nobody.

I cannot think of any lobbyist in this town who spends more than 50 percent of his or her time fully physically lobbying Members of Congress, not their staffs.

Now, as a result of these loopholes, the General Accounting Office has found that fewer than 4,000 of the 13,500 individuals and organizations listed in the book "Washington Representatives" were registered under the act. So you have about 13,000 to 14,000 representatives—these are paid representatives—listed in this book, but a fraction of them are registered under our laws because of all these loopholes. And that is despite the fact that three-quarters of the unregistered, three-quarters of those who are not registered under our registration laws interviewed by the GAO, said that they contact Members of Congress and their staffs; that they deal with Federal legislation; and that they seek to influence actions of either the Congress or the executive branch.

So this is the overall picture. It is a pretty sad picture. These are the gaps. These are the holes. The biggest one, executive branch lobbying, is not covered. Lobbying staff only, not covered; principal purpose, not covered. The only piece of that pie that is covered is about that much. This black piece of the pie are the registered lobbyists. The rest of that universe that engages in lobbying, by any common understanding of the word lobbying, is not registered under our laws.

Now, the failure of all these folks to register does not mean that they are violating the law as this law is written today. What it does mean is that the definition of lobbying in the law is so narrow and so full of loopholes that few people are actually required to register by reasonable interpretations.

Now, moreover, most lobbyists who do register do not disclose very much.

A few lobbyists go to the trouble of telling us that they have incurred expenditures such as $45 phone bills, $10 cab fares, $16 messenger fees. Others undertake to provide lists of prorated expenditures for salaries and rent and other expenses, one lobbyist reporting the following expenditure: $98.65 to the telephone company; another lobbyist reported a prorated salary for $6.56 on a matter; $3.38 another matter; $1.31 prorated to a particular client—$1.31. That is real helpful information. Now, a footnote helpfully explained that these figures represent "proportional amounts of salary to the noted employees for work attributable to the client during this period."

So of the relatively few people who do register and who give us some information, the information is almost always useless.

Now, at the same time, the law falls short of requiring disclosure of the most basic type of information about lobbying: How much is spent, and for what purpose? Many lobbyists provide lists of specific bills that they are lobbying on, but these often appear to be Xeroxed from quarter to quarter, without regard to the actual issues that came up. Other lobbyists simply state that they lobbied on "issues that affect business operations of the client;" "general legislative matters;" or "all legislation affecting the insurance industry."

This language is so vague that it reveals virtually nothing. Worse still, only a small fraction of the amount of money spent on lobbying actually gets disclosed. For example, in 1989, the Legal Times estimated that the gross lobbying revenue of 10 of the biggest and best-known Washington lobbying firms was more than $60 million.

However, a review of the lobbying reports filed by these firms revealed that they reported combined lobbying receipts from all clients of less than $2 million, and total lobbying expenditures—listen to this one—of $35,000. Mind you, these were the 10 largest lobbying firms in Washington that were estimated by Legal Times to have gross lobbying revenue of $60 million. And out of that come disclosure forms, these useless disclosure forms showing expenditures by those firms of $35,000. That is the current law. That is why I call the current law a sham and a shambles.

Another example: Six top defense contractors reported to the Department of Defense, under much stricter reporting requirements, that they spent a combined total of almost $8 million lobbying Congress in 1989. But when you look at their public reports filed by lobbyists for the same six companies under the Lobbying Registration Act, what is the total? It is $388,000 in lobbying income and $135,000 in lobbying expenses. Compare that to the $8 million that they told the Department of Defense they had spent lobbying Congress that year.

And then let us take a look at the Foreign Agents Registration Act, also known as FARA. This law was intended to cover the political activities in this country of foreign governments and corporations, and other foreign organizations and individuals. Like the Lobbying Registration Act, FARA is also full of loopholes. For example, there is a lawyer's exemption in FARA—a lawyer's exemption. This exempts attorneys who provide legal representation to foreign principals in the course of established agency proceedings, whether formal or informal.

Because terms such as "legal representations" and "established proceedings" are not defined in the statute or the implementing regulations, many attorneys interpret the provision to exempt virtually all the services they provide.

In one case that the subcommittee examined, we identified 48 representatives of foreign motor vehicle manufacturers and their domestic subsidiaries who lobbied the Treasury Department in a successful effort to lower the tariff on imported jeeps and vans. Of those 48 lobbyists, we found that only 6 were registered under the Foreign Agents Registration Act, and overall there are only 2,825 registered foreign agents under that act.

Finally, let us look at the Byrd amendment, which was intended to cover lobbying on contracts, grants, and loans. Originally, defense contractors and others raised alarms that if this law were enacted, they would have to back dumptrucks up to the Congress to provide all the information that was required. But in practice, there are so many limitations and loopholes which have been discovered that only 24 contractors filed disclosure forms during the first 18 months the law was in effect.

Early this year, the inspector general of the Department of Health and Human Services reported to Congress that the Department received only two lobbying reports under the act in fiscal year 1992. In a classic understatement, the inspector general of Health and Human Services stated:

> With over 69,000 Federal actions initiated by the Department, we are not confident that the total lobbying activity during the year was limited to two reported events.

They may say they are not confident that the total lobbying activity was limited to two reporting events. I am very confident that the lobbying activity vastly exceeded two events.

Our Lobbying Disclosure Act would change all of that and ensure that we finally know who is being paid how much by whom to lobby on what issues. Under the Lobbying Disclosure Act, the bill before us, all paid professional lobbyists would be required to register, regardless of whether they lobby the legislative branch of the executive branch, Members of Congress or their staffs, regardless of whether they are attorneys, or nonattorneys, in-house lobbyists or outside lobbyists, and regardless of who they may represent.

Those who register would be required to disclose the identity of their clients, the issues that they lobby on, the Federal agencies and congressional committees contacted, the total receipts from their clients, all in a form that can be cross-referenced with campaign contribution data on file with the Federal Election Commission. Simply put, this bill would finally clean up one of Washington's oldest problems—the patchwork of loopholes and exceptions that currently pass for lobbying registration law.

It does not clean up the number of other products that we have. It does not clean up campaign finance. It does not clean up the revolving door. It does not clean up the gifts problem. What it does is address this specific problem, lobbying registration laws on the books which do not work.

This law would replace the existing lobbying disclosure law with a single uniform statute covering the paid lobbying of Congress and the executive branch on behalf of both domestic and foreign persons.

The new statute would replace the Federal Regulation of Lobbying Act, the provisons of the Foreign Agents Registration Act which apply to private persons and companies, the HUD disclosure statute, and a portion of the Byrd amendment.

The bill has three essential features. It would close loopholes in existing lobbying registration statutes and broaden coverage to ensure that all professional lobbyists are registered. It would streamline the disclosure requirements to make sure that only meaningful information is disclosed and needless burdens are avoided, and it would create a new, more effective, and equitable system for administering and enforcing these requirements.

On the first point, the bill would require registration of everybody who is in the business of lobbying regardless of whether they lobby the legislative branch or the executive branch, Members of Congress or their staffs, regardless of whether they are attorneys or nonattorneys, in-house lobbyists, outside lobbyists, and regardless of who they may represent. Organizations that spend less than $5,000 on lobbying activities for all clients or less than $1,000 on lobbying activities for a single client are not required to file reports. Individuals who spend less than 10 percent of their time on lobbying activities are not considered to be in the business of lobbying at all, and would not be covered by the bill.

The bill would define lobbying contacts to include communications with Members of Congress and their staffs,

officers, and employees in the Executive Office of the President, and ranking officials in other Federal agencies, activities that do not constitute lobbying such as communications by public officials, media organizations, requests for appointments or for the status of an action and other ministerial communication, communications with regard to ongoing judicial or law enforcement proceedings, testimony before congressional committees and public meetings, participation in agency adjudicatory proceedings, the filing of written comments in rulemaking proceedings and routine negotiations of contracts, grants, loans, and other Federal assistance would also be exempted from coverage.

On the second point, the bill would significantly streamline lobbying disclosure requirements by consolidating filing in a single form and a single location. This is the one-stop shopping which is so important.

It would replace quarterly reports with semiannual reports. It would authorize the development of computer filing systems and simplified forms. The bill would require a single registration by each organization whose employees lobby instead of separate registration by each employee lobbyist. The names of employee lobbyists or any legislative or executive branch position in which they served for the previous 2 years would be listed in the employer's registration form. In addition, the bill would simplify reporting of receipts and expenditures by substituting estimates of total receipts or expenditures by category of dollar value, for the current requirement ignored by most, to provide burdensome detail on all receipts and expenditures. This report would be more meaningful than the current system because all receipts and expenditures related to lobbying would have to be included.

The bill would also require lobbyists to list the executive branch agencies and the House and committees of Congress that they contact.

In addition, the bill would close a loophole in existing law by requiring lobbyists to disclose the identity of the clients who tried to hide their identities behind "front" coalitions.

Under the test of the bill, the identity of coalition members would have to be disclosed when they contribute substantial, more than $5,000 in a semiannual period, to the coalition, who helped supervise its lobbying activities and who are likely to benefit directly from the coalition if the coalition lobbying efforts are successful.

We are confident that this disclosure requirement meets the constitutional test imposed by the Supreme Court for disclosure of members and contributors to organizations.

Finally, the bill would improve the administration of the lobbying disclosure law by establishing an office of lobbying registration and public disclosure within the Justice Department to administer the statute; requiring the issuance of new rules, forms, and procedural regulations after notice and an opportunity for public comment; making guidance and assistance, including published advisory opinions, available to the public for the first time; authorizing the creation of computer systems to enhance public access to filed materials, avoiding intrusive audits or inspections through an informal dispute resolution process; and substituting a system of administrative fines, subject to judicial review, for the existing criminal penalties which have been ignored.

Madam President, I have been working on this legislation for more than 3 years now. It has the strong support of the President who recently explained his position as follows:

> Despite the enormous impact of lobbying, and the huge sums spent for these purposes, current laws do not begin to address the public's questions about what forces influence policy. Only a small fraction of individuals who should register under current law even do so. Disclosure forms are weak, loophole-ridden, and provide meaningless information. Data regarding lobbying on behalf of foreign interests is particularly inadequate. And the definitions of lobbying in current law have not kept up with the realities of the labyrinthine regulatory state.

The President continues:

> To restore public confidence, then, we must ensure at a bare minimum that lobbying is fully disclosed, so that the full range of activities of lobbyists is open to public scrutiny. Toward that end, I strongly endorse the passage of legislation that would strengthen and streamline lobbying disclosure, and that effectively provides the public, the media and competing interests access to information about the extent of lobbying.
>
> I look forward to working with the Congress to secure speedy enactment of this important legislation.

Madam President, I conclude by asking unanimous consent that a number of editorials be inserted in the RECORD at this point. For example, the St. Louis Post-Dispatch ran an editorial a year ago under the headline "Close the Lobbying Loopholes," which stated in part: "As they now stand, lobbying regulations are so loose that the public's right to know who is talking to whom in Washington—and for what purpose—is rendered nearly meaningless."

The newspaper went on to say that:

> Current rules require only a small number of those who represent private interests * * * to register as lobbyists. The definition of lobbying is restricted to contact with legislators only, even though most of the important relationships are with their staffs. The rules on spending for lobbying are so inadequate that only a fraction of the true amount is reported. Worse, these rulings don't apply to lobbying Federal agencies; the few rules that do are usually ignored. * * * Congress needs to work to close the lobbying loopholes.

Similarly, the St. Joseph/Benton Harbor Herald-Palladium, in my own home State of Michigan, ran an editorial which said that the lobbyists should work in the open, and explained that lobbyists "operate in relative anonymity and secrecy, largely exempt from public disclosure and the public spotlight." A recent Associated Press story said that some 7,300 lobbyists are registered in Washington, but it is believed there are actually about 80,000 in town. They were able to escape the register through yet more loopholes in the laws. That is about 150 lobbyists to every single elected politician. The result is that our elected politicians, and many appointed ones, are pulled every which way but the right one.

Then they describe the legislation we are offering. They said if the legislation becomes law, it would require anybody who is paid to lobby our leaders to register. Further, it describes the legislation.

Madam President, I ask unanimous consent that a group of newspaper articles and editorials commenting on the Lobby Disclosure Act be printed in the RECORD immediately following my remarks.

The PRESIDING OFFICER (Ms. MIKULSKI). Without objection, it is so ordered.

(See exhibit 1.)

Mr. LEVIN. Mr. President, this bill is the product of a 2-year review of lobby registration laws, including four hearings by the Governmental Affairs Subcommittee, which I chair and on which Senator COHEN is the ranking member. It has, again, strong bipartisan support of the leadership, the subcommittee, and the full committee, and it has been reported to the Senate without a dissenting vote. It has the strong support of the President, the Vice President, and the new administration. It is time for us to pass this bill.

I want to particularly thank my ranking Republican, Senator COHEN, for all the work he has done on this bill in the subcommittee and on so many other bills we work on. Without his involvement in this bill, it could not have come to the floor. I am personally appreciative of his work, and the country is very much in his debt for his effort on this bill.

I yield the floor.

EXHIBIT 1

[From the Orlando Sentinel, July 17, 1991]

SYSTEM FOR WATCHING OVER LOBBYISTS UNDER FIRE IN WASHINGTON

(By Anne Groer)

WASHINGTON.—Both those seeking to influence the federal government and those seeking to monitor that influence complained Tuesday that the system for regulating Washington lobbyists doesn't work.

The 1946 law designed to track those who try to influence Capitol Hill legislation and how much they spend isn't effective because most lobbyists don't register, and those who do register file incomplete or late reports, a Senate subcommittee was told.

Parts of the Federal Regulation of Lobbying Act are either so vague or so narrow, the

Justice Department concluded in 1983, that it is "ineffective, inadequate and unenforceable," said Milton Socolar, special assistant to the comptroller general in Congress' General Accounting Office.

Socolar said that about 6,000 individuals or groups were registered as lobbyists and filed reports in 1989, but more than 60 percent of the reports were late and 90 percent were incomplete.

While those who filed reported total income of $234 million and expenses of $76 million that year, "we do not know whether the information reported is accurate," Socolar said, because there is no routine monitoring of reports.

After four hours of testimony from witnesses who said the act either is too burdensome or doesn't go far enough, Sen. Carl Levin, D-Mich., stated flatly:

"The present system is unacceptable. I would rather repeal it than continue the present bill. It's unfair and irrelevant, it's not achieving a social purpose and it's breeding disrespect" for the law.

Although the act has been on the books for 45 years and carries a maximum one-year jail term and $5,000 fine, Levin said the Justice Department has never prosecuted anyone.

Levin chairs a Senate government management oversight subcommittee. The panel is studying possible changes in the disclosure laws for those who lobby Congress, the White House or federal agencies and for those who represent foreign governments, groups or firms.

One problem is the legal definition of lobbying.

A person must register if "the principal purpose of the compensation or the principal activity of the recipient is to influence legislation through direct communication with members of Congress," Socolar said.

But the phrase "principal purpose" is vague and can be used to avoid registration if, for example, the lobbyist also provides legal services for his or her client.

Sen. William Cohen, R-Maine, described a scenario where a Washington "super lawyer" receiving $1 million a year from a client might make a 25-cent phone call to a powerful committee chairman the night before a bill is considered.

Under the act, which does not require lobbyists to list expenses under $10, Cohen figured the lawyer wouldn't even have to register as a lobbyist—but even if he did, he could say he lobbied a senator for two minutes out of 500 billable hours and report only $66 of his $1 million fee.

Then there is the question of whether to include the lobbying of House and Senate staff assistants, who in many cases are just as important as elected representatives when it comes to influencing legislation.

Although about 6,000 men and women file reports with the Clerk of the House and Secretary of the Senate, Levin cited a Wall Street Journal estimate that 60,000 people are out there trying to influence legislation.

An unlikely alliance of the U.S. Chamber of Commerce and the American Civil Liberties Union warned Tuesday that stricter reporting requirements may undermine the constitutional right to petition the government—whether it be an outraged citizen writing a postcard to his congressman or a highly paid lobbyist writing a campaign check to his client's senator.

"It should be emphasized that the public's right to know—the major justification for lobbying legislation—is an inferred right which, unlike the right to petition the government, has not received specific constitutional protection and sanction," said Jeffrey Joseph, a Chamber of Commerce vice president.

Dona O'Bannon, a onetime aid to Rep. Sam Gibbons, D-Tampa, and now president of her own firm, proposed using some Florida "sunshine" to bring lobbying "out of the shadows."

Registration should be triggered by the first call or letter to any lawmaker or staff aide, she said; coalitions that lobby should disclose the names of their members; lobbyists should cite specific bill numbers and not just their clients' general interests; enforcement should be tightened and registration should be consolidated for all branches of government and for lobbyists who represent foreign interests, instead of requiring separate forms and documents.

O'Bannon drew a laugh when she said that, in preparing her testimony, she looked at her own filings and realized some were overdue and others hadn't been updated since 1974.

"They're all in order now," she said.

[From the Iron Mountain Daily News, July 23, 1991]

LEVIN PROPOSES CHANGES IN LOBBYING LAW

WASHINGTON.—Bill Ratchford is a well-known Washington lobbyist with clients ranging from the government of Mexico to the National Football League.

But Ratchford, a former congressman from Connecticut, is not registered with the office responsible for keeping track of the thousands of people paid to influence Congress.

Ratchford is not alone. More than half of Washington's influence salesmen and women have not filed papers with the Clerk of the House, despite laws dating back to 1946 which require disclosure of lobbying activities, according to a study commissioned by Sen. Carl Levin.

"The Lobbying Act is a phantom law. It has the appearance of requiring meaningful disclosure, but in reality, there is nothing there," said Levin.

The Michigan Democrat is holding a series of hearings on the issue and is expected to introduce major changes in the registration law this year.

The air of the lobbying law is to let the public know which special-interest groups are influencing Congress, what issues they want to pass or kill, and how much they pay for such services. But Levin said loopholes exempt even the most active lobbyists from public scrutiny.

"Under some interpretations of the act, there is not one person in America who is technically required to register as a lobbyist," Levin said.

In Ratchford's case, his employer, Gold and Liebengood, has filed documents with the Clerk of the House. But Ratchford is technically exempt because he spends less than half of his time actually talking to lawmakers. The law does not cover lobbyists who contend that such activity is not their "principal" task.

Lobbyists also are exempt if the subject is a congressional aide or the employee of a government agency—despite a general agreement that such people often are the most fertile ground for influence.

Levin asked the General Accounting Office to find out how many lobbyists are not registered. The investigative agency performed a computer cross-check of registered lobbyists with the names in "Washington Representatives," a directory of people and organizations who engage in public relations, government affairs and related activities.

The computer generated 9,800 names who were not registered with the Clerk of the House. After conducting followup surveys of a sample of those people, the investigators estimated that about three-fourths, or 7,350, were engaging in lobbying of some sort but were not registered. By comparison, about 6,000 names are on file with the Clerk.

Public-interest groups have been urging Congress to close the reporting loopholes for years, said Susan Manes of Common Cause.

"The law is a joke and almost everybody in town knows it," she said.

But the changes will be meaningless unless the Clerk of the House cracks down on lobbyists who file or submit incomplete reports and the Justice Department prosecutes lobbyists who ignore the law, Manes said.

Some of Washington's biggest lobbying firms also are calling for reforming the law—in part because of concern that every federal agency soon will have its own set of disclosure requirements.

Lobbyist Thomas Hale Boggs Jr. told Levin's committee that he would like to see "one-stop-shopping for the registration of lobbying activities, including uniform standards to the greatest extent possible."

But the lobbyists—ever the negotiators—told Levin that Congress should minimize reporting of their salaries and expenses in exchange for broadening the disclosure requirements.

Boggs noted that the financial disclosure reports file each year by House and Senate members lists assets, debts and income in broad categories.

"Compensation reported in ranges would encourage reporting by simplifying the reporting task, but would still give an accurate picture of lobbying activities," Boggs said.

[From the Detroit (MI) Legal News, Aug. 1, 1991]

LAWYER-LOBBYISTS COULD LOSE IMPORTANT LOOPHOLE

(By Charley Roberts)

Lawyers who double as lobbyists may be about to lose the fig leaf in the law that has allowed some of them to avoid disclosing their dual identity.

The U.S. Senate Governmental Affairs Committee is moving to close loopholes in the federal Lobbying Regulation Act of 1946, and one of the targets is a provision that has been used to exempt lawyers from registering as lobbyists.

A recent study by the General Accounting Office, the investigative arm of Congress, found that noncompliance with the act is widespread. Of the 13,501 individuals and organizations listed in a 1990 directory of lobbyists, consultants and trade associations, the GAO study found that 9,800 were not registered with Congress.

The GAO then randomly selected 16 of the 9,800 to interview. Twelve of the 16 had had contact with members of Congress, dealt with federal legislation or lobbied the executive branch.

A lobbyist is defined in the act as one who seeks to influence legislation through direct communication with members of Congress. To avoid requiring everyone who writes their congressman to register, the act distinguishes between Joe Six-Pack and persons who lobby as part of their job.

Under the provision, a further distinction is made between contacts that are incidental to the individual's employment, such as a corporate officer who writes to Congress about a particular bill, and contacts that are central to the individual's employment.

"I assume the principal purpose test includes layers," said Thomas Susman chairman of the American Bar Association's Committee on Legislative Process and Lobbying. But he admits that the law is to clear on this issue.

Said Susman, a partner at Ropes & Gray in Washington, "There is a sense that the test creates a loophole for law firms and associations."

Rather than treat separately a client's payment to lobby on a particular bill, some lawyers lump together all payments for lobbying and non-lobbying work for that client. Under that approach, if the payments for lobbying does not constitute the bulk of the payments from that client, the lawyer doesn't have to register.

In addition, some advocacy groups, such as the American Civil Liberties Union, don't register as lobbyists. In the ACLU's view, requiring lobbyists to register is a violation of the First Amendment right to petition the government for redress of grievances.

Similarly, while lobbyists for coalitions lobbying for and against specific bills may lobby, the coalitions don't disclose their members who are contributing the funds to hire the lobbyists. An example of this is the coalition of corporations opposing the major bill to reverse several recent civil rights decisions by the Supreme Court.

Another way the lawyers and others who lobby avoid registering is by narrowly defining direct contact with Congress.

While Susman and a number of other proponents of reform believe the act was meant to cover contact with members of Congress or their staff opponents of reform note that the Supreme Court, in interpreting the statute, referred only to members, not staff. Thus, they argue, contact with staff are not covered by the act.

Susman believes the Supreme Court, in interpreting "the old and carelessly written statute," failed to appreciate how the language of its ruling would be used to permit lobbyists to avoid complying with the act.

"I've gotten things added to four bills in two congresses without talking to a single member," he said, adding that he registered each time. Many others do not, however.

The Senate committee is considering revising the statute to expand its coverage to lobbying of congressional staff, too. But that is even more controversial than closing the lawyer loophole.

Susman, who is working on a compliance manual on lobbying for the ABA, has circulated a draft proposal that would advise lawyers who lobby to treat contacts with members or their staff as triggering the registration requirement. "I've gotten hostile calls from some lawyers in D.C.," he said.

As for the Senate committee's efforts, Susman said it is too early to tell whether Congress will actually rewrite the law.

However, he noted that there are encouraging signs: The GAO study, the obvious interest of Sens. Carl Levin, D-[Mich.], and William Cohen, R-Maine, the chairman and ranking minority member of the relevant subcommittee, and talk in the lobbying community about the need to be more active on this issue.

"That tells me that is an undercurrent of potential for reform," said Susman.

SENATOR LEVIN CRITICAL OF MILITARY CONTRACTORS' LOBBYING

(By Larry Margasak)

WASHINGTON (AP).—Sen. Carl Levin of Michigan says six major military contractors spent $5.7 million lobbying the government in 1990 but were required to publicly disclose only a fraction of the costs.

A new lobbying disclosure law enacted in October 1989 is so riddled with exemptions that the contractors reported only $3,547 of the $5.7 million spent last year, a Senate investigation said.

"We have discovered again that the lobbying disclosure laws are failing miserably to achieve their purpose," The Detroit Democrat said.

The investigation of lobbying disclosures was conducted by Levin's Senate Governmental Affairs oversight subcommittee. Committee investigators made the results available to The Associated Press before a hearing on the disclosure problems scheduled for Wednesday.

The $5.7 million was the figure privately provided to the Defense Contract Audit Agency by the six companies. The committee didn't break down the money company by company.

The six contractors studied were: McDonnell Douglas, which had military contracts worth $8.9 billion in fiscal 1990; General Dynamics, $6.5 billion; General Electric, $5.8 billion; United Technologies, $2.9 billion; Martin Marietta, $4.2 billion; and Lockheed, $3.8 billion. The committee said the figures were from published compilations of the top 200 government contractors.

A government-wide regulation requires contractors to disclose their costs to the contracting agency to prevent unauthorized charges; lobbying expenses must be broken out separately.

The committee said it compared the $5.7 million to two laws requiring public disclosure: the October 1989 Byrd Amendment, named for its sponsor, Sen. Robert C. Byrd, D-W.Va., and the 1946 Lobbying Regulation Act.

The Byrd Amendment requires disclosures by the contractors; the 1946 law requires information from lobbyists. Reports filed for 1990 under the older law showed lobbyists received $388,727 from military contractors another way of measuring publicly reported expenditures.

The investigators said they could not conclude that the contractors violated either disclosure law.

"Disclosure under the Byrd Amendment is almost non-existent and it's not because there's so little lobbying," Levin said in a news release. "Instead there's a real problem with the way this law has been interpreted, applied and also studiously avoided."

The companies have many reasons to lobby Congress and the Defense Department. They bid against each other for contracts. Their production lines face shutdowns as weapons technology advances. They want to make sure Congress will finance production of a prototype.

An example of a contractor lobbying blitz occurred just last week when the Senate Appropriations Committee resuscitated the Seawolf submarine. A day earlier, the panel's defense subcommittee voted to stop funds for the warship.

Sen. Daniel Inouye, D-Hawaii, chairman of the Defense Appropriations Subcommittee, led the 180-degree turnabout. Inouye said he changed his mind after heavy lobbying by the shipbuilder, the Electric Boat Division of General Dynamics Corp., the Navy and senators from Connecticut, home of Electric Boat.

Among its other provisions, the Byrd Amendment requires a contractor to disclose the name and address of each person paid to influence the award, the amount of the payment and the activity for which the individual was paid.

However, investigators said they found numerous exceptions and limitations that exclude virtually all lobbying from coverage.

[From the New York Times, Sept. 26, 1991]

SENATE PANEL LOOKS AT MILITARY LOBBYING LAW

WASHINGTON, September 25. (AP).—They were retired generals and former Pentagon officials, more than 100 consultants in all, working for military contractors to lobby the executive branch and Congress.

But not a word of their lobbying activities for 13 contractors and two universities were publicly reported under a 1989 disclosure law. The statute just had too many loopholes, Senate investigators found.

"We have discovered again that the lobbying disclosure laws are failing miserably to achieve their purpose," Senator Carl Levin, a Michigan Democrat, said Tuesday. Mr. Levin is chairman of the Senate Governmental Affairs Subcommittee on Oversight of Government Management, which held a hearing today on the statutes.

RIDDLED WITH EXEMPTIONS

The subcommittee's investigators found that six big military contractors spent $5.7 million lobbying the Government last year, but were required to publicly disclose only a fraction of the costs. The subcommittee also received information on the consultants from the Defense Department's inspector general.

The Byrd Amendment, a lobbying disclosure law enacted in October 1989, is so riddled with exemptions that the contractors reported only $3,547 of the $5.7 million spent last year, investigators found.

The $5.7 million was the figure privately provided to the Defense Contract Audit Agency by the six companies. The subcommittee did not break down the money by company.

The six contractors studied were the McDonnell Douglas Corporation, which had military contracts worth $8.9 billion in the fiscal year 1990; the General Dynamics Corporation, $6.5 billion; the General Electric Company, $5.8 billion; the United Technologies Corporation, $2.9 billion; the Martin Marietta Corporation, $4.2 billion, and the Lockheed Corporation, $3.8 billion. The panel said the figures were from published compilations of the top 200 government contractors.

A Federal regulation requires contractors to disclose their costs to the contracting agency to prevent unauthorized charges; lobbying expenses must be broken out separately.

TWO DISCLOSURE LAWS CITED

The committee said it compared the $5.7 million to two laws requiring public disclosure: the Byrd Amendment, named for its sponsor, Senator Robert C. Byrd, Democrat of West Virginia, and the Lobbying Regulation Act of 1946.

The Byrd Amendment requires disclosures by the contractors; the 1946 law requires information from lobbyists. Reports filed for 1990 under the older law showed that lobbyists received $388,727 from military contractors—another way of measuring publicly reported expenditures.

The investigators said they could not conclude that contractors violated either disclosure law.

"We have reported fully and accurately in compliance with the pertinent laws and regulations," said Joe Sutherland, a spokesman for General Dynamics.

Barbara Anderson, a spokeswoman for McDonnell Douglas, said the company was "complying with the law."

In his statement Tuesday, Senator Levin said: "Disclosure under the Byrd Amendment is almost non-existent, and it's not because there's so little lobbying. Instead, there's a real problem with the way this law has been interpreted, applied and also studiously avoided."

The Pentagon inspector general's survey found that lobbying by the 100-plus consultants was not disclosed because of the way contractors interpreted the Byrd Amendment. Their reading of the law was backed by the Defense Department and the Office of Management and Budget, a White House agency.

Among its other provisions, the Byrd Amendment requires a contractor to disclose the name and address of each person paid to influence the award, the amount of the payment and the activity for which the individual was paid.

[From the National Journal, Oct. 19, 1991]

FIXING TATTERED FEDERAL LOBBYING LAWS

(By Carol Matlack)

The tattered patchwork of laws covering federal lobbying has gotten a thorough airing on Capitol Hill for the first time in years. Now, it may be in for a mending.

A recent series of Senate hearings produced a consensus, including strong statements from many lobbyists, that existing laws governing lobbying are loophole-ridden, poorly enforced and widely ignored by lobbyists. Sen. Carl Levin, D-Mich., who chaired the hearings before the Governmental Affairs Subcommittee on Oversight of Government Management, is drafting an overhaul package and plans to introduce it early next year.

Levin has said he wants to combine and revamp three laws:

The 1946 Federal Regulation of Lobbying Act, which requires congressional lobbyists to report the names of their employers, legislative interests and receipts and expenditures. Nearly everyone familiar with the act agrees that it is, in Levin's words "a phantom law."

The General Accounting Office (GAO) reported recently that about two-thirds of the individuals listed in Washington Representatives, a standard reference book on lobbyists and interest-group officials, had never registered as lobbyists. The GAO interviewed a random sample of those who weren't registered and found that many did lobby Congress. Of approximately 6,000 lobbyists who had registered, the GAO found that 90 per cent had failed to report all the information required by law. And though the law carries criminal penalties for noncompliance, federal authorities haven't taken any enforcement actions since the 1950s.

The 1938 Foreign Agent Registration Act, which requires anyone seeking to influence U.S. policy on behalf of a foreign client to register at the Justice Department. The law has two major loopholes, though. Lawyers who represent foreign clients in administrative proceedings aren't required to file. Neither are U.S. subsidiaries of foreign companies. And so, for example, there was virtually no reporting of a major lobbying effort by foreign automakers to overturn a Customs Service ruling on the tariff treatment of sport utility vehicles. (See NJ, 9/23/89, p. 2318.)

The so-called Byrd Amendment, attached by Sen. Robert C. Byrd, D-W.Va., to a 1989 appropriations bill, which requires recipients of federal grants or contracts to disclose whether they paid for outside lobbying help. (See NJ, 5/12/90, p. 1140.) The measure created a storm of protest by federal contractors, but so far, compliance has been scant. Only a handful of disclosure reports have been filed, and an investigation by Levin's subcommittee found that several major lobbying efforts on defense contracts were never reported.

The Senate hearings produced a laundry list of complaints from lobbyists, too. Lack of uniformity was a major gripe: Foreign agents, for example, must disclose far more information than their domestic counterparts and are subject to audits by the Justice Department.

And except for foreign agents, contacts with executive branch officials go largely unreported. (Levin's interest in reviewing the lobbying laws stemmed from his discovery that Wedtech Corp., the infamous South Bronx company that became enmeshed in a federal contracting scandal, had never disclosed any of its contacts with Reagan Administration officials.)

The congressional lobbying law is so vaguely worded that lobbyists say it's difficult to know who should report what. The result, said former Rep. Lloyd Meeds, D-Wash., now a Washington lawyer-lobbyist and chairman of the American League of Lobbyists' ethics committee, is that lobbyists who conscientiously report all their activities are put at a competitive disadvantage with scofflaws. "The people who ignore the [exiting laws] thrive on confusion and obfuscation," he said.

Among lobbyists who testified at the hearings, only one, representing the U.S. Chamber of Commerce, said there was no need to revamp the laws.

But agreeing on the details of a new lobbying law won't be easy. Some lobbyists think that the current rules are too harsh. For example, Denis M. Neill, a lobbyist who represents foreign interests, said in an interview that he sometimes has difficulty arranging meetings on Capitol Hill because Members are nervous about the meetings' being disclosed—while lobbyists for domestic interests have no such problem.

The House Judiciary Subcommittee on Administrative Law and Governmental Relations has held hearings on the foreign agent law, and the subcommittee chairman, Barney Frank, D-Mass., expects to mark up a bill this fall. Frank has said that he favors tougher requirements for foreign agents' filings at the Justice Department but might consider shielding some information in the filings from public disclosure.

Rewriting the Byrd Amendment could be sticky, too, given the powerful Appropriations Committee chairman's strong feelings on the subject (Byrd offered the amendment after learning that West Virginia University had retained a lobbyist to help secure federal research funds—a service Byrd said he would have gladly performed for free.)

Still, many lobbyists say they are encouraged by Levin's approach to the problem; he even attended a meeting for lobbyists to hear their complaints.

"I think the community [of lobbyists] is ready to see a single law," Neill said. "We would all welcome one single method of reporting and record-keeping."

[From the Detroit News, Dec. 29, 1991]

LAW WOULD SHINE LIGHT ON LOBBYISTS' ACTIVITIES

(By Gary Lee)

WASHINGTON.—Sen. Carl Levin, D-Mich., next month will ask Congress to require lobbying groups and their employees to register with the U.S. Office of Ethics and file reports twice a year.

The goal is greater disclosure of lobbyists' activities, including their earnings and clients, he said.

"Most lobbyists ignore the existing laws," said Levin, who chairs a government oversight subcommittee. "What we are trying to do is find out who is lobbying for whom and for how much money. The public deserves to know."

One section of his draft legislation would expand required disclosure of contacts between lobbyists and executive branch officials.

In an attempt to crack down on lobbying of the White House and federal agencies, Congress two years ago passed a requirement that applicants for federal contracts over $100,000 disclose their lobbying of the executive branch.

However, preliminary figures show the law has shone only minimal light on lobbying activities. During 1990 and the beginning of 1991, firms and individuals negotiated more than 102,000 contracts worth six figures or more with federal agencies—but only 257 filed lobbying reports, the General Accounting Office (GAO) reported recently.

"The intent of the law was good," said Levin. "Unfortunately, just about everybody found loopholes to avoid complying with it." Levin proposes fines of up to $100,000 for lobbyists who don't comply.

Levin's interest in overhauling federal lobbying laws was sparked during the 1989 Senate investigation of the Wedtech scandal, in which a New York City defense contractor paid hundreds of thousands of dollars to influence Reagan administration officials in the 1980s.

"Here you had a case of lobbying of the executive branch (that) was done in total secrecy by former insiders for a lot of money," Levin said, "If ever a case showed that more sunshine is needed in lobbying, that was it."

The 1989 requirement has proved largely ineffective, according to studies by the GAO and congressional investigators. The law prohibits the use of federal funds for lobbying agency employees and requires disclosure statements from companies seeking contracts that exceed specified amounts.

In 1990, five big defense contractors—McDonnell Douglas, General Dynamics, General Electric, Martin Marietta and Lockheed—spent approximately $5 million lobbying for defense contracts, according to a congressional study.

None of the defense contractors or their consultants filed disclosure forms. In each case—and hundreds of others—loopholes let firms avoid the reporting requirements, GAO and congressional officials said in interviews. One favorite loophole allows full-time employees of contractors to bypass disclosure even if they engage in lobbying, while paid lobbyists hired explicitly to lobby must file reports of their activities.

Another loophole lets those who lobby on general measures avoid disclosure, while those who lobby for a specific contract or grant must report on their efforts.

Levin's bill would make it far more difficult for executive branch lobbyists to avoid filing reports. It also would tighten loopholes in the 1946 Lobby Registration Act, which requires those who lobby Congress to register with a congressional office.

[From the Washington Post, Dec. 27, 1991]

LEVIN PLANS TO INTRODUCE LEGISLATION TO BROADEN DISCLOSURE BY LOBBYISTS

(By Gary Lee)

A bill scheduled to be introduced in Congress next month would require lobbying groups and their employees to register with the U.S. Office of Ethics and to file reports of their activities twice a year, according to a draft copy circulating in Washington.

The bill is sponsored by Sen. Carl Levin (D-Mich.) and results from his campaign for greater controls over the nation's burgeoning lobbying industry. The main purpose of the proposed legislation, Levin said recently, is to bring about more thorough disclosure of lobbyists' activities, including their earnings and who their clients are.

"The situation now is that most lobbyists ignore the existing laws," said Levin, who chairs the Senate Governmental Affairs subcommittee on oversight of Government management. "What we are trying to do is find out who is lobbying for whom and for how much money," he said. "The public deserves to know these things."

The bill is designed to replace all existing major laws governing lobbyists' activities, including the 1989 Byrd amendment, the 1946 Lobby Registration Act and the 1938 Foreign Agents Registration Act.

One section of the draft bill would expand required disclosure of contacts between lobbyists and executive branch officials.

In an attempt to crack down on lobbying of the White House and federal agencies. Congress two years ago passed an amendment offered by Sen. Robert C. Byrd (D-W.Va.). The Byrd amendment requires applicants for federal contracts over $100,000 to disclose their lobbying of the executive branch.

However, preliminary figures appear to show that the law has shone only minimal light on lobbying activities. During 1990 and the beginning of 1991, firms and individuals negotiated more than 102,000 contracts worth six figures or more with federal agencies, but only 257 filed lobbying reports, according to a recent General Accounting Office (GAO) report.

"I think the intent of the law was good," said Levin. "Unfortunately, just about everybody found loopholes to avoid complying with it." Levin's draft bill includes a proposed fine of up to $100,000 for lobbyists who don't comply.

Levin's interest in overhauling the nation's lobbying laws was first sparked during the 1989 Senate investigation of the Wedtech scandal, in which a New York City defense contractor paid lobbyists hundreds of thousands of dollars to influence Reagan administration officials in the 1980s.

"Here you had a case of lobbying of the executive branch [that] was done in total secrecy by former insiders for a lot of money," Levin said. "If ever a case showed that more sunshine is needed in lobbying, that was it."

The Byrd amendment has proved largely ineffective, according to studies conducted by the GAO and congressional investigators. The law prohibits the use of federal funds for lobbying agency employees and requires companies seeking contracts that exceed specified dollar amounts to file disclosure forms.

In 1990, for instance, five big defense contractors—McDonnell Douglas, General Dynamics, General Electric, Martin Marietta and Lockheed—spent approximately $5 million lobbying for defense contracts, according to a congressional study.

In addition, 13 major defense contractors and two universities contacted by the GAO acknowledged they had used more than 100 paid consultants during the same period, including several retired generals, to influence the appropriation or authorization of defense budget funds.

None of the defense contractors or their consultants filed disclosure forms under the Byrd amendment. In each case—and hundreds of others—loopholes were found that allowed firms to avoid the law's reporting requirements. GAO and congressional officials said in interviews. One favorite loophole allows full-time employees of contractors to bypass disclosure even if they engage in lobbying, while paid lobbyists hired explicitly to lobby must file reports of their activities.

Another loophole allows those who lobby on general measures to avoid disclosure, while those who lobby for a specific contract or grant must report on their efforts. "The emphasis tends to be on finding a way for not reporting," Derek J. Vander Schaaf, deputy inspector general of the Defense Department, told a congressional hearing in September.

Levin's draft bill would close many of the loopholes and, in effect, make it far more difficult for executive branch lobbyists to avoid filing reports.

Besides overhauling the Byrd amendment, the draft law would simplify requirements under the Foreign Agents Registration Act, which establishes guidelines for all firms or individuals who lobby for foreign entities to register with the Justice Department.

The proposal also would tighten loopholes in the Lobby Registration Act, which requires those who lobby Congress to register with a congressional office.

During hearings on lobbying held last summer, Levin's subcommittee found that the noncompliance rate was dramatically high. "Besides the loopholes," Levin said, "the laws are so ambiguous and cumbersome that compliance is avoided at all expense."

Levin and his staff are making a concerted effort to garner views from the lobbying industry on the new legislation in order to avoid criticism after it is released. They invited several dozen lobbyists working across a broad spectrum of issues to testify in hearings last spring and summer. Almost all of those testifying expressed dissatisfaction with the current system.

[From the St. Louis Post-Dispatch, Feb. 13, 1992]

CLOSE THE LOBBYING LOOPHOLES

A recent series in the Post-Dispatch by Robert Koenig on the abuses of lobbying in Washington demonstrates how those who are considered "financially articulate" dominate and distort government decision-making. As they now stand, lobbying regulations are so loose that the public's right to know who is talking to whom in Washington—and for what purpose—is rendered nearly meaningless.

Current rules require only a small number of those who represent private interests—and public ones, too, such as cities and states—to register as lobbyists. The definition of lobbying is restricted to contact with legislators only, even though most of the important relationships are with their staffs. The rules on spending for lobbying are so inadequate that only a fraction of the true amount is reported. Worse, these rules don't apply to lobbying federal agencies; the few rules that do are usually ignored.

Given Congress' reputation for being in the pocket of special interests, these inadequacies in the law must be remedied. The loopholes lobbyists use to hide their identities, activities and the amount they spend importuning public officials must be exposed. This change is all the more essential because legislators are so busy raising campaign money and mending their political fences that they often lack the time or inclination to become knowledgeable about the issues before them. Hence lobbyists who peddle expertise, or mercly the details of the impact of a proposal on a member's district, have became central to government decision-making.

This development may be inevitable—but the public has a right to know about it. What's more, educating those who are not well-organized about the achievements of those who are may motivate the financially inarticulate to raise the money and develop the expertise to fight for their cause. Congress needs to set a work to close the lobbying loopholes.

[From The St. Louis Post-Dispatch, Feb. 28, 1991]

SENATOR OFFERS LEGISLATION TO CLOSE LOBBYING LOOPHOLES

(By Robert L. Koenig)

WASHINGTON.—Calling on Congress to open more back-room lobbying to the sunshine of public disclosure, Sen. Carl Levin introduced a bill Thursday that aims to overhaul the federal lobbying laws.

Levin, D-Mich., said his legislation—a measure that would replace three current lobbying disclosure laws—would close loopholes, strengthen enforcement and cut down on the paperwork required by the present system.

The current federal lobbying laws have been widely criticized for failing to require disclosure by people who lobby the Executive Branch and congressional staff. In addition, many lawyers are exempted for having to disclose their representation of foreign interests under the Foreign Agents Registration Act of 1938.

Levin's bill would:

Require registration of all people who are paid to lobby either Congress or the Executive Branch.

Enhance enforcement of the disclosure laws by replacing criminal penalties—under which no one has ever been convicted—with a new system of civil fines, which may be as high as $100,000.

Establish the Office of Government Ethics as the central location for all registrations of lobbyists and require only a single disclosure for the various types of lobbying.

Levin, chairman of the Senate Governmental Affairs subcommittee that oversees government management, said he expected his panel would approve the bill this spring.

He noted that lobbying was protected by the First Amendment, adding: The way to protect the public interest is through disclosure." He said recent polls showed that 70 percent of Americans believe the government is controlled by special interests, and public approval of Congress is down to 18 percent.

"One of the reasons for this lack of confidence is the widespread belief that government today is too susceptible to the influence of well-connected and highly-paid lobbyists," Levin said.

"Lobbyists are seen as part of 'the problem in Washington,' as representatives of special interests who are paid well to place their own narrow constituencies above the public interest."

REGISTRATION CHANGES WOULD HELP LOBBYISTS' IMAGE, LEVIN SAYS

(By John Flesher)

WASHINGTON (AP).—Sen. Carl Levin proposed streamlining the registration of lobby-

ists Thursday, saying current laws are ineffective and feed a perception of lobbying as unsavory.

"All too often, the public is informed about a lobbying effort only in the context of a scandal," the Michigan Democrat said. "All the beneficial, appropriate lobbying efforts don't make the news."

Levin is chairman of an oversight subcommittee that conducted a series of hearings on lobbyist registration last year.

The General Accounting Office, the congressional investigative arm, reported at one hearing that only 3,700 of the 13,500 individuals and agencies listed in a book about Washington lobbyists were registered with the government.

Yet three-quarters of the unregistered representatives told the investigators they contact members of Congress, their staff, and executive branch officials about pending legislation.

Witnesses complained that the law was vague about who is required to register. One described it as "anachronistic, incomprehensible and unenforceable."

The bill would replace the existing statues with one law covering all paid lobbying of Congress and the executive branch.

It is designed to "take a hugh step in the . . . direction of government in the sunshine, the direction of public disclosure and accountability, without impinging on First Amendment rights," Levin said.

It is meant to ensure that all professional lobbyists are registered, Levin said. It would encourage participation by requiring lobbyists to provide only meaningful information and making clearer who is required to register, he said.

Instead of reporting in detail all money raised and spent on the job as now required, lobbyists only would have to provide estimates of total amounts.

And they would be able to report just the federal agencies and offices they contact instead of the current requirement of listing every official with whom they speak.

The bill includes a "one-step shopping" provision enabling lobbyists to register by filling out one form at one location, and replaces the quarterly reports with semi-annual ones, Levin said.

It also would designate the Office of Government Ethics to oversee lobbying and make additional rules as needed, he said.

"The path we have chosen is not to legislate every detail, but to create for the first time an administrative mechanism to provide full and effective guidance on how to comply," Levin said.

[From the Washington Post, Feb. 28, 1992]

BILL TARGETS LOBBYISTS' ACTIVITIES; LEVIN WANTS TO CAST LIGHT ON DEALMAKERS

(By Gary Lee)

Sen. Carl Levin (D-Mich.) yesterday introduced a sweeping new bill that would require Washington lobbyists to make detailed regular reports of their activities and the amount of money they spend and would fine them up to $100,000 for noncompliance. The reports would be available to the public twice a year.

If enacted, the bill will be the most comprehensive law governing lobbyists in more than four decades. It is designed to open more information about contracts between lobbyists and government officials, which have long been criticized as back-room deals.

"One of reasons why the public is suspicious and distrustful of the relationship between lobbyists and government officials is the cloak of secrecy that currently covers too many lobbyists and their activities," Levin said in a speech on the Senate floor yesterday. "This bill takes a huge step in the right direction—the direction of government in the sunshine."

Under the bill, lobbyists and interest groups would be required to register with the Office of Government Ethics within 30 days after making a contact with a federal official, lawmaker or lawmaker's aide and to report basic information about the lobbyists, the issues they represent and their clients.

In subsequent reports, to be filed twice a year, lobbyists would be asked to detail the issues they lobbied for, whom they contacted in their lobbying efforts, and to estimate how much they spent.

The proposed law is designed to replace the 1946 Lobby Registration Act, which governs the activities of lobbyists working for U.S. clients, and some aspects of the 1938 Foreign Agents Registration Act, which establishes the rules for individuals and groups lobbying for foreign governments or companies.

The new act would toughen some aspects of both laws. For example, those who lobby for American companies would have to list contacts they make with congressional aides, instead of only members of Congress, as required in the current law.

Another new element would fine those who fail to comply with the law. No lobbyists have ever been punished for a violation of the current law, congressional aides said.

Under the proposed legislation, the director of the Office of Government Ethics would notify individuals suspected of violating the rules and eventually determine the size of the fine to be imposed. Late filers would be penalized $200 a week. The maximum penalty for bigger violations would be $100,000. "We think this really gives the law teeth," said Linda Gustitus, staff director of the Senate Governmental Affairs subcommittee on oversight of government management chaired by Levin.

The new bill was drafted after testimony at three hearings last summer before Levin's subcommittee. Comments were solicited from more than 50 lobbyists, whose clients run the gamut from Common Cause to the U.S. Chamber of Commerce.

Several provisions in the proposal were added in response to lobbyists' complaints about existing laws. Instead of quarterly filings, for example, as currently required, the proposed law asks for reports twice a year. And while current rules ask for exact dollar amounts spent on everything from cups of coffee to taxis, the new law would allow figures to be estimated.

Reaction to the bill among lobbyists and lawmakers was mixed. Some lobbyists reacted favorably. "It looks like a very balanced and reasonable approach to solving many of the problems with the existing legislation," said Howard Marlowe, an independent lobbyist.

But others objected strongly to particular provisions in the bill. The requirement that lobbyists report contacts with congressional staff "sends a chilling effect," said John Chwat, a veteran Washington lobbyist. "This would violate years and years of relationships lobbyists have built up," Chwat said. "And it is totally unenforceable."

If enacted in its current form, the law would "violate our First Amendment rights," Chwat added.

Lawmakers were privately skeptical about the bill's chances.

[From the Macomb Daily, Mar. 11, 1992]

LEVIN'S PROPOSAL MAKES GOOD SENSE

U.S. Sen. Carl Levin has proposed streamlining the registration of lobbyists, saying current laws are ineffective and feed a perception of lobbying as unsavory.

"All too often, the public is informed about a lobbying effort only in the context of a scandal," the Michigan Democrat told the Associated Press.

"All the beneficial, appropriate lobbying efforts don't make the news."

Sen. Levin has a point. Lobbyists are not highly regarded by the public, which generally suspects them of influence peddling by providing special favors to lawmakers.

Yet, the government's own research, in many ways, indicates that lobbyists are partly responsible for their own unsavory reputation.

The General Accounting Office, the congressional investigating arm, reported that only 3,700 of the 13,500 individuals and agencies listed in a book about Washington lobbyists were registered as required with the government.

Three-quarters of those unregistered told investigators they contact members of Congress, their staff and executive branch officials about pending legislation.

These unregistered lobbyists complain that the present law is too vague about who is required to register. One person described it as "anachronistic, incomprehensible and unenforceable."

Sen. Levin agrees. His proposal would replace the existing statutes with one law covering all paid lobbying of Congress and the executive branch.

It is designed to "take a huge step in the direction of government in the sunshine, the direction of public disclosure and accountability, without impinging on First Amendment rights," Sen. Levin said.

We would not usually be in favor of changing laws simply because many of those affected are either ignoring present requirements or finding loopholes in the guidelines.

In this case, however, it's obvious that the law itself may be part of the problem.

Sen. Levin's proposal would strengthen the guidelines on lobbyists by forcing more of them to adhere to specific requirements.

In addition to making clearer who must register, lobbyists would only have to provide estimates of amounts of money raised and spent on the job.

And they would be able to report just the federal agencies and offices they contact on legislation instead of the current requirement of listing every official with whom they speak.

The bill also includes a "one-stop shopping" provision enabling lobbyists to register by filling out one form at one location and replaces the quarterly and semi-annual reports.

"The path we have chosen is not to legislate every detail, but to create for the first time an administrative mechanism to provide full and effective guidance on how to comply," Sen. Levin said.

Sometimes you can get more from less—particularly in government. Levin's proposal to increase lobbying controls by making the paperwork less stringent makes sense.

[From CQ, June 27, 1992]

LOBBYING: COMMITTEE MOVES TO TIGHTEN REGISTRATION LOOPHOLES

(By David Masci)

Legislation to require lobbyists to report more of their activities won voice vote approval by the Senate Governmental Affairs Committee on June 25—the first step in a major revision of lobbying laws that is likely to carry into the next Congress.

The Federal Regulation of Lobbying Act of 1946—which requires all persons hired for the

principal purpose of lobbying Congress to register with the House and Senate—has long been considered ineffective. This became especially true after the Supreme Court, in its 1954 ruling in U.S. v. Harris, narrowly interpreted its key provisions, ensuring that almost anyone could minimize reporting or avoid it altogether.

Equally loose, committee members said, is the Foreign Agents Registration Act of 1938, which requires anyone representing a foreign government or principal to register with the Department of Justice.

"These loopholes are breeding a disrespect for the law," Carl Levin, D-Mich., sponsor of the legislation, told his committee colleagues." About 70 percent of the people listed in 'Washington Representatives' [a guide to Washington lobbyists] are not listed as lobbyists under our laws."

Levin, chairman of the committee's Oversight of Government Management Subcommittee, has held hearings on lobbying loopholes since 1991.

The bill (S 2766) would simplify disclosure procedures by requiring anyone engaged in lobbying the executive or legislative branch to register unless these activities are incidental to the job.

Registered lobbyists would be required to issue a semiannual report revealing the income received for lobbying in behalf of a client or, if representing themselves, providing a good-faith estimate of the amount spent on lobbying activities.

Each report also would be required to contain a list of issues the lobbyist worked on and the federal agencies and congressional committees contacted.

The bill would create an Office of Lobbying Registration and Public Disclosure in the Justice Department of administer the statute. Its duties would include providing interested parties with registration and reporting information as well as investigating and determining non-compliance. Violations could lead to civil penalties as high as $10,000. The current law has no mechanism for enforcement.

Under an amendment offered by Chairman John Glenn, D-Ohio, and approved by voice vote, those who worked in the executive or legislative branch in the two years before registering as lobbyists would have to disclose the details of their government service.

While the measure enjoyed the full support of committee members in attendance, Ted Stevens, R-Alaska, warned his colleagues that the Department of Justice had some concerns about the bill that had not been addressed by the committee. He said the department considers the definition of lobbying in the measure to be vague and confusing.

A similar bill has yet to be introduced in the House, although a measure (HR 3597) that makes changes in foreign-agent registration won the approval of the House Judiciary Subcommittee on Administrative Law on Oct. 23, 1991.

"There just aren't enough legislative days left to finish this," said one Senate committee aide, adding that with the markup, "We are laying the groundwork for next year."

[From the Huron Daily Tribune, Nov. 24, 1992]

LOBBYING LAW USELESS; DRASTIC NEED FOR REFORM, LEVIN SAYS

(By Suzanne Hoholik)

Reforming lobbying laws in Washington will be at the top of Sen. Carl Levin's agenda when the U.S. Senate reconvenes in January.

Levin said there is a drastic need to reform lobbying laws to keep special interest groups in check.

"The current law is basically useless," Levin said Monday afternoon from Washington during a conference call with the Daily Tribune and other Michigan daily newspapers.

"About 70 percent of lobbying is done by people not registered as lobbyists," he said. "There are many, many loopholes—like lawyers and staff are not covered."

Levin plans to reintroduce a bill next year that would require all lobbyists to be registered with the federal government.

"The bill I introduced would close the loopholes," he said. "The idea behind it is that although lobbying is constitutional, the way in which you keep special interests in check is to disclose and bring out in the open how much they are being paid.

"In the current law, there's more holes than cheese."

Of the 13,000 lobbyists in Washington, Levin said only a few thousand are registered.

"We're not given the information which we need because most people in the business of lobbying do not register at all," Levin said. "Registration has been avoided by most lobbyists in this town and the public should know the total that is being paid to a lobbyist."

Levin has no doubts his bill will receive support from both the White House and Congress.

"We did not have the support of the Bush administration and given the position of President-elect Clinton, we will be able to get this lobbying reform bill passed this upcoming Congress," he said.

Government will operate a lot smoother now that Democrats control the House, Senate and White House, Levin said.

"Gridlock is over and I say that confidently," he said. "The public wants it and I believe that not only the vast majority of Democrats wants it in place, there will be a period where many Republicans will join us to get some economic recovery going in this country.

"If this election stood for anything, it stood for a vast majority of changes. More than 50 percent of the voters were for change."

But Levin believes change remains in the power of the vote, despite voters in Michigan and 13 other states approving term limitation proposals.

"I think it's a mistake to restrict the opportunity of future voters," he said. "Even though a lot of the public is displeased with many members of Congress and the state Legislature, I don't think it's philosophically right to keep members of (future) legislatures to this. There we put ourselves at a severe disadvantage."

Levin believes Michigan will be the big loser if the North American Free Trade Agreement is approved by Congress.

"I think NAFTA's a mistake," he said. "It will lead to the loss of manufacturing jobs, especially in Michigan."

Levin said Clinton is taking a different approach to the agreement.

"We prefer Clinton's caution to Bush's charge-ahead approach, but again we're very skeptical about (NAFTA)," Levin said. "In any event, we're going to fight for jobs like heck in Michigan."

Jump-starting the economy is the top issue facing the nation and Levin expects Clinton to tackle it early in his administration with a short-term, two-point plan.

"Number one is to focus on building highways, bridges—infrastructure—faster * * * so we can immediately pump some jobs into this economy," Levin said. "Number two would be an investment tax credit proposed and passed for manufacturing and industry. This would give them a tax incentive that they might not otherwise afford."

A capital gains cut also could be part of the economic game plan.

"We've got to do something to stimulate the economy in the short-term," he said. "I would be willing to support short stimuli, but I would be cautious as to how much, because we need to address the deficit."

Levin agrees with Clinton's campaign promise to increase taxes on people making more than $200,000 a year, and recommends spending cuts and a reduction in the defense budget as ways to balance the federal budget.

"I don't think any structures, such as a balanced budget amendment, are needed," he said. "There are too many loopholes—even if it passed. We ought to * * * lead and get on with what we have to do."

Levin said the line-item veto will have little effect on reducing the deficit. It is sometimes overrated, he said.

"The line-item veto is used often as an excuse for the action that needs to be taken," he said. "President Bush has consistently given us budgets with $250 billion deficits. Even if the president got the line-item veto, it would be a very small part of the solution, even if he exercised it."

Health care is another top issue facing the new administration and Congress.

Levin said states may be the testing ground for health care reforms.

"States have been frequently used as test tubes in this federal structure of ours and this might be a place to let states determine a general direction we want to go," he said. "The current system just does not work. It's very expensive and very inefficient. We need a system that is more efficient."

[From the Washington Post, Nov. 25, 1992]

LEVIN REVIVES PLAN TO CURB LOBBY ABUSES

(By Gary Lee)

Sen. Carl Levin (D-Mich.) said yesterday that he plans to reintroduce early next year a bill designed to curb excesses by Washington lobbyists and which President-elect Clinton is likely to support.

Levin and Clinton recently discussed the measure, which Levin drafted and introduced in the Senate last May. Several GOP lawmakers kept the bill from reaching the Senate floor after the Bush administration indicated no support for it.

Clinton "told me personally that he wants to get on with the lobbying reform," Levin told reporters at a briefing in his office yesterday. "We are optimistic that we're going to have presidential backlog."

Clinton, who took a high profile against lobbying abuses during his campaign, is expected to propose rules to curb lobbying by individuals who join his administration, including a possible ban on retired officials representing foreign clients after they leave government.

While several lawmakers and many lobbyists have welcomed the separate packages outlined by Levin and Clinton, a few lobbyists are openly critical of specific provisions. One that has attracted their sharp criticism is a Clinton proposal to eliminate tax deductions granted businesses for lobbying expenses, which allow corporations to write off tens of thousands of dollars.

Levin would expand registration and disclosure by individuals who lobby Congress and the executive branch by eliminating loopholes in existing laws. For instance,

under the 1938 Foreign Agents Registration Act (FARA), lawyers who lobby Congress on behalf of foreign clients are exempt from registering.

"The current laws are virtually useless," Levin said, and "as toothless as a Halloween pumpkin. We're going to change all that."

Levin's draft combines and updates the 1946 Lobby Regulation Act, some aspects of FARA and the Byrd amendment, which requires registration for some executive branch lobbying. He would abolish several loopholes in existing laws, including the so-called lawyers exemption and a stipulation that only those who spend most of their time lobbying lawmakers must register.

The bill would require registration by thousands of lobbyists who do not register now, Levin said, and require them to provide greater details on contacts with lawmakers and their aides. Civil penalties for noncompliance would include fines of as much as $10,000.

The general purpose, Levin said, is to allow greater public access to "who's getting paid how much to lobby on what issues. That's information the public has a right to know. That's the bottom line."

Clinton also has floated the idea of a five-year ban on officials who leave his administration lobbying the era of government they represented. He also has mentioned perhaps eliminating corporate tax deductions for lobbying expenses.

Lloyd Meeds, a spokesman for the American League of Lobbyists, a trade organization based here, favors Clinton's proposal for slowing the revolving door of officials out of government into the private sector. But Meeds said he and other lobbyists strongly disapprove of Clinton's proposal to eliminate deductions for lobbying.

"It places a fairly damp cloth on the exercise of a First Amendment right," he said, referring to a citizen's right to petition the government.

"I'm sure it would be universally disapproved," among lobbyists, said Meeds, a partner in the firm of Preston, Gates, Ellis & Rouvelas Meeds.

Another corporate lobbyist who said she was invited to join a Clinton transition team said she declined because of restrictions on her lobbying that would result. "I couldn't afford to be barred from earning a proper living for so long," she said, asking not to be named.

Widely supported by lobbyists during initial discussions, Levin's bill has drawn increased criticism behind the scenes since the election of Clinton boosted its prospects. At least two dozen lobbyists representing a wide variety of organizations testified in favor of it last summer during hearings by Levin's Governmental Affairs subcommittee on oversight of government management.

John Chwat, a lobbyist who runs a Capitol Hill firm, criticized several provisions, including an exemption from registering for those who lobby for Native Americans or for state or local governments. "They said that they want to eliminate loopholes, but they have created others," he said.

Chwat also objected to a stipulation that a lobbyist must register after contacting members of Congress and certain staff members. That's like the KGB," he said. "I don't like that at all."

[From the National Journal, Jan. 2, 1993]

LOBBYISTS ON THE LINE

(By Peter H. Stone)

Trade associations and law firms are mobilizing to battle two items on President-elect Clinton's political reform agenda—eliminating tax deductions for lobbying expenses and introducing tougher rules for disclosure of lobbying activity.

Lobbyists are especially alarmed about Clinton's proposal to eliminate the lobbying tax deduction. (He introduced the idea in Putting People First, his campaign policy blueprint.) Lobbying is now treated as a normal business expense and is 100 per cent tax deductible. The Congressional Budget Office has said that doing away with the deduction would cost American businesses $100 million a year.

Although Clinton hasn't spelled out the details of his proposal, several groups are promising a battle royal if he proceeds with the idea. "We'll be involved as would every other association in this city and country," William T. Archey, senior vice president for policy and congressional affairs at the U.S. Chamber of Commerce said.

For their part, Clinton's ethics advisers say that he means business. "We're putting together options for Gov. Clinton on lobbying reform," said Michael Waldman, deputy communications director for the transition. "He's made it clear that he considers political reform a top priority."

At least three coalitions are already being formed to fight for the lobbying tax deduction.

Late last month, the Washington law firm of Webster, Chamberlain & Bean assembled a coalition of nine trade groups and a corporation—none of which it would identify—to oppose any changes in lobbying tax laws. The firm has recruited Hugh McCahey, the manager of the Chamber of Commerce's association department for the past 30 years, to work full-time for the coalition.

Earlier in December, the Washington office of the Minneapolis-based law firm of O'Connor & Hannan sent a memo to about 60 trade associations and companies soliciting their interest in joining another coalition. "This effort was prompted by the fact that we had so many inquiries from so many sources." Michael Colopy, a partner in the Washington office, said "I think there will be some loose-knit O'Connor & Hannan coalition."

Colopy said that the O'Connor & Hannan group is likely to include domestic companies that are fearful of losing their competitive edge to foreign companies that may be able to write off their U.S. lobbying expenses.

The National Association of Manufacturers (NAM) and the American Society of Association Executives (ASAE) are also preparing to form a coalition to preserve the lobbying tax deduction, according to Bruce Hahn, a NAM vice president.

In mid-December the government affairs committee of the ASAE passed a resolution deploring any attempt to eliminate the deduction, saying that it could lead to a loss of membership, create accounting problems and chill free speech.

In addition, some of the same lobbyists are targeting a bill introduced last year by Sen. Carl Levin, D-Mich., that would substantially toughen existing lobbying laws. The bill, which was reported out of the Senate Governmental Affairs Committee last summer—and which Clinton has backed—broadens the definition of lobbying, strengthens enforcement mechanisms, simplifies reporting requirements and consolidates oversight of lobbying at the Office of Government Ethics. *(See NJ, 10/19/91, p. 2556.)*

Many lobbyists testified in favor of the bill last year, but several groups have been vocal in their opposition. What especially irk some lobbyists are provisions that would require the disclosure of executive branch lobbying. Now, lobbyists don't have to register unless they have direct contacts with Congress.

"Executive branch officials do not vote on legislative issues, and congressionally mandated disclosure would interfere with the free flow of information to the executive branch," the NAM membership and public affairs committee said in a resolution adopted at its December meeting that took strong exception to parts of the Levin bill.

The resolution also said that lobbyists should not be required to disclose anything about the preparation or distribution of materials informing individuals and groups about legislative or executive branch developments. "Such information, even when accompanied by calls for lobbying, is not actually lobbying, and only true lobbying contacts with Congress should be considered lobbying," the resolution said.

The ASAE has also voiced opposition to some aspects of the Levin bill, including efforts to restrict communications with executive branch employees.

Business groups aren't the only ones ready to jump into the fracas. Public interest lobby groups such as Common Cause are preparing to champion the Levin bill and the proposal to end lobbying tax deductions.

In fact, Common Cause plans to push for even tougher restrictions in some areas. For instance, Common Cause president Fred Wertheimer said, the lobbying disclosure bill should also require information about such matters as congressional travel and entertainment, and the activities of foundations that are subsidized by lobbyists.

"That's information that the public should have because it's a central way that lobbyists exert their influence," said Wertheimer. "We know there are a whole variety of ways that lobbyists provide financial help to Members."

Wertheimer also noted that money saved from the elimination of lobbying tax deductions could provide revenues for public financing of campaigns.

"It's a way of providing clean campaign resources without increasing tax liabilities or increasing the deficit or taking away from other programs," he said.

[From the Oakland Press, Jan. 3, 1993]

TIME TO CRACK DOWN ON SPECIAL INTEREST GROUPS?

YES

(By Senator Carl Levin)

With the election of a new president who is committed to political reform, we have our best chance in years to clean up one of Washington's oldest problems—the patchwork of loopholes and exceptions that currently pass for lobbying disclosure laws.

We hear again and again that the American people have lost confidence in their elected officials.

There is a widespread belief that government today is too susceptible to the influence of well-connected and well-heeled lobbyists.

In one recent poll more than 70 percent of Americans said they believe that our government is controlled by special interests rather than the public interest. Part of the "gridlock" so prevalent in Washington is attributed to special interests and their ability to block needed legislation.

These attitudes are intensified by the cloak of secrecy that covers lobbyists and their activities. Under current law, there is no disclosure when White House and other

executive branch officials are lobbied, no disclosure when congressional staffers are lobbied, and only sporadic disclosure of lobbying by lawyers.

The existing disclosure laws have been characterized by the Justice Department as "ineffective, inadequate and unenforceable"—which may explain why there doesn't appear to have been a single attempt to enforce them in the last 40 years.

As a result of loopholes and nonenforcement, the General Accounting Office recently found that barely a quarter of the 13,500 individuals and organizations listed in the book "Washington Representatives" were registered as lobbyists.

And even those who do register don't disclose much.

For example, a review of lobbying reports filed by 10 of Washington's biggest and best-known lobbying firms suggests that these firms disclosed less than 5 percent of their lobbying receipts.

We can change all of that. Last Congress, Sen. William Cohen, R-Maine, and I introduced a bill to replace the existing lobbying disclosure laws with a tough new law that could eliminate loopholes and require registration of all professional lobbyists, ensure the disclosure of meaningful information and establish an effective enforcement mechanism.

I intend to reintroduce this bill in the next Congress and press for its early enactment.

Effective public disclosure of lobbying activities under these provisions will help ensure awareness of the pressures that are brought to bear on government decisions. The law will inform the public of the vast array of lobbying efforts on all sides of an issue.

Lobbying plays a vital—and constitutionally protected—role in our democracy. Lobbyists provide important information to government officials from a wide spectrum of American interests, from senior citizens to Boy Scouts to environmentalists to labor groups and corporate America.

But that does not diminish the public's right to know who is being paid how much by whom to influence policy.

We must shed more light on the Washington scene. As former Supreme Court Justice Louis Brandeis once said, "Sunlight is the best of disinfectants."

(Sen. Levin is a Democrat from Michigan.)

WHAT DO YOU THINK?

Let us know how you feel: Is it time to crack down on lobbyists? Put your thoughts on paper and send them to Voice of the People, The Oakland Press, Box 436009, Pontiac 48343. Keep your comments to 150 words and include your name, town of residence and a daytime telephone number where you can be contracted to verify your letter.

NO

(By John Chwat)

Many lobbyists in Washington—lawyers, public relations executives, trade associations, unions, special interests—spend a lot of time filling out foreign and domestic registration and disclosure forms.

There are many more who ignore the forms.

All too often a majority of my colleagues simply fail to meet the disclosure requirements, which gets our profession in trouble with the media, Congress, and most recently, presidential candidates.

When I was a registered foreign agent, it seemed I was always filing reports required by the Foreign Agents Registration Act. My files in the Justice Disclosure Office were stacked high.

But I was the exception. I know, because reporters told me so.

Sen. Carl Levin, D-Mich., a leader on the Senate governmental Affairs Committee, has undertaken a three-year effort to pass lobbying disclosure legislation.

The bill has a commendable goal—"the disclosure of paid lobbyists to influence federal legislative or executive branch officials in the conduct of government actions."

However, as I read the bill in its present form, it would create an unnecessary bureaucracy called the Office of Lobbying Registration and Public Disclosure within the Justice Department.

The present law has domestic lobbyists file with the House clerk and Senate secretary. It has foreign lobbyists file with both the State Department and Justice.

I agree that foreign lobbyists' disclosures should not be lumped in with domestic interests—they have a national security aspect that domestic interests do not.

The bill also expands present law by requiring lobbyists to register if they make any contact with a staff member of Capitol Hill.

Most of my colleagues contact hundreds of staffers each month. It is believed that expanding the reach of present law to key staff in Congress and the government will create a "chilling" effect on these contacts. This is less disclosure than regulation—and that comes close to touching on First Amendment freedoms.

Many lobbyists believe that our present laws are not enforced that they need tightening and that the Levin bill begins to do that.

But Congress, the media and the new administration should remember one key point. Lobbying is America—its citizens, industries, businesses and causes.

It's as old as the Magna Carta and attempts by Congress to regulate it have been around for 100 years. Rather than making it more difficult to lobby, Congress should make it easier. After all, that's what democracy is about.

[From Business Week, Feb. 22, 1993]

FOR LOBBYISTS, THESE MAY BE THE GOOD OLD DAYS

While official Washington has worked itself into a tizzy over the nuances of Nannygate, Congress—of all places—is quietly getting down to work on a serious ethics issue. The Lobbying Disclosure Act of 1993 has received almost no attention. But it could dramatically affect the way business does business in the capital.

The proposal is the brainchild of a bipartisan group of House and Senate members led by Senator Carl Levin (D-Mich.). It has the blessing of the Clinton Administration and faces no organized opposition—yet.

But lobbyists are sure to launch a counterattack soon because the bill might actually accomplish something. It would require, for the first time, that all professional lobbyists register and identify their clients, the issues on which they have lobbied, and how much they were paid. It would extend coverage to efforts to influence the executive branch, now largely unregulated. And it would close loopholes that allow most representatives of foreign interests to avoid public identification.

Snake Show. The legislation tosses a few bones to lobbyists, too. It streamlines the current loophole-ridden requirements by reducing disclosure from four reports a year to two—but would require far more people to file. And it significantly reduces paperwork for companies employing multiple lobbyists.

The proposal, says its co-author, Representative John Bryant (D-Tex.), "will allow the public, perhaps for the first time in history, to understand how lobbying is done in the halls of Congress." It's about time. Congress has long turned a blind eye to lobbying abuses. There are enough influence-peddlers in the capital to populate a small city—13,000 of them are listed in a directory entitled Washington Representatives. But loopholes in 40-year-old laws allow three-quarters of them to avoid registering as lobbyists. "The current law is a farce," says veteran lobbyist Howard D. Marlowe. "There are so many holes in it that it looks like Swiss cheese."

The lobbying proposal solves political problems for a variety of players. Clinton can fulfill his promise of lobbying reform without spending any money. He can also throw a bone to Perotnistas by appearing to respond to Ross Perot's relentless campaign assault on special-interest water-carriers. And law-makers can cast a vote for change while skirting the bitter partisan warfare of campaign finance, a more controversial item on the reform agenda. "Nobody, Republican or Democrat, minds putting some pressure on the lobbyists these days," says Democratic consultant Brian Lunde.

No Names. The proposal is no cure-all. To make it more palatable to incumbents, the authors agreed not to require lobbyists to identify the individual lawmakers they lobbied. Instead, they would be required only to list the committees they sought to influence. Tax lawyers are worried that the bill's provisions would compromise their clients' business interests by forcing them to disclose certain communications with the IRS. And charitable groups and civil-liberties organizations fret that their behind-the-scenes discussions with lawmakers or federal agencies would be revealed. "We don't purport to hold this out as a perfect piece of legislation," concedes one co-sponsor, Senator William S. Cohen (R-Me.). "But we think it will make a marked improvement over what we have today."

Resourceful lobbyists will work behind the scenes to kill or dilute the bill, but they are resigned to some version of it becoming law in this year. Why the relative calm in Gucci Gulch? Says one veteran of the Washington political wars: "There is a basic belief that whatever ramparts are put up can be easily stormed. And who wants to be known as the person who killed lobbying reform?"—RICHARD S. DUNHAM.

LOBBYING: PANEL APPROVES REGISTRATION, DISCLOSURE REQUIREMENTS

(By Richard Sammon)

With President Clinton vowing to check the influence of lobbyists, a Senate committee approved legislation that would require thousands more lobbyists to register and disclose some details of their handiwork.

The Senate Governmental Affairs Committee approved the bill by voice vote Feb. 25. The legislation (S 349) aims to widen the scope of registration requirements for lobbyists and strengthen the enforcement of disclosure laws for those who lobby the federal government on behalf of a client.

But some groups argued that the measure does not go far enough in requiring disclosure.

Sponsored by panel member Carl Levin, D-Mich., the bill would replace existing statutes with a single, uniform rule requiring anyone lobbying the executive or legislative branch to register with a new Office of Lobbying Registration and Public Disclosure at the Justice Department.

Currently, only people involved primarily in lobbying members of Congress must register. There is no disclosure requirement for lobbying executive branch officials or congressional staff members. Lobbyists currently register at a variety of places, including the House, Senate, Justice Department and agency contracting offices.

S 349 seeks to streamline this process with the single office where all lobbyists would register and disclosure files would be maintained.

There are more than 8,000 registered lobbyists; bill supporters estimate that that number could triple or quadruple under the measure.

Levin characterized the measure as a "loophole-plugging bill." He said the bill would allow the public to know "who is being paid, how much and by who to lobby Congress and the executive branch for what."

Many of the loopholes that Levin was referring to date back to the Federal Regulation of Lobbying Act of 1946, which required all people hired for the principal purpose of lobbying Congress to register with the House or Senate. The act has long been considered largely ineffectual. For instance, it has no enforcement mechanism.

Its authority was diminished considerably after the Supreme Court in 1954 narrowly interpreted provisions so that almost anyone could minimize lobbying reporting or avoid registration altogether.

Vice President Al Gore joined Levin, Sen. William S. Cohen, R-Maine, and Rep. John Bryant, D-Texas, on Feb. 4 to announce introduction of the legislation and to underscore the president's commitment to signing the measure.

The bill is not new. A nearly identical measure sponsored by Levin was approved by the committee in 1992 but died on the Senate calendar.

Bryant, member of the House Judiciary Committee, introduced a companion bill (HR 823) that will be the subject of hearings in the Administrative Law and Governmental Relations Subcommittee in mid-March.

SOME WANT MORE DETAIL

At the Senate markup, Alaska Republican Ted Stevens said he was disappointed that the bill would not require lobbyists to disclose where they receive the majority of their funding.

Stevens said he is "constantly approached" by lobbyists from such groups as the Audubon Society or the Wilderness Society and is unable to determine "who is paying them."

Levin told Stevens that the issue of lobbyist funding would be better brought up in separate legislation.

The public interest organization Common Cause, which strongly supported the bill last year, opposed committee passage this year. Common Cause argued that the bill needed strengthening to require disclosure of gifts or financial benefits that lobbyists give to lawmakers or to members of their staffs.

Alliance for Justice, an umbrella organization representing national civil rights groups, also argued against committee approval of the measure, saying small nonprofit organizations would be burdened by the necessity to register. The bill would exempt all lobbyists who spend less than $1,000 on lobby-related activity in semi-annual reporting periods.

Nan Aron, executive director of the group, proposed raising the lobbying expense threshold from $1,000 to 20 percent of a total budget of an organization or company. But Levin said that would exempt companies such as General Motors Corp. and Exxon Corp., which he said do not come near to spending 20 percent of their budget on lobbying.

The New York Times called the bill "a giant hoax" in a Feb. 25 editorial, saying it does not require enough specific detail about lobbying activities.

One committee aide said registered lobbyists tend to support the measure, on the grounds that many of them have reported losing clients to lobbyists who do not register.

PROVISIONS

Other provisions of the measure would require lobbyists to:

Give a semiannual report to the Justice Department revealing the income received for lobbying on behalf of a client or, if lobbying for themselves, an estimate of the amount spent on lobbying activities.

List issues the lobbyist worked on and the federal agencies and congressional committees contacted and the amount of money spent.

Pay civil penalties as high as $100,000 for violations.

One difference from 1992's measure is a provision requiring the establishment of an online computer at the Justice Department to allow the public easy access to Federal Election commission data.

[From the Big Rapids (MI) Pioneer, Feb. 5, 1993]

LOBBY TACTICS GO UNCHECKED

(By Jim Drinkard)

WASHINGTON (AP).—A corporate lawyer seeks a lawmaker's help in a battle against a burdensome regulation. The head of an interest group talks strategy with a Senate aide over lunch. A direct-mail firm solicits hundreds of letters opposing a bill.

These are the typical chores of the modern Washington lobbyist. But under current law, none of them is classified as lobbying. The lawyer, the interest group director and the direct-mail company are all exempt from registering as lobbyist and reporting on their activities.

"There's considerable leeway in the current laws," added Robert O'Brien, spokesman for defense giant McDonnell Douglas. The company, which does nearly $9 billion a year in business with the government, currently has six staff members who deal with Congress—none of them registered as lobbyists.

"There are thousands that don't register," said John L. Zorack, a lobbyist for small businesses and author of a lobbying handbook.

This year, with the winds of reform blowing, Sen. Carl Levin hopes to change that. The Michigan Democrat on Thursday introduced a bill that would tighten government oversight of lobbying, at the same time consolidating a welter of current rules to make it easier for lobbyists to comply. A similar bill is being sponsored in the House by Rep. John Bryant, D-Texas.

"The public has a right to know who is being lobbied, by whom, and how much they are being paid," Levin said.

Vice President Al Gore appeared with the lawmakers at a Capitol Hill news conference to lend the Clinton administration's support. "We're committed to reforming the way our government does business," Gore said, standing alongside Sen. William Cohen, R-Maine, and Rep. George Gekas, R-Pa., who also are sponsoring the bill.

The proposed restrictions would broaden the definition of lobbying. Gone would be exemptions for lawyers, for lobbying congressional aides (as opposed to lobbying members of Congress themselves), or for lobbying executive branch officials. Indirect efforts to influence the government, such as ginning up floods of mail, would be included as well.

The proposal also would require that lobbyists disclose roughly how much they spend to influence policy-making. But lobbying reports would be filed twice a year, instead of quarterly as under current law. And lobbyists would be required to report only which agency or committee they contact, not the names of individuals.

After government, lobbying is Washington's largest industry. Estimates of those involved in pressuring policy-makers run as high as 80,000. Yet just 7,381 people are registered under the widely ignored 1946 law that regulates the domestic influence business. Another 800 companies are registered with the Justice Department under another law as lobbying agents for foreign nations and companies.

During last year's campaign, Clinton outlined curbs on lobbyists that sound much like the bill introduced Thursday.

[From the Grand Rapids Press, Feb. 7, 1933]

LEVIN TAKES AIM AT HOLES IN LOBBY LAW

WASHINGTON.—Superlobbyist Robert Strauss scored a major coup two years ago when he helped engineer the $6.6 billion sale of MCA Corp. to the Japanese industrial giant Matsushita.

But despite his high-profile role, Strauss never registered as a lobbyist for the foreign firm under the Foreign Agents Registration Act, according to Senate investigators, who say such gaps in lobbyist regulation are common.

"The holes are bigger than the cheese," said Sen. Carl Levin, D-Mich., who launched an effort Thursday to require greater disclosure of Washington lobbyists' activities. "The public has a right to know who is being lobbied, by whom, and how much they are being paid."

Senate files are full of examples. Lobbyists for foreign automakers worked to keep tariffs on imported minivans but claimed exemption from registering as foreign agents. And a lawyer for Colombia's Cali drug cartel worked against changes in extradition treaties but failed to register.

"The entire system is a horror story," said Ellen Miller, who heads the Center for Responsive Politics, which attempts to shed light on the connections between money and politics.

"There are thousands that don't register," said John L. Zorack, a lobbyist for small businesses.

Since the basic lobbying statute was passed in 1946, numerous attempts have been made to close its many loopholes. But there has been little success, often because lobbyists apply their skills to heading off the changes.

"But this year may be different," Levin said. Voters are more convinced than ever that Washington is in the hands of special interests, and President Clinton is lending his direct support to lobbying reform.

Vice President Al Gore appeared with Levin and other sponsors of the reform bill at a Capitol Hill news conference. "We're committed to reforming the way our government does business," Gore said, standing alongside Sen. William Cohen, R-Maine, and Reps. John Bryant, D-Texas, and George Gekas, R-Pa.

The proposed new restrictions would broaden the definition of lobbying to better reflect current reality. Gone would be exemptions for lawyers, for lobbying congressional aides (as opposed by lobbying Members of Congress themselves), or for lobbying executive branch officials.

The proposal also would require for the first time that lobbyists disclose roughly how much they spend to influence policy-making. But in what some regard as a weakness, lobbying reports would be filed just twice a year, instead of quarterly as under current law.

And lobbyists would be required to report only which agency or committee they contact, not the names of individuals.

After government, lobbying is Washington's largest industry. Estimates of those directly or indirectly involved in persuading, pressuring and cajoling policy-makers run as high as 80,000.

Yet just 7,381 people are currently registered under the widely ignored 1946 law.

[From the Flint (MI) Journal, Feb. 15, 1993]

LOBBYISTS FIND ATTENTION UNWELCOME

(By Tom Baden)

WASHINGTON.—Politicians have discovered that there is a group of folks less popular than themselves. Not car salesmen. Not lawyers. Not even journalists.

Lobbyists.

At a time when breaking government gridlock and fumigating the corridors of power are the avowed goals of every politician, shooting at what H. Ross Perot derides as the alligator-shoe crowd has become this season's easiest Washington sport.

Too easy, lobbyists complain.

The latest example comes in the debate over congressional campaign finance reform.

Reformers know that the idea of asking taxpayers to pay for elections is not popular. To sweeten the deal they propose wiping out the tax deduction that businesses take for lobbying. That would pay half the estimated costs of publicly financed elections by raising $100 million, the reformers say.

"Instead of using the funds to subsidize lobbying, we would be using them to help clean up our political system," said Fred Wertheimer, president of Common Cause, the citizens lobby.

That is not the only area in which lobbyists are under fire.

Sen. Carl Levin, D-Mich., and several other lawmakers have renewed their drive to tighten lobbying disclosure rules that are widely regarded as a joke on Capitol Hill.

Levin said he is not trying to stamp out lobbying—only to subject it to the light of scrutiny.

"There is a widespread belief that government today is too susceptible to the influence of well-connected and well-heeled lobbyists," he said.

The objects of all this attention believe that they have gotten a bum rap. Lobbyists say that they are unfairly maligned and misunderstood, that they play a legitimate role in the process of devising legislation, interpreting federal rules and parceling out government money to worthy recipients.

"We're not fat guys with cigars, stuffing money into the pockets of legislators," said Steve Stockmeyer, a Republican lobbyist who heads the National Association of Business Political Action Committees. "The average everyday lobbyist is doing grunt work in this town."

Lobbyists operate under a hodgepodge of laws and rules. Some are clearly outdated and all are laced with loopholes.

Corporate lawyers who advise clients on legislation can avoid registering as lobbyists—so can those who lobby only congressional aides, or those who claim that lobbying is only a fraction of their job.

Although there are estimates the number of Washington lobbyists exceeds 50,000, the House Records and Registration Office reports that only 6,990 lobbyists are currently registered.

Their real problem, lobbyists say, is simple: They have a lousy image.

One Ohio woman was asked her views about lobbyists.

"It's just like when you buy a house and all of a sudden you find out there's cockroaches in it," the woman said. "They just remind me of those little scampering things."

The derision is unfair, agreed a somewhat unlikely ally—Linda Gustitis, staff director of the Senate government affairs subcommittee that drafted proposals for tightening lobbying disclosure.

"Every person, in some way, shape or form, has a lobbyist representing their interests," Gustitis said.

LIKE PRESIDENT, LEVIN LOBBIES FOR CHANGE

(By Laura Parker)

WASHINGTON.—President Clinton's pledge to rein in lobbyists is just what Sen. Carl Levin wanted to help him in his own campaign to corral Washington's special interests.

"It's big boost," Levin said, and Detroit's Democratic senator promised to run with it.

Levin is pushing legislation that would require lobbyists to register and disclose all lobbying activity. A companion, bill is making its way through the House.

"The holes are bigger than the cheese," Levin said of existing lobbying laws. "The bottom line is, we will finally know who is being paid how much by whom to influence public policy."

Levin introduced similar legislation a year ago, but the Senate adjourned without voting on it. He unveiled his bill again this year with Vice-President Al Gore at his side. Clinton weighed in during his Wednesday night address to Congress, calling lobbying reform "sure paths to increased popularity" for politicians.

Public interest groups have urged Congress to overhaul lobbying laws, which were written in 1946 and have since been watered down.

No one knows how many lobbyists work in Washington. Most are not registered because of loopholes. A Wall Street Journal survey last year identified 80,000 lobbyists—but only 5,935 were registered as congressional lobbyists, 785 as foreign agents and 160 as executive branch lobbyists.

Levin's office cites the book Washington Representatives, which lists 13,500 lobbyists, with 8,500 registered.

It gets worse:

Levin's staff tried to figure out how many lobbyists were involved in the effort to reclassify imported foreign mini-vans as trucks. Levin's staff identified 48 people but only six were registered as foreign lobbyists.

Defense contractors are required to privately disclose lobbying to the Pentagon in reports. Levin's staff discovered that the six largest defense contractors told the Pentagon they spent $8 million on lobbying in 1989. But according to the public lobbying reports to Congress, the same six firms reported spending $400,000.

"If you want a good example of now lousy the current law is, go up to the Hill and look up the disclosure records and chances are, you'll find nothing at all," said Nancy Watzman, a spokeswoman for Public Citizen, a congressional watchdog group organized by Ralph Nader.

"The lobbyists are able to narrowly define the term 'lobbying.' They only count the time they spend talking to members. They don't count the time they spend working on briefing papers or talking to staff."

Levin's bill would broaden the definition of lobbying to more accurately capture the real lobbying that occurs daily in Washington. Lobbyists would be required to disclose all activity, regardless of whether they are talking to congressional staff or members of the executive branch.

All people lobbying would be required to disclose how much they spend to influence decision-making.

"There has been a lot of talk about special interests and their role in messing things up on Capitol Hill" Watzman said.

"But it's hard to get a handle on that if you don't know who is doing what to whom. This bill will open a window to the public on who's screwing around with legislation."

[From Roll Call, Feb. 22, 1993]

LOBBY DISCLOSURE BILL READY TO PASS

(By Tim Curran)

President Clinton spotlighted two anti-lobbying measures in his speech to Congress last week, supporting a bill that requires more disclosure by lobbyists and an end to corporate tax deductions for lobbying expenses.

But only the disclosure bill, sponsored by Sen. Carl Levin (D-Mich) and Rep. John Bryant (D-Texas), is currently headed for easy passage on the Hill, with promises of early action in both houses.

A third lobbying-related measure Clinton did not mention Wednesday is a bill introduced by Sen. David Boren (D-Okla) that would impose restrictions on Members and top staffers similar to those Clinton himself has implemented for top Administration officials.

Under the bill, which Boren said he drafted at Clinton's urging, Members would be barred for five years from lobbying any committee on which they served and would face a two-year ban on lobbying any other Member or staffer.

Staffers earning above $108,200 would face a five-year ban on lobbying their former Member, office, or committee, and a two-year ban on lobbying any Member or staffer. All former Members and top staffers would also be subject to a lifetime ban on lobbying as a foreign agent.

There is widespread agreement on the Hill and among lobbyists that Levin's bill, which would create a "clearinghouse" for lobbying reporting and regulation under the Justice Department, will be the easiest of the three lobbying measures to pass.

It was passed out of the Governmental Affairs Committee in the 102nd Congress but failed to win passage from the full Senate, and a similar measure never progressed in the House. But House action appears certain this year, with Bryant, the new chairman of the House Judiciary subcommittee on administrative law, spearheading the issue.

Levin's subcommittee expects to take the bill designated S. 349, straight to markup next month, and it is being co-sponsored by the Government Operations chairman, Sen. John Glenn (D-Ohio); its ranking member, Sen. William Roth (R-Del); and the ranking member on Levin's subcommittee, Sen. Bill Cohen (R-Maine).

Bryant, Rep. Dan Glickman (D-Kan), and Rep. George Gekas (R-Pa), the ranking member on the administrative law subcommittee, are all House sponsors. Bryant's panel is expected to hold hearings on the measure in mid-March.

The bill would shift responsibility for lobbying and foreign agent registration to a new Justice Department office which would also be in charge of enforcing the bill's provisions, create a universal disclosure form, and require twice-a-year disclosure of expenses and activities by lobbyists. Levin says the bill would broaden registration of professional lobbyists, only a fraction of whom he says currently comply with reporting requirements, and improve enforcement and disclosure.

Under current law, registered lobbyists must disclose their activities quarterly, and foreign agents must report to Justice semiannually.

While the disclosure laws are an easy target of those who want to restrict lobbyists, the repeal of the lobbying deduction presents a more daunting task.

Such a reform would have to be handled through the Senate Finance and House Ways and Means Committees as an amendment to the tax code, and the lobbying community is preparing to dig its collective heels in on this one.

The as-yet-unintroduced legislation Clinton requested last week first surfaced in his campaign literature. Some Congressional Democrats have also raised the idea, looking for a way to pay for publicly financed incentives in campaign finance reform legislation Congress passed last year but which was vetoed by President Bush.

Repealing the tax benefit could mean corporations would no longer be able to deduct costs ranging from travel expenses advocacy advertising, and lobbyist salaries, and would mark a potentially major change in the way businesses mount their lobbying campaigns.

The White House has not yet clarified whether the funds collected by repealing the exemption would be designated to help finance Congressional campaigns.

Some opponents argue that removing the exemption may be unconstitutional, since it would limit the ability of constituents to petition Congress and seek redress of grievances.

"My own opinion is that I feel it's a bad idea from a policy point of view," said Howard Marlowe, a former president of the American League of Lobbyists. "I think that if government is regulating business, business has every right to expend funds" to have an effect on that regulation.

Marlowe said advocates of repealing the tax break may find it more difficult than they believe. "I think it's been very effective political rhetoric. It sounds good, but it will work to the detriment of having people be involved in government," Marlowe said.

He also contended such a move would hurt small corporations and interest groups more than big ones who can afford to pay lobbying expenses regardless of the tax considerations. "They know the value of being here, and they've determined that the cost was worth it."

Ropes & Gray attorney Thomas Sussman, editor of The Lobbying Manual (American Bar Association), noted that such legislation could create a "non-level playing field" between corporations and non-profit public interest lobbies that are tax exempt.

Meanwhile, another controversy is brewing over Boren's bill.

The five-year lobbying ban has been referred to Levin's subcommittee, where a hearing for that bill and a similar piece of legislation introduced by Sen. Dennis DeConcini (D-Ariz) is scheduled for March 5. Only four Senators—two of them freshmen—have so far signed on as co-sponsors.

The current "revolving door" legislation, passed as part of the 1989 ethics and pay reform package, is similar to Boren's but provides only a one-year ban. That legislation has been widely criticized as unenforceable, and following the last two elections, former Members have continued to stream into lobbying positions.

Marlowe said it "would improve public confidence in government and attract people who are not looking for assurance of a six-figure income. I do have concerns about whether five years is too long."

Sussman was less optimistic about Boren's bill.

"I think that may be the toughest of them all," to pass, he said, arguing that the potential for term limits may make Members reluctant to close off their options. He argued that it could lead to Congress being dominated more and more by wealthy individuals.

Sussman said Boren's legislation could "chill the call to public service if the price to be paid is too high."

[From the Detroit Free Press, Feb. 27, 1993]

POLITICAL REFORM—LAX LAWS MAKE MONEY THE ROOT OF CONGRESS' EVILS

Given the urgent decisions confronting Congress on the economy and health care, President Bill Clinton's call for political reform might seem a peripheral, inside-the-Beltway concern.

In fact, Congress' willingness—or continued refusal—to enact prompt, tough new controls on campaign finance and Washington lobbying will greatly determine the outcome of Mr. Clinton's economic and health-care plans, and most other critical issues on Capitol Hill.

Already, Washington special interests (and the congressional apologists who pocket their generous campaign contributions) are lining up to oppose the president's recommendations for tax increases and spending cuts; their idea of a "fair" package seems to be one that hurts everybody else.

Political action committees (PACs) representing the health care and insurance industries are among the most lavish donors to powerful incumbents in Congress. Their investment in preserving the status quo largely explains why we spend more than $700 billion a year on a system that has left 36 million Americans without any health insurance.

The essential elements of true campaign finance reform have been known for years: Limit spending, now absurdly inflated on congressional campaigns. Limit the amounts PACs and individuals can give to congressional candidates, and the amount of PAC donations a candidate can take.

Ban "soft money" special-interest donations to political parties that evade current restrictions on candidate contributions. Curb lobbyists practice of delivering "bundled" individual contributions to lawmakers at crucial stages of the legislative process.

Provide public financing of congressional as well as presidential races; pay for that by repealing the federal tax deduction for corporate lobbying expenses. Make other public resources—such as free or low-cost TY time and campaign postage—more available to challengers.

Eliminate or limit incumbents' use of the franking privilege, which allows them to send out political mass mailings at taxpayer expense. (While they're at it, members of Congress also need to toughen the rules that govern their acceptance of gifts, meals and travel from special interests.) Make these reforms effective for next year's congressional elections, to slow down politicians' perpetual money chase now.

Mr. Clinton, unlike his predecessor, has expressed eagerness to sign a real, not cosmetic, campaign finance reform bill. He can't do that until Congress sends him one.

Congress also should quickly enact a bipartisan measure sponsored by Sen. Carl Levin, D-Mich., and supported by the administration, that would require lobbyists to disclose publicly more of what they do—and how much they spend to do it—on Capital Hill and at the White House. Fewer than 6,000 of Washington's estimated 80,000 lobbyists now are registered.

The bill would remove loopholes and exemptions that make the current patchwork regulating lobbyist registration and activity effectively unenforceable. Violators could be fined as much as $100,000.

Instead of assailing Sen. Levin's bill for what it does not intend to do, its critics should support it for what it would do: create a solid floor for giving citizens more information about special-interest influence on government, without compromising lobbyists' First Amendment rights. A separate bill, which also deserves passage, would limit ex-lawmakers and staffers in lobbying their former colleagues.

For too long, big-money politics has distorted federal priorities; voters' belief that government doesn't work for them helped create a demand for change last November. If lawmakers of both parties truly are more concerned with representing the people who put them in office than the special interests who pay to keep them there, they'll stop talking about cleaning up their corrupt processes and do it.

[From the Detroit Legal News, Mar. 5, 1993]

LEVIN WANTS TIGHTER LEASH ON LAWYER LOBBYISTS

(By Charles Roberts, Los Angeles Daily Journal)

Washington.—A Senate committee voted unanimously last week to require lawyers who lobby to register as lobbyists, and to expand lobbyist disclosure rules to cover contacts with the executive branch as well as Congress.

"The current laws are useless and toothless," Sen. Carl Levin, D-Mich., told the Senate Government Affairs Committee before the vote. "There are massive loopholes."

Levin's bill, S349, plugs many of these "loopholes" and beefs up the enforcement side as well.

"The aim is to get those who lobby to disclose who paid them, and how much to lobby whom for what," Levin said.

Public-interest advocacy groups, however, are sharply divided over the bill. The criticism from corporate and other lobbyists has been much more muted. They have expressed more concern over campaign finance reform and the proposed loss of the business tax deduction for the cost of hiring lobbyists.

On the one hand, Common Cause, the self-styled good government lobby, charged the bill "fails to require basic disclosure about the way lobbyists do business in Washington and should not be passed by the Senate in its current form."

Fred Wertheimer, president of Common Cause, wrote Levin: "It is essential for registered lobbyists and lobbying organizations to publicly itemize on a member-by-member

basis the various financial favors and benefits provided to members of Congress and their staffs."

Responding to complaints, Levin noted his bill deals only with registration. Other bills awaiting congressional action address gifts to lawmakers and campaign donations. "This bill is just one step," he said.

On the other hand, the liberal Alliance for Justice argued the bill goes too far in some respects and poses a threat to the First Amendment rights of nonprofit organizations.

Nan Aron, the Alliance's executive director, wrote Levin that placing the registration unit in the Justice Department "gives rise to very serious concerns," because the department has access to the resources of the FBI.

"While the act itself contains no explicit criminal penalties for violating its provisions, there are numerous provisions of the U.S. Criminal Code, including RICO and civil conspiracy provisions, which could be brought to bear by aggressive prosecutors," she wrote.

"The act contemplates that the new agency may share information which it receives with other divisions within the department," Aron added, "an especially pernicious practice if it is the department's own actions or policies that are the subject of an organization's lobbying activities."

Lawmakers showed no interest in Aron's concern at last week's markup.

The bill would require registration of anyone who is paid $1,000 or more to contact and persuade members of Congress and their staff, and policymakers in the executive branch. A new office at the Justice Department would record the registration.

Under existing law, lawyer-lobbyists are exempt from registration. This exemption would be repealed, making lawyers subject to all reporting rules.

Although the bill also would expand the coverage to lobbying on nonlegislative matters, it would not apply to participation in judicial, law enforcement or agency adjudicatory proceedings, the filing of written comments in rule-making proceedings, and routine negotiations of contracts, grants, loans and other forms of federal assistance.

The bill would replace the Foreign Agent Registration Act of 1938, which requires those who lobby on behalf of foreign companies, and governments to register; the Lobbying Regulation Act of 1946, which requires fulltime lobbyists to provide information about their activities, and the 1989 Byrd Amendment, which requires registration by companies that hire people to lobby on behalf of the executive branch.

Semiannual reports of revenues and expenditures would be required, along with the client's name, a list of specific issues or bill worked on, the panels or agencies lobbied, and a description of the interest in the issue if the client is a foreign entity.

Failure to comply with the new rules, which would be promulgated by the Justice Department, would carry a civil penalty of up to $10,000. Such action would be subject to judicial review, however, and a person who prevailed on appeal could seek to recover attorney fees and costs.

Sen. Ted Stevens, R-Alaska, voiced the only criticism of the bill on the committee. Stevens charged the measure would require more disclosure from business interests, such as the names and financial support of firms to coalitions, while allowing groups such as the Wilderness Foundation to shield the names of its members.

"All I want is a level playing field," he said.

Levin replied that "there is a constitutional problem if we try to reach their contributors." He added that the bill "goes as far as we can."

The bill, which has bipartisan support and the backing of President Clinton, now goes to the full Senate.

An identical bill, HR823 by Rep. John Bryant, D-Texas, is scheduled for a House Judiciary Subcommittee hearing in mid-March.

Meanwhile, a collision over the definition of lobbying is developing between the taxwriting panel and those lawmakers seeking to revamp the lobbying laws.

The Senate Finance Committee is using the Internal Revenue Service's definition of lobbying in dealing with the tax deduction, while Levin's bill uses the more expansive concept.

[From the Muskegon Chronicle, Mar. 8, 1993]

LEVIN'S LEGISLATION ZEROES IN ON LOBBYISTS

(By Lisa Zagaroli)

Lawmakers promised "reform" on the campaign trail, and a number of them haven't forgotten now that they are back on Capitol Hill.

Some of Michigan's members are actively pursuing changes in the way Washington does business. The most visible lately has been Sen. Carl Levin, D-Mich., whose lobbying package has been endorsed in concept by President Bill Clinton and Vice President Al Gore. It was approved unanimously last month by the Senate Governmental Affairs Committee and will be taken up by the full Senate between April and August.

Levin sums up the package this way: "The public has a right to know who is lobbying whom on what issues for how much money."

If his legislation becomes law, for the first time registration would be required by anyone who is paid to lobby top executive-branch officials and congressional staff.

The lobbyists would have to file reports twice a year. The reports must include such details as which issues the lobbyists are working on, which congressional committees or executive agencies are contacted and the amount of money, in broad terms, that is spent on the lobbying activity.

Critics say the reports also should include the names of individuals who are lobbied, not just the agency or the committee that is contacted.

While there are believed to be about 80,000 lobbyists in Washington, only about 7,300 are registered as ordered under the 1946 law, which has a number of exemptions.

Levin said his bill would remove what he considered one of the most egregious exemptions, the one for lawyers. It also would get rid of exceptions for lobbying congressional aides and for lobbying executive branch officials.

To tighten government oversight, his package would pull together a number of rules now spread out through government.

Levin also wants to ban all but nominal gifts to lawmakers from anyone; going a step further than those who just think the gifts should be reported publicly.

"It creates an appearance that Congress can be bought and we've got to get rid of that appearance," the senator said Thursday during a call-in program on C-SPAN.

Levin emphasized that he wasn't trying to curb the right of citizens to lobby their lawmakers directly. He just wanted details on the activities of people who were paid to do it.

Campaign finance reform was also being pushed by Levin and other Michigan lawmakers.

Rep. Bob Carr, D-East Lansing, has signed on to a constitutional amendment overturning a Supreme Court decision that prohibits mandatory limits on campaign spending.

"It's time to even the playing field so that you don't have to be a millionaire to run for office," said Carr, who has had to run against several wealthy people to retain his seat in Congress.

"I know from experience we need to change the way we do business. Money shouldn't decide the outcome of our elections, people should."

He said he opposed publicly subsidized campaigns, however.

Rep. Fred Upton, R-St. Joseph, is serving on a Republican leadership task force on campaign reform. He has introduced legislation to reduce the influence of political action committees and increase the role of individual contributions.

[From the Herold-Palladium, Mar. 10, 1993]

LOBBYISTS SHOULD WORK IN THE OPEN

There are so many horrendous problems with the way our federal government conducts its business that people outside the Beltway can only shake their heads in disgust.

Our elected officials commonly pursue narrow regional interests, even when those interests will be of enormous detriment to the rest of the country. The scope of waste and mismanagement in federal bureaucracies is epic in scale.

Yet of all the problems in our nation's capital, none seems so outrageous as the way that lobbyists influence our members of Congress and appointed officials.

H. Ross Perot was certainly right about the magnitude and seriousness of the problem with lobbyists. These people may and often do represent narrow special interests, greedy businesses, and even foreign governments whose interests may be very inimical to our own.

They operate in relative anonymity and secrecy, largely exempt from public disclosure and the public spotlight. And yet it is universally acknowledged that lobbyists exert an enormous influence on our politicians.

A recent Associated Press story said some 7,300 lobbyists are registered in Washington, but it is believed there are actually about 80,000 in town. They were able to escape the need to register through yet more loopholes in the laws.

That is roughly 150 lobbyists to every single elected politician. That is a lot of people baying at the heels and dangling money and favors in front of our leaders.

The result is that our elected politicians, and many appointed ones, are pulled every which way but the right one. No wonder we've run into debt problems—our politicians are paying more attention to the lobbyists than to the people who elected them.

It's been a problem throughout history. The French have a fine phrase, "eminence grise," which refers to someone who wields great power and influence, but does so secretly.

U.S. Sen. Carl Levin, D-Mich., is offering a solution to this age-old problem. If his legislation becomes law, registration would be required by anyone who is paid to lobby our leaders. They would have to file reports twice a year including such details as what issues they are working on, which officials they contacted, and how much they spent.

This is such a sensible idea we have to wonder why it wasn't enacted long ago. It won't stop lobbyists from doing their work, nor should it. But it will let us know by

whom our elected politicians are being influenced.

Meanwhile, Rep. Fred Upton, R-St. Joseph, is serving on a Republican leadership task force on campaign reform. He has introduced legislation to reduce the influence of political action committees. PACs employ many of Washington's lobbyists and contribute heavily to political campaigns in what amounts in too many cases to outright influence buying.

Levin and Upton's bills would go a long way toward making our leaders accountable for their actions, and accountability is one of the foundations of a representative democracy. Without it, our system of government, and hence our nation, may not survive.

[From the Saginaw (MI) News, Mar. 26, 1993]

BILL TO SHAPE UP LOBBYISTS IMPERILED—BY LOBBYISTS

(By Mike Magner)

WASHINGTON.—The capital of closed-door meetings and back-room politics has turned upside down over the issue of forcing lobbyists to operate in the open.

After years of resistance, most lobbyists on Capitol Hill now support a bill sponsored by Michigan Democrat U.S. Sen. Carl Levin that would require them to disclose who they work for, who they meet with and how much they are paid.

But a powerful citizen lobby and scores of non-profit groups have suddenly turned against Levin's 2-year-old effort to reform Washington's toothless and widely flouted lobbying laws.

The objections threaten to stall a lobbying-reform drive that gained momentum last year each time then-presidential candidates Bill Clinton and Ross Perot railed against the influence of special-interest groups.

One of the leading objectors is the prominent public-watching group Common Cause, which switched positions last month and attacked Levin's bill as too weak. The group said it won't back the legislation unless it also requires lobbyists to disclose gifts made to federal lawmakers, such as free meals and trips.

"It was a surprise," Levin said. "They were very supportive last year; this year they want more. It could derail a significant reform."

Levin argues that gifts to lawmakers should be banned altogether, rather than just disclosed. But, he said, that's a battle that should be waged separately, after a lobbying-disclosure law is passed.

Meanwhile, non-profit groups ranging from the massive National Wildlife Federation to the smaller Arts Action Alliance of Michigan seem to be getting cold feet over the prospect of having to report on their lobbying activities.

Those groups have flooded Levin's office with letters and phone calls, objecting to paperwork burdens and government intrusions they would face under a new lobbying law.

"It will place a number of obstacles in the way of citizen participation," said Nan Aron, executive director of Alliance for Justice, a coalition of public-interest groups opposing Levin's bill.

Non-profits already file lobbying reports at the Internal Revenue Service, so Levin's bill would be duplicative, Aron said. There also are concerns about submitting reports to the U.S. Department of Justice, which the bill would also require.

"My fear is organizations, facing an increased amount of paperwork and the prospect of the Justice Department scrutinizing their activities, might well conclude it's not worth participating," Aron said.

Levin's bill, which would require anyone who earns more than $1,000 for lobbying in six months to file semi-annual reports on their activities, was approved by the Senate Governmental Affairs Committee in February and could go before the Senate in April or May.

Levin believes the legislation has a good chance to pass in its current form because it has the support of most lobbyists.

Lloyd Meeds, spokesman for the American League of Lobbyists, which represents 450 Washington lobbyists and lobbying firms, is among them. "We have some suggested changes we'd make, but not the kind of things we'd fall on our sword about," he said.

LEVIN'S LOBBYING BILL

If U.S. Senator Carl Levin get his way, it won't be business as usual on Capitol Hill. The Michigan lawmaker recently introduced a bill the would reform the current lobbying disclosure laws. Practically everyone knows that the 1946 law is a legislative farce.

Levin's controversial measure has Washington's second largest industry—influence peddling—deeply concerned. There are an estimated 80,000 persons working directly or indirectly to lobby Congress and the executive branch. However, only about 7,300 are registered as professional lobbyists.

Levin's proposal would for the first time require more lobbyists to register, make them identify their clients and issues of concern, and disclose how much they were paid. It would also mandate disclosure of lobbying with the executive branch, and close a number of current loopholes for domestic and foreign lobbyists. What the bill won't do, is force them to report which individuals were lobbied and exactly how the money was spent. We believe the "how" can be as important as the "how much." Did the legislators get trips, meals, tickets, gifts, or all of the above?

Remember that the American voters have already spoken: they want reform—real reform. Senator Levin's bill is by no means a cure-all. It is however, a drastic improvement over the current lobbying disclosure laws. Or to put it another way, for a change, someone in Washington is taking a crucial step in the right direction!

[From Roll Call, Apr. 19, 1993]

GIFTS AND LOBBYISTS

Rep. John Bryant (D-Texas) has introduced a bill that would prohibit Members of Congress from receiving a gift of any sort (including meals) that's worth more than $50. Right now, the rule is that no single source may give a Member gifts worth a total of more than $250 a year, and gifts of $100 or less don't count toward that total. The current rule seems perfectly reasonable to us—though we wouldn't be all that upset about the $50 limit. What does upset us is that Common Cause is so adamant about getting the gift rules changed that it's doing its best to hold up a far more important bill, introduced by Bryant and Sen. Carl Levin (D-Mich), that would force lobbyists to disclose their overall expenditures and the issues they lobbied on.

Current lobbying-disclosure rules are a joke, and the Bryant-Levin bill goes a long way toward fixing them. The rules really haven't changed since 1946; they're rife with loopholes, and enforcement is practically non-existent. Practically everyone, including the lobbyists themselves, sees the need to change. But Common Cause is burned up because there are no gift-disclosure provisions in the lobby bill. Again, we don't oppose such required revelations (sunlight being the best disinfectant, etc., etc.), but the group's pique over such a minor matter should not prevent a major one from being resolved immediately.

Mr. COHEN. Madam President, the level of cynicism and disillusionment of the American public about the performance of Government and the integrity of public officials has reached historic heights. What helps to fuel these feelings of outrage is the public's sense that the system is not serving the public good, but is instead being manipulated by special interests to serve their own ends.

Neither the public, nor the media, nor anyone else has any way of knowing whether these special interests are indeed influencing Federal executive and legislative branch officials in the conduct of Government business. The reason for this is that existing Federal lobbying disclosure laws fail to provide useful or accurate information on who is being lobbied, on behalf of whom, and on what issues.

Despite the negative connotations associated with special interests and lobbying, it is important to point out that these special interests are mainly coalitions of citizens who share a common concern—senior citizens who want to promote health care reform, the disabled who work for enactment of laws like the Americans With Disabilities Act to guarantee them the right to fully participate in all aspects of society, or business owners who seek fair trade laws so that they can compete in the global marketplace. Lobbying is simply the avenue by which citizens exercise their constitutional right to freely express their opinions to Government officials.

While we cannot and should not seek to fetter a citizen's right to lobby, the American public does have a right to know about the activities of lobbyists who are being paid to influence Government policies and actions. Effective lobbying disclosure laws serve to increase the public's confidence in how the Government functions, to ensure accountability on the part of both Federal officials and those who lobby them, and to deter improper activities.

There is widespread agreement that the existing Federal laws which govern lobbying are not serving the intended purpose of ensuring full public disclosure of lobbying activities. As the series of hearings held by the Senate Subcommittee on Oversight of Government Management revealed, the current system is riddled with loopholes, unnecessary and burdensome requirements, and there is little or no enforcement. As one of the subcommittee's witnesses observed, "present laws are being, if anything, observed in the breach."

Under the current system, little relevant or practical information is being

disclosed. The statutes are unclear and confusing, duplicative, and burdensome, and require the disclosure of the wrong kinds of information. The failure of these laws to ensure public disclosure of appropriate and useful information about lobbying activities only serves to further undermine the public's confidence in Government.

The fundamental problem is that there is no agreement on who is required to register, what types of activities are covered, or what information must be disclosed. Many of the individuals who engage in lobbying are not registering—at least in some cases because they sincerely believe they are not required to—and those who do register are too often disclosing information that is of little use in making any determination as to actual lobbying activities or costs.

This situation subverts the public's confidence in Government and in their elected officials. The depth of the public's concerns in this regard was made clear during the Presidential campaign last year. When H. Ross Perot decried the influence of special interests and high-priced lobbyists in Washington, he was articulating the outrage of many Americans who fear that high-paid hired guns are gaining access to Federal officials in an attempt to improperly influence the decisionmaking process. What the public wants to know is "who is doing what on behalf of whom and for how much?"

The Lobbying Disclosure Act of 1993, legislation which I was proud to join Senator LEVIN in introducing, will help send the message that we really are serious about changing the way Washington does business. The bill is designed to remedy the serious flaws in the current Federal lobbying disclosure laws. The three major goals of the legislation are to bring uniformity, simplicity, and clarity to a system which can only be characterized as chaotic and counterproductive and, in my view, inimical to our system of Government.

The legislation is a comprehensive approach to reform which, when enacted, will be a significant improvement over the current situation. The bill would replace existing laws with a single, uniform statute and ensure that all professional lobbyists are registered. It would streamline the disclosure requirements to ensure meaningful disclosure to the public and to eliminate burdensome requirements on those who must register. It would also establish a new, more effective system for the administration and enforcement of these requirements.

Let me emphasize that the importance of ensuring effective public disclosure of lobbying activities cannot be understated. The public's suspicions concerning what is happening behind the closed doors of Government offices can be significantly reduced or eliminated when there is adequate disclosure of these activities.

The Lobbying Disclosure Act of 1993 is a serious effort to comprehensively revamp the chaotic system that now exists. By replacing the ineffective patchwork of current laws with a uniform and simplified statute, the legislation will help to ensure that all professional lobbyists are registered and that lobbying activities are fully disclosed. More useful information will be disclosed to the American public and the press and, as a result, the public will be able to find an answer to the question "who is doing what on behalf of whom, and for how much?"

Senator LEVIN and his staff are to be commended for the time and attention they have dedicated to crafting this legislation. It is only because of Senator LEVIN's commitment to achieving effective disclosure of lobbying activities that we are here today. I urge all my colleagues to join us in supporting passage of this important legislation and working with us to see that it is enacted into law this year.

Madam President, first, let me thank Senator LEVIN for his kind words. I want to take this opportunity to commend him for the work he and his able staff have done. They have spent 2 years, along with my own staff, working on this issue. It has not been without some criticism. There are still, perhaps, some deficiencies in the legislation. It is not a perfect bill.

We often hear the expression that "the perfect is the enemy of the good," and there will be attempts made to perfect this legislation which may or may not in fact achieve that goal. Nonetheless, I want to offer a couple of comments. I think Senator LEVIN has outlined the scope of the problem and the nature of the legislation that we propose to deal with this problem in a very comprehensive fashion.

There are three words I think which stir the angst, the anger, the outrage of the American people. One word is "politician," which has a very negative connotation to it when, in fact, those who run and seek public office and are fortunate enough to be elected or appointed to public office are simply trying to reconcile the conflicting and competing interests that make up this country. That makes them a politician. There should be a noble sentiment attached to it rather than a negative one. Historically, if someone is labeled a politician, suddenly the lips of another observer will turn up with contempt or a sneer, implying that somehow we are not engaged in the effort to work the public's will.

Another word which comes to mind is that of "special interests." We have heard this during virtually every campaign, and certainly ever since I have been involved in politics. "The special interests are causing the problems in Washington." The public has to understand exactly who are the special interests. It is all of them—whether we are talking about farmers who are seeking subsidies for their crops or low-interest loans for disaster relief; whether it is small businessmen and women who are looking for accelerated depreciation for investment of plant equipment; whether it is teachers looking for additional assistance to help educate our children; or whether it is homeowners who want to maintain a deduction for their interest payments on their mortgage so they can continue to own a home.

Everyone can be labeled a special interest. They have a special interest to convey to us, and that really is the essence of this entire process called democracy, where our doors are open for people to come in and present their case.

Then comes the word "lobbyist," which also has a very negative connotation to it. But, again, lobbyists are simply people who are hired to represent, to act as an effective voice for those who otherwise may not either have the competence or the ability to convey the nature of that special interest to the people who have to pass judgment and reconciling the equities involved.

Lobbyists are characterized as tassle-loafered, Gucci-belted zealots, and I agree that there are some of those. Citizens, however, come into our offices from all over the country, from our respective States. They come in and most of them are not well heeled, so to speak. They are there to represent a particular interest on a particular issue.

We as politicians, must admit and confess that we are not specialists. Maybe some of us who used to be out practicing law or specializing in trial work can claim to be specialists during those years. But when we arrive in Washington, we are overwhelmed with a floodtide—a floodtide—of competing interests and issues, ranging all the way from aid to Russia or intervention in Bosnia, to whether or not we are going to have a stimulus package, or whether we need to have a change in our disaster relief program. You name the issue, and there is a floodtide that confronts us each and every day.

We are not specialists, so we depend upon the expertise of the specialists who come to us to make us well informed. Of course, there is a catch to this, and that is provided we are open to all sides, and provided that the public knows exactly who is presenting the information to us, and what they are being paid to lobby, and for what issue.

We have a need for their expertise. I am not an expert in a variety of fields. Be it in health care or armed services, we need to have the experts come in to talk about their programs and their manufacturing capabilities, or about an issue which may affect their ability to compete on a global basis. We need that information. By the same token,

the public needs to know exactly who in fact is presenting that information, what they are being paid, and how much they are expending in the performance of their own duties.

That is basically the nature of what we are confronted with here today. The only thing that is worse than not having a law to deal with a critical problem is to have a law which is either ignored or goes unenforced, and that is precisely the situation that we face today. We have not one law, we have four laws on the subject of lobbying in this country, all of which, combined, are rather meaningless. They are inconsistent, overlapping, and duplicative. They are vague. They are riddled with loopholes, as Senator LEVIN described.

So we have laws on the books which are virtually ignored. If you look at the size of the book that Senator LEVIN held up a moment ago with its hundreds of pages, you can conclude that while here is a document made available to the public which contains the list of thousands of representatives, only a small fraction of the individuals listed in this book appear in official documents.

So something is wrong. Something is wrong that has to be corrected.

Those few who did in fact file as lobbyists, as my colleague from Michigan has pointed out, filed essentially meaningless information. Some might do so with malice and identify $1.31 allocated for a lobbying cost. It may be done in a spirit of maliciousness, to try to poke a finger in the eye of lawmakers and regulators, and I suspect that may be the case.

But I think most do this because of the law. They are not sure what the law requires. They are being meticulous. They are not quite sure what the Government will do if they do not file this information. What we glean from the hearings and from the people who came before us is that they simply are unsure of what to do. So they do not do, in many cases, anything.

If they file information which is incorrect because the law is vague, or they are not sure what is really required of them, they may find themselves in greater difficulty than if they do not do anything at all. They err on the side of no disclosure, no registering, and so the public does not know exactly what is going on.

But whether the lack of filing or the failure to file is out of mischief or misunderstanding, the fact is they do so with impunity.

I am not aware of a single case that has ever been prosecuted in this city for violation of disclosure laws. I cannot recall hearing about or reading about a single case in which a lobbyist was prosecuted for violation of our lobbying disclosure laws.

So something is clearly wrong. Something demands that we take action now. I believe that the product that Senator LEVIN has offered, with my support and that of most of the Republicans and the Democrats on the Governmental Affairs Committee, is a very, very positive step forward.

It will not satisfy everyone. There are editorials that are critical of the legislation, saying it does not go nearly far enough; it is somehow kowtowing to the lobbyists; that the fat cats will be out there buying lunches, paid-for vacations that will never be known to the public; therefore, this is simply devised to hide the special interests, using their coinage, "to purchase the public welfare."

I do not believe that to be the case. We are open to positive recommendations as to how to improve this legislation.

I want to take this opportunity to commend Senator LEVIN, once again, and his staff, and to raise a voice of support for Senator LEVIN and against those who would level an attack against, I think, the one Senator in this body who has been in the forefront of ethical reform over the entire course of his career. I do not think there is any other Member of the Senate who has been as aggressive as Senator LEVIN has been on the need to reform the ethics of this institution and that of the executive branch. So those who will now level a charge that he is somehow less than honorable in presenting this legislation, I think are missing the mark by a great deal.

So, Madam President, I will yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

AMENDMENT NO. 342

(Purpose: To amend the Federal Election Campaign Act of 1971 to ban activities of political action committees in Federal elections)

Mr. PRESSLER. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. PRESSLER] for himself, Mr. DOLE, and Mr. MCCONNELL, proposes an amendment numbered 342.

Mr. PRESSLER. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . BAN ON ACTIVITIES OF POLITICAL ACTION COMMITTEES IN FEDERAL ELECTIONS.

(a) IN GENERAL.—Title III of Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following new section:

"BAN ON FEDERAL ELECTION ACTIVITIES BY POLITICAL ACTION COMMITTEES

"SEC. 324. Notwithstanding any other provision of this Act, no person other than an individual or a political committee may make contributions, solicit or receive contributions, or make expenditures for the purpose of influencing an election for Federal office.".

(b) DEFINITION OF POLITICAL COMMITTEE.—(1) Section 301(4) of Federal Election Campaign Act (2 U.S.C. 431(4)) is amended to read as follows:

"(4) The term 'political committee' means—

"(A) the principal campaign committee of a candidate;

"(B) any national, State, or district committee of a political party, including any subordinate committee thereof;

"(C) any local committee of a political party which—

"(i) receives contributions aggregating in excess of $5,000 during a calendar year;

"(ii) makes payments exempted from the definition of contribution or expenditures under paragraph (8) or (9) aggregating in excess of $5,000 during a calendar year; or

"(iii) makes contributions or expenditures aggregating in excess of $1,000 during a calendar year; and

"(D) any committee jointly established by a principal campaign committee and any committee described in subparagraph (B) or (C) for the purpose of conducting joint fundraising activities.".

(2) Section 316(b)(2) of Federal Election Campaign Act (2 U.S.C. 441b(b)(2)) is amended by striking subparagraphs (B) and (C).

(c) CANDIDATE'S COMMITTEES.—(1) Section 315(a) of Federal Election Campaign Act (2 U.S.C. 441a(a)) is amended by adding at the end the following new paragraph:

"(9) For the purposes of the limitations provided by paragraphs (1) and (2), any political committee which is established or financed or maintained or controlled by any candidate of Federal officeholder shall be deemed to be an authorized committee of such candidate or officeholder.".

(2) Section 302(e)(3) of Federal Election Campaign Act (2 U.S.C. 432(e)) is amended to read as follows:

"(3) No political committee that supports or has supported more than one candidate may be designated as an authorized committee, except that—

"(A) a candidate for the office of President nominated by a political party may designate the national committee of such political party as the candidate's principal campaign committee, but only if that national committee maintains separate books of account with respect to its functions as a principal campaign committee; and

"(B) a candidate may designate a political committee established solely for the purpose of joint fundraising by such candidates as an authorized committee".

(d) RULES APPLICABLE WHEN BAN NOT IN EFFECT.—For purposes of the Federal Election Campaign Act of 1971, during any period in which the limitation under section 324 of that Act (as added by subsection (a)) is not in effect—

(1) the amendments made by subsections (a) and (b) shall not be in effect; and

(2) it shall be unlawful for any person that—

(A) is treated as a political committee by reason of paragraph (1); and

(B) is not directly or indirectly established, administered, or supported by a connected organization which is a corporation,

labor organization, or trade association, to make contributions to any candidate or the candidate's authorized committee for any election aggregating in excess of $1,000.

Mr. PRESSLER. Madam President, I offer this amendment on behalf of myself, Mr. DOLE, and Mr. MCCONNELL. I believe it is very appropriate that we have a reform of lobbying activities, and I support these efforts. I commend the Senator from Michigan and the Senator from Maine for their leadership in this area.

I noted in the remarks of the Senator from Michigan that some disclosures of campaign-related contributions by lobbyists would be required. I think everyone knows that the power of many lobbyists springs from their ability to generate PAC funds. The political action committee's presence has become the basis of most Washington, DC, fundraising events.

Madam President, this amendment which I propose on behalf of myself, Senator DOLE, and Senator MCCONNELL, is a very basic one that addresses an area of the present campaign financing system that greatly concerns me and my constituents.

In the last several years, we have seen many bills in Congress purporting to be campaign reform legislation. Simply because the media, or some public interest group, labels a bill campaign reform does not necessarily make it so. Often the use of this term involves considerable poetic license.

The amendment prohibits PAC's from participating in campaigns for Federal office. The amendment provides that only an individual, or candidate's committee, or a political party committee may make contributions, solicit or received contributions, or make expenditures for the purpose of influencing an election for Federal office. PAC's would be outlawed from the business of political fundraising and contribution making for Federal office.

I am convinced that when people say they want campaign reform, what they are saying is get rid of PAC's. PAC's are publically perceived to be organizations with large amounts of money ready to be lavished on candidates for Federal office in return for access and influence with those receiving the contributions. PAC's are playing an increasingly larger role in the financing of campaigns for Federal office:

Since passage of the Federal Election Campaign Act [FECA] in 1974, the number of PAC's has increased from 608 to 4,195 in 1992;

PAC contributions to House and Senate candidates increased from $12.5 million in 1974 to $180.1 million in 1992, an increase of more than 400 percent, even accounting for inflation;

In 1974, 9 percent of winners in the House of Representatives received over half their funds from PAC's. in 1990, 55 percent of House winners received over half their funds from PAC's;

PAC contributions as a percentage of Congressional candidates' overall receipts in general elections has steadily increased every year since 1974, starting at 15.7 percent in that year to 33.8 percent in 1990;

In 1992, PAC's contributed 24 percent of Senate campaign receipts;

In 1992, PAC's contributed 38 percent of House campaign receipts;

In 1992, incumbents received 89 percent of all PAC contributions, $119,779,287 versus $17,302,125 for challengers;

Corporate and trade association PAC's give over 90 percent of their money to incumbents.

With my amendment, all PAC's, or segregated separate funds in the parlance of the Federal Code, maintained by unions, corporations, trade and health associations, membership organizations, cooperatives, and corporations without capital stock, savings and loans/shareholder insurance companies, would no longer be able to participate in Federal elections. Also prohibited from participating in Federal elections would be nonconnected PAC's, those not affiliated with a sponsoring organization, which are comprised of ideological and single-issue groups.

The amendment redefines political committees so that only the campaign committees of candidates and national, State, and local political parties could make contributions or solicit or receive contributions or spend money to influence Federal elections.

The amendment contains a provision that should a ban on PAC's be determined to be unconstitutional, then PAC contributions of $1,000 would be allowed. This is the PAC contribution limit suggested by President Clinton during the campaign.

This is a fallback provision, the idea being that if we cannot ban PAC's entirely, due to constitutional reasons, then the PAC contributions of $1,000 would be allowed. I have not yet seen the White House's campaign reform bill, but I understand it may contain a $2,500 limit on Senate contributions and a $5,000 limit for House contributions. I would disagree with setting different amounts for the two Houses. But President Clinton's suggestion made during his campaign, that a $1,000 limit be placed on PAC contributions, is recognized in this amendment if the total ban on PAC's is found to be unconstitutional.

In the last Congress, this body passed a so-called campaign finance reform bill, S. 3, the Senate Election Ethics Act of 1991. It passed on a 56–42 vote. I voted for it. One of the reasons I did so was because it eliminated PAC's. Unfortunately, when it returned to the Senate after the House and Senate conferees were done with it, the PAC elimination provision was dropped. Consequently, I voted against the conference report on that bill and the subsequent unsuccessful attempt to override the President's veto of the bill.

With the adoption of my amendment, campaigns would be put back under the total influence of the people we represent. Only individuals', and the candidates', own campaign committees would be involved in the campaign fundraising system. The electorate wants their elected officials to serve them, not the PAC's.

The public is wary of the perceived influence generated by the large fundraising power of PAC's. Big financial contributors are suspect. My amendment calls for us to do only that which this body did in the last Congress—get the PAC's out of elections and give back to the people their elected representatives.

We have been on this issue for a long time now. My colleague, Senator MCCONNELL, has been one of the great leaders on this issue over the years on this side of the aisle. I thank him for his assistance in developing this amendment.

I hope my Senate colleagues also will support elimination of political action committees and join Senator DOLE, Senator MCCONNELL, and me in passing this amendment and putting a major campaign reform issue behind us. We need to get on to more serious and urgent matters facing the Nation.

In conclusion, let me say that I offer this amendment in an attempt to join in the reform effort. I believe the lobbying disclosure bill is a good step. But if we are going to deal with the power of the lobbyists, we will have to deal with political action committee power, because that is what lobbyists in Washington base their power upon.

My amendment would deal with this power. It would put real teeth into this bill. It would give us, for the first time, relief in an area that has been of concern throughout our Nation—on talk shows, in campaigns—everybody complains about PAC's. This amendment will eliminate PAC's.

If that is found to be unconstitutional, the amendment would provide that PAC's could contribute $1,000. That is the level President Clinton suggested, so I am keeping within President Clinton's campaign proposal.

Madam President, I yield the floor.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. If the chairman of the subcommittee will withhold, the Chair wishes to apprise the Senator from South Dakota that there are two other committee amendments in order and, therefore, they need to be considered before your amendment is in order.

The Chair had taken over at 5 o'clock and was unaware of that, and did not ant to interrupt the Senator from South Dakota in making his presentation.

Mr. LEVIN. 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. McCONNELL. 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 Kentucky.

Mr. McCONNELL. Madam President, I believe I have the floor.

Mr. LEVIN. Madam President, may I make an inquiry of the Senator from Kentucky?

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. I thank the Chair.

My understanding is that it is the intention of the Senator from Kentucky, at this point, to address some remarks in support of the Pressler amendment, and then to yield the floor; is that correct?

Mr. McCONNELL. I say to my friend from Michigan, that is the intention of the Senator from Kentucky because—he will be pleased to know—the Senator will be rather brief because the Senator has laryngitis.

Mr. LEVIN. Madam President, I am not going to use up any more of the voice of the Senator from Kentucky.

The PRESIDING OFFICER. The Presiding Officer needs to know from the Senator from South Dakota, what is the intent of his amendment? Is he asking that the other amendments be laid aside, or does the Senator from South Dakota wish his amendment to come after the two committee amendments?

Mr. PRESSLER. I ask unanimous consent that my amendment be in order to the first-degree amendment.

Mr. LEVIN. Madam President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LEVIN. If I may address a comment to the body and to my friend from South Dakota.

We are trying to clear the committee amendment now with a Senator who has a question about it. I hope to be able to inform the Chair that we have been able to figure out that issue immediately after the Senator from Kentucky has completed.

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Madam President, at whatever time the amendment is subsequently offered, I wish to state that I support the amendment of the Senator from South Dakota, and also to express to him my appreciation for his leadership in the area of campaign finance.

The Senator from South Dakota and I have discussed this issue, off and on, over the last few years. He has a great deal of insight and understanding of this important issue and has been a very useful player on our side of the aisle in evolving the position that Republican Senators have expressed on a variety of different occasions.

The Senator from South Dakota, Senator PRESSLER, is addressing, it seems to me, Madam President, the heart of the campaign finance issue, and that is where the money comes from.

We all know that political action committees have a tendency to favor incumbents, so that the extent to which you could diminish, or even eliminate, the influence of the political action committee, means the challengers in the American political process are going to have a better opportunity to compete and be a force on the American political scene.

So I simply, Madam President, wanted to rise to commend Senator PRESSLER for this excellent amendment, to thank him personally for the great work he has done on the issue of campaign finance over the years, and to indicate my enthusiastic support for his amendment at whatever point it is considered in the proceedings of the Senate.

Senator PRESSLER should be commended for his courage and tenacity in putting people first by putting PAC's out of business in federal elections.

As we speak, televisions all over Capitol Hill are being turned up in alarm over the prospect of losing the incumbent's political lifeline, PAC contributions.

Mr. President, as we all know so well, incumbents are PAC-magnets. Challengers do not attract PAC—money on a significant scale. However, political action committees are touted by their defenders as a means to allow individuals to get together and advance their collective interests in politics. Presumably, that would include supporting challengers.

In 1992, in races where members were up for reelection, incumbents received 86 percent of the PAC contributions, $126 million for incumbents versus $21 million for challengers.

Mr. President, if PAC's are so democratic—with a small d—it is not reflected in their contribution patterns because incumbents certainly were not so overwhelmingly popular in 1992. Clearly, democracy is skewed in the PAC process as inside-the-beltway professional lobbyists advance their personal interests in getting face-time with incumbents, rather than advancing their PAC contributor's interests through PAC checks.

Members on the other side of the aisle are going to say we are jumping the gun with this amendment, why, the President has not even introduced his bill yet. I will respond to those objections by noting that we have waited for quite sometime for the President's bill and while we do not yet have language we have a pretty good idea what the PAC provision will be: $2,500 per election limit in Senate elections, and $5,000 per election limit in House elections.

That proposal does not even meet the Presidents own campaign vow, $1,000 per election for House and Senate elections. It was part of his putting-people-first campaign platform.

As for the aggregate limits on PAC's, I noted in Roll Call today that the Senate limit has creeped-up from 20 percent to 25 percent of total receipts. While that would be an adjustment for some Members, Mr. President, it is hardly a great sacrifice by the Senate as a whole.

Clearly, putting people first has transformed into putting incumbents first. Moreover, President Clinton is putting House Democrats first.

As the Wall Street Journal stated in an editorial entitled "Real Change" on April 28 in regard to President Clinton's proposal:

> * * * A campaign finance reform plan that would use tax dollars to finance congressional elections. Bowing to pressure from House Democrats he has abandoned plans to sharply rein in PAC money, 90% of which flows to congressional incumbents and virtually ensures their relection. From what we've seen, it's a reform that is by the incumbents, for the incumbents and benefits only incumbents.

Mr. President, if the PAC issue is not divorced from the taxpayer-funded/spending limits scheme, then it will get caught up in that quagmire, nothing will change, and incumbents will continue to feed at the PAC trough.

And many incumbents would cheer.

The Senator from South Dakota seeks to truly put people first with this amendment. I urge my colleagues to support him in his noble and courageous endeavor to put people first for a change.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. MOSELEY-BRAUN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

Mr. LEVIN. Madam President, I object.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk resumed the call of the roll.

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

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

MORNING BUSINESS

Mr. LEVIN. Madam President, I ask unanimous consent that there now be a period for morning business.

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

MESSAGE FROM THE HOUSE

At 12:45 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of it's reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1578. An act to amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed rescissions of budget authority.

The message also announced that pursuant to section 204 of the Airport and Airway Safety, Capacity, Noise Improvement, and Intermodal Transportation Act of 1992, as amended by Public Law 103-13, the minority leader appoints to the National Commission to Ensure a Strong Competitive Airline Industry, the following individuals:

On the part of the House: Mr. GINGRICH (nonvoting), and Mr. SHUSTER (nonvoting); and

From private life: Mr. Daniel Kasper of Massachusetts (voting), and Mr. John Robson of Washington, DC (voting).

The message further announced that pursuant to the provisions of section 204 of the Airport and Airway Safety, Capacity, Noise Improvement, and Intermodal Transportation Act of 1992 (49 U.S.C. App 1371 note), as amended by Public Law 103-13, the Speaker appoints to the National Commission to Ensure a Strong Competitive Airline Industry, the following individuals:

On the part of the House: Mr. GEPHARDT (nonvoting), Mr. BORSKI (nonvoting), and Ms. CANTWELL (nonvoting); and

From private life: Miss Sandra Pianalto of Akron, OH (voting), Captain J. Randolph Babbitt of Oakton, VA (voting), and Mr. John Peterpaul of Silver Spring, MD (voting).

ENROLLED JOINT RESOLUTION SIGNED

The message also announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 127. Joint resolution to authorize the President to proclaim the last Friday of April 1993 as "National Arbor Day."

The enrolled joint resolution was subsequently signed by the President pro tempore (Mr. BYRD).

At 4:01 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of it's reading clerks, announced that pursuant to the provisions of section 4(a) of Public Law 94-118, the Speaker appoints to the Japan-United States Friendship Commission the following Members on the part of the House: Mr. WISE and Mr. PETRI.

MEASURE REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 1578. An act to amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed rescissions of budget authority; referred jointly, pursuant to the order of August 4, 1977, to the Committee on the Budget and to the Committee on Governmental Affairs.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that he had presented to the President of the United States, the following enrolled joint resolutions:

On April 29, 1993:

S.J. Res. 62. Joint resolution to designate the week beginning April 25, 1993, as "National Crime Victims' Rights Week."

S.J. Res. 66. Joint resolution to designate the weeks beginning April 18, 1993, and April 17, 1994, each as "National Organ and Tissue Donor Awareness Week."

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs.

Kenneth D. Brady, of New York, to be president of the Export-Import Bank of the United States for a term of 4 years expiring January 20, 1997.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

By Mr. BAUCUS, from the Committee on Environment, and Public Works:

Robert M. Sussman, of the District of Columbia, to be Deputy Administrator of the Environmental Protection Agency.

(The above nomination was reported with the recommendation that he be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

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. COHEN:

S. 867. A bill to amend title XI of the Social Security Act to extend the penalties for fraud and abuse assessed against providers under the medicare program and State health care programs to providers under all health care plans, and for other purposes; to the Committee on Finance.

By Mrs. MURRAY (for herself, Mr. SIMON, Mr. KERRY, Ms. MOSELEY-BRAUN, and Mr. MATHEWS):

S. 868. A bill to amend the Internal Revenue Code of 1986 to increase the tax on handguns and assault weapons, to increase the license application fee for gun dealers, and to use the proceeds from those increases to pay for medical care for gunshot victims; to the Committee on Finance.

By Mr. WELLSTONE (for himself and Mr. KENNEDY):

S. 869. A bill to amend the Public Health Service Act to provide for demonstration projects for the identification by health care providers of victims of domestic violence and sexual assault, to provide for the education of the public on the consequences to the public health of such violence and assault, to provide for epidemiological research on such violence and assault, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. WELLSTONE:

S. 870. A bill to protect children from the trauma of witnessing or experiencing violence, sexual abuse, neglect, abduction, rape or death during parent/child visitations or visitation exchanges, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. SIMPSON:

S. 871. A bill for the relief of Nathan C. Vance, and for other purposes; to the Committee on the Judiciary.

By Mr. PELL (by request):

S. 872. A bill to authorize appropriations for the African Development Foundation; to the Committee on Foreign Relations.

S. 873. A bill to amend the Asian Development Bank Act to authorize consent to, and authorize appropriations for, the United States contribution to the fifth replenishment of the resources of the Asian Development fund, and for other purposes; to the Committee on Foreign Relations.

By Mr. PRESSLER (for himself, Mr. WARNER, Mr. DASCHLE, Mr. KRUEGER, Mr. SHELBY, Mr. GORTON, Mr. BURNS, and Mr. CAMPBELL):

S. 874. A bill to reauthorize Public Law 81-874 (Impact Aid), and for other purposes; to the Committee on Labor and Human Resources.

By Mr. PELL (by request):

S. 875. A bill to amend the International Development Association Act to authorize consent to, and authorize appropriations for, the United States contribution to the tenth replenishment of the resources of the International Development Association, and for other purposes; to the Committee on Foreign Relations.

By Mr. MOYNIHAN (by request):

S. 876. A bill to amend the Internal Revenue Code of 1986 to provide training and investment incentives and to provide additional revenues for deficit reduction purposes; to the Committee on Finance.

By Mr. EXON (for himself, Mr. KERREY, and Mr. DURENBERGER):

S. 877. A bill to provide that certain games of chance conducted by a nonprofit organization not be treated as an unrelated business of such organization; to the Committee on Finance.

By Mr. LOTT:

S. 878. A bill to require recipients of grants through the Department of Housing and Urban Development to promptly pay contractors for performing federally assisted work; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ROCKEFELLER:

S. 879. A bill to provide technology implementation through the training of the American work force, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BOREN (for himself and Mr. PRYOR):

S. 880. A bill to amend the Internal Revenue Code of 1986 to clarify the treatment of interest income and rental expense in connection with safe harbor leases involving rural electric cooperatives; to the Committee on Finance.

By Mr. DODD (for himself, Mr. HATFIELD, Mr. PELL, Mrs. FEINSTEIN, Mr. INOUYE, Mr. DECONCINI, Mr. CONRAD, Mr. JOHNSTON, Mr. COCHRAN, Mr. DORGAN, Mr. HEFLIN, Mr. LEVIN, Mr. LUGAR, Mr. BYRD, Mr. PRYOR, Mr. KENNEDY, Mr. COATS, Mr. CHAFEE, Mr. LIEBERMAN, Mr. JEFFORDS, Mr. AKAKA, Mrs. BOXER, Mr. BRADLEY, Mr. HATCH, Mr. GRAHAM, Mrs. MURRAY, Mr. DANFORTH, Mr. BOND, Mr. EXON, Mr. BINGAMAN, Mr. BUMPERS, Mr. KERREY, Mr. MOYNIHAN, Mr. BAUCUS, Mr. SHELBY, Mr. COHEN, Mr. DOMENICI, Mr. DASCHLE, and Mr. GORTON):

S. 881. A bill to amend the Elementary and Secondary Education Act of 1965 to reauthorize and make certain technical corrections in the Civic Education Program, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. KOHL:

S. 882. A bill to amend the Internal Revenue Code of 1986 to provide for the rollover of gain from the sale of farm assets into an individual retirement account; to the Committee on Finance.

By Mr. ROCKEFELLER:

S. 883. A bill to amend title 38, United States Code, to increase, effective as of December 1, 1993, the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans; to the Committee on Veterans' Affairs.

By Mr. PELL (for himself, Mr. JEFFORDS, Mr. KENNEDY, and Mrs. KASSEBAUM):

S. 884. A bill to make technical amendments to the Higher Education Act of 1965 and the Carl D. Perkins Vocational and Applied Technology Act; considered and passed.

By Mr. LAUTENBERG (for himself, Mr. BOREN, Mr. LEVIN, Mr. WELLSTONE, Mr. FEINGOLD, and Mr. KOHL):

S. 885. A bill to limit the acceptance of gifts, meals, and travel by Members of Congress and congressional staff, and for other purposes; to the Committee on Governmental Affairs.

By Mr. DANFORTH (for himself, Mrs. KASSEBAUM, Mr. DURENBERGER, Mr. GREGG, and Mr. BOND):

S. 886. A bill to amend the Social Security Act and the Internal Revenue Code of 1986 to improve immunization rates among children and for other purposes; to the Committee on Finance.

By Mr. DANFORTH (for himself, Mrs. KASSEBAUM, Mr. DURENBERGER, Mr. GREGG, and Mr. BOND):

S. 887. A bill to amend the Public Health Service Act to improve immunization rates among children through the establishment of data registries and educational programs, and for other purposes; to the Committee on Finance.

By Mr. D'AMATO:

S.J. Res. 87. A joint resolution to designate September 13, 1993, as "Commodore John Barry Day"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. COHEN:

S. 867. A bill to amend title XI of the Social Security Act to extend the penalties for fraud and abuse assessed against providers under the Medicare Program and State health care programs to providers under all health care plans, and for other purposes; to the Committee on Finance.

NATIONAL HEALTH CARE ANTIFRAUD AND ABUSE ACT OF 1993

Mr. COHEN. Mr. President, there is no issue that is dominating the domestic agenda more than that of health care reform. As a matter of fact, Mrs. Clinton came to Capitol Hill to outline what she believes will be the blueprint for the President's health care reform package. Indeed, there is a lot of speculation about how much it is going to cost the American taxpayer to fund this new program. There is in fact today in the Washington Post a third of a four-part series analyzing our health care system. I found it interesting to note that on page 10 of the Post there are estimated savings given by three experts in the field: Jack Meyer, Gail Wilensky, and Gerard Anderson. And going down through the list of items, Mr. Meyer believes we could save, looking at those certain things that could be done to cut out waste, anywhere from $170 to $250 billion; Ms. Wilensky, $100 to $150 billion; and Mr. Anderson as much as $160 billion.

To those numbers I would like to add something else which is really compounding the problem and that is the issue of health care fraud and abuse.

I think a great challenge facing this country today, and one of the fastest growing law enforcement problems, is health care fraud. The GAO has estimated that by 1995 fraud and abuse in our health care system could cost the taxpayers as much as $100 billion annually.

Through my work on the Special Committee on Aging and the Permanent Subcommittee on Investigations, I have seen firsthand how creative and extensive abuses of our health care system can be. Overcharging for services, billing for services, drugs and treatments not given, providing unnecessary tests, and accepting kickbacks for referring patients to certain clinics and test laboratories—there seems to be no end to the tactics that are used to bilk our health care system.

Consumers and businesses are paying dearly for these health care rip-offs in the form of higher taxes and skyrocketing insurance premiums. As the health care budget grows, the scams are growing dramatically bigger, bolder, and more sophisticated. This is not a victimless white-collar crime. We all end up paying the tab—as individuals who pay premiums, copayments and deductibles; as employers who buy coverage for their workers; and as taxpayers when Medicare, Medicaid, and other Government health care programs are targeted for fraud.

On a national level, combating health care fraud is difficult because of the patchwork of public and private insurers who handle bills for health care and a lack of coordination among insurers in pursuing fraud and abuse. Moreover, the system is geared heavily toward processing claims, not toward the pursuit of fraud and abuse. Under our Medicare Program, for example, carriers are rewarded for paying claims as fast as possible and given little budget or incentive to recover millions of dollars lost to fraud.

Similarly, in the private health care insurance world, too often the reaction to fraud is simply to raise premiums for all the insured, rather than to aggressively pursue and sanction fraudulent providers. As a result, the cost of health care goes up for everyone, and fraudulent providers continue to raid the system.

Complicating the antifraud effort is the movement toward electronic claims filing. This filing system, while having tremendous benefits for efficiency, could eliminate the paper trail that provides investigators with many of their best leads. In addition, as more health care moves away from the hospital and into homes or outpatient settings, keeping an eye on fraudulent providers gets tougher and tougher.

There are many egregious examples of fraud and abuse. One of the largest schemes identified to date involves so-called rolling labs and is alleged to have resulted in nearly $1 billion in false claims during the 1980's. This operation involved mobile labs that conducted unnecessary and sometimes fake tests on unsuspecting patients. Telemarketers solicited patients by offering physical examinations and diagnostic testing, and then false claims were submitted to insurance companies or Government health programs.

Under this scheme, the tests were conducted at retirement homes, health clubs, shopping malls, and clinics. Investigators allege that patients were required to fill out forms that were used later to justify medical necessity for the tests, even if the patients did not complain of any symptoms. At its peak, it is estimated that the operation involved 1,000 separate companies and 400 bank accounts worldwide.

And in some cases, health care fraud and abuse can cause physical harm to patients. For example, one woman testified before congressional committees how here doctor referred her to a psychiatric hospital after she had a psychotic reaction to pain medication. She thought that she would be there for only a day or two but ended up in the institution for 3 months.

She testified that the hospital tried to change her status from psychiatric

to medical after learning the terms of her insurance policy. To do this would have increased her coverage from $50,000 to $1 million. She claims she was heavily drugged and kept isolated from visitors. When her coverage was expended, she was finally allowed to leave and subsequently learned that her insurance company ended up paying almost $50,000 for her stay.

In the area of Medicare, there is another example I would like to cite which we had investigated through the Aging Committee and which was started some time ago by our now departed colleague, Senator Heinz. This involved the selling of overpriced or unneeded durable medical equipment such as seat lift chairs, dangerous paraffin wax baths, and flimsy mattresses and cushions to Medicare beneficiaries.

Unscrupulous suppliers would employ telemarketers, who had no medical training, to make call after call to unsuspecting Medicare beneficiaries offering them free medical equipment that was of inferior quality, and at times even dangerous. These suppliers would then bill Medicare to 10 or even 20 times more than the actual cost of the item.

The examples of abuse were staggering. A plain piece of biege foam cost a DME supplier about $23, and was then billed to Medicare for more than $240 as a flotation pad for a wheelchair. A bed-sized flimsy piece of pink foam was billed to Medicare as a dry flotation mattress to prevent bed sores. This item, which obviously was completely ineffective, was purchased by a supplier for about $28 and then billed to Medicare for more than $1,100. That represents a profit of more than 3,800 percent.

These are just a couple of examples of the ways in which this system is being ripped off to the great cost of the American taxpayer.

Ironically, at a time when the health care budget is growing at three times the rate of inflation, the Office of Inspector General of the Department of Health and Human Services is facing cutbacks. By some estimates, the Department of Health and Human Services spends $1.5 billion on all its programs every day. The inspector general, however, has only one criminal investigator for every $2.25 billion spent, and one auditor for every $800 million in outlays. This combination of lax enforcement and very scarce resources for enforcement results in no one watching the store.

In stopping abuse and catching fraud we have to be careful to balance concerns about privacy laws. We also have to stress that the overwhelming majority of physicians and other health care providers are dedicated and honest individuals who have the best interest of their patient in mind.

However, the rapid growth and sheer size of our health care system greatly increases the opportunities for fraud and abuse. Therefore, we must be vigilant in our efforts to ensure that sufficient safeguards are in place to detect and eliminate the bad apples who take advantage of the health care system.

Many fraudulent activities target both government programs and private payers and much more coordination of enforcement efforts is necessary. Most types of fraud could be avoided by closing loopholes that exist in current law or in Medicare rules and regulations and by extending prohibitions that now exist in Medicare to private insurance situations.

The Congress is engaged with the administration in how best to reduce the bulging national deficit. Senators are struggling fiercely over proposed spending cuts or additions of a few billion dollars, and indeed the entire system got sidetracked in a discussion of the President's so-called stimulus package, which was $16 billion.

In the midst of all this, we have an opportunity to save the Government as much as $100 billion, without raising taxes or cutting needed services. In this political and budgetary climate, this effort ought to get especially close attention.

That is why I am introducing the National Health Care Anti-Fraud and Abuse Act, which would strengthen the Department of Health and Human Services' efforts against fraud and abuse. The bill would require the Department of Health and Human Services to coordinate civil enforcement for all health care fraud and would provide, among other things, intermediate sanctions for fraud-related violations, extension of criminal penalties now under Medicare to all payers, mandatory exclusion from Medicare for certain abuses, and restitution to organizations who may have suffered damages as a result of violations. The bill also requires publication of the names of providers and suppliers who have had final adverse actions taken against them.

This legislation would pay for the enhanced enforcement efforts by setting up a trust fund in which civil penalties would be deposited, to assist the inspector general in more vigorously pursuing fraudulent investigations. By rolling civil penalties back into the enforcement budget, we will also be creating a greater incentive for insurers to pursue fraud, rather than just payout claims.

Mr. President, as we move toward major health care reform, we need to do all we can to put strong protections in place to guard against health care fraud and put unscrupulous providers out of business. As reform to our health care financing and delivery systems are being debated, we must ensure that they are made in a manner that minimizes the potential for fraud, waste, and abuse.

I could go on. But basically I would like to let my colleagues know the reason I am not introducing this legislation is quite clear. As we work, hopefully, on a bipartisan basis to develop a comprehensive reform of our current system, to make it more efficient and more universal in terms of its access, we can no longer afford to tolerate these kinds of fraudulent and abusive activities.

We have to root out in every conceivable way the kind of fraud and abuse that is being inflicted day after day with no seeming end in sight.

So I hope my colleagues will look carefully at the legislation, and that it will enjoy their widespread support.

I ask unanimous consent that a section-by-section analysis and a copy of the bill be printed in its entirety in the RECORD.

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

S. 867

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 "National Health Care Anti-Fraud and Abuse 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—ALL-PAYER FRAUD AND ABUSE CONTROL PROGRAM

Sec. 101. All-payer fraud and abuse control program.

Sec. 102. Application of Federal health anti-fraud and abuse sanctions to all fraud and abuse against any health benefit plan.

Sec. 103. Public reporting of fraudulent actions.

TITLE II—REVISIONS TO CURRENT SANCTIONS FOR FRAUD AND ABUSE

Sec. 201. Mandatory exclusion from participation in medicare and State health care programs.

Sec. 202. Establishment of minimum period of exclusion for certain individuals and entities subject to permissive exclusion from medicare and State health care programs.

Sec. 203. Permissive exclusion of individuals with ownership or control interest in sanctioned entities.

Sec. 204. Civil monetary penalties.

Sec. 205. Actions subject to criminal penalties.

Sec. 206. Sanctions against practitioners and persons for failure to follow corrective action plan of peer review organization.

Sec. 207. Intermediate sanctions for medicare health maintenance organizations.

Sec. 208. Effective date.

TITLE III—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

Sec. 301. Requirements for uniform claims and electronic claims data set.

Sec. 302. National data collection program for final adverse actions.

Sec. 303. Quarterly publication of adverse actions taken.

TITLE I—ALL-PAYER FRAUD AND ABUSE CONTROL PROGRAM

SEC. 101. ALL-PAYER FRAUD AND ABUSE CONTROL PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—Not later than January 1, 1995, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall establish in the Office of the Inspector General of the Department of Health and Human Services a program—

(A) to coordinate Federal, State, and local law enforcement programs to control fraud and abuse with respect to the delivery of and payment for health care in the United States,

(B) to conduct investigations, audits, evaluations, and inspections relating to the delivery of and payment for health care in the United States, and

(C) to facilitate the enforcement of the provisions of sections 1128, 1128A, and 1128B of the Social Security Act and other statutes applicable to health care fraud and abuse.

(2) COORDINATION WITH LAW ENFORCEMENT AGENCIES.—In carrying out the program established under paragraph (1), the Secretary shall consult with, and arrange for the sharing of data and resources with the Attorney General, State law enforcement agencies, State medicaid fraud and abuse units, and State agencies responsible for the licensing and certification of health care providers.

(3) COORDINATION WITH HEALTH CARE PLANS.—In carrying out the program established under paragraph (1), the Secretary shall consult with, and arrange for the sharing of data with representatives of health care plans.

(4) REGULATIONS.—

(A) IN GENERAL.—The Secretary shall by regulation establish standards to carry out the program under paragraph (1).

(B) INFORMATION STANDARDS.—

(i) IN GENERAL.—Such standards shall include standards relating to the furnishing of information by health care plans, providers, and others to enable the Secretary to carry out the program (including coordination with law enforcement agencies under paragraph (2) and health care plans under paragraph (3)).

(ii) CONFIDENTIALITY.—Such standards shall include procedures to assure that such information is provided and utilized in a manner that appropriately protects the confidentiality of the information and the privacy of individuals receiving health care services and items.

(iii) QUALIFIED IMMUNITY FOR PROVIDING INFORMATION.—The provisions of section 1157(a) of the Social Security Act (relating to limitation on liability) shall apply to a person providing information to the Secretary under the program under this section, with respect to the Secretary's performance of duties under the program, in the same manner as such section applies to information provided to organizations with a contract under part B of title XI of such Act, with respect to the performance of such a contract.

(C) DISCLOSURE OF OWNERSHIP INFORMATION.—

(i) IN GENERAL.—Such standards shall include standards relating to the disclosure of ownership information described in clause (ii) by any entity providing health care services and items.

(ii) OWNERSHIP INFORMATION DESCRIBED.—The ownership information described in this clause includes—

(I) a description of such items and services provided by such entity;

(II) the names and unique physician identification numbers of all physicians with a financial relationship (as defined in section 1877(a)(2) of the Social Security Act) with such entity;

(III) the names of all other individuals with such an ownership or investment interest in such entity; and

(IV) any other ownership and related information required to be disclosed by such entity under section 1124 or section 1124A of the Social Security Act.

(D) INTEGRITY OF ISSUANCE OF PROVIDER IDENTIFICATION CODES.—Such standards shall, insofar as they relate to the issuance of unique provider codes (described in section 301(c)(4))—

(i) include standards relating to the information (including ownership information described in subparagraph (C)(ii) and other information needed in the administration of the program) to be required for the issuance of such codes, and

(ii) provide for the issuance of such a code upon the presentation of such information as would be sufficient to provide for the issuance of similar codes under the medicare program.

(5) AUTHORIZATION OF APPROPRIATIONS FOR INVESTIGATORS AND OTHER PERSONNEL.—In addition to any other amounts authorized to be appropriated to the Secretary for health care anti-fraud and abuse activities for a fiscal year, there are authorized to be appropriated additional amounts as may be necessary to enable the Secretary to conduct investigations and audits of allegations of health care fraud and abuse and otherwise carry out the program established under paragraph (1) in a fiscal year.

(6) ENSURING ACCESS TO DOCUMENTATION.—

(A) IN GENERAL.—The Inspector General of the Department of Health and Human Services is authorized to exercise the authority described in paragraphs (4) and (5) of section 6 of the Inspector General Act of 1978 (relating to subpoenas and administration of oaths) with respect to the activities under the all-payer fraud and abuse control program established under this subsection to the same extent as such Inspector General may exercise such authorities to perform the functions assigned by such Act.

(B) PERMISSIVE EXCLUSION.—Section 1128(b) of the Social Security Act (42 U.S.C. 1320a-7(b)) is amended by adding at the end the following new paragraph:

"(15) FAILURE TO SUPPLY REQUESTED INFORMATION TO THE INSPECTOR GENERAL.—Any individual or entity that fails fully and accurately to provide, upon request of the Inspector General of the Department of Health and Human Services, records, documents, and other information necessary for the purposes of carrying out activities under the all-payer fraud and abuse control program established under section 101 of the National Health Care Anti-Fraud and Abuse Act of 1993.".

(7) HEALTH CARE PLAN DEFINED.—For the purposes of this subsection, the term "health care plan" shall have the meaning given such term in section 1128(i) of the Social Security Act.

(b) ESTABLISHMENT OF ANTI-FRAUD AND ABUSE TRUST FUND.—

(1) ESTABLISHMENT.—

(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 "Anti-Fraud and Abuse 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 as provided in subparagraph (B) and such amounts as may be deposited in, or appropriated to, such Trust Fund as provided in paragraph (3)(C), and title XI of the Social Security Act.

(B) AUTHORIZATION TO ACCEPT GIFTS.—The Managing Trustee of the Trust Fund is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to the Trust Fund, for the benefit of the Trust Fund, or any activity financed through the Trust Fund.

(2) MANAGEMENT.—

(A) IN GENERAL.—The Trust Fund shall be managed by the Secretary through a Managing Trustee designated by the Secretary.

(B) INVESTMENT OF FUNDS.—

(i) IN GENERAL.—It shall be the duty of the Managing Trustee to invest such portion of the Trust Fund as is not, in the Managing Trustee's judgment, required to meet current withdrawals.

(ii) GENERAL FORM OF INVESTMENT.—Investments described in clause (i) may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (I) on original issue at the issue price, or (II) by purchase of outstanding obligations at market price.

(iii) ISSUANCE OF PUBLIC-DEBT OBLIGATIONS.—The purposes for which obligations of the United States may be issued under chapter 31 of title 31, United States Code, are hereby extended to authorize the issuance at par of public-debt obligations for purchase by the Trust Fund. Such obligations issued for purchase by the Trust Fund shall have maturities fixed with due regard for the needs of the Trust Fund and shall bear interest at a rate equal to the average market yield (computed by the Managing Trustee on the basis of market quotations as of the end of the calendar month next preceding the date of such issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of 4 years from the end of such calendar month, except that where such average is not a multiple of ⅛ of 1 percent, the rate of interest on such obligations shall be the multiple of ⅛ of 1 percent nearest such market yield.

(iv) PURCHASES OF OTHER OBLIGATIONS.—The Managing Trustee may purchase other interest-bearing obligations of the United States or obligations guaranteed as to both principal and interest by the United States, on original issue or at the market price, only where the Managing Trustee determines that the purchase of such other obligations is in the public interest.

(C) SALE OF OBLIGATIONS.—Any obligations acquired by the Trust Fund (except public-debt obligations issued exclusively to the Trust Fund) may be sold by the Managing Trustee at the market price, and such public-debt obligations may be redeemed at par plus accrued interest.

(D) INTEREST ON OBLIGATIONS AND PROCEEDS FROM SALE OR REDEMPTION OF OBLIGATIONS.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

(E) RECEIPTS AND DISBURSEMENTS NOT INCLUDED IN UNITED STATES GOVERNMENT BUDGET TOTALS.—The receipts and disbursements of the Secretary in the discharge of the functions of the Secretary under the all-payer fraud and abuse control program established under subsection (a) shall not be included in the totals of the budget of the United States Government. For purposes of part C of the

Balanced Budget and Emergency Deficit Control Act of 1985, the Secretary and the Trust Fund shall be treated in the same manner as the Federal Retirement Thrift Investment Board and the Thrift Savings Fund, respectively. The United States is not liable for any obligation or liability incurred by the Trust Fund.

(3) USE OF FUNDS.—

(A) IN GENERAL.—Amounts in the Trust Fund shall be used without regard to fiscal year limitation to assist the Inspector General of the Department of Health and Human Services in carrying out the all-payer fraud and abuse control program established under subsection (a).

(B) OVERALL ADMINISTRATION.—The Managing Trustee shall also pay from time to time from the Trust Fund such amounts as the Secretary certifies are necessary to carry out the all-payer fraud and abuse control program established under subsection (a).

(4) ANNUAL REPORT.—The Managing Trustee shall be required to submit an annual report to Congress on the amount of revenue which is generated and disbursed by the Trust Fund in each fiscal year. Such report shall include an estimate of the amount of additional appropriations authorized under subsection (a)(5) necessary for the Secretary to conduct the all-payer fraud and abuse program established under subsection (a) in the next fiscal year.

SEC. 102. APPLICATION OF FEDERAL HEALTH ANTI-FRAUD AND ABUSE SANCTIONS TO ALL FRAUD AND ABUSE AGAINST ANY HEALTH CARE PLAN.

(a) CIVIL MONETARY PENALTIES.—Section 1128A of the Social Security Act (42 U.S.C. 1320a-7a) is amended as follows:

(1) In subsection (a)(1), by inserting "or of any health care plan (as defined in section 1128(i)),'' after "subsection (i)(1)),''.

(2) In subsection (b)(1)(A), by inserting "or under a health care plan" after "title XIX".

(3) In subsection (f)—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraph:

"(3) With respect to amounts recovered arising out of a claim under a health care plan, the portion of such amounts as is determined to have been paid by the plan shall be repaid to the plan.''.

(4) In subsection (f)(4) (as redesignated by paragraph (3)(A)), by striking "as miscellaneous receipts of the Treasury of the United States" and inserting "in the Anti-Fraud and Abuse Trust Fund".

(5) In subsection (i)—

(A) in paragraph (2), by inserting "or under a health care plan" before the period at the end, and

(B) in paragraph (5), by inserting "or under a health care plan" after "or XX".

(b) CRIMES.—

(1) SOCIAL SECURITY ACT.—Section 1128B of such Act (42 U.S.C. 1320a-7b) is amended as follows:

(A) In the heading, by adding at the end the following: "OR HEALTH CARE PLANS".

(B) In subsection (a)(1)—

(i) by striking "title XVIII or" and inserting "title XVIII,", and

(ii) by adding at the end the following: "or a health care plan (as defined in section 1128(i)),".

(C) In subsection (a)(5), by striking "title XVIII or a State health care program" and inserting "title XVIII, a State health care program, or a health care plan".

(D) In the second sentence of subsection (a)—

(i) by inserting after "title XIX" the following: "or a health care plan", and

(ii) by inserting after "the State" the following: "or the plan".

(E) In subsection (b)(1), by striking "title XVIII or a State health care program" each place it appears and inserting "title XVIII, a State health care program, or a health care plan".

(F) In subsection (b)(2), by striking "title XVIII or a State health care program" each place it appears and inserting "title XVIII, a State health care program, or a health care plan".

(G) In subsection (b)(3), by striking "title XVIII or a State health care program" each place it appears in subparagraphs (A) and (C) and inserting "title XVIII, a State health care program, or a health care plan".

(H) In subsection (d)(2)—

(i) by striking "title XIX," and inserting "title XIX or under a health care plan,", and

(ii) by striking "State plan," and inserting "State plan or the health care plan,".

(2) IDENTIFICATION OF COMMUNITY SERVICE OPPORTUNITIES.—Section 1128B of such Act (42 U.S.C. 1320a-7b) is further amended by adding at the end the following new subsection:

"(f) The Secretary may—

"(1) in consultation with State and local health care officials, identify opportunities for the satisfaction of community service obligations that a court may impose upon the conviction of an offense under this section, and

"(2) make information concerning such opportunities available to Federal and State law enforcement officers and State and local health care officials.".

(c) HEALTH CARE PLAN DEFINED.—Section 1128 of such Act (42 U.S.C. 1320a-7) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) HEALTH CARE PLAN DEFINED.—For purposes of sections 1128A and 1128B, the term 'health care plan' means a public or private program for the delivery of or payment for health care items or services other than the medicare program, the medicaid program, or a State health care program.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1995.

SEC. 103. REPORTING OF FRAUDULENT ACTIONS UNDER MEDICARE.

Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall establish a program through which individuals entitled to benefits under the medicare program may report to the Secretary on a confidential basis (at the individual's request) instances of suspected fraudulent actions arising under the program by providers of items and services under the program.

TITLE II—REVISIONS TO CURRENT SANCTIONS FOR FRAUD AND ABUSE

SEC. 201. MANDATORY EXCLUSION FROM PARTICIPATION IN MEDICARE AND STATE HEALTH CARE PROGRAMS.

(a) INDIVIDUAL CONVICTED OF FELONY RELATING TO FRAUD.—

(1) IN GENERAL.—Section 1128(a) of the Social Security Act (42 U.S.C. 1320a-7(a)) is amended by adding at the end the following new paragraph:

"(3) FELONY CONVICTION RELATING TO FRAUD.—Any individual or entity that has been convicted, under Federal or State law, in connection with the delivery of a health care item or service or with respect to any act or omission in a program (other than those specifically described in paragraph (1)) operated by or financed in whole or in part by any Federal, State, or local government agency, of a criminal offense consisting of a felony relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.".

(2) CONFORMING AMENDMENT.—Section 1128(b)(1) of such Act (42 U.S.C. 1320a-7(b)(1)) is amended—

(A) in the heading, by striking "CONVICTION" and inserting "MISDEMEANOR CONVICTION"; and

(B) by striking "criminal offense" and inserting "criminal offense consisting of a misdemeanor".

(b) INDIVIDUAL CONVICTED OF FELONY RELATING TO CONTROLLED SUBSTANCE.—

(1) IN GENERAL.—Section 1128(a) of the Social Security Act (42 U.S.C. 1320a-7(a)), as amended by subsection (a), is amended by adding at the end the following new paragraph:

"(4) FELONY CONVICTION RELATING TO CONTROLLED SUBSTANCE.—Any individual or entity that has been convicted, under Federal or State law, of a criminal offense consisting of a felony relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.".

(2) CONFORMING AMENDMENT.—Section 1128(b)(3) of such Act (42 U.S.C. 1320a-7(b)(3)) is amended—

(A) in the heading, by striking "CONVICTION" and inserting "MISDEMEANOR CONVICTION"; and

(B) by striking "criminal offense" and inserting "criminal offense consisting of a misdemeanor".

SEC. 202. ESTABLISHMENT OF MINIMUM PERIOD OF EXCLUSION FOR CERTAIN INDIVIDUALS AND ENTITIES SUBJECT TO PERMISSIVE EXCLUSION FROM MEDICARE AND STATE HEALTH CARE PROGRAMS.

Section 1128(c)(3) of the Social Security Act (42 U.S.C. 1320a-7(c)(3)) is amended by adding at the end the following new subparagraphs:

"(D) In the case of an exclusion of an individual or entity under paragraph (1), (2), or (3) of subsection (b), the period of the exclusion shall be 3 years, unless the Secretary determines in accordance with published regulations that a shorter period is appropriate because of mitigating circumstances or that a longer period is appropriate because of aggravating circumstances.

"(E) In the case of an exclusion of an individual or entity under subsection (b)(4) or (b)(5), the period of the exclusion shall not be less than the period during which the individual's or entity's license to provide health care is revoked, suspended, or surrendered, or the individual or the entity is excluded or suspended from a Federal or State health care program.

"(F) In the case of an exclusion of an individual or entity under subsection (b)(6)(B), the period of the exclusion shall be not less than 1 year.".

SEC. 203. PERMISSIVE EXCLUSION OF INDIVIDUALS WITH OWNERSHIP OR CONTROL INTEREST IN SANCTIONED ENTITIES.

Section 1128(b) of the Social Security Act (42 U.S.C. 1320a-7(b)), as amended by section 101(a)(6)(B), is further amended by adding at the end the following new paragraph:

"(16) INDIVIDUALS CONTROLLING A SANCTIONED ENTITY.—Any individual who has a direct or indirect ownership or control interest of 5 percent or more, or an ownership or control interest (as defined in section 1124(a)(3)) in, or who is an officer, director, agent, or

managing employee (as defined in section 1126(b)) of, an entity—

"(A) that has been convicted of any offense described in subsection (a) or in paragraph (1), (2), or (3) of this subsection;

"(B) against which a civil monetary penalty has been assessed under section 1128A; or

"(C) that has been excluded from participation under a program under title XVIII or under a State health care program.".

SEC. 204. CIVIL MONETARY PENALTIES.

(a) PROHIBITION AGAINST OFFERING INDUCEMENTS TO INDIVIDUALS ENROLLED UNDER OR EMPLOYED BY PROGRAMS OR PLANS.—

(1) INDUCEMENTS TO INDIVIDUALS ENROLLED UNDER MEDICARE.—

(A) OFFER OF REMUNERATION.—Section 1128A(a) of the Social Security Act (42 U.S.C. 1320a-7a(a)) is amended—

(i) by striking "or" at the end of paragraph (1)(D);

(ii) by striking ", or" at the end of paragraph (2) and inserting a semicolon;

(iii) by striking the semicolon at the end of paragraph (3) and inserting "; or"; and

(iv) by inserting after paragraph (3) the following new paragraph:

"(4) offers to or transfers remuneration to any individual eligible for benefits under title XVIII of this Act, or under a State health care program (as defined in section 1128(h)) that such person knows or should know is likely to influence such individual to order or receive from a particular provider, practitioner, or supplier any item or service for which payment may be made, in whole or in part, under title XVIII, or a State health care program;".

(B) REMUNERATION DEFINED.—Section 1128A(i) is amended by adding the following new paragraph:

"(6) The term 'remuneration' includes the waiver of coinsurance and deductible amounts (or any part thereof), and transfers of items or services for free or for other than fair market value. The term 'remuneration' does not include the waiver of coinsurance and deductible amounts by a person, if—

"(A) the waiver is not offered as part of any advertisement or solicitation;

"(B) the person does not routinely waive coinsurance or deductible amounts; and

"(C) the person—

"(i) waives the coinsurance and deductible amounts after determining in good faith that the individual is indigent;

"(ii) fails to collect coinsurance or deductible amounts after making reasonable collection efforts; or

"(iii) provides for any permissible waiver as specified in section 1128B(b)(3) or in regulations issued by the Secretary.".

(2) INDUCEMENTS TO EMPLOYEES.—Section 1128A(a) of such Act (42 U.S.C. 1320a-7a(a)), as amended by paragraph (1), is further amended—

(A) by striking "or" at the end of paragraph (3);

(B) by striking the semicolon at the end of paragraph (4) and inserting "; or"; and

(C) by inserting after paragraph (4) the following new paragraph:

"(5) pays a bonus, reward, or any other remuneration, directly or indirectly, to an employee to induce the employee to encourage individuals to seek or obtain covered items or services for which payment may be made under the medicare program, or a State health care program where the amount of the remuneration is determined in a manner that takes into account (directly or indirectly) the value or volume of any referrals by the employee to the employer for covered items or services;".

(b) EXCLUDED INDIVIDUAL RETAINING OWNERSHIP OR CONTROL INTEREST IN PARTICIPATING ENTITY.—Section 1128A(a) of such Act, as amended by subsection (a), is further amended—

(1) by striking "or" at the end of paragraph (4);

(2) by striking the semicolon at the end of paragraph (5) and inserting "; or"; and

(3) by inserting after paragraph (5) the following new paragraph:

"(6) in the case of a person who is not an organization, agency, or other entity, is excluded from participating in a program under title XVIII or a State health care program in accordance with this subsection or under section 1128 and who, during the period of exclusion, retains a direct or indirect ownership or control interest of 5 percent or more, or an ownership or control interest (as defined in section 1124(a)(3)) in, or who is an officer, director, agent, or managing employee (as defined in section 1126(b)) of, an entity that is participating in a program under title XVIII or a State health care program;".

(c) MODIFICATIONS OF AMOUNTS OF PENALTIES AND ASSESSMENTS.—Section 1128A(a) of such Act (42 U.S.C. 1320a-7a(a)), as amended by subsections (a) and (b), is amended in the matter following paragraph (6)—

(1) by striking "$2,000" and inserting "$10,000";

(2) by inserting "; in cases under paragraph (4), $10,000 for each such offer or transfer; in cases under paragraph (5), $10,000 for each such payment; in cases under paragraph (6), $10,000 for each day the prohibited relationship occurs; in cases under paragraph (7), $10,000 per violation" after "false or misleading information was given";

(3) by striking "twice the amount" and inserting "3 times the amount"; and

(4) by inserting "(or, in cases under paragraphs (4), (5), and (7), 3 times the amount of the illegal remuneration)" after "for each such item or service".

(d) CLAIM FOR ITEM OR SERVICE BASED ON INCORRECT CODING OR MEDICALLY UNNECESSARY SERVICES.—Section 1128A(a)(1) of such Act (42 U.S.C. 1320a-7a(a)(1)) is amended—

(1) in subparagraph (A) by striking "claimed," and inserting the following: "claimed, including any person who presents or causes to be presented a claim for an item or service that is based on a code that the person knows or should know will result in a greater payment to the person than the code applicable to the item or service actually provided,";

(2) in subparagraph (C), by striking "or" at the end;

(3) in subparagraph (D), by striking "; or" and inserting ", or"; and

(4) by inserting after subparagraph (D) the following new subparagraph:

"(E) is for a medical or other item or service that a person knows or should know is not medically necessary; or".

(e) PERMITTING PARTIES TO BRING ACTIONS ON OWN BEHALF.—Section 1128A of such Act (42 U.S.C. 1320a-7a) is amended by adding at the end the following new subsection:

"(m)(1) Subject to paragraphs (2) and (3), any person (including an organization, agency, or other entity, but excluding a beneficiary, as defined in subsection (i)(5)) that suffers harm or monetary loss as a result of any activity of an individual or entity which makes the individual or entity subject to a civil monetary penalty under this section may, in a civil action against the individual or entity in the United States District Court, obtain treble damages and costs including attorneys' fees against the individual or entity and such equitable relief as is appropriate.

"(2) A person may bring a civil action under this subsection only if—

"(A) the person provides the Secretary with written notice of—

"(i) the person's intent to bring an action under this subsection,

"(ii) the identities of the individuals or entities the person intends to name as defendants to the action, and

"(iii) all information the person possesses regarding the activity that is the subject of the action that may materially affect the Secretary's decision to initiate a proceeding to impose a civil monetary penalty under this section against the defendants, and

"(B) one of the following conditions is met:

"(i) During the 60-day period that begins on the date the Secretary receives the written notice described in subparagraph (A), the Secretary does not notify the person that the Secretary intends to initiate an investigation to determine whether to impose a civil monetary penalty under this section against the defendants.

"(ii) The Secretary notifies the person during the 60-day period described in clause (i) that the Secretary intends to initiate an investigation to determine whether to impose a civil monetary penalty under this section against the defendants, and the Secretary subsequently notifies the person that the Secretary no longer intends to initiate an investigation or proceeding to impose a civil monetary penalty against the defendants.

"(iii) After the expiration of the 2-year period that begins on the date written notice is provided to the Secretary, the Secretary has not initiated a proceeding to impose a civil monetary penalty against the defendants.

"(3) If a person is awarded any amounts in an action brought under this subsection that are in excess of the damages suffered by the person as a result of the defendant's activities, 20 percent of such amounts shall be withheld from the person for payment into the Anti-Fraud and Abuse Trust Fund established under section 101(b) of the National Health Care Anti-Fraud and Abuse Act of 1993.

"(4) No action may be brought under this subsection more than 6 years after the date of the activity with respect to which the action is brought."

SEC. 205. ACTIONS SUBJECT TO CRIMINAL PENALTIES.

(a) PERMITTING SECRETARY TO IMPOSE CIVIL MONETARY PENALTY.—Section 1128A(b) of the Social Security Act (42 U.S.C. 1320a-7a(a)) is amended by adding the following new paragraph:

"(3) Any person (including any organization, agency, or other entity, but excluding a beneficiary as defined in subsection (i)(5)) who violates section 1128(B)(b) of this title shall be subject to a civil monetary penalty of not more than $10,000 for each such violation. In addition, such person shall be subject to an assessment of not more than twice the total amount of the remuneration offered, paid, solicited, or received in violation of section 1128B(b). The total amount of remuneration subject to an assessment shall be calculated without regard to whether some portion thereof also may have been intended to serve a purpose other than one proscribed by section 1128B(b).".

(b) RESTRICTION ON APPLICATION OF EXCEPTION FOR AMOUNTS PAID TO EMPLOYEES.—Section 1128B(b)(3)(B) of such Act (42 U.S.C. 1320a-7b(b)(3)(B)) is amended by striking "services;" and inserting the following:

"services, but only if the amount of remuneration under the arrangement is (i) consistent with fair market value; (ii) not determined in a manner that takes into account (directly or indirectly) the volume or value of any referrals by the employee to the employer for the furnishing (or arranging for the furnishing) of such items or services; and (iii) provided pursuant to an arrangement that would be commercially reasonable even if no referrals were made;".

SEC. 206. SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.

(a) MINIMUM PERIOD OF EXCLUSION FOR PRACTITIONERS AND PERSONS FAILING TO MEET STATUTORY OBLIGATIONS.—

(1) IN GENERAL.—The second sentence of section 1156(b)(1) of the Social Security Act (42 U.S.C. 1320c-5(b)(1)) is amended by striking "may prescribe)" and inserting "may prescribe, except that such period may not be less than 1 year)".

(2) CONFORMING AMENDMENT.—Section 1156(b)(2) of such Act (42 U.S.C. 1320c-5(b)(2)) is amended by striking "shall remain" and inserting "shall (subject to the minimum period specified in the second sentence of paragraph (1)) remain".

(b) REPEAL OF "UNWILLING OR UNABLE" CONDITION FOR IMPOSITION OF SANCTION.—Section 1156(b)(1) of such Act (42 U.S.C. 1320c-5(b)(1)) is amended—

(1) in the second sentence, by striking "and determines" and all that follows through "such obligations,"; and

(2) by striking the third sentence.

(c) AMOUNT OF CIVIL MONEY PENALTY.—Section 1156(b)(3) of such Act (42 U.S.C. 1320c-5(b)(3)) is amended by striking "the actual or estimated cost" and inserting the following: "up to $10,000 for each instance".

SEC. 207. INTERMEDIATE SANCTIONS FOR MEDICARE HEALTH MAINTENANCE ORGANIZATIONS.

(a) APPLICATION OF INTERMEDIATE SANCTIONS FOR ANY PROGRAM VIOLATIONS.—

(1) IN GENERAL.—Section 1876(i)(1) of the Social Security Act (42 U.S.C. 1395mm(i)(1)) is amended by striking "the Secretary may terminate" and all that follows and inserting the following: "in accordance with procedures established under paragraph (9), the Secretary may at any time terminate any such contract or may impose the intermediate sanctions described in paragraph (6)(B) or (6)(C) (whichever is applicable) on the eligible organization if the Secretary determines that the organization—

"(A) has failed substantially to carry out the contract;

"(B) is carrying out the contract in a manner inconsistent with the efficient and effective administration of this section;

"(C) is operating in a manner that is not in the best interests of the individuals covered under the contract; or

"(D) no longer substantially meets the applicable conditions of subsections (b), (c), (e), and (f).".

(2) OTHER INTERMEDIATE SANCTIONS FOR MISCELLANEOUS PROGRAM VIOLATIONS.—Section 1876(i)(6) of such Act (42 U.S.C. 1395mm(i)(6)) is amended by adding at the end the following new subparagraph:

"(C) In the case of an eligible organization for which the Secretary makes a determination under paragraph (1) the basis of which is not described in subparagraph (A), the Secretary may apply the following intermediate sanctions:

"(i) civil money penalties of not more than $25,000 for each determination under paragraph (1) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract;

"(ii) civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under paragraph (9) during which the deficiency that is the basis of a determination under paragraph (1) exists; and

"(iii) suspension of enrollment of individuals under this section after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.".

(3) PROCEDURES FOR IMPOSING SANCTIONS.—Section 1876(i) of such Act (42 U.S.C. 1395mm(i)) is amended by adding at the end the following new paragraph:

"(9) The Secretary may terminate a contract with an eligible organization under this section or may impose the intermediate sanctions described in paragraph (6) on the organization in accordance with formal investigation and compliance procedures established by the Secretary under which—

"(A) the Secretary provides the organization with the opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under paragraph (1);

"(B) in deciding whether to impose sanctions, the Secretary considers aggravating factors such as whether an entity has a history of deficiencies or has not taken action to correct deficiencies the Secretary has brought to their attention;

"(C) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and

"(D) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before imposing any sanction or terminating the contract.".

(4) CONFORMING AMENDMENTS.—

(A) IN GENERAL.—Section 1876(i)(6)(B) of such Act (42 U.S.C. 1395mm(i)(6)(B)) is amended by striking the second sentence.

(B) PROCEDURAL PROVISIONS.—Section 1876(i)(6) of such Act (42 U.S.C. 1395mm(i)(6)) is further amended by adding at the end the following new subparagraph:

"(D) The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under subparagraph (A) or (B) in the same manner as they apply to a civil money penalty or proceeding under section 1128A(a).".

(b) AGREEMENTS WITH PEER REVIEW ORGANIZATIONS.—

(1) REQUIREMENT FOR WRITTEN AGREEMENT.—Section 1876(i)(7)(A) of the Social Security Act (42 U.S.C. 1395mm(i)(7)(A)) is amended by striking "an agreement" and inserting "a written agreement".

(2) DEVELOPMENT OF MODEL AGREEMENT.—Not later than July 1, 1994, the Secretary of Health and Human Services shall develop a model of the agreement that an eligible organization with a risk-sharing contract under section 1876 of the Social Security Act must enter into with an entity providing peer review services with respect to services provided by the organization under section 1876(i)(7)(A) of such Act.

(3) REPORT BY GAO.—

(A) STUDY.—The Comptroller General shall conduct a study of the costs incurred by eligible organizations with risk-sharing contracts under section 1876(b) of such Act of complying with the requirement of entering into a written agreement with an entity providing peer review services with respect to services provided by the organization, together with an analysis of how information generated by such entities is used by the Secretary of Health and Human Services to assess the quality of services provided by such eligible organizations.

(B) REPORT TO CONGRESS.—Not later than July 1, 1996, the Comptroller General shall submit a report to the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance and the Special Committee on Aging of the Senate on the study conducted under subparagraph (A).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contract years beginning on or after January 1, 1995.

SEC. 208. EFFECTIVE DATE.

The amendments made by this title shall take effect January 1, 1995.

TITLE III—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

SEC. 301. REQUIREMENTS FOR UNIFORM CLAIMS AND ELECTRONIC CLAIMS DATA SET.

(a) REQUIREMENTS.—

(1) SUBMISSION OF CLAIMS.—Each health service provider that furnishes services in the United States for which payment may be made under a health benefit plan shall submit any claim for payment for such services only in a form and manner consistent with standards established under subsection (b).

(2) ACCEPTANCE OF CLAIMS.—A health benefit plan may not reject a claim for payment under the plan on the basis of the form or manner in which the claim is submitted if the claim is submitted in accordance with the standards established under subsection (b).

(3) EFFECTIVE DATE.—This subsection shall apply to claims for services furnished on or after the date that is 6 months after the date standards are established under subsection (b).

(b) STANDARDS RELATING TO UNIFORM CLAIMS.—

(1) ESTABLISHMENT OF STANDARDS.—The Secretary shall establish standards that relate to the form and manner of submission of claims for benefits under a health benefit plan.

(2) SCOPE OF INFORMATION.—

(A) IN GENERAL.—The standards under this subsection are intended to cover substantially most claims that are filed under health benefit plans. Such information need not include all elements that may potentially be required to be reported under utilization review provisions of plans.

(B) ENSURING ACCOUNTABILITY FOR CLAIMS SUBMITTED ELECTRONICALLY.—In establishing such standards, the Secretary, in consultation with appropriate agencies, including the Department of Justice, shall include such methods of ensuring provider responsibility and accountability for claims submitted electronically that are designed to control fraud and abuse in the submission of such claims.

(C) COMPONENTS.—In establishing such standards the Secretary shall—

(i) with respect to data elements, define data fields, formats, and medical nomenclature, and plan benefit and insurance information; and

(ii) develop a single, uniform coding system for diagnostic and procedure codes.

(3) USE OF TASK FORCES.—In adopting standards under this subsection, the Sec-

retary shall take into account the recommendations of current task forces, including at least the Workgroup on Electronic Data Interchange, National Uniform Billing Committee, the Uniform Claim Task Force, and the Computer-based Patient Record Institute.

(4) UNIFORM, UNIQUE PROVIDER IDENTIFICATION CODES.—In establishing standards under this subsection—

(A) the Secretary shall provide for a unique identifier code for each health service provider that furnishes services for which a claim may be submitted under a health benefit plan, and

(B) in the case of a provider that has a unique identifier issued for purposes of the medicare program, the code provided under subparagraph (A) shall be the same as such unique identifier.

(5) DEADLINE.—The Secretary shall first provide for the standards for the uniform claims under this subsection by not later than 1 year after the date of the enactment of this Act.

(c) USE UNDER MEDICARE AND MEDICAID PROGRAMS.—

(1) REQUIREMENT FOR PROVIDERS.—In the case of a health service provider that submits a claim for services furnished under the medicare program or medicaid program in violation of subsection (a)(1), no payment shall be made under such program for such services.

(2) REQUIREMENTS OF INTERMEDIARIES AND CARRIERS UNDER MEDICARE PROGRAM.—The Secretary shall provide, in regulations promulgated to carry out title XVIII of the Social Security Act, that the claims process provided under that title is modified to the extent required to conform to the standards established under subsection (b).

(3) REQUIREMENTS OF STATE MEDICAID PLANS.—As a condition for the approval of State plans under the medicaid program, effective as of the effective date specified in subsection (a)(3), each such plan shall provide, in accordance with regulations of the Secretary, that the claims process provided under the plan is modified to the extent required to conform to the standards established under subsection (b).

(d) DEFINITIONS.—

(1) HEALTH BENEFIT PLAN.—In this section:

(A) IN GENERAL.—The term "health benefit plan" means, except as provided in subparagraphs (B) through (D), any public or private entity or program that provides for payments for health care services, including—

(i) a group health plan (as defined in section 5000(b)(1) of the Internal Revenue Code of 1986),

(ii) any other health insurance arrangement, including any arrangement consisting of a hospital or medical expense incurred policy or certificate, hospital or medical service plan contract, or health maintenance organization subscriber contract, and

(iii) the medicare program and State health care programs (as defined in section 1128(h) of the Social Security Act).

(B) PLANS EXCLUDED.—Such term does not include—

(i) accident-only, credit, or disability income insurance;

(ii) coverage issued as a supplement to liability insurance;

(iii) an individual making payment on the individual's own behalf (or on behalf of a relative or other individual) for deductibles, coinsurance, or services not covered under a health benefit plan; and

(iv) such other plans as the Secretary may determine, because of the limitation of benefits to a single type or kind of health care, such as dental services, or other reasons should not be subject to the requirements of this section.

(C) PLANS INCLUDED.—Such term includes—

(i) worker's compensation or similar insurance, and

(ii) automobile medical-payment insurance.

(D) TREATMENT OF DIRECT FEDERAL PROVISION OF SERVICES.—Such term does not include a Federal program that provides directly for the provision of health services to beneficiaries.

(2) HEALTH SERVICE PROVIDER.—In this section, the term "health service provider" includes a provider of services (as defined in section 1861(u) of the Social Security Act), physician, supplier, and other person furnishing health care services.

(3) SECRETARY.—In this section, the term "Secretary" means the Secretary of Health and Human Services.

SEC. 302. ESTABLISHMENT OF THE HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM.

(a) FINDINGS.—The Congress finds the following:

(1) Fraud and abuse with respect to the delivery of and payment for health care services is a significant contributor to the growing costs of the Nation's health care.

(2) Control of fraud and abuse in health care services warrants greater efforts of coordination than those that can be undertaken by individual States or the various Federal, State, and local law enforcement programs.

(3) There is a national need to coordinate information about health care providers and entities that have engaged in fraud and abuse in the delivery of and payment for health care services.

(4) There is no comprehensive national data collection program for the reporting of public information about final adverse actions against health care providers, suppliers, or licensed health care practitioners that have engaged in fraud and abuse in the delivery of and payment for health care services.

(5) A comprehensive national data collection program for the reporting of public information about final adverse actions will facilitate the enforcement of the provisions of the Social Security Act and other statutes applicable to health care fraud and abuse.

(b) GENERAL PURPOSE.—Not later than January 1, 1995, the Secretary shall establish a national health care fraud and abuse data collection program for the reporting of final adverse actions against health care providers, suppliers, or practitioners as required by subsection (c), with access as set forth in subsection (d).

(c) REPORTING OF INFORMATION.—

(1) IN GENERAL.—Each government agency and health care plan shall report any final adverse action taken against a health care provider, supplier, or practitioner.

(2) INFORMATION TO BE REPORTED.—The information to be reported under paragraph (1) includes:

(A) The name of any health care provider, supplier, or practitioner who is the subject of a final adverse action.

(B) The name (if known) of any health care entity with which a health care provider, supplier, or practitioner is affiliated or associated.

(C) The nature of the final adverse action.

(D) A description of the acts or omissions and injuries upon which the final adverse action was based, and such other information as the Secretary determines by regulation is required for appropriate interpretation of information reported under this section.

(3) CONFIDENTIALITY.—In determining what information is required, the Secretary shall include procedures to assure that the privacy of individuals receiving health care services is appropriately protected.

(4) TIMING AND FORM OF REPORTING.—The information required to be reported under this subsection shall be reported regularly (but not less often than monthly) and in such form and manner as the Secretary prescribes. Such information shall first be required to be reported on a date specified by the Secretary.

(5) TO WHOM REPORTED.—The information required to be reported under this subsection shall be reported to the Secretary or, in the Secretary's discretion, to an appropriate private or public agency which has made suitable arrangements with the Secretary with respect to receipt, storage, protection of confidentiality of patients, and dissemination of the information described in paragraph (2).

(d) DISCLOSURE AND CORRECTION OF INFORMATION.—

(1) DISCLOSURE.—With respect to the information about final adverse actions reported to the Secretary under this section respecting a health care provider, supplier, or practitioner, the Secretary shall, by regulation, provide for—

(A) disclosure of the information, upon request, to the health care provider, supplier, or licensed practitioner, and

(B) procedures in the case of disputed accuracy of the information.

(2) CORRECTIONS.—Each Government agency and health care plan shall report corrections of information already reported about any final adverse action taken against a health care provider, supplier, or practitioner, in such form and manner that the Secretary prescribes by regulation.

(e) ACCESS TO REPORTED INFORMATION.—

(1) AVAILABILITY.—The information in this database shall be available to the public, Federal and State government agencies, and health care plans pursuant to procedures that the Secretary shall provide by regulation.

(2) FEES FOR DISCLOSURE.—The Secretary may establish or approve reasonable fees for the disclosure of information in this database. The amount of such a fee may not exceed the costs of processing the requests for disclosure and of providing such information. Such fees shall be available to the Secretary or, in the Secretary's discretion to the agency designated under this section to cover such costs.

(f) PROTECTION FROM LIABILITY FOR REPORTING.—No person or entity, including the agency designated by the Secretary in subsection (c)(5) shall be held liable in any civil action with respect to any report made as required by this section, without knowledge of the falsity of the information contained in the report.

(g) DEFINITIONS AND SPECIAL RULES.—For purposes of this section:

(1) The term "Secretary" means the Secretary of the Department of Health and Human Services.

(2) The term "final adverse action" includes:

(A) Civil judgments in Federal or State court related to the delivery of a health care item or service.

(B) Federal or State criminal convictions related to the delivery of a health care item or service.

(C) Actions by State or Federal agencies responsible for the licensing and certifi-

cation of health care providers, suppliers, and licensed health care practitioners, including—

(i) formal or official actions, such as revocation or suspension of a license (and the length of any such suspension), reprimand, censure or probation,

(ii) any other loss of license of the provider, supplier, or practitioner, whether by operation of law, voluntary surrender or otherwise, or

(iii) any other negative action or finding by such State or Federal agency that is publicly available information.

(D) Exclusion from participation in Federal or State health care programs.

(E) Any other actions that the Secretary shall establish by regulation.

(3) The terms "licensed health care practitioner", "licensed practitioner", and "practitioner" mean, with respect to a State, an individual who is licensed or otherwise authorized by the State to provide health care services (or any individual who, without authority holds himself or herself out to be so licensed or authorized).

(4) The term "health care provider" means a provider of services as defined in section 1861(u) of the Social Security Act, and any entity, including a health maintenance organization, group medical practice, or any other entity listed by the Secretary in regulation, that provides health care services.

(5) The term "supplier" means a supplier of health care items and services described in sections 1819 (a) and (b), and section 1861 of the Social Security Act.

(6) The term "Government agency" shall include:

(A) The Department of Justice.

(B) The Department of Health and Human Services.

(C) Any other Federal agency that either administers or provides payment for the delivery of health care services, including, but not limited to the Department of Defense and the Veterans' Administration.

(D) State law enforcement agencies.

(E) State medicaid fraud and abuse units.

(F) State or Federal agencies responsible for the licensing and certification of health care providers and licensed health care practitioners.

(7) The term "health care plan" has the meaning given to such term by section 1128(i) of the Social Security Act.

(8) For purposes of paragraph (2), the existence of a conviction shall be determined under paragraph (4) of section 1128(j) of the Social Security Act.

(h) CONFORMING AMENDMENT.—Section 1921(d) of the Social Security Act is amended by inserting "and section 301 of the National Health Care Anti-Fraud and Abuse Act of 1993" after "section 422 of the Health Care Quality Improvement Act of 1986".

SEC. 303. QUARTERLY PUBLICATION OF ADVERSE ACTIONS TAKEN.

(a) IN GENERAL.—Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by adding at the end the following new section:

"QUARTERLY PUBLICATION OF ADVERSE ACTIONS TAKEN

"SEC. 1144. Not later than 30 days after the end of each calendar quarter, the Secretary shall publish in the Federal Register a listing of all final adverse actions taken during the quarter under this part (including penalties imposed under section 1107, exclusions under section 1128, the imposition of civil monetary penalties under section 1128A, and the imposition of criminal penalties under section 1128B) and under section 1156.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to calendar quarters beginning on or after January 1, 1995.

NATIONAL HEALTH CARE ANTI-FRAUD AND ABUSE ACT

1. All-Payer Fraud and Abuse Program.—The Secretary of Health and Human Services would establish and coordinate an all-payer national health care fraud control program to restrict fraud and abuse in private and public health care programs. The Secretary would be authorized to conduct investigations, audits, evaluations and inspections relating to the delivery of and payment for health care; would be required to arrange for the sharing of data with the Attorney General and States; and would have to establish standards by regulation to carry out the program. The authority to enforce the fraud control program would be delegated to the HHS Inspector General. Enforcement of criminal violations would remain with the Justice Department.

2. Authorizations.—The bill provides increased authorizations for the fraud and abuse staff of the HHS Inspector General. Increased funding would be paid for by the establishment of an Anti-Fraud and Abuse Trust Fund. A portion of the civil monetary penalties, fines and damages assessed would be deposited in the trust fund and the assets would be used, in addition to appropriated amounts, to meet the operating costs of the national health care fraud control program.

3. Application of Civil Monetary Penalties to All Payers.—The provisions under the Medicare and Medicaid programs which provide for civil monetary penalties for specified violations would apply to similar violations for all payers in the national health care system. The violations would include billing for services not provided, submitting fraudulent claims for payment, hospitals giving financial incentives to physicians to reduce or limit care provided to hospital inpatients, and other violations currently included under the Medicare program.

4. Application of Criminal Penalties to All Payers.—The provisions under the Medicare and Medicaid program which provide for criminal penalties for specified fraud and abuse violations would apply to similar violations for all payers in the national health care system. The violations would include willful submission of false information or claims, acceptance of kickbacks, bribes or rebates in return for referral for services, and other violations currently included under Medicare. Penalties would include fines and imprisonment.

As under current law, the Justice Department would prosecute these criminal violations (the bill does not transfer criminal authority to the IG). Under the bill, the Secretary may identify opportunities for the satisfaction of community service obligations that a court may impose. Violations specifically tailored to the Medicare and Medicaid programs would not, however, constitute violations under the all-payer fraud control program (i.e., knowingly charging for services under Medicaid in excess of rates established by the State)—for these Medicare violations, current law would apply.

5. Amendments to All-Payer Fraud and Abuse Provisions.—The following revisions would apply to both the Medicare and Medicaid program and the all-payer fraud and abuse program:

(a) Civil monetary penalties—The bill would clarify that claiming a higher billing code for purposes of reimbursement is prohibited and subject to civil monetary penalties. An intermediate penalty would be established for anti-kickback violations.

(b) Private right of enforcement—An organization or entity which has suffered damages as a result of a violation of the civil monetary penalty section of the Medicare and Medicaid statute would be permitted to bring an action in the U.S. District Court if the Secretary does not notify the individual that she intends to pursue a civil monetary penalty.

For example, if a physician accepts kickbacks from a supplier, the doctor's competitors could sue for damages if HHS does not bring an action. Private rights of action are permitted under many Federal statutes, such as the anti-trust and securities anti-fraud laws. Private resources would be brought to bear to help gain compliance.

If the Secretary does proceed with the action, the organization may receive an amount the Secretary decides is appropriate restitution. If the Secretary does not proceed, 20% of the proceeds of the action or settlement would be deposited into the Trust Fund.

(c) Criminal penalties—The current employer-employee statutory exception would be clarified to prohibit payments to employees based on value and volume of referrals to the employer. Payments by an employer to an employee are within one of the four statutory exceptions to the anti-kickback statute.

This proposal would continue this broad exception, but narrow it to prohibit payments to the employee based on his number of referrals to the employer. Since the statutory exception is so broad, there are many instances where employment relationships are created mainly to take advantage of the exception, and not for legitimate business reasons.

6. Amendments to Medicare Fraud and Abuse Program.—The following revisions would only apply to the Medicare and Medicaid programs and would not constitute violations under the all-payer fraud and abuse program.

(a) Mandatory exclusion—The Secretary currently has authority to exclude individuals and entities from Medicare and Medicaid based on convictions or program-related crimes relating to patient abuse or neglect. The bill would extend the Secretary's authority to felony convictions relating to fraud and felony convictions relating to controlled substances. Currently, the Secretary is permitted, but not required, to exclude those convicted of such an offense. Adoption of this proposal would better recognize the seriousness of such offenses and ensure that beneficiaries are well protected from dealing with such individuals.

(b) Permissive exclusion—Some of the current permissive exclusions are "derivative" exclusions—that is, they are based on an action previously taken by a court, licensure board, or other agency. Current law allows permissive exclusion authority for entities when a convicted individual has ownership, control, or agency relationship with such entity. However, if an entity rather than an individual is convicted under Medicare fraud, the IG has no authority to exclude the individuals who own or control the entity and who may really have been behind the fraud.

This creates a loophole whereby an individual who is indicted for fraud along with a corporation owned by him can avoid being excluded from the programs by persuading the prosecutor to dismiss his indictment in exchange for agreeing to have the corpora-

tion plead guilty or pay fines. The bill would extend the current permissive exclusion authority for entities controlled by a sanctioned individual to individuals with control interest in sanctioned entities.

(c) Civil monetary penalties—One abusive technique now used by some Medicare providers is to waive the patient's copayment for services covered by Medicare. The concern is that routine waivers of copayments result in unnecessary procedures and overutilization (because the beneficiary has no financial stake in the decision to order a medical item or service).

The bill would clarify that the routine waiver of Medicare Part B copayments and deductibles would be prohibited and subject to civil monetary penalties although exceptions are provided. In addition, providing items or services at less than the fair market value and retention by an excluded individual of an ownership or control interest of an entity who is participating in Medicare or Medicaid would be prohibited and subject to civil monetary penalties.

(d) Quality of care sanctions—The bill would establish civil monetary penalties, of not more than $10,000, for each case in which the practitioner or person failed to substantially comply with the corrective action plan of the Peer Review Organization.

7. HMO Intermediate Sanctions Under Medicare.—The Secretary would be able to impose civil penalties on Medicare-qualified HMOs for violations of Medicare contracting requirements.

8. Publication of Sanctions Against Providers and Database for Final Adverse Actions.—The Secretary would create a comprehensive national data collection program for the reporting of public information about final adverse actions against health care providers, suppliers or licensed practitioners.

The Secretary would also be required to publish on a quarterly basis in the Federal Register a report of all final adverse actions against health care practitioners under the all-payer fraud and abuse program, including criminal convictions, exclusions from participation in Federal and State programs, civil monetary penalties and license revocations and suspensions.

9. Administrative Provisions.—

(a) Uniform Claims—All claims submitted by providers would be in a uniform claims format.

(b) Unique Provider Identification Code—Each provider would be required to submit claims using a unique provider identification code.

(c) Common Coding—coding of procedures and diagnoses would follow uniform formats.

By Mrs. MURRAY (for herself, Mr. SIMON, Mr. KERRY, Ms. MOSELEY-BRAUN, and Mr. MATHEWS)

S. 868. A bill to amend the Internal Revenue Code of 1986 to increase the tax on handguns and assault weapons, to increase the license application fee for gun dealers, and to use the proceeds from those increases to pay for medical care for gunshot victims; to the Committee on Finance.

FIREARM VICTIMS PREVENTION ACT

Mrs. MURRAY. Mr. President, on Saturday evening, April 17 in Seattle, WA, Cynthia Coston was driving home with a friend and her two daughters. As Mrs. Coston said: "The car in front of me stopped, so I just honked my horn. Somehow I got ahead of the car, and I heard fireworks. And then the gentleman with me said 'your daughter's been shot.'" A bullet from a 9mm semiautomatic pistol lodged in 9-year-old Loetta Coston's head. She was pronounced dead 3 hours later at Harborview Hospital.

It seems like every day we hear another story about a child being killed or killing with a gun. In fact, every day, 12 children ages 19 and under are killed by guns, and many more are wounded. Nearly 3,200 teenagers fatally shoot each other every year.

The rate at which our children are being killed by guns has risen drastically in recent years. The National Center for Health Statistics recently reported that firearms are now involved in one of every four deaths among those aged 15 to 24. Since 1986, major urban trauma centers have reported an increase of 300 percent in the number of children treated for gunshot wounds.

More than 135,000 students in this country carry a handgun to school every day. In 1990, the Centers for Disease Control reported that 20 percent of the high school students surveyed had carried a gun to school at least once in the month preceding the survey. A 1992 survey of 11th graders in Seattle's public high schools found that 34 percent reported easy access to handguns.

Violence related to handguns is a problem this Nation can no longer sweep under the constitutional rug. Easy access to handguns is a problem we can do something about now without getting into another lengthy debate over the constitutional right to bear arms.

A study by Sloan & Kellermann of firearm mortality between 1980 and 1986 in Seattle and Vancouver, Canada—cities similar in many respects—confirms this. Access to handguns is tightly restricted by Canadian law and is relatively unimpeded in the State of Washington. In comparison with Vancouver, Seattle had a fivefold higher rate of firearm homicide and a sevenfold higher rate of firearm assault, although rates for other violent crimes were similar.

There are more than 280,000 federally licensed gun dealers in this country. In King County, WA, alone there are 1,355 gun dealers. This is the second highest per capita in the Nation. Washington State has 5,600 licensed gun dealers and only 110 hospitals.

All one needs to do to become a gun dealer in this Nation is fill out a simple, two-page questionnaire and send $30 to the U.S. Treasury. Unless the applicant states on the form that he or she has been convicted of a crime involving at least a 1-year prison term or is an illegal alien, a license will be issued good for 3 years. This person then becomes just one more access point for guns in our country.

Compared to the annual fee of $755 for taverns and $2,000 for restaurants for a liquor license in Washington State, a 3-year, $30 fee for a Federal gun license is a steal.

Today, when we are struggling to get control of the dollars spent on health care, we must begin to look at the health care costs we are paying because of guns in this Nation. In fact, we and our children are paying a gruesome cost for the easy availability of firearms. A 1989 report to Congress, "Cost of Injury in the U.S.," ranked firearms third in the economic toll on society, amounting to a lifetime cost of $14.4 billion. If found an estimated 65,000 people require hospitalization annually for treatment of firearms injuries, at a very high average per person cost of nearly $54,000. The average per person cost for a fatality is $373,520—the highest of any cause of injury. According to the chair of the 1991 Advisory Council on Social Security, the overall cost of firearm injuries to our health care system is more than $4 billion. The indirect costs of gun-related injuries, such as disability payments, lost-work time, and legal fees, are about two times the annual cost of firearms injury. Public funds pay for an estimated 80 percent of the hospitalization costs of firearms injuries.

In Washington State, the number of firearms fatalities and injuries in 1991 was 2,079, with a lifetime cost of $275 million. Eighty percent of the treatment charges for the injuries is paid by governmental entitlement programs or written off as bad debt. Cars and firearms in Washington rank first and second, respectively, among all consumer products requiring public funds for health care. Washington State taxpayers pay for more than half of the combined costs associated with these injuries. That is money the citizens of Washington State won't have now for smaller class sizes, police protection, or environmental cleanup.

I say it is time that we look at the more than 67 million privately owned handguns and assault weapons in this Nation in the same way we look at alcohol and tobacco. As we search for ways to pay for health care, many are looking at equating the use of alcohol and tobacco with their burden on our health care system. My State is raising taxes on alcohol and tobacco products to help offset the cost of providing quality health care to all our citizens. We should do the same at the Federal level with handguns and those firearms most often associated with intentional death and injury.

Today, I am introducing the Firearm Victims Prevention Act. The bill seeks to alleviate the public health care cost resulting from firearm-related injury and death. The bill will do three things. First, it will establish a 25 percent tax on every sale of those firearms and ammunition most commonly asso-

ciated with injury and death. The current average tax of 10 percent is only levied on the manufacturer or importer of the guns and ammunition not on each sale. Second, it will raise fees for the 3-year Federal license to sell firearms and ammunition from the current $30 to $2,500. Third, it will put all of the revenue from the ammunition and firearm sales tax—estimated at $400 million a year—and one-half of the revenue from the increased gun license fees—estimated at $225 million a year—into a Health Care Trust Fund. Revenue in the fund will be available to help offset the public cost of providing medical care to gunshot victims. The bill specifically exempts from the new tax guns generally used for sporting purposes.

As we begin work on legislation to reform our Nation's health care system, we need to look at all the causes and cures for our problems. Over the last 2 years, handguns have killed 60,000 Americans—more than the number of U.S. soldiers killed in the Vietnam war in 2 years. Every year, firearms kill more of our Nation's youth than all natural causes combined. In my view, we can no longer afford to ignore these facts.

The right to carry firearms carries a responsibility, too. This legislation is one real way to cut back on easy access to handguns while helping to offset the health care costs of gunshot victims. I hope my colleagues will join me in this effort.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 868

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 "Firearm Victims Prevention Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) according to the Centers for Disease Control, an estimated 34,000 Americans die from firearm injuries each year, including 25,000 from handgun violence;

(2) firearms rank as the 8th leading cause of death in the United States, and less than 5 percent of fatal shootings are unintentional;

(3) the National Center for Health Statistics reported in March 1993 that, among Americans age 15 through 24, firearms are the cause of more deaths than all natural causes combined;

(4) from 1979 to 1989, the firearm homicide rate among children age 15 through 19 increased 61 percent, while the nonfirearm homicide rate fell 29 percent;

(5) more than 135,000 students carry handguns to school everyday, and an additional 270,000 students have carried a gun to school at least once;

(6) the United States leads industrialized nations in the percentage of households with firearms and the number of homicides with guns;

(7) according to the Centers for Disease Control, the estimated lifetime costs for firearm injuries that occurred in 1985 will be $14,400,000,000;

(8) according to the 1991 Advisory Council on Social Security, the overall annual cost of firearms injury to the health care system in the United States is more than $4,000,000,000;

(9) public funds pay for an estimated 85 percent of the cost of hospitalization for firearm injuries, excluding professional fees and the cost of ambulance, physical therapy, and other rehabilitative services;

(10) the indirect costs of gun-related injuries, such as disability payments, legal fees, and lost work time, are estimated to be 2 times the estimated annual direct cost of firearm injury;

(11) more than 280,000 manufacturers, dealers and individuals are licensed to sell firearms in the United States; and

(12) Federal firearm licenses are inexpensive, relatively easy to obtain, and may only be revoked upon criminal conviction.

(b) PURPOSE.—The purpose of this Act is to help alleviate the public health care cost resulting from firearm-related injury and death by—

(1) establishing a transactional tax on the purchase of the firearms and ammunition most commonly associated with injury and death;

(2) raising licensing fees for dealers who sell such firearms and ammunition; and

(3) using funds generated from the transactional tax and licensing fees to help offset the health care cost resulting from firearm injury and death.

SEC. 3. INCREASE IN TAX ON HANDGUNS AND ASSAULT WEAPONS.

(a) INCREASE IN MANUFACTURER'S TAX.—Section 4181 of the Internal Revenue Code of 1986 (relating to imposition of tax on firearms) is amended to read as follows:

"SEC. 4181. IMPOSITION OF TAX.

"(a) IMPOSITION OF TAX.—There is hereby imposed upon the sale by the manufacturer, producer, or importer of any of the following articles a tax equivalent to the specified percentage of the price for which so sold:

"ARTICLES TAXABLE AT 25 PERCENT.—

"Handguns.

"Assault weapons.

"Large capacity magazines.

"Shells and cartridges used in handguns and assault weapons.

"ARTICLES TAXABLE AT 11 PERCENT.—

"Firearms (other than handguns, assault weapons, and pistols or revolvers).

"Shells and cartridges not taxable at 25 percent.

"ARTICLES TAXABLE AT 10 PERCENT.—

"Pistols and revolvers not taxable at 25 percent.

"(b) DEFINITIONS.—For purposes of subsection (a)—

"(1) HANDGUN.—The term 'handgun' means a firearm which, at the time of manufacture, had a barrel of less than 12 inches in length.

"(2) ASSAULT WEAPON.—The term 'assault weapon' means—

"(A) a firearm—

"(i) which—

"(I) has a barrel of between 12 and 18 inches in length, and

"(II) is capable of receiving ammunition directly from a large capacity ammunition magazine, or

"(ii) which is a semiautomatic firearm which is—

"(I) not recognized generally as particularly suitable for, or readily adaptable to, sporting purposes, or

"(II) concealable by a person, or

"(B) a firearm which is substantially functionally equivalent to a firearm described in subparagraph (A).

"(3) LARGE CAPACITY AMMUNITION MAGAZINE.—The term 'large capacity ammunition magazine' means a detachable magazine, belt, drum, feed strip, or similar device which has, or which may be readily restored (or converted) to a device which has, a capacity of 15 or more rounds of ammunition."

(b) RETAIL TAX ON SUBSEQUENT TRANSACTIONS INVOLVING ASSAULT WEAPONS AND HANDGUNS.—

(1) IN GENERAL.—Chapter 31 of the Internal Revenue Code of 1986 (relating to retail excise taxes) is amended by adding at the end the following new subchapter:

"Subchapter D—Handguns and Assault Weapons

"Sec. 4056. Handguns and assault weapons.

"SEC. 4056. HANDGUNS AND ASSAULT WEAPONS.

"(a) IMPOSITION OF TAX.—There is hereby imposed on any sale, transfer, or other disposition by any person of a handgun, assault weapon, large capacity magazine, or shells and cartridges used in handguns and assault weapons a tax equal to 25 percent of the price for which sold, transferred, or disposed of.

"(b) EXCEPTIONS.—

"(1) COORDINATION WITH MANUFACTURER'S TAX.—If tax has been paid under section 4181 with respect to any article, no tax shall be imposed under subsection (a) on such article until a sale, transfer, or disposition occurring after the first retail sale of the article.

"(2) DEFENSE DEPARTMENT.—No tax shall be imposed by subsection (a) on any sale described in section 4182(b).

"(c) DEFINITIONS.—For purposes of this section, the terms 'handgun', 'assault weapon', and 'large capacity magazine' have the meanings given such terms by section 4181(b)."

(2) CONFORMING AMENDMENT.—The table of subchapters for chapter 31 of such Code is amended by adding at the end the following new item:

"Subchapter D—Handguns and Assault Weapons."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales, transfers, and other dispositions after the 30th day after the date of the enactment of this Act.

SEC. 4. HEALTH CARE TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end thereof the following new section:

"SEC. 9512. HEALTH CARE TRUST FUND.

"(a) ESTABLISHMENT OF THE TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the "Health Care Trust Fund", consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFERS TO THE TRUST FUND.—There are hereby appropriated to the Health Care Trust Fund amounts equivalent to—

"(1) the taxes received in the Treasury under section 4056,

"(2) the taxes received in the Treasury under section 4181 which are attributable to the tax on articles subject to the 25-percent rate, and

"(3) the amounts described in section 923(a)(3)(D) of title 18, United States Code.

"(c) EXPENDITURES FROM THE TRUST FUND.—Funds in the Health Care Trust Fund

shall be available, as provided in appropriations Acts, only for the purpose of making grants to assist hospitals, trauma centers or other health care providers that have incurred substantial uncompensated costs in providing medical care to gunshot victims except that no single hospital, trauma center or health care provider may receive more than one-tenth of 1 percent of the funds appropriated under this section.

"(d) ELIGIBILITY FOR TRUST FUND MONEYS.—A hospital, trauma center or other health care provider is eligible to apply for grants from the Trust Fund for any calendar year if the hospital, trauma center or health care provider—

"(1) is in compliance with Federal and State certification and licensing requirements;

"(2) is a not-for-profit entity; and

"(3) has incurred substantial uncompensated costs during the previous calendar year in providing medical care to gunshot victims.

"(e) REGULATIONS FOR TRUST FUND.—The Secretary shall, not later than 60 days after the date of enactment of this section and in consultation with the Secretary of Health and Human Services, issue such regulations as are necessary to implement the provisions of this section."

(b) CONFORMING AMENDMENT.—The table of sections for subchapter A of chapter 98 of such Code is amended by adding at the end the following new item:

"Sec. 9512. Health Care Trust Fund."

SEC. 5. LICENSE APPLICATION FEES FOR DEALERS IN FIREARMS.

(a) IN GENERAL.—Section 923(a)(3) of title 18, United States Code, is amended—

(1) in subparagraph (B) by striking "$25" and inserting "$2,500";

(2) in subparagraph (C) by striking "$10" and inserting "$2,500"; and

(3) by adding at the end the following new subparagraph (D):

"(D) There are hereby appropriated to the Health Care Trust Fund established under section 9512 of the Internal Revenue Code of 1986 (26 U.S.C. 9512) United States Code one-half of the revenue from the fees collected under subparagraphs (B) and (C)."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to license applications filed after the 30th day after the date of the enactment of this Act.

By Mr. WELLSTONE (for himself and Mr. KENNEDY):

S. 869. A bill to amend the Public Health Service Act to provide for demonstration projects for the identification by health care providers of victims of domestic violence and sexual assault, to provide for the education of the public on the consequences to the public health of such violence and assault, to provide for epidemiological research on such violence and assault, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. WELLSTONE:

S. 870. A bill to protect children from the trauma of witnessing or experiencing violence, sexual abuse, neglect, abduction, rape or death during parent/child visitations or visitation exchanges, and for other purposes; to the Committee on Labor and Human Resources.

SAFETY LEGISLATION

• Mr. WELLSTONE. Mr. President, I rise today to introduce two pieces of legislation that I feel are critical to the health and safety of American families. I urge my colleagues to support the Violence Reduction Training Act and the Child Safety Act. Both are preventative measures against the prevalence of violence in American homes today.

First, along with Senator KENNEDY, I am today introducing the Violence Reduction Training Act. This bill recognizes the vital role of the medical community in reducing family and community violence. This legislation would authorize funding to train health care providers to identify and refer patients whom they suspect have been abused or sexually assaulted. Many doctors do not recognize the signs of domestic violence. The Journal of the American Medical Association reported that 22 to 35 percent of women seeking treatment in emergency rooms have symptoms related to ongoing abuse. But doctors only recognize 5 percent of those cases as related to domestic violence. Furthermore, many doctors who recognize the signs of abuse have admitted that they are not sure how to talk to women about their abusive experiences. Therefore, the need for this education and sensitization is even recognized within the medical community itself.

Doctors are not the only health care professionals who have a responsibility to intervene in these crisis situations. Nurses, social workers, emergency room personnel—all health care providers play an important role in breaking the cycle of violence that pervades generations of families. Health care providers are often the first to encounter women who have been abused or sexually assaulted.

But domestic violence affects more than just the abused spouse. Children are also victimized by domestic violence. The National Council of Juvenile and Family Court Judges reported that more than half of the men who batter their wives also abuse their children. Even children who are not physically abused themselves often witness the violence committed against a parent. Studies have indicated that children who witness abuse exhibit emotional, somatic, and behavioral problems similar to those experienced by physically abused children. A lot of this abuse that is witnessed by children occurs in the context of visitation when parents are separated or divorced.

I am, therefore, today also introducing the Child Safety Act, which will authorize funding to create supervised visitation centers to minimize the incidence of family violence during visitation. This is a service that families have been seeking for years. In working on domestic violence issues over the past 2 years, my wife, Sheila, and I have repeatedly heard that families need a safe, neutral place where parents can temporarily transfer custody of children and fulfill court-ordered visitation requirements.

I know supervised visitation centers work because we have a number of pilot programs in Minnesota that have been very effective. For example, the Children's Safety Center, started by Kim Cardelli, has fulfilled the needs of many families in Minneapolis. Kim is a mother of four and a former AFDC recipient who encountered visitation problems herself after leaving her abusive husband a few years ago. While she was homeless and living at a shelter, she also heard about the problems other women were having during visitation. She heard about kids who had been shot or killed by abusive fathers. She heard about women who had been abused during visitations, and she heard about family members trying to be supportive by offering their homes as safe places for visitation only to be harmed by the abusive spouse or parent. Driven by the anger and compassion associated with her own experience and the experiences she had heard about from other women, she started working with the State legislature, and helped draft a bill which passed in 1992. That bill provided partial funding to set up pilot visitation centers in Minnesota. Kim is now the executive director of the Children's Safety Centers Network, Inc. She has shared her expertise with my staff to help us draft the Child Safety Act that I am introducing today.

Hundreds of people have expressed the view that supervised visitation centers would have saved their children from death, serious injury, or emotional trauma. I'd like to read a portion of a letter from a woman who was victimized along with her children during visitation.

> I am a 35-year-old woman who after nine and a half years of abuse left my husband in 1984. In 1987 he came to my home for his court ordered every weekend visitation with a shot gun. He shot his six-year-old son, shot at his five-year-old daughter and shot me in the right leg. As a result of the shooting I had to have my right leg amputated. If there had been a Children's Safety Center where we could have dropped off and picked up the children, this kind of incident would not have happened.

There are hundreds of other stories like this in Minnesota, and hundreds of thousands of similar stories in States throughout the country.

Supervised visitation centers not only provide safe places for parents to temporarily transfer custody of their children, they also provide safe locations where actual visitations can take place for parents who have abused their children. A supervised visitation also gives kids an opportunity to start building nonviolent memories about their parents. Furthermore, if supervised visitation centers were more available, fewer parental abductions of

children might occur. In 1988, the Department of Justice reported that over 350,000 children between the ages of 2 and 11 were abducted by family members who violated custody agreements. In 1991, a 14-year-old boy, David Geissler, was murdered by his father who violated a custody agreement by not returning David from a weekend visit back to his mother's house. David's mother testified that had a supervised visitation center been available to her in 1991, her son might still be alive.

These tragic cases illustrate the dire need for supervised visitation centers in communities across America. I urge my colleagues to support both the Violence Reduction Training Act and the Child Safety Act. I ask consent that the text of both bills 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. 869

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Violence Reduction Training Act".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Domestic violence and sexual assault represent serious threats to the health and well-being of millions of women in the United States.

(2) Violence against women has serious health consequences for its victims, including fatality, severe trauma, repeated physical injuries, and chronic stress-related disorder.

(3) Violence against women has serious mental health consequences for its victims, including substance abuse, severe psychological trauma, and suicide.

(4) Approximately 4,000,000 women in the United States are victims of domestic violence each year.

(5) One of two women is a victim of domestic violence or sexual assault during her lifetime.

(6) Battering is the leading cause of injury to women.

(7) It has been estimated that 1 in 6 pregnant women are battered, resulting in increased rates of miscarriage, stillbirths, and low-birthweight babies.

(8) Domestic violence may account for as much as one-third of emergency-room visits by women, an annual total of approximately 28,700 such visits.

(9) Estimates based on the National Crime Survey provide that domestic violence accounts for 21,000 hospitalizations, 99,800 days of hospitalization, and 39,900 visits to a physician each year.

(10) Fewer than 5 percent of injured women are correctly diagnosed by medical personnel as being victims of domestic violence.

(11) Hospitals and clinics do not have a uniform set of protocols for the identification and referral of victims of domestic violence and sexual assault, or for the training of health care professionals to perform such functions.

(12) A national surveillance system for monitoring the health effects of domestic violence and sexual assault should be established to determine the nature and extent of such violence and assault in the United States.

(13) The Surgeon General has identified domestic violence as a public health problem to which all health care providers must actively and vigorously respond.

(14) Estimates of the percentage of male batterers who also abuse their children range from 50 percent to 75 percent.

SEC. 3. ESTABLISHMENT OF CERTAIN HEALTH PROGRAMS REGARDING DOMESTIC VIOLENCE AND SEXUAL ASSAULT.

Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.), as amended by section 308 of Public Law 102-531 (106 Stat. 3495), is amended by inserting after section 317D the following section:

"HEALTH PROGRAMS REGARDING DOMESTIC VIOLENCE AND SEXUAL ASSAULT

"SEC. 317E. (a) DEMONSTRATION PROJECTS FOR IDENTIFICATION AND REFERRALS OF VICTIMS.—

"(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may award grants, contracts and cooperative agreements to public and nonprofit private entities for the purpose of carrying out demonstration projects in which health care providers are trained to—

"(A) appropriately interview and identify individuals whose medical condition or statements indicate that the individuals are victims of domestic violence or sexual assault; and

"(B) refer the individuals to entities that provide services regarding such violence and assault, including referrals for counseling, housing (including temporary housing), legal services, and services of community organizations.

"(2) APPLICATION.—A grant, contract or cooperative agreement may not be made or entered into under this section unless an application for such grant, contract or agreement has been submitted to and approved by the Secretary.

"(3) APPROVAL.—A grant, contract or cooperative agreement under this section shall be awarded in accordance with such regulations as the Secretary may promulgate. To be approved by the Secretary, an application submitted under paragraph (2) shall—

"(A) demonstrate that the applicant intends to use protocols developed by or under development by entities with demonstrated expertise in domestic violence or sexual assault; and

"(B) demonstrate that, in providing such training, the applicant is willing to work with local groups that have expertise in treatment and prevention of domestic violence and sexual assault.

"(4) CONSIDERATIONS.—In awarding a grant, contract or cooperative agreement under this section, the Secretary shall take into account—

"(A) the number of health care providers to be trained;

"(B) the diversity of health care providers to be trained; and

"(C) the extent to which a hospital is actively complying with the standards of the Joint Commission on Accreditation of Hospitals and Organizations to promote improved recognition and treatment of possible victims of abuse in hospitals, emergency departments, and ambulatory care units, when training hospital-based health care providers.

"(5) REPORTS.—The Secretary may award a grant, contract or cooperative agreement under paragraph (1) only if the applicant for the grant, contract or cooperative agreement agrees to submit to the Secretary a report describing the activities of the project under such paragraph for the fiscal year for which the grant, contract or cooperative agreement is awarded.

"(b) PUBLIC EDUCATION.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall carry out a program to educate health care providers and the public on the consequences to the public health of domestic violence and sexual assault.

"(c) EPIDEMIOLOGICAL RESEARCH.—

"(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall provide for the conduct of epidemiological research on domestic violence and sexual assault. In providing for such research, the Secretary shall ensure that, with respect to such violence and assault, data is collected on—

"(A) the incidence of cases and the effect of the cases on the costs of health care in the United States;

"(B) the type and severity of injuries sustained and the type and severity of any other resulting health conditions;

"(C) the extent to which victims seek treatment, including a comparison of the incidence of cases with the incidence of seeking treatment;

"(D) a description of common circumstances influencing victims not to seek treatment;

"(E) the types of medical facilities and health care providers from which victims seek treatment; and

"(F) the demographic characteristics of the individuals from whom data described in subparagraphs (A) through (E) is collected.

"(2) NATIONAL SYSTEM.—In carrying out paragraph (1), the Secretary shall cooperate with the States for the purpose of establishing, to the extent practicable, a national system for the collection of data regarding domestic violence and sexual assault.

"(3) CONFIDENTIALITY.—Standards of confidentiality under section 308(d) shall apply to data collected under paragraph (1) to the same extent and in the same manner as such section applies to information obtained under section 304, 306, or 307.

"(4) REPORT.—Not later than February 1, 1996, and every 2 years thereafter, the Secretary shall submit to the Congress a report summarizing the data collected under paragraph (1) for the preceding 2 years.

"(c) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—For the purpose of carrying out this section, there are authorized to be appropriated $20,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1997.

"(2) ALLOCATION FOR DEMONSTRATION PROJECTS.—Of the amounts appropriated under paragraph (1) for a fiscal year, the Secretary shall make available not less than 60 percent for grants, contracts or cooperative agreements under subsection (a).".

S. 870

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 Safety Act".

SEC. 2. FINDINGS.

Congress finds the following:

(1) The problem of family violence does not necessarily cease when the victimized family is legally separated, divorced, or otherwise

not sharing a household. During separation and divorce, family violence often escalates, and child custody and visitation become the new forum for the continuation of abuse.

(2) Current child custody and visitation laws are based on incorrect assumptions that divorcing parents are in relatively equal positions of power and that such parents always act in the children's best interest. These laws often work against the protection of the children and the abused spouse or intimate partner in families with a history of family violence.

(3) Some perpetrators use the children as pawns to control the abused party after the couple is separated.

(4) Every year an estimated 1,000 to 5,000 children are killed by their parents in the United States.

(5) In 1988, the Department of Justice reported that 354,100 children were abducted by family members who violated custody agreements or decrees. Most victims were children from ages 2 to 11 years.

(6) Approximately 160,000 children are seriously injured or impaired by abuse or neglect each year.

(7) Studies by the American Humane Association indicate that reports of child abuse and neglect have increased by over 200 percent from 1976 to 1986.

(8) Approximately 90 percent of children in homes in which their mothers are abused witness the abuse.

(9) Data indicates that women and children are at elevated risk for violence during the process of and after separation.

(10) Fifty to 70 percent of men who abuse their spouses or partners also abuse their children.

(11) Up to 75 percent of all domestic assaults reported to law enforcement agencies were inflicted after the separation of the couples.

(12) In one study of spousal homicide, over half of the male defendants were separated from their victims.

(13) Seventy-three percent of battered women seeking emergency medical services do so after separation.

SEC. 3. PURPOSE.

The purpose of this Act is to authorize funding to enable supervised visitation centers to provide the following:

(1) Supervised visitation in cases where there is documented sexual, physical or emotional abuse as determined by the appropriate court.

(2) Supervised visitation in cases where there is suspected or elevated risk of sexual, physical or emotional abuse, or where there have been threats of parental abduction of the child.

(3) Supervised visitation for children who have been placed in foster homes as a result of abuse.

(4) An evaluation of visitation between parents and children for child protection social services to assist such service providers in making determinations of whether the children should be returned to a previously abusive home.

(5) A safe location for custodial parents to temporarily transfer custody of their children with non-custodial parents, or to provide a protected visitation environment, where there has been a history of domestic violence or an order for protection is involved.

(6) An additional safeguard against the child witnessing abuse or a safeguard against the injury or death of a child or parent.

(7) An environment for families to have healthy interaction activities, quality time, non-violent memory building experiences during visitation to help build the parent/child relationship.

(8) Parent and child education and support groups to help parents heal and learn new skills, and to help children heal from past abuse.

SEC. 4. DEMONSTRATION GRANTS FOR SUPERVISED VISITATION CENTERS.

(a) IN GENERAL.—The Secretary of Health and Human Services (hereafter referred to in this Act as the "Secretary") is authorized to award grants to and enter into contracts and cooperative agreements with public or nonprofit private entities to assist such entities in the establishment and operation of supervised visitation centers.

(b) CONSIDERATIONS.—In awarding grants, contracts and agreements under subsection (a), the Secretary shall take into account—

(1) the number of families to be served by the proposed visitation center to be established under the grant, contract or agreement;

(2) the extent to which supervised visitation centers are needed locally;

(3) the relative need of the applicant; and

(4) the capacity of the applicant to make rapid and effective use of assistance provided under the grant, contract or agreement.

(c) USE OF FUNDS.—

(1) IN GENERAL.—Amounts provided under a grant, contract or cooperative agreement awarded under this section shall be used to establish supervised visitation centers and for the purposes described in section 3. In using such amounts, grantees shall target the economically disadvantaged and those individuals who could not otherwise afford such visitation services. Other individuals may be permitted to utilize the services provided by the center on a fee basis.

(2) COSTS.—To the extent practicable, the Secretary shall ensure that, with respect to recipients of grants, contracts or agreements under this section, the perpetrators of the family violence, abuse or neglect will be responsible for any and all costs associated with the supervised visitation undertaken at the center.

SEC. 5. DEMONSTRATION GRANT APPLICATION.

(a) IN GENERAL.—A grant, contract or cooperative agreement may not be made or entered into under this Act unless an application for such grant, contract or cooperative agreement has been submitted to and approved by the Secretary.

(b) APPROVAL.—Grants, contracts and cooperative agreements under this Act shall be awarded in accordance with such regulations as the Secretary may promulgate. At a minimum, to be approved by the Secretary under this section an application shall—

(1) demonstrate that the applicant has recognized expertise in the area of family violence and a record of high quality service to victims of family violence; and

(2) be submitted from an entity located in a State where State law requires the courts to consider evidence of violence in custody decisions.

SEC. 6. EVALUATION OF DEMONSTRATION PROJECTS.

(a) IN GENERAL.—Not later than 30 days after the end of each fiscal year, a recipient of a grant, contract or cooperative agreement under this Act shall prepare and submit to the Secretary a report that contains information concerning—

(1) the number of families served per year;

(2) the number of families served per year categorized by—

(A) families who require that supervised visitation because of child abuse only;

(B) families who require supervised visitation because of a combination of child abuse and domestic violence; and

(C) families who require supervised visitation because of domestic violence only;

(3) the number of visits per family in the report year categorized by—

(A) supervised visitation required by the courts;

(B) supervised visitation based on suspected or elevated risk of sexual, physical, or emotional abuse, or threats of parental abduction of the child that is not court mandated;

(C) supervised visitation that is part of a foster care arrangement; and

(D) supervised visitation because of an order of protection;

(4) the number of supervised visitation arrangements terminated because of violations of visitation terms, including violence;

(5) the number of protective temporary transfers of custody during the report year;

(6) the number of parental abduction cases in a judicial district using supervised visitation services, both as identified in criminal prosecution and custody violations;

(7) the number of safety and security problems that occur during the report year;

(8) the number of families who are turned away because the center cannot accommodate the demand for services;

(9) the process by which children or abused partners will be protected during visitations, temporary custody transfers and other activities for which the supervised visitation centers are created; and

(10) any other information determined appropriate in regulations promulgated by the Secretary.

(b) EVALUATION.—In addition to submitting the reports required under subsection (a), an entity receiving a grant, contract or cooperative agreement under this Act shall have a collateral agreement with the court, the child protection social services division of the State, and local domestic violence agencies or State and local domestic violence coalitions to evaluate the supervised visitation center operated under the grant, contract or agreement. The entities conducting such evaluations shall submit a narrative evaluation of the center to both the center and the grantee.

(c) DEMONSTRATION OF NEED.—The recipient of a grant, contract or cooperative agreement under this Act shall demonstrate, during the first 3 years of the project operated under the grant, contract or agreement, the need for continued funding.

SEC. 7. SPECIAL GRANTS TO STUDY THE EFFECT OF SUPERVISED VISITATION ON SEXUALLY ABUSED OR SEVERELY PHYSICALLY ABUSED CHILDREN.

(a) AUTHORIZATION.—The Secretary is authorized to award special grants to public or nonprofit private entities to assist such entities in collecting clinical data for supervised visitation centers established under this Act to determine—

(1) the extent to which supervised visitation should be allowed between children who are sexually abused or severely physically abused by a parent, where the visitation is not predicated on the abusive parent having successively completed a specialized course of therapy for such abusers;

(2) the effect of supervised visitation on child victims of sexual abuse or severe physical abuse when the abusive parent exercising visitation has not completed specialized therapy and does not use the visitation to alleviate the child victim's guilt, fear, or confusion;

(3) the relationship between the type of abuse or neglect experienced by the child and the use of supervised visitation centers by the maltreating parent; and

(4) in cases of spouse or partner abuse only, the extent to which supervised visitation should be predicated on participation by the abusive spouse in a specialized treatment program.

(b) APPLICATION.—To be eligible to receive a grant under this section an entity 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 documentary evidence to demonstrate that the entity possesses a high level of clinical expertise and experience in child abuse treatment and prevention as they relate to visitation. The level of clinical expertise and experience required will be determined by the Secretary.

(c) REPORT.—Not later than 1 year after the date on which a grant is received under this section, and each year thereafter for the duration of the grant, the grantee shall prepare and submit to the Secretary a report containing the clinical data collected under such grant.

SEC. 8. REPORTING.

Not later than 18 months after the date of enactment of this Act, and annually thereafter, the Secretary shall prepare and submit to the appropriate committees of Congress a report containing the information collected under the reports received under sections 6 and 7, including recommendations made by the Secretary concerning whether or not the supervised visitation center demonstration and clinical data programs should be reauthorized.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—For the purpose of awarding grants, contracts and cooperative agreements under this Act, there are authorized to be appropriated $30,000,000 for fiscal year 1994, $40,000,000 for fiscal year 1995, and $50,000,000 for fiscal year 1996.

(b) DISTRIBUTION.—Of the amounts appropriated under subsection (a) for each fiscal year—

(1) not less than 80 percent shall be used to award grants, contracts, or cooperative agreements under section 5; and

(2) not more than 20 percent shall be used to award grants under section 7.

(c) DISBURSEMENT.—Amounts appropriated under this section shall be disbursed as categorical grants through the 10 regional offices of the Department of Health and Human Services.●

By Mr. SIMPSON:

S. 871. A bill for the relief of Nathan C. Vance, and for other purposes; to the Committee on the Judiciary.

PRIVATE RELIEF OF CODY, WY, RESIDENT

Mr. SIMPSON. Mr. President, I rise today to offer a bill for the private relief of a citizen who has fallen victim to both the 1988 Yellowstone fires and to an insensitive Government bureaucracy. This legislation is identical to a bill I introduced late in the 102d Congress and which, because of the time constraints, had not been reported from the Judiciary Committee.

The tragic Yellowstone forest fire of 1988 devastated Nathan Vance's outfitting business when it burned through his Teton wilderness camp. The fire destroyed essential outfitting equipment, forcing Nathan Vance to cancel 12 prepaid trips and forfeit valuable revenue from those trips. Mr. Vance incurred both equipment replacement costs and lost revenue, a deadly combination to a small, seasonal business with a small profit margin even in the best of times. This legislation would compensate him for the equipment losses he suffered—as the Congress had intended to do with the original legislation we enacted following those tragic fires. The forest fire was a devastating event in Mr. Vance's life—a tragedy compounded by insensitive Government wrangling and delays.

Congress showed its compassion for the financially injured citizens of the Yellowstone area with the passage of Public Law 101-302. This law authorized the Forest Service to settle certain personal damage claims from the 1988 Yellowstone fires. Mr. Vance mailed his claim on August 19, 1990, in order to meet the August 23 deadline.

Through no fault of his own, it took 5 business days for Nate Vance's letter to travel from Wyoming to Utah—longer than it takes a letter to reach Washington, DC, from San Francisco, CA.

The Forest Service officially received the Vance claim less than 24 hours after the deadline. Yet the Forest Service seemed unconcerned by the deadline and continued the claim process by asking Mr. Vance to provide a detailed accounting of his lost equipment and revenue.

More than 3 months after the Forest Service received his accounting and seemed ready to pay the claim, Mr. Vance was informed by a Forest Service employee that his claim was invalid because of the missed deadline. Mr.Vance has since attempted to appeal to the Forest Service, but has been met with repeated refusals to consider the claim.

Public Law 101-302 states the "Forest Service is directed to negotiate, compromise, and reach a determination on the original claims." It is clear the Forest Service failed to negotiate, to compromise, or reach a determination even when directly ordered by law to do so—all based on unusually slow mail service outside the control of Mr. Vance.

The tragic combination of a devastating forest fire and Government insensitivity has turned Mr. Vance's life upside down. He is still struggling to pay the additional mortgages on his home and business assets that he was forced to take out in order to continue business operations.

Nate Vance's story is an unnecessary and an unintended inequity. Insensitive Government actions contributed to his hardships through an unreasonable and unresponsive process. We should not allow Government to forget that we are here to serve the people, not to impose unfair burdens upon them.

This legislation will allow us to ease some of the unfair burden imposed on Nate Vance by requiring the Forest Service to pay Mr. Vance $4,850 from the appropriate funds now in the Forest Service regional fire budget. This amount represents only his equipment loss and is only the amount that would have been approved if the Postal Service had taken 4 days, rather than 5, to deliver his claim from Wyoming to its adjacent neighbor, Utah.

Mr. Vance is an honorable citizen who is pursuing the American dream of owning and operating a business. He is entitled to relief and deserves our support. I encourage my colleagues to support this legislation and help us to correct this obvious inequity and absurdity.

Mr. President, I would also inform my colleagues that in the final hours of the 102d Congress, all relevant agencies of the Federal Government had signed off—that is to say they indicated their approval—on this legislation. I trust that this legislation will once again receive the support of the Department of Agriculture, the Office of Management and Budget, and the Department of Justice. I look forward to their support and assistance in the 103d Congress in working to move this legislation swiftly through the process of committee approval and to final passage.

By Mr. PELL (by request):

S. 872. A bill to authorize appropriations for the African Development Foundation; to the Committee on Foreign Relations.

AFRICAN DEVELOPMENT FOUNDATION APPROPRIATIONS AUTHORIZATIONS ACT

Mr. PELL. Mr. President, by request, I introduce for appropriate reference a bill to authorize appropriations for the African Development Foundation.

This proposed legislation has been requested by the African Development Foundation, and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the section-by-section analysis, and the letter from the president of the African Development Foundation, which was received on April 14, 1993.

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

S. 872

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 505 of Title V of the International Security and Development Co-

operation Act of 1980 is amended by adding subsection (c) to read as follows:

"(c) when, with the permission of the Foundation, funds made available to a grantee under this title are invested pending disbursement, the resulting interest is not required to be deposited in the United States Treasury if the grantee uses the resulting interest for the purposes for which the grant was made. This subsection applies with respect to both interest earned before and interest earned after the enactment of this subsection."

SEC. 2. Section 506(a) of Title V is amended by adding paragraph (13) to read as follows:

"(13) When determined by the president of the African Development Foundation to be necessary, and subject to such security investigations as the Foundation may determine to be appropriate, many employ persons who are not citizens of the United States without regard to statutory provisions prohibiting payment of compensation to persons who are not citizens of the United States or to statutory provisions relating to employment in the competitive service; provided, that this paragraph shall pertain only to individuals under negotiated contracts with the Foundation as of October 6, 1992."

SEC. 3. Section 507(b) is amended by deleting "actual and necessary expenses not exceeding $100 per day, and for transportation expenses" and inserting "necessary travel expenses in accordance with subchapter I of chapter 57, title 5, United States Code," in lieu thereof.

SEC. 4. Section 510 of Title V is amended by deleting "$3,872,000 for fiscal year 1986, and $3,872,000 for fiscal year 1987" in the first sentence, and inserting "$16,905,000 for fiscal year 1994, and $17,393,000 for fiscal year 1995."

SECTION-BY-SECTION ANALYSIS

Section 1 of the bill provides the Foundation with the flexibility to waive the requirement that any interest earned on grant funds must be returned by the grantee to the United States Treasury. This provision, which is in the legislation of the InterAmerican Foundation, and has been incorporated in ADF's appropriations legislation for each of the past three years, would be used to waive the requirement where to do so would ameliorate the impact of inflation on projects, such as revolving credit programs, which require grantees to retain funds in project bank accounts for longer than normal periods. It also provides additional project income which can be used to increase project scope.

Section 2 of the bill would transfer from the appropriations to the authorization legislation an authority granted to the Foundation in Fiscal Year 1993 to convert three African and one West Indian contractor to employee status notwithstanding their lack of U.S. citizenship. This would make the authority to employ these individuals permanent.

Section 3 authorizes members of the Foundation's Board of Directors, who serve without compensation, to be reimbursed for all necessary travel expenses in the same manner as is authorized for other Federal employees. This authority would replace a limit of $100 per day based on actual expenses, which was placed in the original legislation in 1980, and which no longer reflects the true cost of travel in Africa. A similar amendment was added to the InterAmerican Foundation's legislation in 1982.

Section 4 authorizes the appropriation for the African Development Foundation of $16,905,000 for Fiscal Year 1994, and $17,393,000 for Fiscal Year 1995.

AFRICAN DEVELOPMENT FOUNDATION,
Washington, DC, April 5, 1993.

Hon. ALBERT GORE,
Vice President of the United States and President of the Senate, U.S. Senate, Washington, DC.

DEAR MR. PRESIDENT: I herewith transmit a bill to amend the International Security and Development Cooperation Act of 1980 to permit grantees to retain interest earned on grant funds if used in furtherance of the purposes of the grant, to permit the Foundation to employ persons currently under contract to the Foundation who are not U.S. citizens, and to authorize appropriations for the Foundation for Fiscal Years 1994 and 1995. This legislative proposal is needed to carry out the President's FY 1994 budget plan.

Section 1 of the bill adds language to section 505 of the Act which, in the absence of authorization legislation, has been contained in the Foundation's appropriation legislation in each of the past three years. The authority to permit grantees to retain interest earned is identical to that contained in the legislation of ADF's sister agency, the Inter-American Foundation. It is believed useful to ameliorate the impact of inflation on ADF projects in some African countries.

Section 2 contains language originally inserted in ADF's FY 1993 appropriation legislation. It would permit the Foundation to convert permanently to employee status four African and West Indian contractors currently providing valuable services to the Foundation.

Section 3 of the bill authorizes the members of the Foundation's Board of Directors, who serve without compensation, to be reimbursed for all necessary travel expenses in the same manner as is authorized for other Federal employees. The current $100 limit on reimbursement for travel expenses, included in the original 1980 ADF legislation, is now substantially out of line with the current cost of travel in Africa.

Section 4 of the bill authorizes the appropriation for the African Development Foundation of $16,905,000 for Fiscal Year 1994, and $17,393,000 for Fiscal Year 1995.

The Office of Management and Budget advises that there is no objection to the presentation of this proposal to Congress, and that its enactment would be in accord with the program of the President.

Sincerely,

GREGORY ROBESON, SMITH,
President.

By Mr. PELL (by request):

S. 873. A bill to amend the Asian Development Bank Act to authorize consent to, and authorize appropriations for, the U.S. contribution to the fifth replenishment of the resources of the Asian development fund, and for other purposes; to the Committee on Foreign Relations.

ASIAN DEVELOPMENT BANK ACT OF 1993

Mr. PELL. Mr. President, by request, I introduce for appropriate reference a bill to amend the Asian Development Bank Act to authorize consent to, and authorize appropriations for, the U.S. contribution to the fifth replenishment of the resources of the Asian Development Fund, and for other purposes.

This proposed legislation has been requested by the Department of the Treasury, and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the letter from the acting general counsel of the Department of the Treasury to the President of the Senate, which was received on April 19, 1993.

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

S. 873

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That the Asian Development Bank Act (22 U.S.C. 285, et seq.) is amended by adding at the end the following new section:

"SEC. 31. (a) The United States Governor of the Bank is authorized to contribute on behalf of the United States $680,000,000 to the Asian Development Fund, a special fund of the Bank, except that any commitment to make such contributions shall be made subject to obtaining the necessary appropriations.

"(b) In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated without fiscal year limitation, $680,000,000 for payment by the Secretary of the Treasury.".

DEPARTMENT OF THE TREASURY,
Washington, DC, April 16, 1993.

Hon. ALBERT GORE, Jr.,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: I am pleased to transmit herewith a draft bill, "To amend the Asian Development Bank Act to authorize consent to and authorize appropriations for the United States contribution to the fifth replenishment of the resources of the Asian Development Fund, and for other purposes." We urge prompt consideration of this proposal.

This legislation is critical to U.S. foreign economic policy. The Asian Development Bank (ADB) is an extremely cost-effective vehicle for furthering U.S. international economic priorities in Asia. The Asian Development Fund (ADF) is the soft loan window of the ADB, providing concessional resources to the poorest countries in the region. Donors reached agreement on December 10, 1991, to replenish the resources of the ADF. The total size of the replenishment is $4.2 billion over four years, 1992–1995. The U.S. contribution to the replenishment over this period is $170 million per year (a total of $680 million).

In the context of this replenishment the United States was able to obtain important policy reforms that will improve the efficiency and quality of lending operations in the ADB, and promote U.S. economic policy objectives in the region. Specifically, the U.S. was successful in obtaining agreement to strengthen the Bank's environmental activities, increase Bank operations to stimulate private sector activities, allocate ADF resources based on the economic performance of the borrower, enhance the role of women in development, and strengthen the Bank's efforts to promote growth-oriented policies. Donors also reached agreement that India and China will not have access to the resources of this replenishment.

The draft bill would add a new section to the Asian Development Bank Act, to authorize the United States Governor of the ADB to contribute $680 million to the ADF, subject to obtaining the necessary appropriations.

It would be appreciated if you would lay the draft bill before the Senate. An identical draft bill has been transmitted to the Speaker of the House of Representatives.

The Office of Management and Budget has advised that there is no objection to the transmittal of this draft bill to the Congress, and that enactment would be in accord with the Administration's program.

Sincerely,

DENNIS I. FOREMAN,
Acting General Counsel.

By Mr. PRESSLER (for himself, Mr. WARNER, Mr. DASCHLE, Mr. KRUEGER, Mr. SHELBY, Mr. GORTON, Mr. BURNS, Mr. CAMPBELL, Mr. BOREN, Mr. NICKLES, and Mr. BAUCUS):

S. 874. A bill to reauthorize Public Law 81-874 (Impact Aid), and for other purposes; to the Committee on Labor and Human Resources.

IMPACT AID REAUTHORIZATION

Mr. PRESSLER. Mr. President, today, I am introducing legislation to reauthorize Public Law 81-874, the Impact Aid Educational Program. I am very pleased that Senators WARNER, DASCHLE, KRUEGER, SHELBY, GORTON, BURNS, CAMPBELL, BOREN, NICKLES, and BAUCUS are joining me as original cosponsors of this important education legislation.

Impact aid is based on a very simple concept: The Federal Government, as the largest property holder in the United States, is uniquely different from most corporations or businesses that own property or provide a service. For example, the Federal Government is exempt from paying State and local taxes on any property it owns, whether that property is land, buildings or equipment.

The Impact Aid Program provides two methods of Federal reimbursement for local educational agencies that have a Federal presence in their area. One method is payment in lieu of taxes [PILT] for land that is no longer taxable by local governments. With many public school districts dependent on local property taxes, Federal ownership of local property effectively reduces the amount of taxes that can be collected locally, and ultimately the amount schools receive. The PILT method of reimbursement partially redresses that revenue loss.

The other method of reimbursement is direct Federal payments to school districts for all or part of the cost of educating children whose parents are employed by the Federal Government as either civilian or military personnel.

However, what is most important is the number of students who benefit from impact aid. The Federal Government's local presence varies from State to State. Impact aid is very important in some States, but not necessarily all States.

Mr. President, more than 2,600 school districts enrolling more than 20 million children are impacted by a Federal presence to the extent that their basic source of revenue is severely limited. In fiscal year 1993, more than $738 million in impact aid payments will be made, which represents only 35 percent of the actual need. In short, impact aid attempts to make up a portion of the local government's loss resulting from the Federal Government's presence. More important, impact aid represents a basic Federal commitment for a service all Americans consider the single most important function of a civilized society—the education of its youth.

In my State of South Dakota, more than 50 school districts receive impact aid. Some districts receive more funding than others. However, given the limited resources available to public schools across the country, every dollar helps with the education of a child.

Mr. President, let me share some of the comments about this legislation I hear from my fellow South Dakotans. John A. Bonaiuto, secretary of the South Dakota Department of Education and Cultural Affairs, has said that "this office supports the concept of basing payment on the financial need of the district."

Richard Bordeaux, superintendent of the Todd County School District in South Dakota, states in his letter of support for impact aid funding that "this reauthorization bill has a vision behind it of putting basic education funds where a Federal presence has the greatest effect on the local education agency * * *." Todd County encompasses the Rosebud Sioux Indian Reservation. It is the eighth poorest county in the Nation. Without impact aid, there wouldn't be a school system in Todd County.

South Dakota has one military base, Ellsworth Air Force Base, located near Rapid City, where the Douglas School District serves students. Joseph L. Schmitz, superintendent of Douglas, states the "reauthorization bill will best serve the needs of those targeted populations of students."

Finally, Mr. President, I have a letter from the Impact Schools of South Dakota. Its president, Richard Parry, states that "this bill addresses in an equitable way the responsibility of the United States to provide for the basic educational needs of federally connected personnel * * *."

Mr. President, I ask unanimous consent that the complete text of these four letters be included in the RECORD at the conclusion of my remarks.

Though the basic goals of impact aid have not changed, the means to achieve them are in need of revision. The legislation I am introducing today would create an Impact Aid Program that is far different from what was first created 40 years ago. It is far different, but a far more effective program.

This legislation is the product of more than 3 years of work on the part of the National Association of Federally Impacted Schools. Two goals were set by the association: First, simplify the program; and second, target resources to those local educational agencies in greatest need. Input was gathered from many sources. Those who assisted include key congressional committee staff, Federal agency officials, and most important, representatives of school districts directly affected by the program, including those in South Dakota.

I am pleased to report today that this legislation meets both goals. The program would be easy to administer. A numerical weight is placed on the different types of Federal students within each district relative to the fiscal burden those students represent to a local educational agency. In addition, it also measures, through an allocation process similar to one used by many States, the relative need each school district has for impact aid payments.

Let me repeat that this legislation does not alter the basic premise of impact aid. The program still represents the basic responsibility of the Federal Government to pay its share of the cost of educating federally connected students. It would keep fiscal burdens from being shifted unfairly to local taxpayers.

As all my colleagues know, the Federal Government's role in education policy is one of supplementing or assisting State and local efforts. It would seem logical that the Federal Government's first responsibility should be to school districts that are negatively impacted by the Federal Government.

However, impact aid has not been fully funded in more than 20 years. The fiscal and political reality is that it will not be fully funded anytime soon. Therefore, Congress should seek ways to prioritize the payment process to ensure that school districts with a higher dependence on Federal assistance will receive larger payments. This legislation would do just that. This is an improvement.

Of course, any shifts in the basic funding formula means changes in the allocation of impact aid dollars. To ease that shift, the bill would phase in the funding formula changes over a 3-year period. This would provide all eligible school districts time to prepare for the new fiscal realities brought by the new formula.

In conclusion, Mr. President, many individuals have worked hard to develop this proposal. It has an 89 percent approval rate from the National Association of Federally Impacted Schools. I recognize that some changes or improvements may be necessary in this legislation. That is fine, as long as we do not undermine the basic thrust of the Impact Aid Program.

Impact aid is a program that cannot be overlooked. It should be an integral part of any educational reforms enacted by Congress. If the success of a program, like the durability of a structure, can be measured by its ability to do what it was designed to do even after many years, then the Impact Aid Program is, without question, a legislative success story. This program plays a major role in meeting our Nation's educational needs. The reforms provided for in this legislation would ensure that it continues to be a strong educational program for years to come.

Mr. President, I ask unanimous consent that the full text of the Impact Aid Reauthorization Act of 1993, along with a section-by-section analysis, be printed in the RECORD.

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

S. 874

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 "Impact Aid Reauthorization Act of 1993".

SEC. 2. REAUTHORIZATION.

Public Law 81-874 (20 U.S.C. 236 et seq.) is amended to read as follows:

"TITLE I—FINANCIAL ASSISTANCE FOR LOCAL EDUCATIONAL AGENCIES IN AREAS AFFECTED BY FEDERAL ACTIVITY

"SEC. 101. DECLARATION OF POLICY.

"(a) POLICY.—In recognition of the responsibility of the United States to provide an educational program to local educational agencies impacted by the Federal presence of Federal land or that serve dependents of federally connected personnel, including children of those in the uniformed service, children residing on Federal Indian trust land and children residing on nontaxable federally subsidized low-rent housing projects, it shall be the policy of the United States to acknowledge that—

"(1) the need to ensure fair access and equitable treatment of our Nation's children in the area of free public education;

"(2) such fair access and equitable treatment of our Nation's children is hampered when Federal ownership of real property or Federal activities within a community adversely affect any or all of the basic revenue sources which local educational agencies depend upon for such fair access and equitable treatment;

"(3) such local educational agencies are entitled to relief from the unique burdens placed upon them by the Federal ownership of real property or Federal activity in the form of compensation for the basic educational program of the federally connected student;

"(4) education is central to our Nation's quality of life and the survival of our Nation's democratic society;

"(5) education is at the heart of our Nation's economic strength and security, creativity, investment in the sciences, and the perpetuation of our Nation's cultural values;

"(6) education is the key to United States international competitiveness;

"(7) every child should be given an equal opportunity to learn;

"(8) the United States presence creates a responsibility to assure fair access and equitable educational opportunity for all children residing on Federal land or otherwise affected adversely by the Federal presence;

"(9) the United States presence should not reduce the ability of a school district to achieve our Nation's education goals; and§

"(10) the failure to fully compensate such affected local educational agencies, or the reduction in such compensation, places the education and future of such students in jeopardy.

"(b) DECLARATION OF POLICY.—The Congress declares it to be the policy of the United States to provide financial assistance (as set forth in the following sections of this Act) for those local educational agencies upon which the United States has placed financial burdens by reason of the fact that—

"(1) the revenues available to such agencies from State and local sources have been reduced as the result of—

"(A) the acquisition of real property by the United States; and

"(B) providing retail services on the property owned by the United States;

"(2) such agencies provide education for children residing on Federal property;

"(3) such agencies provide education for children whose parents are employed on Federal property; or

"(4) there has been a sudden and substantial increase in school attendance as the result of Federal activities.

"(c) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated $900,000,000 for fiscal year 1994, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this Act.

"(2) CONTINGENCY FUND.—There are authorized to be appropriated $14,000,000 for fiscal year 1994, which shall be deposited into the contingency fund established under section 202.

"(d) RESERVATIONS.—

"(1) FEDERAL ACQUISITION OF REAL PROPERTY.—The Secretary shall reserve 2.5 percent of the amount appropriated pursuant to the authority of subsection (c)(1) in each fiscal year to carry out section 102.

"(2) DEPARTMENT OF EDUCATION CONTINGENCY FUND.—Beginning in fiscal year 1995 and in each succeeding fiscal year through fiscal year 1998, the Secretary shall annually reserve from the amount appropriated pursuant to the authority of subsection (c)(1) and deposit into the contingency fund established under section 202 an amount which is necessary to make the balance of such contingency fund in such fiscal year (prior to withdrawal of any funds from such fund for such fiscal year) equal to 2 percent of the amount appropriated pursuant to the authority of subsection (c)(1) for such fiscal year.

"(3) RESERVATION FOR HEAVILY IMPACTED HIGH NEED AREAS.—The Secretary, based on the annual estimate developed pursuant to section 103(d)(3)(D), shall annually reserve from the amount appropriated pursuant to the authority of subsection (c)(1) in each fiscal year the amount necessary to carry out the provisions of section 103(d)(3).

"(e) FORWARD FUNDING.—

"(1) AVAILABILITY FOR OBLIGATION.—For the purpose of affording adequate notice of funding available under this Act, amounts appropriated in an appropriation Act for any fiscal year to carry out this Act shall become available for obligation on July 1 of that fiscal year.

"(2) EFFECTUATION OF FORWARD FUNDING.—In order to effect a transition to the forward funding method of timing appropriation action described in paragraph (1), there are authorized to be appropriated, in an appropriation Act or Acts for the same fiscal year, two separate appropriations to carry out this Act, the first of which shall not be subject to paragraph (1).

"SEC. 102. FEDERAL ACQUISITION OF REAL PROPERTY.

"(a) IN GENERAL.—Where the Secretary, after consultation with any local educational agency and with the appropriate State educational agency, determines for any fiscal year ending prior to October 1, 1998, that the United States owns Federal property in the school district of such local educational agency, and that such property—

"(1) has been acquired by the United States since 1938;

"(2) was not acquired by exchange for other Federal property in the school district which the United States owned before 1939; and

"(3) had an assessed value (determined as of the time or times when so acquired) aggregating 10 percent or more of the assessed value of all real property in the school district (similarly determined as of the time or times when such Federal property was so acquired);

then such local educational agency shall be entitled to receive for such fiscal year such amount as, in the judgment of the Secretary, is equal to the continuing Federal responsibility for the additional financial burden with respect to current expenditures placed on such agency by such acquisition of property (in accordance with section 222.98 of title 34, Code of Federal Regulations (as in effect on December 5, 1991), and without regard to the provisions of section 222.101 of title 34, Code of Federal Regulations (as in effect on December 5, 1991)). Such entitled amount shall be reduced by any revenue received during the preceding fiscal year by the local educational agency that was generated directly from the Federal property or activities in or on that property and was exclusively provided to such local educational agency.

"(b) APPLICABILITY TO THE TENNESSEE VALLEY AUTHORITY ACT.—For the purposes of this section any real property with respect to which payments are being made under section 13 of the Tennessee Valley Authority Act of 1933, as amended, shall not be regarded as Federal property.

"(c) CONSOLIDATED DISTRICTS.—Where the school district of any local educational agency shall have been formed at any time after 1938 by the consolidation of two or more former school districts, such agency may elect (at the time such agency files application under section 105) for any fiscal year to have—

"(1) the eligibility of such local educational agency; and

"(2) the amount which such agency shall be entitled to receive,

determined under this section only with respect to such of the former school districts comprising such consolidated school districts as the agency shall designate in such election.

"(d) OWNERSHIP.—The United States shall be deemed to own Federal property for the purposes of this Act where—

"(1) prior to the transfer of Federal property, the United States owned Federal property meeting the requirements of paragraphs (1), (2), and (3) of subsection (a); and

"(2) the United States transfers a portion of the property referred to in paragraph (1) to another nontaxable entity, and the United States—

"(A) requires that the property be used in perpetuity for the public purposes for which it was conveyed;

"(B) requires the grantee of the property to report to the Federal Government (or its agent) setting forth information on the use of the property;

"(C) prohibits the sale, lease assignment or other disposal of the property unless to another eligible government agency and with the approval of the Federal Government (or its agent); and

"(D) reserved to the Federal Government a right of reversion at any time the Federal Government (or its agent) deems it necessary for the national defense.

"(e) SPECIAL RULE.—Beginning with fiscal year 1991, any school district which (1) as demonstrated by written evidence from the United States Forest Service satisfactory to the Secretary, contains between 50,000 and 55,000 acres of land that has been acquired by the United States Forest Service between 1915 and 1990; and (2) serves a county chartered by State law in 1875, shall be deemed to have met the requirements of subsection (a)(3).

"(f) HOLD HARMLESS.—No local educational agency which is eligible for a payment under this section in any fiscal year shall receive a payment under this section in such fiscal year in an amount which is less than 90 percent of the amount such agency received under this section in the preceding fiscal year.

"(g) ADDITIONAL INFORMATION.—Whenever the Secretary, after receiving an application from any local educational agency under this section requests further information from the local educational agency for the Secretary's review of the application, the Secretary shall take such measures as are necessary to ensure that all information is gathered in a reasonable time, pursuant to regulations promulgated by the Secretary, in order to ensure that payments under this section for that fiscal year are provided to all applicant local educational agencies not later than December 1 of such fiscal year.

"SEC. 103. FEDERALLY CONNECTED CHILDREN.

"(a) COMPUTATION OF PAYMENT.—

"(1) IN GENERAL.—For the purpose of computing the amount to which a local educational agency is to be paid under this section for any fiscal year, the Secretary shall first determine the number of children who were in average daily attendance at the schools of such agency, and for whom such agency provided free public education, during the preceding fiscal year, and—

"(A) while residing on Federal property did so with a parent employed on Federal property situated (i) in whole or in part in the county in which the school district of such agency is located, or (ii) if not in such county, in whole or in part in the same State as the school district of such agency;

"(B) while residing on Federal property had a parent who was on active duty in the uniformed services (as defined in section 101 of title 37, United States Code);

"(C) while in attendance at such schools, either—

"(i) resided on Federal property;

"(ii) resided with a parent employed on Federal property situated (I) in whole or in part in the county in which the school district of such agency is located, or in whole or in part in the school district of such agency if the school district is located in more than one county, or (II) if not in such county or district, in whole or in part in the same State as the school district of such agency; or

"(iii) resided in any low-rent housing project as defined in section 204(a)(1)(C) of this Act; or

"(D) had a parent who was on active duty in the uniformed services (as defined in section 101 of title 37, United States Code).

"(2) CHILDREN RESIDING ON INDIAN LANDS.—In making a determination under paragraph (1)(B) with respect to a local educational agency for any fiscal year, the Secretary shall include the number of children who were in average daily attendance at the schools of such agency, and for whom such agency provided free public education, during the preceding fiscal year, and who, while in attendance at such schools, resided on Indian lands, as described in subparagraph (A) of section 204(1).

"(b) ELIGIBILITY FOR PAYMENTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no local educational agency shall be entitled to receive a payment for any fiscal year with respect to a number of children determined under subsection (a), unless—

"(A) the number of children so determined with respect to such agency amounts to—

"(i) at least 400 such children; or

"(ii) a number of such children which equals at least 3 percent of the total number of children who were in average daily attendance, during the preceding year, at the schools of such agency and for whom such agency provided free public education, whichever is the lesser;

"(B) such local educational agency is making a tax effort, or complying with other State fiscal requirements, required for eligibility for State education funding; and

"(C) such local educational agency—

"(i) is certified or accredited by a—

"(I) State educational agency or regional accrediting association recognized by the Secretary, or is a candidate in good standing for such certification or accreditation under the rules of the State educational agency or regional accrediting association; or

"(II) tribal department of education if such certification or accreditation is accepted by a generally recognized regional or State certification or accreditation agency; or

"(ii) demonstrates to the satisfaction of the Secretary that credits achieved by the students of such local educational agency are, or will be, accepted at grade level by a State or regional accrediting agency or association.

"(2) CONTINUING ELIGIBILITY; SPECIAL RULES.—(A) If a local educational agency is eligible for a payment for any fiscal year by the operation of paragraph (1)(A)(ii), such agency shall continue to be so eligible for the 2 succeeding fiscal years even if such agency fails to meet the requirement of such paragraph during such succeeding fiscal years, except that the number of children determined for the second such succeeding fiscal year with respect to such agency for the purpose of subsection (c) shall not exceed 50 percent of the number of children determined with respect to such agency for the purpose of such paragraph for the last fiscal year which such agency was so eligible.

"(B) If the Secretary determines with respect to any local educational agency for any fiscal year that—

"(i) such agency does not meet the requirement of paragraph (1)(A)(ii); and

"(ii) the application of such requirement, because of exceptional circumstances, would defeat the purposes of this title,

then the Secretary is authorized to waive such requirement with respect to such agency.

"(c) ALLOTMENT FORMULA; DETERMINATION OF EQUAL OPPORTUNITY COST.—

"(1) ALLOTMENT FORMULA.—The amount of the payment to which a local educational agency shall be entitled to receive under this section is equal to such agency's equal opportunity cost. A local educational agency's equal opportunity cost shall be determined as follows:

"(A) Calculate the total number of weighted student units (determined in accordance with paragraph (2)) for each child eligible to be counted by such agency in accordance with subsection (a).

"(B) Multiply the total number of weighted student units determined under subparagraph (A) by the local contribution rate (determined in accordance with paragraph (3)).

"(2) DETERMINATION OF WEIGHTED STUDENT UNIT.—The Secretary shall calculate the total number of weighted student units for a local educational agency as follows:

"(A) CHILDREN LIVING ON INDIAN LANDS.—(i) Each child described in subsection (a)(2) who is not receiving services under the Individuals with Disabilities Education Act shall be assigned a weighted student unit of 1.350.

"(ii) Each child described in subsection (a)(2) who is eligible for services under the Individuals with Disabilities Education Act and for whom such local educational agency is providing a program designed to meet the special educational and related needs of such children shall be assigned a weighted student unit of 2.025.

"(B) MILITARY CONNECTED CHILDREN.—(i) Each child described in subsection (a)(1)(B) who is not receiving services under Individuals with Disabilities Education Act shall be assigned a weighted student unit 1.100.

"(ii) Each child described in subsection (a)(1)(B) who is receiving services under Individuals with Disabilities Education Act shall be assigned a weighted student unit of 1.650.

"(iii) Each child described in subsection (a)(1)(D) who is not receiving services under Individuals with Disabilities Education Act shall be assigned a weighted student unit 0.300.

"(iv) Each child described in subsection (a)(1)(D) who is receiving services under Individuals with Disabilities Education Act shall be assigned a weighted student unit 0.450.

"(C) OTHER FEDERALLY CONNECTED CHILDREN.—(i) Each child described in subsection (a)(1)(A) (who is not described in subparagraph (A) or (B)) shall be assigned a weighted student unit of 1.000.

"(ii) Each child described in subsection (a)(1)(C)(iii) (who is not described in subparagraph (A) or (B)) shall be assigned a weighted student unit of 0.300.

"(iii) Each child described in subsection (a)(1)(C)(i) or (a)(1)(C)(ii) (who is not described in subparagraph (A) or (B)) shall be assigned a weighted student unit of 0.200.

"(D) DATA.—Calculations of weighted student units for a local educational agency pursuant to this paragraph shall be made on the basis of data from the fiscal year preceding the fiscal year in which such agency applies for a payment under this section in accordance with section 105.

"(3) LOCAL CONTRIBUTION RATE.—(A) Except as provided in subparagraph (B), in order to compute the local contribution rate for a local educational agency for any fiscal year, the Secretary, after consulting with the State educational agency of the State in which the local educational agency is located and with the local educational agency, shall determine which school districts within such State are generally comparable to the school district of the local educational agen-

cy for which the computation is being made. The local contribution rate for such agency shall be the quotient of—

"(i) the aggregate current expenditures, during the third fiscal year preceding the fiscal year for which the computation is made, which the local educational agencies of such comparable school districts derived from local sources, divided by

"(ii) the aggregate number of children in average daily attendance for whom such agency provided free public education during such third preceding fiscal year.

"(B)(i) The local contribution rate for a local educational agency in any State shall not be less than—

"(I) 50 percent of the average per pupil expenditure in such State; or

"(II) 50 percent of such expenditures in all the States,

whichever is greater, except that clause (II) shall not operate in such a manner as to make the local contribution rate for any local educational agency in any State exceed an amount equal to the average per pupil expenditure in such State.

"(ii) If the current expenditures in those school districts which the Secretary has determined to be generally comparable to the school district of the local educational agency for which a computation is made under subparagraph (A) are not reasonably comparable because of unusual geographical factors which affect the current expenditures necessary to maintain, in the school district of such agency, a level of education equivalent to that maintained in such other school districts, then the Secretary shall increase the local contribution rate for such agency by such an amount which the Secretary determines will compensate such agency for the increase in current expenditures necessitated by such unusual geographical factors. The amount of any such supplementary payment may not exceed the per pupil share (computed with regard to all children in average daily attendance), as determined by the Secretary, of the increased current expenditures necessitated by such unusual geographic factors.

"(iii) The local contribution rate for any local educational agency in—

"(I) the Commonwealth of Puerto Rico, Wake Island, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands;

"(II) any State in which a substantial proportion of the land is in unorganized territory; or

"(III) any State in which there is only one local educational agency,

shall be determined for any fiscal year by the Secretary in accordance with policies and principles which will best achieve the purposes of this section and which are consistent with the policies and principles provided in this paragraph for determining local contribution rates in States where it is possible to determine generally comparable school districts.

"(C) The local contribution rate for a local educational agency shall include current expenditures from that portion of a real property tax required to be levied, collected, and distributed to local educational agencies by county governments pursuant to State law where the remainder of such real property tax is transferred to the State.

"(D) Because local educational agencies for which the boundaries of the school district of such agency are coterminous with the boundaries of a military installation lack a property tax base, the Secretary shall, for the fiscal year beginning October 1, 1993, and for each fiscal year thereafter, establish for such local educational agencies a local contribution rate which is not less than 70 percent of the average per pupil expenditure in all States during the third preceding fiscal year prior to the fiscal year for which the determination is made. The first sentence of this subparagraph shall not apply to local educational agencies in any State in which the State equalization law would prohibit the local educational agency from retaining such additional funds or in which State law requires that the State contribution be reduced in proportion to such additional funds, however the local contribution rate for such agencies shall not be less than 50 percent of the average per pupil expenditure in all States during the third preceding fiscal year prior to the fiscal year for which the determination is made.

"(E) For the purposes of this paragraph—

"(i) the term 'State' does not include the Commonwealth of Puerto Rico, Wake Island, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands; and

"(ii) the 'average per pupil expenditure' in a State shall be—

"(I) the aggregate current expenditures, during the third fiscal year preceding the fiscal year for which the computation is made of all local educational agencies in the State, divided by

"(II) the aggregate number of children in average daily attendance for whom such agencies provide free public education during such third preceding fiscal year.

"(d) SPECIAL RULES.—

"(1) CHILDREN WITH DISABILITIES.—(A) The Secretary shall by regulation establish criteria for assuring that programs (including preschool programs) provided by local educational agencies for children determined under subsections (a)(1)(B), (a)(1)(D) and (a)(2), who are eligible for services under the Individuals with Disabilities Education Act, are of sufficient size, scope, and quality (taking into consideration the special educational needs of such children) as to give reasonable promise of substantial progress toward meeting those needs, and in the implementation of such regulations the Secretary shall consult with individuals in charge of special education programs for children with disabilities in the local educational agency of the State in which such local educational agency is located.

"(B) For the purpose of this paragraph the term 'children with disabilities' has the same meaning given such term by section 602(a)(1) of the Individuals with Disabilities Education Act, and the term 'children with specific learning disabilities' has the same meaning given such term by section 602(a)(15) of such Act.

"(2) INDIANS.—Payments received for children described in subsection (a)(2) may be used to pay tuition for any student not eligible for funding under section 1128 of the Education Amendments of 1978 in any school receiving assistance under this section. No condition involving program or personnel shall apply to such payments.

"(3) SPECIAL RULE FOR HEAVILY IMPACTED HIGH NEED AREAS.—(A) If in any fiscal year the Secretary determines that funds provided to an eligible local educational agency under this title, together with the funds available to such agency from State and local sources is less than the amount necessary to enable such agency to provide a level of education equivalent to the State average during the preceding fiscal year or to the average of that maintained during the preceding fiscal year in 3 or more of the school districts of the State which are generally comparable to the school district of such agency, whichever is higher, increased or decreased, as the case may be, in the same percentage as the cost of such level of education increased or decreased from the third preceding fiscal year to the prior fiscal year for which the determination is made, then the Secretary shall increase the payment made under this section with respect to such agency for such fiscal year on the basis of data from the fiscal year preceding the fiscal year for which the determination is made to the extent necessary to enable such agency to provide a level of education equivalent to that maintained in such comparable school districts. The increase computed under this paragraph shall be sufficient to allow the school district of the local educational agency to provide a level of education (calculated in accordance with this subparagraph) equal to the average of the three comparable districts in the State or the State average, whichever is greater, as described in clause (i).

"(B)(i) For the purpose of this paragraph the term 'eligible local educational agency' means a local educational agency—

"(I) that is making a reasonable tax effort and exercising due diligence in availing itself of State and other financial assistance;

"(II) in which not less than 50 percent of the total number of children who were in average daily attendance at the schools of such agency during the fiscal year for which the determination is made and for whom such agency provided free public education were, during such fiscal year, determined to be children described in subsection (a), except that any local educational agency in which the annual average percentage of such total number of children described in subsection (a) for the 3 fiscal years prior to the fiscal year for which the determination is made exceeds 50 percent of the total children in average daily attendance at the schools of such agency shall be deemed to meet the requirements of this paragraph; and

"(III) in which the eligibility of such agency under State law for State aid with respect to free public education of children residing on Federal property, and the amount of such aid, are determined on a basis no less favorable to such agency than the basis used in determining the eligibility of local educational agencies for State aid, and the amount thereof, with respect to the free public education of other children in the State.

"(ii) For the purpose of clause (i)(I), the Secretary shall determine that a reasonable tax effort has been made if the tax rate of the agency in the year for which the determination is made (before any State mandated tax rate reductions resulting from the receipt of State funds has been implemented) is an amount that is at least equal to 95 percent of the average tax rate for general fund purposes of comparable school districts for such fiscal year or the agency's total tax rate for the preceding fiscal year is at least 95 percent of the average of the total tax rates of comparable school districts. Coterminous military districts shall be deemed to meet the requirement of such reasonable tax effort. Except for coterminous military districts, payments made to any local educational agency under this paragraph in any fiscal year shall be reduced by the percentage that the average tax rate of the comparable school districts or, if none, the State average tax rate, exceeds the tax rate of such agency.

"(C) For the purpose of clause (i)—

"(i) available funds may include any cash balance at the end of a year allowed under State law; or

"(ii) whenever no State law governing cash balance exists, available funds shall exclude 30 percent of the local educational agency's operating costs.

"(D) Except as provided in clause (ii), for any fiscal year after September 30, 1993, the Secretary shall annually estimate the funds required to carry out the provisions of this paragraph and shall report the estimate to the Committees on Appropriations and Education and Labor of the House of Representatives and the Committees on Appropriations and Labor and Human Resources of the Senate not later than 45 days after the date applications are due to be submitted to the Secretary from local educational agencies in accordance with section 105(a). Such estimate shall also include the amount of funds required to pay to all local educational agencies eligible for payments under this paragraph in the preceding fiscal year an amount equal to the difference between the amount all such agencies were entitled to receive under this paragraph in such preceding fiscal year and the amount all such agencies received under this section in such preceding fiscal year.

"(E) If in any fiscal year in which the total amount of payments made under this paragraph are less than or equal to the amount reserved pursuant to section 101(d)(3) to carry out this paragraph in such fiscal year, then such funds as do not exceed the amount so reserved shall remain available until expended to carry out the provisions of this paragraph.

"(F) If the total amount of payments to be made under this paragraph in a fiscal year exceeds the amount reserved pursuant to section 101(d)(3) to carry out this paragraph in such fiscal year, then the amount reserved to carry out this paragraph in the succeeding fiscal year shall be available to pay to each local educational agency eligible for payments under this paragraph in the preceding fiscal year the difference between the amount each such agency is entitled to receive under this paragraph in such preceding fiscal year and the amount such agency received under this paragraph in such preceding fiscal year.

"(e) ADJUSTMENTS FOR DECREASES IN FEDERAL ACTIVITIES.—

"(1) IN GENERAL.—(A) Except as provided in subparagraph (B), whenever the Secretary determines that—

"(i) for any fiscal year, the number of children determined with respect to any local educational agency under section (a) is less than 90 percent of the number determined with respect to such agency during the preceding fiscal year;

"(ii) there has been a decrease or cessation of Federal activities within the State in which such agency is located; and

"(iii) such decrease or cessation has resulted in a substantial decrease in the number of children determined under subsection (a) with respect to such agency for such fiscal year,

then the amount to which such agency is entitled for such fiscal year and for the following fiscal year shall not be less than 90 percent of the payment such agency received under subsection (a) for the preceding fiscal year.

"(B) The Secretary may adjust the amount to which a local educational agency is entitled in accordance with the provisions of subparagraph (A) for 1 additional fiscal year after the last fiscal year for which such agency is eligible for an adjustment under such subparagraph if the number of children determined with respect to such agency under subsection (a) during such last fiscal year equals or exceeds 25 percent of the number of such children in average daily attendance at the schools of such agency in such last fiscal year.

"(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year such amount as may be necessary to carry out the provisions of this section, which shall remain available until expended.

"(3) EXPENDITURES.—Expenditures pursuant to paragraph (2) shall be reported by the Secretary to the Committees on Appropriations and Education and Labor of the House of Representatives and the Committees on Appropriations and Labor and Human Resources of the Senate within 30 days of expenditure.

"(4) INFORMATION ON COSTS.—The Secretary shall make available to the Congress in the Department of Education's annual budget submission, the amount of funds necessary to defray the costs associated with the provisions of this subsection during the fiscal year for which the submission is made.

"(f) NEW APPLICANTS; DETERMINATIONS ON THE BASIS OF ESTIMATES.—

"(1) IN GENERAL.—Any local educational agency that did not apply for payments under this section in a preceding fiscal year and that would be eligible to receive payments under this section for the fiscal year in which such agency is applying for the first time, shall be paid on the basis of the number of children described in subsection (a) who, during the fiscal year for which the determination is made, are in average daily attendance at the schools of such agency and for whom such agency provides free public education.

"(2) SATISFACTORY DATA.—Determinations with respect to a number of children by the Secretary under this subsection for any fiscal year shall be made, whenever satisfactory data are not available, on the basis of estimates. No such determination shall operate, because of an underestimate, to deprive any local educational agency of its entitlement to any payments under this section to which such agency would be entitled had such determination been made on the basis of accurate data.

"(g) PROHIBITION.—Notwithstanding any other provisions of this Act, no State may require that a vote of the qualified electors of a heavily impacted school district of a local educational agency be held to determine if such school district will spend the amounts to which the local educational agency is entitled under this Act.

"SEC. 104. SUDDEN AND SUBSTANTIAL CHANGES IN ATTENDANCE.

"(a) INCREASES RESULTING FROM BASE CLOSURE OR MILITARY REALIGNMENT ACTIVITIES.—

"(1) IN GENERAL.—(A) If the Secretary determines for any fiscal year ending prior to October 1, 1998 that, as a direct result of base consolidation or realignment activities of the Department of Defense (carried on either directly or through a contractor), an increase in the number of children in average daily attendance at the schools of any local educational agency has occurred in such fiscal year, which increase so resulting from such activities is equal to at least 5 percent of the difference between the number of children in average daily attendance at the schools of such agency during the preceding fiscal year and the number of such children whose attendance during such year resulted from base consolidation or realignment activities of the Department of Defense (including children who resided on Federal property or with a parent employed on Federal property), then the amount to which such agency is otherwise entitled under this section shall be paid on the basis of the number of children who, during the fiscal year for which the application is made, are in average daily attendance at the schools of such agency and for whom such agency provided free public education. Such application shall include a certificate from the appropriate local base commander that the increase is the result of Department of Defense base closure or realignment activities.

"(B) The Secretary shall not make a payment to a local educational agency for any fiscal year under subparagraph (A) unless such agency submits a written request for such payment to the Secretary by January 31 of such year.

"(2) PAYMENT REDUCTIONS.—If in any fiscal year the amount appropriated pursuant to the authority of paragraph (3) is insufficient to carry out the provisions of this subsection for such fiscal year, then the Secretary shall make a reduction in the amount that such agency receives under this subsection in such year on the basis of the number of children in average daily attendance at the schools of a local educational agency compared to the total number of children in average daily attendance in the schools of all local educational agencies in all States.

"(3) AUTHORIZATION OF APPROPRIATIONS.—(A) There are authorized to be appropriated for each fiscal year such amount as may be necessary to carry out this subsection.

"(B) Funds appropriated pursuant to the authority of subparagraph (A) shall remain available until expended.

"(b) ADJUSTMENT FOR CERTAIN DECREASES IN FEDERAL ACTIVITY.—Whenever the Secretary determines that—

"(1) a local educational agency has made preparations to provide during a fiscal year free public education for a certain number of children to whom subsection (a) applies;

"(2) such preparations were in the Secretary's judgment reasonable in the light of the information available to such agency at the time such preparations were made; and

"(3) such number has been substantially reduced by reason of a decrease in or cessation of Federal activities or by reason of a failure of any such activities to occur,

then the amount to which such agency is otherwise entitled under this section for such year shall be increased to the amount to which, in the judgment of the Secretary, such agency would have been entitled but for such decrease in or cessation of Federal activities or the failure of such activities to occur, minus any reduction in current expenditures for such year which the Secretary determines that such agency has effected, or reasonably should have effected, by reason of such decrease in or cessation of Federal activities or the failure of such activities to occur.

"(c) CONSULTATION WITH STATE AND LOCAL AUTHORITIES.—All determinations of the Secretary under subsection (a)(2) and subsection (b) of this section shall be made only after consultation with the State educational agency and the local educational agency.

"(d) REPORT ON EXPENDITURES.—Expenditures of funds appropriated pursuant to the authority of subsections (a)(3)(A) and (f)(1) shall be reported by the Secretary to the Committees on Appropriations and Education and Labor of the House of Representa-

tives and the Committees on Appropriations and Labor and Human Resources of the Senate within 30 days of expenditure.

"(e) ANNUAL BUDGET SUBMISSION.—The Secretary shall make available to the Congress in the Department of Education's annual budget submission, the amount of funds necessary to defray the costs associated with the provisions of this section during the fiscal year for which the submission is made.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated for each fiscal year such amount as may be necessary to carry out subsections (b) through (e) of this section.

"(2) AVAILABILITY.—Funds appropriated pursuant to the authority of paragraph (1) shall remain available until expended.

"SEC. 105. METHOD OF MAKING PAYMENTS.

"(a) APPLICATIONS.—

"(1) IN GENERAL.—Any local educational agency desiring to receive the payments to which it is entitled for any fiscal year under section 102, 103, or 104 shall submit an application therefore to the Secretary and file a copy with the State educational agency. Each such application shall be submitted in such form, and containing such information as the Secretary may reasonably require to determine whether such agency is entitled to a payment under any of such sections and the amount of such payment.

"(2) DEADLINE.—The Secretary shall establish a deadline for the receipt of applications under this section. For each fiscal year beginning after the date of enactment of the Impact Aid Reauthorization Act of 1993, the Secretary shall accept an approvable application received not more than 60 days after the deadline, but shall reduce the payment based on such late application by 10 percent of the amount that would otherwise be paid. The Secretary shall not accept or approve any application submitted more than 60 days after the application deadline.

"(3) SPECIAL RULE.—Notwithstanding any other provision of law or regulation, a State educational agency that had been accepted as an applicant for funds under section 103 for fiscal years 1985, 1986, 1987, and 1988 shall be permitted to continue as an applicant under the same conditions by which it made application during such fiscal years only if such State educational agency distributes all funds received for the students for which application is being made by such State educational agency to the local educational agencies providing educational services to such students.

"(b) PAYMENTS BY THE SECRETARY.—

"(1) IN GENERAL.—The Secretary shall pay to each local educational agency, rounded to the nearest whole dollar, making application pursuant to subsection (a), the amount to which it is entitled under section 102, 103, or 104. Sums appropriated for any fiscal year, to enable the Secretary to make payments pursuant to this title shall, notwithstanding any other provision of law unless enacted in express limitation of this subsection, remain available for obligation and payments with respect to amounts due local educational agencies under this title for such fiscal year, until the end of the fiscal year succeeding the fiscal year for which such sums are appropriated. The Secretary shall return to the United States Treasury any funds appropriated for payments under this title for fiscal year 1988, and thereafter that, as the result of overpayment and uncontrollable expenditures, are recovered by the Department of Education after or following the end of the fifth fiscal year in which the sums were appropriated, or that remain in Department of Education accounts after that time.

"(2) DATA AND TIMING.—Except as otherwise provided in this title, the Secretary shall—

"(A) make payments to those local educational agencies eligible to receive funds under sections 102, 103, and 104.

"(B) make such payments in accordance with section 101(e) or as soon as possible in a manner determined by the Secretary.

"(3) INDIAN PROVISIONS.—(A) The portion of payment for a local educational agency under section 103 which is attributable to the difference between—

"(i) the total number of weighted student units for children determined under section 103(c)(2)(A)(i); and

"(ii) the total number of weighted student units for children determined under section 103(c)(2)(C)(i),

shall be made only to a local educational agency which has, within 1 year of the date of enactment of this Act, or when a local educational agency is formed after such date of enactment, within 1 year of its formation, established such policies and procedures with respect to information received from Indian parents and tribes as required by this paragraph and which has made assurances to the Secretary, at such time and in such manner as shall be determined by regulations promulgated by the Secretary, that such policies and procedures have been established. The Secretary is authorized to waive such 1-year limit for good cause, and in writing to the tribes affected.

"(B) Each local educational agency shall establish such policies and procedures as are necessary to ensure that—

"(i) Indian children determined under section 103(a)(2) participate on an equal basis in the school program with all other children educated by the local educational agency;

"(ii) applications, evaluations, and program plans are adequately disseminated to the tribes and parents of Indian children determined under section 103(a)(2); and

"(iii) tribes and parents of Indian children determined under section 103(a)(2) are—

"(I) afforded an opportunity to present their views with respect to the application, including the opportunity to make recommendations concerning the needs of their children and the ways by which they can assist their children in realizing the benefits to be derived from the educational program assisted under this paragraph;

"(II) actively consulted and involved in the planning and development of programs assisted under this paragraph; and

"(III) afforded a general opportunity to present their overall views on the educational program, including the operations of such programs, and the degree of parental participation allowed.

"(C)(i) Any tribe, or its designee, which has students in attendance at a local educational agency may, in its discretion and without regard to the requirement of any other provision of law, file a written complaint with the Secretary regarding any action of a local educational agency taken pursuant to, or relevant to, the requirements of subparagraph (B) of this paragraph.

"(ii) Within 10 working days from receipt of the complaint, the Secretary shall—

"(I) designate a time and place for a hearing into the matters relating to the complaint at a location in close proximity to the local educational agency involved, or, if the Secretary determines there is good cause, at some other location convenient to both the tribe, or its designees, and the local educational agency;

"(II) designate a hearing examiner to conduct the hearing; and

"(III) notify the affected tribe or tribes and the local educational agency involved of the time, place, and nature of the hearing and send copies of the complaint to the local educational agency and the affected tribe or tribes.

"(iii) The hearing shall be held within 30 days of the designation of a hearing examiner and shall be open to the public. A record of the proceedings shall be established and maintained.

"(iv) The complaining tribe, or its designees, and the local educational agency shall be entitled to present evidence on matters relevant to the complaint and to make recommendations concerning the appropriate remedial actions. Each party to the hearing shall bear only its own costs in the proceeding.

"(v) Within 30 days of the completion of the hearing, the hearing examiner shall, on the basis of the record, make written findings of fact and recommendations concerning appropriate remedial actions (if any) which should be taken. The hearing examiner's findings and recommendations, along with the hearing record, shall be forwarded to the Secretary.

"(vi) Within 30 days of the Secretary's receipt of the findings, recommendations, and record, the Secretary, on the basis of the record, shall make a written determination of the appropriate remedial action, if any, to be taken by the local educational agency, the schedule for completion of the remedial action, and the reasons for the Secretary's decision.

"(vii) Upon completion of the Secretary's final determination, the Secretary shall provide the complaining tribe, or its designee, and the local educational agency with copies of the hearing record, the hearing examiner's findings and recommendations, and the Secretary's final determination. The final determination of the Secretary shall be subject to judicial review.

"(viii) In all actions under this subparagraph, the Secretary shall have discretion to consolidate complaints involving the same tribe or local educational agency.

"(D) If the local educational agency rejects the determination of the Secretary, or if the remedy required is not undertaken within the time established and the Secretary determines that an extension of the time established will not effectively encourage the remedy required, the Secretary shall withhold payment of all moneys to which such local agency is entitled under section 103 until such time as the remedy required is undertaken, except—

"(i) where the complaining tribe or its designees formally requests that such funds be released to the local educational agency; and

"(ii) that the Secretary may not withhold such moneys during the course of the school year if the Secretary determines that it would substantially disrupt the educational programs of the local educational agency.

"(E) If the local educational agency rejects the determination of the Secretary and a tribe exercises the option under section 1101(d) of the Education Amendments of 1978, to have education services provided either directly by the Bureau of Indian Affairs or by contract with that Agency, any Indian students affiliated with that tribe who wish to remain in attendance at the local educational agency against whom the complaint which led to the tribal action under such subsection (d) was lodged may be counted with respect to that local educational agen-

cy for the purpose of receiving funds under section 103(c)(2)(A) of this Act. In such event, funds under such section shall not be withheld pursuant to subparagraph (D) and no further complaints with respect to such students may be filed under subparagraph (C)(i).

"(F) This paragraph is based upon the special relationship between the Indian nations and the United States and nothing in this paragraph shall be deemed to relieve any State of any duty with respect to any citizens of that State.

"(4) MILITARY CONNECTED CHILDREN.—(A) The portion of a payment under section 103 to a local educational agency which is attributable to the difference between—

"(i) the total number of weighted student units for children determined under section 103(c)(2)(B); and

"(ii) the total number of weighted student units for children determined under section 103(c)(2)(C) shall be made only to a local educational agency which has within 1 year of the date of enactment of the Impact Aid Reauthorization Act of 1993, or when a local educational agency is formed after such date of enactment, within 1 year of its formation, established a process, in accordance with regulations promulgated by the Secretary, which ensures the involvement of the local military base commander or such commander's designee for the purpose of better meeting the educational, emotional, and social needs of the children determined under such sections.

"(B) The Secretary shall annually review the process established under subparagraph (A) to ensure that local educational agencies receiving funds for children determined under section 103(c)(2)(B) are addressing the needs of such children.

"(c) THE LEARNING OPPORTUNITY THRESHOLD; ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (5), if the sums appropriated for any fiscal year for making payments on the basis of entitlements under section 103 are not sufficient to pay in full the total amounts that the Secretary calculated all local educational agencies are entitled to receive under section 103 in such fiscal year, then the Secretary, shall allocate such sums as do not exceed the total amount necessary to pay the learning opportunity threshold (described in paragraph (2)) for all local educational agencies eligible for a payment under such section in such year, among local educational agencies by paying to each such agency an amount equal to such agencies' learning opportunity threshold.

"(2) DETERMINATION OF LEARNING OPPORTUNITY THRESHOLD.—(A) Except as provided in paragraph (3), the Secretary shall calculate a local educational agency's learning opportunity threshold by determining the percentage of federally connected children served by such agency (in accordance with subparagraph (B)), adding to such percentage the equal opportunity cost percentage (determined in accordance with subparagraph (C)), and multiply the resulting percentage by the equal opportunity cost determined in accordance with section 103(c).

"(B) DETERMINATION OF THE PERCENTAGE OF FEDERALLY CONNECTED CHILDREN.—The Secretary shall determine the percentage of federally connected children for a local educational agency in any fiscal year by calculating a fraction, the numerator of which is the number of children served by such agency in the preceding fiscal year who are described in section 103(c)(2), and the denominator of which is the total number of children in average daily attendance at the schools served by such agency in the preceding fiscal year, and multiplying such fraction by 100.

"(C) DETERMINATION OF THE EQUAL OPPORTUNITY COST PERCENTAGE.—(i) The Secretary shall determine the equal opportunity cost percentage for a local educational agency in any fiscal year by calculating a fraction, the numerator of which is the equal opportunity cost (determined in accordance with section 103(c)(1)) for such agency in the preceding fiscal year, and the denominator of which is the total current expenditures for such agency in such preceding fiscal year, and multiplying such fraction by 100.

"(ii) The Secretary shall subtract payments provided pursuant to section 103(d)(3) from the calculation of a local educational agency's total current expenditures before calculating such agency's equal opportunity cost percentage in accordance with this paragraph.

"(iii) No local educational agency's equal opportunity cost percentage as determined under this subsection shall exceed 100 percent.

"(D) MAXIMUM PAYMENT.—No local educational agency shall receive a payment under this subsection that is greater than such agency's equal opportunity cost calculated in accordance with section 103(c)(1) of this Act.

"(3) LEARNING OPPORTUNITY THRESHOLD MODIFIER PERCENTAGE.—(A) If a local educational agency has an average daily attendance (hereafter referred to in this Act as the 'ADA') of fewer than 1,000 children, then the Secretary shall modify the learning opportunity threshold (calculated in accordance with paragraph (2)) by adding an additional learning opportunity threshold modifier percentage for such agency (determined in accordance with subparagraph (B)) to the percentage described in paragraph (2) before multiplying the resultant percentage by the equal opportunity cost (in accordance with paragraph (2)).

"(B) The Secretary shall calculate a local educational agency's learning opportunity threshold modifier percentage by calculating the percentage determined in accordance with the following formula:

$$25x\left(\frac{1{,}000 - \text{the total number of students in ADA at the schools served by the local educational agency in the preceding fiscal year}}{1{,}000}\right)$$

"(4) SPECIAL RULE REGARDING ADDITIONAL FUNDS.—If the sums appropriated pursuant to the authority of section 103(c) in any fiscal year are sufficient to pay learning opportunity threshold (determined in accordance with paragraph (2)) for all local educational agencies eligible to receive assistance under section 103 in such year but are insufficient to pay the equal opportunity cost (determined in accordance with section 103(c)(1)) of all such agencies in such year, then such funds as exceed the amount necessary to pay the learning opportunity threshold for all such agencies in such year shall be distributed to such agencies in such year on the basis of the total number of weighted student units (calculated in accordance with section 103(c)(2)) applicable to each local educational agency eligible to receive assistance under section 103 in such year compared to the total number of weighted student units applicable to all such agencies in such year, except that in no case shall the payment to a local educational agency under this subsection exceed the amount equal to such local educational agency's equal opportunity cost (determined in accordance with section 103(c)(1)).

"(5) INSUFFICIENT APPROPRIATIONS.—If the sums appropriated pursuant to the authority of section 101(c) in any fiscal year are insufficient to pay the amount necessary to make payments in accordance with paragraph (1), then the Secretary shall determine the amount of such deficiency and reduce the payments to each local educational agency as follows:

"(A) 50 percent of any deficiency shall be addressed by ratably reducing the payments of all local educational agencies receiving assistance under this title in such year; and

"(B) 50 percent of any deficiency shall be addressed by reducing the payments to all local educational agencies receiving assistance under this title in such year on the basis of the total number of weighted student units applicable to a local educational agency receiving assistance under this title in such year compared to the total number of weighted student units applicable to all such agencies in such year.

"(d) TREATMENT OF PAYMENT BY THE STATES IN DETERMINING ELIGIBILITY FOR, AND THE AMOUNT OF, STATE AID.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary may withhold payments, in accordance with paragraph (3), for any fiscal year to any State educational agency in any State if—

"(A) that State has taken into consideration during that fiscal year or the preceding fiscal year payments under this Act in determining—

"(i) the eligibility of any local educational agency in that State for State aid for free public education of children;

"(ii) the amount of such State aid with respect to any such agency during that fiscal year or the preceding fiscal year; or

"(iii) a reduction in the amount of such State aid based on an end-of-year balance in any fund of the local educational agency into which payments under this Act have been deposited, unless such reduction is calculated in a manner that excludes the amount of funds deposited into such fund in any fiscal year that are attributable to payments under this Act; or

"(B) that State makes such State aid available to local educational agencies in such a manner as to result in less State aid to any local educational agency which is eligible for payments under this Act than such agency would receive if such agency were not so eligible.

"(2) SPECIAL RULES.—(A) Notwithstanding paragraph (1) of this subsection, if a State's per pupil expenditure is equal to or greater than the average per pupil expenditure of all the States and has in effect a program of State aid for free public education for any fiscal year, which is designed to equalize expenditures for free public education among the local educational agencies of that State, payments under this title for any fiscal year may be taken into consideration by such State in determining the relative—

"(i) financial resources available to local educational agencies in that State; and

"(ii) financial need of such agencies for the provision of free public education for children served by such agency,

except that a State may consider as local resources funds received under this Act only in proportion to that share that local revenues covered under a State equalization program are of total local revenues.

"(B) The amount of a payment to a local educational agency under section 103 which is attributable to the sum of—

"(i)(I) the total number of weighted student units for students determined under sections 103(c)(2)(A), 103(c)(2)(B)(i), and 103(c)(2)(B)(ii); less

"(II) the total number of the weighted student units for such students if such students had been determined under section 103(c)(2)(C); plus

"(ii) the increase in payments described in sections 103(c)(3)(B)(ii) and 103(d)(3),

shall not be taken into consideration by the State for the purpose of this paragraph.

"(C) Whenever a State educational agency or local education agency will be adversely affected by the operation of this subsection, such agency shall be afforded notice and an opportunity for a hearing prior to the reduction or termination of payments pursuant to this subsection.

"(D) The terms 'State aid, State school finance program', and 'equalize expenditures' as used in this subsection shall be defined by the Secretary by regulations after consultation with the National Panel established in paragraph (4) and the State and local education agencies affected by this subsection, except that such terms shall be defined in a manner that ensures that adequate provisions are made for the costs required to—

"(i) provide free public education for meeting the special educational needs of particular groups or categories of at-risk students such as children with disabilities, economically disadvantaged children, children who need bilingual education, and gifted and talented children;

"(ii) enable local educational agencies to provide equivalent programs and services; and

"(iii) recognize the special conditions among the diverse local educational agencies in the State.

"(E)(i) In making the determination as to a State's eligibility to consider payments under this title in the calculation of State payments to local educational agencies in accordance with subparagraph (A), equalization shall be calculated on the basis of expenditure disparity per pupil. The State school finance program shall be considered equalized when the disparity in per pupil expenditures is not greater than 105 percent in terms of the relationship of the spending level per pupil in the highest spending local educational agency to the spending level per pupil in the lowest spending local educational agency after excluding the highest spending local educational agencies with 5 percent of the students. In reviewing a State's eligibility to carry out the provisions of subparagraph (A), the National Panel established in paragraph (4) may recommend to the Secretary that the equalization calculations exclude low spending local educational agencies that serve not more than 5 percent of the students in the State on a case-by-case basis when the National Panel determines that unusual circumstances exist.

"(ii) If a State desires to take payments under this section into consideration as provided in this paragraph for any fiscal year, that State shall, not later than 60 days prior to the beginning of such fiscal year, submit notice to the Secretary of its intention to do so. Such notice shall be in such form and be accompanied by such information as to enable the Secretary to determine the extent to which the program of State aid of that State is consistent with the provisions of subparagraph (A). In addition, such notice shall be accompanied by a narrative description of the State's school finance program and include appropriate documentation of the manner in which the State's school finance program provides adequate recognition of special students and special conditions. If the Secretary determines that the program of State aid of a State submitting notice under this subparagraph is consistent with the provisions of subparagraph (A), the Secretary shall certify such determination to that State.

"(iii) A State shall not be eligible to carry out the provisions of subparagraph (A) if such State's allocation of funds under the State school finance program results in a local education agency having less revenues per pupil for current operations than the minimum per pupil provided in the State school finance program.

"(iv) Prior to certifying any determination under clause (i) for any State for any fiscal year, the Secretary shall give the local educational agencies in that State an opportunity for a hearing at which such agencies may present their views with respect to the consistency of the State aid program of that State with the provisions of subparagraph (A).

"(v) The Secretary shall not finally deny to any State for any fiscal year certification of denial of payments under clause (i) without first giving that State an opportunity for a hearing.

"(vi) Any State certified in accordance with section 5(d)(2)(A) of this Act (as such section was in effect prior to the date of enactment of this subsection) shall have 3 years from the date of the enactment of the Impact Aid Reauthorization Act of 1993 to comply with the requirements of this paragraph.

"(3) WITHHOLDING AUTHORIZED.—If, prior to a certification determination of eligibility by the Secretary in accordance with paragraph (2)(E)(i), a State takes payments under this title for any fiscal year into consideration in determining the financial resources available to local educational agencies within the State or the financial need of such agencies to provide for free public education, the Secretary shall withhold all funds payable to the State educational agency for State administrative expenses associated with any Federal elementary and secondary education programs.

"(4) NATIONAL ADVISORY PANEL ESTABLISHED.—(A)(i) There is hereby established a National Advisory Panel on School Finance and Impact Aid Equalization (hereafter in this Act referred to as the 'National Panel'), which shall consist of 11 members appointed by the Secretary, of which—

"(I) 5 members shall be employed in local educational agencies;

"(II) 3 members shall be employed in State educational agencies; and

"(III) 3 members shall be persons with experience in the design and structure of State school finance programs, one of whom shall have particular knowledge of funding for special needs populations.

"(ii) The Secretary shall give consideration to ensuring that the National Panel's membership includes representatives of—

"(I) States with large numbers of students described in section 103(a); and

"(II) local educational agencies with different types of such students.

"(iii) Prior to making the appointments described in clause (i), the Secretary shall request nominees from the National Association of Federally Impacted Schools and the Council of Chief State School Officers.

"(B) The National Panel shall—

"(i) advise the Secretary with respect to the development of regulations and administrative practices and policies under this subsection;

"(ii) advise the Secretary relative to the evidence that each State is to submit when seeking a determination under paragraph (2)(A); and

"(iii) submit a recommendation to the Secretary regarding a State's equalization status and eligibility to consider payments under this title in making State payments to local educational agencies, after reviewing the narrative and statistical documents that each State submits to the Secretary when seeking an equalization certification under paragraph (2)(E)(i) in terms of the extent to which the State's school finance program makes provision for sufficient funds to ensure an adequate program of free public education for all children and recognizes the diversity of conditions among local educational agencies in the State.

"(C) The National Panel may—

"(i) review applications submitted to the Secretary for, and make recommendations regarding, funding from the contingency fund established in section 202; and

"(ii) respond to other requests from the Secretary regarding any other provision of this Act.

"(D) Members of the National Panel shall not be compensated for their service on the National Panel, but while serving away from their homes or regular places of business, members of the National Panel may be reimbursed for travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in government service employed intermittently.

"(e) PHASE-IN PROVISION.—

"(1) IN GENERAL.—(A) Notwithstanding any other provision of this Act and except as provided in paragraph (2), each local educational agency which—

"(i) received a payment in fiscal year 1993 under section 3 of this Act (as such Act was in existence prior to the date of enactment of the Impact Aid Reauthorization Act of 1993) and is eligible to receive a payment under section 103 in any of the fiscal years 1994, 1995, and 1996; or

"(ii) is applying for funds under section 103 for the first time in any of the fiscal years 1994, 1995, and 1996,

shall receive a payment under section 103 in any of the fiscal years 1994, 1995, and 1996 in an amount determined on the basis of the total number of weighted student units applicable to such agency in the fiscal year preceding the fiscal year for which the determination is made compared to the total number of weighted student units applicable to all such agencies in all States in such preceding fiscal year.

"(B) The payment a local educational agency receives pursuant to the operation of subparagraph (A) in any of the fiscal years 1994, 1995, and 1996 shall not be more than 10 percent greater than, nor less than 10 percent lesser than, the amount such agency received by operation of subparagraph (A) in the preceding fiscal year.

"(2) SPECIAL RULES.—(A) If the amount appropriated to carry out this title is insufficient to carry out the provisions of paragraph (1), then the Secretary shall determine the amount of such deficiency and reduce the payments described in paragraph (1) in accordance with the provisions of subparagraphs (A) and (B) of section 105(c)(5).

"(3) NEW APPLICANTS.—In the case of a local educational agency applying for funds under section 103 for the first time in any of the fiscal years 1994, 1995, and 1996, the Secretary, prior to making a payment pursuant to paragraph (1), shall determine the total number of weighted student units applicable to such agency in the fiscal year preceding the fiscal year in which such agency submits its initial application under section 103, and shall apply the provisions of paragraph (1) on the basis of such determination.

"(f) CHILDREN WITH DISABILITIES.—

"(1) INDIAN LANDS CONNECTED CHILDREN.—If in any fiscal year the number of children determined under section 103(c)(2)(A)(ii) for a local educational agency who are eligible to receive payments under section 103 exceeds the average number of children eligible for services under the Individuals with Disabilities Education Act for local educational agencies in the State, then the Secretary of the Interior shall make available in such year, from funds available to the Secretary of the Interior to carry out the Individuals with Disabilities Education Act, the funds required to pay the portion of payments under section 103 to such local educational agency which are attributable to the difference between—

"(A) the sum of the total number of weighted student units for children determined under section 103(c)(2)(A)(ii); and

"(B) the total number of weighted student units for children determined under section 103(c)(2)(C)(i).

"(2) DEFENSE CONNECTED CHILDREN.—(A) If in any fiscal year the number of children determined under sections 103(c)(2)(B)(ii) and 103(c)(2)(B)(iv) for a local educational agency who are eligible to receive payments under section 103 exceeds the average number of children eligible for services under the Individuals with Disabilities Education Act for local educational agencies in the State, then the Secretary of Defense shall make available, either directly or through contract, from funds appropriated to carry out section 106, to such local educational agency—

"(A) the funds required to pay the portion of payments under section 103 which are attributable to the difference between—

"(i) the sum of the total number of weighted student units for children determined under sections 103(c)(2)(B)(ii) and 103(c)(2)(B)(iv); and

"(ii) the total number of weighted student units for children determined under section 103(c)(2)(C)(i); and

"(B) the total cost associated with any child determined under sections 103(c)(2)(B)(ii) and 103(c)(2)(B)(iv) who is enrolled by such local educational agency because of a disability, in an educational program provided outside the schools of such local educational agency.

"(3) USE OF FUNDS.—The amount of funds provided to a local educational agency by reason of the operation of paragraph (2) shall be used by such agency for special educational programs designed to meet the special educational needs of children with respect to whom the determination under such paragraph is made.

"(g) SPECIAL PAYMENT RULE.—Each local educational agency described in section 103(c)(3)(D) which is not directly operating an educational program or has entered into a contract or similar arrangement with another local educational agency for the operation of a substantial number of such agency's educational programs (as determined by the Secretary), shall not receive a payment under section 103 in any fiscal year that, when added to any payments received from State and local sources for such year, exceeds the amount such agency receives from State and local sources.

"(h) HEARING AND REVIEW.—Each local educational agency which is adversely affected or aggrieved by any action of the Secretary under this Act shall be entitled to a hearing on, and review of, such action in the same manner as if such agency were a person under the provisions of chapters 5 and 7 of title 5, United States Code.

"SEC. 106. CHILDREN FOR WHOM LOCAL AGENCIES ARE UNABLE TO PROVIDE EDUCATION.

"(a) IN GENERAL.—In the case of children who reside on Federal property—

"(1) if no tax revenues of the State or any political subdivision thereof may be expended for the free public education of such children; or

"(2) if it is the judgment of the Secretary, after the Secretary has consulted with the appropriate State educational agency, that no local educational agency is able to provide suitable free public education for such children,

then the Secretary shall make such arrangements (other than arrangements with respect to the acquisition of land, the erection of facilities, interest, or debt service) as may be necessary to provide free public education for such children. Such arrangements to provide free public education may also be made for children of members of the Armed Forces on active duty, if the schools in which the free public education is usually provided for such children are made unavailable to such children as a result of official action by State or local governmental authority and it is the judgment of the Secretary, after the Secretary has consulted with the appropriate State educational agency, that no local educational agency is able to provide suitable free public education for such children. To the maximum extent practicable, the local educational agency, or the head of the Federal department or agency, with which any arrangement is made under this section shall take such action as may be necessary to ensure that the education provided pursuant to such arrangement is comparable to free public education provided for children in comparable communities in the State or in the case of education provided under this section outside the continental United States, Alaska, and Hawaii, comparable to free public education provided for children in the District of Columbia. For the purpose of providing such comparable education, personnel may be employed and the compensation, tenure, leave, hours of work, and other incidents of the employment relationship may be fixed without regard to the provisions of title 5 of the United States Code. Personnel provided for under this subsection outside of the continental United States, Alaska, and Hawaii, shall receive such compensation, tenure, leave, hours of work, and other incidents of employment on the same basis as provided for similar positions in the public schools of the District of Columbia. In any case where education was being provided on January 1, 1955, or thereafter under an arrangement made under this subsection for children residing on an Army, Navy (including the Marine Corps), or Air Force installation, it shall be presumed, for the purposes of this subsection, that no local educational agency is able to provide suitable free public education for the children residing on such installation, until the Secretary and the Secretary of the military department concerned jointly determine, after consultation with the appropriate State educational agency, that a local educational agency is able to do so.

"(b) ADJACENT PROPERTY.—In any case in which the Secretary makes such arrangements for the provision of free public education in facilities situated on Federal property, the Secretary may also make arrangements for providing free public education in such facilities for children residing in any area adjacent to such property with a parent who during some portion of the fiscal year in which such education is provided, was employed on such property, but only if the Secretary determines after consultation with the appropriate State educational agency—

"(1) that the provision of such education is appropriate to carry out the purposes of this title;

"(2) that no local educational agency is able to provide suitable free public education for such children; and

"(3) in any case where in the judgment of the Secretary the need for the provision of such education will not be temporary in duration, that the local educational agency of the school district in which such children reside, or the State educational agency, or both, will make reasonable tuition payments to the Secretary for the education of such children. Such payments may be made either directly or through deductions from amounts to which the local educational agency is entitled under this title, or both, as may be agreed upon between such agency and the Secretary. Any amounts paid to the Secretary by a State or local educational agency pursuant to this section shall be covered into the Treasury as miscellaneous receipts.

"(c) OUTLYING AREAS.—In any case in which the Secretary makes arrangements under this section for the provision of free public education in facilities situated on Federal property in the Commonwealth of Puerto Rico, Wake Island, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands, the Secretary may also make arrangements for providing free public education in such facilities for children residing with a parent employed by the United States, in a grade, position, or classification subject by policy and practice to transfer or reassignment to areas where English is the language of instruction in the schools normally attended by children of Federal employees. Dependents of excepted service professional employees of the schools shall be eligible to attend the schools. In any case where education is being provided under an arrangement made under this subsection, it shall be presumed that no local educational agency is able to provide suitable free public education for the children of eligible parents employed by the United States until the Secretary determines, after consultation with the appropriate State educational agency, that a local educational agency is able to do so.

"(d) ARRANGEMENTS.—The Secretary may make an arrangement under this section only with a local educational agency or with the head of a Federal department or agency administering Federal property on which children reside who are to be provided education pursuant to such arrangement or, in the case of children to whom the second sentence of subsection (a) applies, with the head of any Federal department or agency having jurisdiction over the parents of some or all of such children. Except where the Secretary makes arrangements pursuant to the second sentence of subsection (a), arrangements may be made under this section only for the provision of education in facilities of a local

educational agency or in facilities situated on Federal property. The Secretary shall ensure that funds provided under such arrangement or arrangements are expended in an efficient manner, and shall require an accounting of funds by such agency at least on an annual basis. The Secretary shall further be provided with data relating to the quality and type of education provided to such children under such arrangement or arrangements.

"(e) LIMITATION ON PAYMENTS.—To the maximum extent practicable, the Secretary shall limit the total payments made pursuant to any such arrangement for educating children within the continental United States, Alaska, or Hawaii, to an amount per pupil which will not exceed the per pupil cost of free public education provided for children in comparable communities in the State. The Secretary shall limit the total payments made pursuant to any arrangement for educating children outside the continental United States, Alaska, or Hawaii, to an amount per pupil which will not exceed the amount the Secretary determines to be necessary to provide education comparable to the free public education provided for children in the District of Columbia.

"(f) EXPENDITURE OF TAX REVENUES.—If no tax revenues of a State or of any political subdivision of the State may be expended for the free public education of children who reside on any Federal property within the State, or if no tax revenues of a State are allocated for the free public education of such children, then the property on which such children reside shall not be considered Federal property for the purposes of sections 103 and 104 of this Act. If a local educational agency refuses for any other reason to provide in any fiscal year free public education for children who reside on Federal property which is within the school district of that agency or which, in the determination of the Secretary, would be within the school district if it were not Federal property, there shall be deducted from any amount to which the local educational agency is otherwise entitled for that year under section 103 or 104 an amount equal to—

"(1) the amount (if any) by which the cost to the Secretary of providing free public education for that year for each such child exceeds the local contribution rate of that agency for that year, multiplied by

"(2) the number of such children.

"(g) ELECTIVE SCHOOL BOARD.—The Secretary shall ensure the establishment of an elective school board in schools assisted under this section. Such school board shall be composed of a minimum of 3 members, elected by the parents of students in attendance at such school. The Secretary shall, by regulation, establish procedures for carrying out such school board elections as provided in this subsection.

"(h) POWERS OF ELECTIVE SCHOOL BOARDS.—A school board established pursuant to subsection (g) shall be empowered to oversee school expenditures and operations, subject to audit procedures established by the Secretary, and other provisions of this section.

"(i) SPECIAL RULE.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, a local educational agency receiving funds under section 103 may also receive funds under this section, if—

"(A) at least 30 percent of the students enrolled in the schools served by such agency are students determined under section 103(c)(2)(B);

"(B) such agency applied for and received, or will receive, financial assistance from all available Federal, State, and local revenue sources, including revenue available from other sections of this title; and

"(C) such agency provides educational services to students determined under section 103(c)(2)(B) free of charge.

"(2) RESERVATIONS.—The Secretary of Defense shall reserve—

"(A) 80 percent of the amount available to carry out this subsection for distribution to local educational agencies in accordance with the provisions of this subsection whose per pupil expenditure is less than the State average per pupil expenditure; and

"(B) 20 percent of such amount for distribution to local educational agencies whose per pupil expenditure is higher than the State average per pupil expenditure.

"(3) COUNTING.—Beginning in fiscal year 1994 and in each succeeding fiscal year, payments to a local educational agency in a fiscal year under this subsection shall be made on the basis of the total number of students determined under clauses (i) and (ii) of section 103(c)(2)(B) applicable to such agency compared to the total number of students determined under such clauses applicable to all local educational agencies receiving payments under this subsection in such fiscal year.

"SEC. 107. ASSISTANCE FOR CURRENT SCHOOL EXPENDITURES IN CASES OF CERTAIN DISASTERS.

"(a) IN GENERAL.—In any case in which—

"(1) the Director of the Federal Emergency Management Agency determines with respect to any local educational agency (including for the purpose of this section any other public agency which operates schools providing technical, vocational, or other special education to children of elementary or secondary school age) that such agency is located in whole or in part within an area which after August 30, 1965, and prior to October 1, 1998, has suffered a major disaster as the result of any flood, drought, fire, hurricane, earthquake, storm, or other catastrophe which, in the determination of the President pursuant to sections 102(2) and 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, is or threatens to be of sufficient severity and magnitude to warrant disaster assistance by the Federal Government, and

"(2) the Governor of the State in which such agency is located has certified the need for disaster assistance under this section, and has given assurance of expenditure of a reasonable amount of the funds of the government of such State, or of any political subdivision thereof, for the same or similar purposes with respect to such catastrophe,

and if the Secretary determines with respect to such agency that—

"(A) such agency is utilizing or will utilize all State and other financial assistance available to it for the purpose of meeting the cost of providing free public education for the children attending the schools of such agency, but as a result of such disaster it is unable to obtain sufficient funds for such purpose and requires an amount of additional assistance equal to at least $10,000 or 5 percent of such agency's current operating expenditures during the fiscal year preceding the fiscal year in which such disaster occurred, whichever is less, and

"(B) in the case of any such major disaster to the extent that the operation of private elementary and secondary schools in the school attendance area of such local educational agency has been disrupted or impaired by such disaster, such local educational agency has made provisions for the conduct of educational programs under public auspices and administration in which children enrolled in such private elementary and secondary schools may attend and participate, except that nothing contained in this Act shall be construed to authorize the making of any payment under this Act for religious worship or instruction,

then the Secretary may provide to such agency the additional assistance necessary to provide free public education to the children attending the schools of such agency, upon such terms and in such amounts (subject to the provisions of this section) as the Secretary may consider to be in the public interest. Such additional assistance may be provided for a period not greater than a 5-fiscal-year period beginning with the fiscal year in which it is determined pursuant to paragraph (1) of this subsection that such agency suffered a disaster. The amount so provided for any fiscal year shall not exceed the amount which the Secretary determines to be necessary to enable such agency, with the State, local, and other Federal funds available to it for such purpose, to provide a level of education equivalent to that maintained in the schools of such agency prior to the occurrence of such disaster, taking into account the additional costs reasonably necessary to carry out the provisions of paragraph (2)(B) of this subsection. The amount, if any, so provided for the second, third, and fourth fiscal years following the fiscal year in which it is so determined that such agency has suffered a disaster shall not exceed 75 percent, 50 percent, and 25 percent, respectively, of the amount so provided for the first fiscal year following such determination.

"(b) ADDITIONAL FUNDS.—In addition to and apart from the funds provided under subsection (a), the Secretary is authorized to provide to such agency an amount which the Secretary determines to be necessary to replace instructional and maintenance supplies, equipment, and materials (including textbooks) destroyed or seriously damaged as a result of such disaster, to make minor repairs, and to lease or otherwise provide (other than by acquisition of land or erection of facilities) school and cafeteria facilities needed to replace temporarily such facilities which have been made unavailable as a result of the disaster.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year such amounts as may be necessary to carry out the provisions of this section. Pending such appropriation, the Secretary is authorized to expend (without regard to the provisions of sections 1341 and 1515 of title 31, United States Code) from any funds appropriated to the Department of Education and at that time available to the Secretary, such sums as may be necessary for providing immediate assistance under this section. Expenditures pursuant to the preceding sentence shall—

"(1) be reported by the Secretary to the Committees on Appropriations and Education and Labor of the House of Representatives and the Committees on Appropriations and Labor and Human Resources of the Senate within 30 days of the expenditure; and

"(2) be reimbursed from the appropriations authorized by the first sentence of this subsection.

The report required to be submitted to the Committees on Appropriations by paragraph (1) of the preceding sentence shall constitute a budget estimate with the meaning of section 3109 of title 31, United States Code.

"(d) APPLICATION REQUIRED.—No payment may be made to any local educational agen-

cy under this section except upon application therefore which is submitted through the appropriate State educational agency and is filed with the Secretary in accordance with the regulations prescribed by the Secretary. In determining the order in which such applications shall be approved, the Secretary shall consider the relative educational and financial needs of the local educational agencies which have submitted approved applications. The Secretary shall complete action of approval or disapproval of an application within 90 days of the filing of an application.

"(e) PAYMENT.—Amounts paid by the Secretary to local educational agencies under this section may be paid in advance or by way of reimbursement and in such installments as the Secretary may determine. Any funds paid to a local educational agency and not expended or otherwise used for the purposes for which paid shall be repaid to the Treasury of the United States.

"(f) AVAILABILITY.—Funds available for this section for any fiscal year shall also be available for section 16 of the Act of September 23, 1950 (Public Law 815, 81st Congress).

"TITLE II—GENERAL PROVISIONS

"SEC. 201. ADMINISTRATION.

"(a) IN GENERAL.—The Secretary shall administer this Act, and the Secretary may make such regulations and perform such other functions as the Secretary finds necessary to carry out the provisions of this Act.

"(b) REPORT.—The Secretary shall include in the Secretary's annual report to the Congress a full report of the administration of the Secretary's functions under this Act, including a detailed statement of receipts and disbursements.

"SEC. 202. DEPARTMENT OF EDUCATION CONTINGENCY FUND.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—There is established a Department of Education Contingency Fund (hereafter in this Act referred to as the 'Fund').

"(2) CONTENTS.—The Fund shall consist of amounts appropriated to the Fund pursuant to section 101(c)(2), amounts deposited into the Fund pursuant to section 101(d)(2), and any interest on or earnings from the Fund.

"(b) USES.—The Secretary shall use amounts in the Fund to meet emergencies and unforeseen contingencies affecting the local educational agencies assisted under this Act (including local educational agencies assisted under section 103(d)(3)) when other funding sources have been exhausted. The Secretary shall consider as examples of emergencies to be funded under this section—

"(1) a local educational agency eligible for payment under section 103(e);

"(2) a local educational agency that experiences an increase in the number of federally connected children described in section 103(a) from the prior fiscal year to the fiscal year in which the determination is made, but is not eligible for a payment under section 104; and

"(3) a local educational agency that does not receive a payment under section 102 because of the operation of subsection (g) of such section due to circumstances beyond the control of such agency.

"(c) AVAILABILITY.—Amounts in the Fund shall be available to the Secretary to carry out the provisions of this section and shall remain available without fiscal year limitation until expended.

"(d) REPORT.—Whenever the Secretary makes funds available under this section, or denies the availability of such funds, to a local educational agency, the Secretary shall report such action to the Committees on Appropriations and Education and Labor of the House of Representatives and the Committees on Appropriations and Labor and Human Resources of the Senate within 30 days of such expenditure. Such report shall include a description of the request for funding under this section from the local educational agency applying for such funding along with the Secretary's justification for approval or disapproval of such request.

"(e) APPLICATION.—Each local educational agency desiring assistance under this section in any fiscal year shall submit an application, in accordance with such regulations as the Secretary may promulgate, to the Secretary postmarked not later than January 31 of such fiscal year.

"SEC. 203. USE OF OTHER FEDERAL AGENCIES; TRANSFER AND AVAILABILITY OF APPROPRIATIONS.

"(a) USE OF OTHER FEDERAL AGENCIES.—In carrying out the Secretary's functions under this Act, the Secretary is authorized, pursuant to proper agreement with any other Federal department or agency, to utilize the services and facilities of such department or agency, and, when the Secretary deems it necessary or appropriate, to delegate to any officer or employee thereof the function under section 106 of making arrangements for providing free public education. Payment to cover the cost of such utilization or of carrying out such delegated function shall be made either in advance of or by way of reimbursement, as may be provided in such agreement.

"(b) REQUESTS FOR INFORMATION.—All Federal departments or agencies administering Federal property on which children reside, and all such departments or agencies principally responsible for Federal activities which may occasion assistance under title I, shall to the maximum extent practicable comply with requests of the Secretary for information the Secretary may require in carrying out the purposes of title I.

"SEC. 204. DEFINITIONS; ATTENDANCE DETERMINATION.

"(a) DEFINITIONS.—As used in this Act:

"(1) The term 'Federal property' means real property which is owned by the United States or is leased by the United States, and which is not subject to taxation by any State or any political subdivision of a State or by the District of Columbia. Such term includes (A) except for purposes of section 106, real property held in trust by the United States for individual Indians or Indian tribes, and real property held by individual Indians or Indian tribes, which is subject to restrictions on alienation imposed by the United States, (B) for one year beyond the end of the fiscal year in which occurred the sale or transfer thereof by the United States, any property considered prior to such sale or transfer to be Federal property for the purposes of this Act, (C) any low-rent housing (whether or not owned by the United States) which is part of a low-rent housing project assisted under the United States Housing Act of 1937, section 516 of the Housing Act of 1949, or part B of title III of the Economic Opportunity Act of 1964, (D) any school which is providing flight training to members of the Air Force under contractual arrangements with the Department of the Air Force at an airport which is owned by a State or a political subdivision of a State and (E) any property owned by a foreign government or by an international organization which by reason of such ownership is not subject to taxation by the State in which it is located or a subdivision thereof. Such term also includes any interest in Federal property (as defined in the foregoing provisions of this paragraph) under an easement, lease, license, permit, or other arrangement, as well as any improvements of any nature (other than pipelines or utility lines) on such property even though such interests or improvements are subject to taxation by a State or political subdivision of a State or by the District of Columbia. Notwithstanding the foregoing provisions of this paragraph, such term does not include any real property under the jurisdiction of the United States Postal Service and used primarily for the provision of postal service. Real property which qualifies as Federal property under clause (A) of this paragraph shall not lose such qualification because it is used for a low-rent housing project. Any real property that was designated by treaty as tribal land, or was formerly property described under subparagraph (A) and is currently owned by an Indian housing authority and used for low-rent housing described in subparagraph (C) (including a mutual help homeownership opportunity project assisted under section 202 of the United States Housing Act of 1937), shall be deemed to qualify as Federal property under subparagraph (A).

"(2) The term 'child' means any child who is within the age limits for which the applicable State provides free public education.

"(3) The term 'parent' includes a legal guardian or other person standing in loco parentis.

"(4) The term 'free public education' means education which is provided at public expense, under public supervision and direction, and without tuition charge, and which is provided as preschool, kindergarten, elementary or secondary school education in the applicable State.

"(5)(A) The term 'current expenditures' means expenditures for free public education, including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities, but not including expenditures for community services, capital outlay, and debt service, or any expenditures made of funds granted under chapter 1 or chapter 2 of title I of the Elementary and Secondary Education Act of 1965, the Indian Education Act of 1988 and the Johnson-O'Malley Act.

"(B) The determination of whether an expenditure for the replacement of equipment is considered a current expenditure or a capital outlay shall be determined in accordance with generally accepted State accounting principles.

"(6)(A) For purposes of title I, the term 'local educational agency' means a board of education or other legally constituted local school authority having administrative control and direction of free public elementary and secondary education through grade 12 in a county, township, independent, or other school district located within a State. Such term includes any State agency which directly operates and maintains facilities for providing free public education. Such term does not include any agency or school authority that the Secretary determines on a case-by-case basis—

"(i) was constituted or reconstituted primarily for the purpose of receiving assistance under this Act or increasing the amount of that assistance;

"(ii) is not constituted or reconstituted for legitimate educational purposes; or

"(iii) was previously part of a school district upon being constituted or reconstituted.

"(B) For the purpose of carrying out the provisions of section 103(a)(1)(B), such term includes any agency or school authority that has had an arrangement with a nonadjacent school district for the education of children of persons who reside or work on an installation of the Department of Defense for more than 25 years, but only if the Secretary determines that there is no single school district adjacent to the school district in which the installation is located that is capable of educating all such children.

"(7) The term 'State educational agency' means the officer or agency primarily responsible for the State supervision of public elementary and secondary schools.

"(8) The term 'State' means a State, the Commonwealth of Puerto Rico, Wake Island, Guam, the District of Columbia, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands.

"(9) The term 'Secretary' means the Secretary of Education.

"(10) The term 'county' means those divisions of a State utilized by the Secretary of Commerce in compiling and reporting data regarding counties.

"(11) The term 'construction' includes the preparation of drawings and specifications for school facilities; erecting, building, acquiring, altering, remodeling, improving, or extending school facilities; and the inspection and supervision of the construction of school facilities.

"(12) The term 'school facilities' means classrooms and related facilities (including initial equipment) for free public education and interests in land (including site, grading, and improvements) on which such facilities are constructed, except that such term does not include those gymnasiums and similar facilities intended primarily for exhibitions for which admission is to be charged to the general public.

"(13) The term 'equipment' includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture, printed, published, and audio-visual instructional materials, and books, periodicals, documents, and other related materials.

"(b) ATTENDANCE DETERMINATION.—For the purpose of this Act, average daily attendance shall be determined in accordance with State law, except that (A) the average daily attendance of children with respect to whom payment is to be made under section 103 or 104 of this Act shall be determined in accordance with regulations of the Secretary, and (B) notwithstanding any other provision of this Act, where the local educational agency of the school district in which any child resides makes or contracts to make a tuition payment for the free public education of such child in a school situated in another school district, for purposes of this Act the attendance of such child at such school shall be held and considered (i) to be attendance at a school of the local educational agency so making or contracting to make such tuition payment and (ii) not to be attendance at a school of the local educational agency receiving such tuition payment or entitled to receive such payment under the contract. A child shall, for the purposes of section 103, be deemed to be in attendance at a school of a local educational agency if such child is determined to be federally connected under section 103(a) for any fiscal year and if such child is attending a school other than a school of such agency because such child is a child with a disability (as such term is defined in section 602(a)(1) of the Individuals with Disabilities Education Act) and if such agency makes a tuition payment on behalf of such child to such school for such fiscal year. Regulations promulgated by the Secretary in accordance with subparagraph (A) of this paragraph shall permit the conversion of average daily membership to average daily attendance for local educational agencies in States which reimburse local educational agencies based upon average daily membership and which do not require local educational agencies to keep records based on average daily attendance.

"SEC. 205. REGULATION REQUIREMENTS.

"The Secretary is authorized to promulgate such regulations as the Secretary considers necessary to reasonably ensure compliance with the provisions of this Act in accordance with the procedures provided for under section 1431 of the Elementary and Secondary Education Act of 1965.".

IMPACT AID REAUTHORIZATION ACT OF 1993—SECTION-BY-SECTION ANALYSIS

TITLE I–FINANCIAL ASSISTANCE FOR LOCAL EDUCATIONAL AGENCIES IN AREAS AFFECTED BY FEDERAL ACTIVITY

Section 101. Declaration of Policy

(a) Acknowledgement that a fair access to an equitable education shall be recognized by the United States and that such access is hampered when Federal ownership of real property or Federal activities within a community adversely affect any or all of the basic revenue sources which local educational agencies depend upon for such fair access and equitable treatment.

(b) Congress declares it to be the policy of the United States to provide financial assistance for those local educational agencies upon which the U.S. has placed financial burdens.

(c) Authorization of Appropriations Authorizes $900 million in FY '94 and "such sums as are necessary" for each of the 4 succeeding fiscal years. Also establishes a contingency fund for which $14 million is authorized for 1994.

(d)(1) Reserves from the amount authorized 2.5% for Section 102 (old Section 2). Provides funds to local educational agencies which have 10% or more of their taxable land owned by the Federal government.

(d)(2) Also reserves funds for the contingency fund after 1994. Amount reserved cannot exceed 2 percent of the total amount authorized.

(d)(3) Requires an amount to be reserved for heavily impacted school districts based on an estimate to be provided to the appropriations committee by the Secretary of Education.

(e) Provides authority for forward funding.

Section 102. Federal Acquisition of Real Property

Continues present law recognizing that the Congress shall provide financial assistance to local educational agencies which have lost taxable property to the Federal government on or after January 1, 1939. To be eligible, such property must account for at least 10% of the local educational agency's total taxable property.

Any revenue received by the local educational agency from proceeds derived directly from such Federal property shall be subtracted from the amount entitled by the l.e.a. from this provision.

A new provision has been added which insures that current applicants cannot lose any more than 10% of their previous year's payment because of new applicants.

Section 103. Federally Connected Children

(a) Identifies those children who are eligible for payment and maintains current law in setting forth eligibility requirements for l.e.a. participation.

(b) To be eligible an l.e.a. must enroll at least 400 eligible children or at least 3 percent of its total enrollment, which ever is the lesser. A local educational agency must also—

(1) be making a tax effort, or complying with other state fiscal requirements, required for state education funding; and

(2) be certified or accredited by either a state or tribal department of education.

(c) Establishes payment through an allotment formula referred to as the Equal Opportunity Cost.

Requires that each l.e.a. applying for a payment calculates its equal opportunity cost by totalling its number of weighted student units and multiplying these units by its local contribution rate. LCR's shall be calculated as under current law:

Guaranteed minimum rate
Comparable district method
Unusual geographic location
Coterminous l.e.a.

Spells out how the Secretary shall calculate the total number of weighted student units:

Chart I: Weights of federally-connected children

Children living on Indian lands who:	
Are in Special Education Programs are weighted at	2.025
Are not in Special Education Programs are weighted at	1.35
Children of parents on active duty in the uniformed services who:	
Are in Special Education Program and reside on Federal property are weighted at	1.65
Are in Special Education Programs and reside on non-federal property are weighted at	.45
Are not in Special Education Programs and reside on Federal property are weighted at	1.10
Are not in Special Education Programs and reside on non-federal property are weighted at	.30
Children of Civilians not living on Indian lands and who reside:	
On LRH property and whose parents are employed on non-federal property are weighted at	.30
On Federal property and whose parents are employed on Federal property are weighted at	1.00
On Federal, non-LRH property and whose parents are employed on non-federal property are weighted at	.20
On non-federal property and whose parents are employed on federal property are weighted at	.20

(d) Special Rules—

Children with disabilities shall be treated as under current law. Funds received under this provision must be spent on programs identified under the Disabilities Education Act.

Maintains present law allowing children enrolled in BIA-funded schools but who are not eligible for funding under the Bureau's system to be eligible for funding under this act and tuitioned out to the Bureau-funded school.

Continues present law allowing for heavily impact high need L.E.A.'s to receive supplemental funding.

Maintains present eligibility requirements, however 50% federal enrollment may be averaged over a 3-year period, if an L.E.A. should fall below 50% in any one year.

Requires the Secretary to estimate the amount needed to make payments to these L.E.A.'s not later than 45 days after the date applications are due to be submitted to the Secretary. Such estimates are to be provided to the House and Senate authorizing the appropriations committees. Should the amount reserved by the Secretary, as provided for under Section 101(d)(3), exceed the amount paid out, the excess shall be carried forward to the next year. If there shall be a shortfall, then the amount required to carry out this paragraph in the succeeding fiscal year shall be available from the next year's appropriations.

(e) Adjustment for Decreases in Federal Activities—

Maintains present law by providing a separate authorization for local educational agencies experiencing a loss of federal students because of a federal activity. Eligibility for funding is reduced from present law to 2 years, plus an additional year if during the final year, the number of eligible students equals or exceeds 25% of the number of such children in average daily attendance.

Section 104. Sudden and Substantial Changes in Attendance

A new section, this would provide additional financial assistance to a local educational agency which has experienced a 5% increase in military dependent students because of a base closure or military realignment.

Because L.E.A.'s are paid on the previous year's application, these L.E.A.'s could experience significant fiscal problems without such assistance.

Section 105. Method of Making Payments

(a) Applications—

Maintains current law as regards to:

Filing applications.

Late applications.

(b) Payments by the Secretary—

Continues present policy allowing funds to remain available until the end of the fiscal year succeeding the fiscal year for which such sums are appropriated.

Indian lands requirements continue calling for each local educational agency applying for the additional set-aside, to develop a set of Indian Policy and Procedures on file with the Secretary.

A "new" similar provision has been added for those local educational agencies applying for the additional set-aside for military (on-base) dependents. Each l.e.a. must establish a process in accordance with regulations, which ensures the involvement of the local military base commander or such commander's designee for the purpose of better meeting the educational, emotional, and social needs of military (on-base) dependents. The Secretary is to annually review the process.

(c) The Learning Opportunity Threshold—

When the appropriations level is insufficient to fully fund the program, a new provision has been developed to make such funding adjustments. It is the intent of this provision to provide to a local educational agency such sums as will allow the agency to provide an education allowing all its children a basic opportunity to learn. Under the Learning Opportunity Threshold (LOT), each local educational agency first determines the percentage of its enrollment that is federally connected. It then calculates the percentage of its total current expenditures which is comprised of its impact aid "equal opportunity cost" (old entitlement). The district totals the two percentages to determine its LOT. The LOT cannot exceed 1.00. That percentage is then multiplied by the local educational agencies "equal opportunity cost" to determine its LOT payment.

A small school adjustment of 0.25 is provided to those local educational agencies whose ADA is fewer than 1,000. The additional percentage is added to the calculation of the LOT described in the above paragraph before multiplying it by the l.e.a.'s "equal opportunity cost".

Special rule regarding additional funds—pro-ration. If the funds provided exceed the amount necessary to fully fund the LOT, the excess funds will be prorated on the basis of the total number of weighted student units, however in no case shall the payment to a local educational agency exceed its "equal opportunity cost."

Insufficient appropriations—pro-ration. If the funds are insufficient to fully fund the LOT payment, the shortfall would be prorated. 50 percent of the proration would be a straight proration and 50 percent would be based on "need". Need is defined as the amount of the remaining deficiency divided into the national total of weighted student units. The dollar total per weighted student unit would then be subtracted nationally to complete the proration.

(d) Treatment of Payment By The States In Determining Eligibility For, and The Amount of, State Aid—

Under current law, if a state develops a state aid formula which attempts to equalize the expenditures between all the local educational agencies within the state, a state after having its formula approved by the Secretary of Education, may deduct from an impact aid recipient school district, state payments as a credit against the impact aid received by the L.E.A.

The new proposal defines Equalization as opposed to allowing the Department of Education to do so by regulation as under current law. Equalization shall be defined on per pupil expenditure. The disparity in per pupil spending cannot be greater than 105 percent between the highest spending level per pupil, in the highest spending local educational agency to the spending level per pupil in the lowest spending local educational agency, after excluding the highest spending local agencies with 5 percent of the students. A state must also show that its funding formula takes into consideration the needs of special student populations. The dollars required for these additional cost students will be deducted from the per pupil expenditure total for state comparison purposes.

The proposal also establishes an "Adequacy Threshold" through which a state must first of all pass before it can apply for equalization. Under this proposal, a state must first of all be spending at or above the national average in per pupil expenditures as reported to the National Center for Education Statistics before it can apply to Department of Education for approval under this provision.

A National Advisory Panel on Impact Aid Equalization will be created to advise (annually) the Secretary on state applications for equalization.

A state illegally deducting state payments from an impact aid l.e.a., shall face the penalty of losing all its (federal) state administrative dollars.

(e) Phase-In Provision—

Provides that the new formula be phased in over a three-year period. Districts would be held to a 10% increase or decrease in each of the years 1994, 1995, and 1996.

(f) Children With Disabilities—

A new provision, it calls for those federal students claimed by a local educational agency for special education which exceed the state average for special education students enrolled in a L.E.A. to have their excess cost (if any) not covered by the federal impact aid add-on for special education to be paid either by the Department of Defense or the Department of Interior, depending on the type of student.

Sec. 106. Children For Whom Local Agencies Are Unable To Provide Education

Maintains current law which calls for the Department of Defense to be responsible for those dependents enrolled in a local educational agency when the state assumes no legal responsibility for their education.

A new provision is added (i), which provides for the Department of Defense to provide funds to local educational agencies eligible for funds under section 103, to receive supplemental funding if they meet certain requirements. Similar to section 306 of the FY'91 Department of Defense Authorization Bill, it is intended to provide additional financial assistance to "high" need military impacted school districts.

Sec. 107. Assistance For Current School Expenditures In Cases of Certain Disasters

Maintains the current disaster program contained in the statute. Because its administration has been to a large degree transferred to the Federal Emergency Management Agency, there may be no need for this section. Until a letter from the Department of Education and FEMA indicates this to be the case, it is contained in this proposal.

TITLE II—GENERAL PROVISIONS

Sec. 201. Administration

Sec. 202. Department of Education Contingency Fund

This "new" provision allows a local educational agency experiencing financial difficulties, but which is not eligible for additional funding under the act, to apply to the Secretary for special funding. The provision provides for an application process and allows the Secretary to use the National Review Panel to advise the Department if the Secretary so chooses. The intent of this provision is to take some of the "politics" out of the program, by providing individual members of Congress with an option to school districts within the states and congressional districts other than amending the law on the floor. If there is a legitimate need for supplemental funding, it should be funded under this provision.

Sec. 203. Use of Other Federal Agencies; Transfer And Availability of Appropriations

Continues present law with some updating.

Sec. 204. Definition; Attendance Determination

Maintains present law, but also clarifies the definition of low-rent housing projects on Indian land. There is also some clarification for what is considered to be a part of the term, "current expenditures".

Sec. 205. Regulation Requirements

Provides for negotiated rule making.

DEPARTMENT OF EDUCATION
AND CULTURAL AFFAIRS,
March 31, 1992.

Hon. LARRY PRESSLER,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR PRESSLER. This letter is written in support of the reauthorization of P.L. 81-874—Impact Aid. This program provides funding for 55 South Dakota school districts educating over 12,000 federally con-

nected students. We applaud your willingness to take on the leadership role in the reauthorization of impact aid.

The South Dakota Department of Education and Cultural Affairs has reviewed the proposed reauthorization for impact aid and supports the language as presented. This office supports the concept of basing payment on the financial need of the district. Additionally, it is felt the "weighted student" system will provide for financial equity and recognize the higher educational costs related to the federally connected students (i.e., transition, low-income, special education).

We appreciate your continued support and commitment in ensuring the Federal government recognizes its financial responsibility to provide an equitable and quality educational opportunity for all South Dakota's federally connected children.

Respectfully,

JOHN A. BONAIUTO, ED.D.,
Secretary.

TODD COUNTY SCHOOL
DISTRICT NO. 66-1,
Mission, SD, March 31, 1993.

Senator LARRY PRESSLER,
Senate Hart Office Building, Constitution Avenue & 2d Street NE, Washington, DC.

DEAR SENATOR PRESSLER: It is with a great deal of excitement that I am writing this letter in support of the reauthorization of Public Law 81-874 (Impact Aid). The changes that are included in the reauthorization bill have been long overdue.

I had spent a great deal of time working with and against the Bureau of Indian Affairs, DOI, during their initiation stage of their funding formula. Their formula, after a three year phase in, continued relatively unscathed for the last fifteen years. Although now I hear a few individuals have the ear of a few senators and they are trying to get it changed for their schools' benefit. As you know this is what is confusing about 81-874.

This reauthorization bill has a vision behind it of putting basic education funds where a federal presence has the greatest effect on the local education agency—either by ownership of land or where there are children of federally connected personnel. Here at Todd County School District, whose boundaries are the same as the Rosebud Indian Reservation, the eighth poorest county in the United States, our taxable land base and the property value of the taxable land base could never support our education program.

Specifically there are three areas of the reauthorization that I fully support:

1. The weight factors that the National Association of Federally Impacted Schools (NAFIS) have derived were not done without a lot of time spent over pages and pages of data and historical reflection. NAFIS has a strong concensus of its membership in support of this method of fund distribution. As with the Bureau funding formula this may end up being a fair way to distribute an unfair amount of funds. The NAFIS membership is behind the formula.

2. The proposed reauthorization bill asks the Bureau of Indian Affairs, DOI, to contribute financial help when the funds from this bill fall short of what is being paid through the Indian School Education Program (ISEP). Right now, by federal law, school districts on Indian reservations are responsible for pre-school and early childhood special education students. Bureau funded schools are not. On this reservation these pre-school and early childhood students are going into both public school and Bureau funded schools. Prevention and early intervention programs should be shared between the two funding agencies.

3. The proposed reauthorization bill also eliminates certain supplemental programs from our "current expenditures" line items. The rationale behind this part of the bill comes from the issue that these supplemental programs are just that—supplemental. We can not utilize these funds for basic education or we do not get them. The funding agencies are very adamant about this. We get penalized for these funds when per pupil expenditures are figured even though these programs may only apply towards a certain section of our student population.

Senator Pressler, I fully support the bill as is. The problem usually comes somewhere in the future when much more wiser individuals try to interpret what the intent of the law was. Keeping these type letters on file will help people understand some of the intent.

Please call if you need any more information or support.

Again, Pilamaya yelo.

Sincerely,

RICHARD BORDEAUX, ED.D.,
Superintendent.

DOUGLAS SCHOOL DISTRICT NO. 51-1,
Ellsworth Air Force Base, March 30, 1993.

Senator LARRY PRESSLER,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR PRESSLER: The Douglas School District 51-1, being heavily reliant on Public Law 81-874 to provide educational services to over 2,000 military dependent children, fully endorses your reauthorization bill.

Your office has worked cooperatively with all parties involved in an attempt to write a fair and equitable reauthorization bill. The Douglas School District is very appreciative of this effort and confident your reauthorization bill will best serve the needs of those targeted populations of students.

We also feel the reauthorization bill strikes a balance between the needs of the students while meeting the budgetary goals of President Clinton.

Respectfully,

JOSEPH L. SCHMITZ, ED. D,
Superintendent.

Senator LARRY PRESSLER,
U.S. Senate, Hart Senate Building, Room 133, Washington, DC.

DEAR SENATOR PRESSLER: On behalf of the fifty-five member districts of the Impact Schools of South Dakota and the students they represent, I would like to express my support for the reauthorization of Public Law 81-874.

We believe that this bill addresses in an equitable way the responsibility of the United States to provide for the basic educational needs of federally connected personnel, including children of those in the uniformed service, children residing on Federal Indian Trust land, and children residing on non-taxable federally subsidized low-rent housing projects. It also addresses the impact on local educational agencies that are adversely affected by the presence of non-taxable land within their districts.

An important aspect of the reauthorization language is that it provides an equitable means of transferring funds directly to the districts involved with a minimum of administrative expense. Thus, federally impacted students are given the help they need to receive equal opportunities to contribute to our Democratic Society and to compete in an ever changing international environment.

We believe the reauthorization of PL 81-874, as it is presented in this bill, is a straight-forward, fair and equitable means of providing for the educational needs of federally connected children in over 2,600 school districts nation wide.

We respectfully request your support of this essential educational bill.

Sincerely yours,

RICHARD W. PARRY.

By Mr. PELL (by request):

S. 875. A bill to amend the International Development Association Act to authorize consent to, and authorize appropriations for, the United States contribution to the 10th replenishment of the resources of the International Development Association, and for other purposes; to the Committee on Foreign Relations.

INTERNATIONAL DEVELOPMENT ASSOCIATION ACT OF 1993

Mr. PELL. Mr. President, by request, I introduce for appropriate reference a bill to amend the International Development Association Act to authorize consent to, and authorize appropriations for, the U.S. contribution to the 10th replenishment of the resources of the International Development Association, and for other purposes.

This proposed legislation has been requested by the Department of the Treasury, and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the letter from the acting general counsel of the Department of the Treasury to the President of the Senate, which was received on April 19, 1993.

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

S. 875

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That the International Development Association Act (22 U.S.C. 284, *et seq.*) is amended by adding at the end the following new section:

"SEC. 22. (a) The United States Governor is authorized to contribute on behalf of the United States $3,750,000,000 to the tenth replenishment of the resources of the Association, subject to obtaining the necessary appropriations.

"(b) In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated without fiscal year limitation, $3,750,000,000 for payment by the Secretary of the Treasury.".

DEPARTMENT OF THE TREASURY,
Washington, DC., April 16, 1993.

Hon. ALBERT GORE, Jr.,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: I am pleased to transmit herewith a draft bill, "To amend

the International Development Association Act to authorize consent to and authorize appropriations for the United States contribution to the tenth replenishment of the resources of the International Development Association, and for other purposes." We urge prompt consideration of this proposal.

This legislation is a critical component of United States economic policy to help promote sustainable development in the world's poorest and least creditworthy countries. The International Development Association (IDA) is the soft window of the World Bank, providing concessional resources to almost 60 low-income countries. Over 80 percent of IDA funding comes from donor contributions, although repayments are growing in importance. Following a year of negotiations, the representatives of 34 donor governments reached agreement on December 15, 1992, on a tenth replenishment (IDA 10) to fund IDA operations for the three year period beginning July 1, 1993. The agreement was approved by the World Bank's Executive Board on January 12, 1993. The total size of the donor contribution to the replenishment is SDR 13 billion (about $18 billion) over three years. The United States contribution to IDA 10, representing a 20.86 percent share, is $3,750 million, or $1,250 million annually for three years.

IDA borrowers confront formidable developmental challenges in their efforts to promote economic growth and reduce poverty. The IDA 10 agreement establishes a sound policy framework to strengthen the effectiveness of IDA's support for such efforts. There are strengthened provisions on such key developmental issues as the environment, good governance, loan quality, reduction in non-development (including military) expenditures, and poverty reduction. The share of IDA lending going to the least creditworthy "IDA-only" borrowers will also increase from less than 60 percent to between 65 and 70 percent.

The draft bill would add a new section to the International Development Association Act to authorize the United States Governor of the IDA to contribute $3,750 million to the IDA, subject to obtaining the necessary appropriations.

It would be appreciated if you would lay the draft bill before the Senate. An identical draft bill has been transmitted to the Speaker of the House of Representatives.

The Office of Management and Budget has advised that there is no objection to the transmittal of this draft bill to the Congress, and that enactment would be in accord with the Administration's program.

Sincerely,

DENNIS I. FOREMAN,
Acting General Counsel.

By Mr. MOYNIHAN (by request):

S. 876. A bill to amend the Internal Revenue Code of 1986 to provide training and investment incentives and to provide additional revenues for deficit reduction purposes; to the Committee on Finance.

REVENUE RECONCILIATION ACT OF 1993

• Mr. MOYNIHAN. Mr. President, as chairman of the Committee on Finance I am today introducing, at the request of the administration, the Revenue Reconciliation Act of 1993. This legislation has been submitted by the Department of the Treasury, and contains the revenue proposals included in the administration's comprehensive economic plan. As described by the distinguished Secretary of the Treasury, these proposals "are part of a program designed to provide job creation, to build an environment for long-term investment and growth, and to reduce the budget deficit." The act further contains tax incentive proposals designed by the administration to assist distressed urban and rural areas.

I look forward to working with my colleagues and the administration in the coming weeks on these important measures.

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:

H.R. 1960

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the "Revenue Reconciliation Act of 1993".

(b) AMENDMENT TO 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) SECTION 15 NOT TO APPLY.—Except in the case of the amendments made by section 2201 (relating to corporate rate increase), no amendment made by this Act shall be treated as a change in a rate of tax for purposes of section 15 of the Internal Revenue Code of 1986.

(d) WAIVER OF ESTIMATED TAX PENALTIES.—No addition to tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1986 for any period before April 16, 1994 (March 16, 1994, in the case of a corporation), with respect to any underpayment to the extent such underpayment was created or increased by any provision of this Act.

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TITLE I—TRAINING AND INVESTMENT INCENTIVES

Subtitle A—Provisions Relating To Education And Training

SEC. 1101. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.

(a) PERMANENT EXTENSION OF EXCLUSION.—

(1) IN GENERAL.—Section 127 (relating to educational assistance programs) is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 103(a) of the Tax Extension Act of 1991 is hereby repealed.

(b) COORDINATION WITH SECTION 132.—Paragraph (8) of section 132(i) is amended to read as follows:

"(8) APPLICATION OF SECTION TO OTHERWISE TAXABLE EDUCATIONAL OR TRAINING BENEFITS.—Amounts paid or expenses incurred by the employer for education or training provided to the employee which are not excludable from gross income under section 127 shall be excluded from gross income under this section if (and only if) such amounts or expenses are a working condition fringe."

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to taxable years ending after June 30, 1992.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 1988.

(d) TRANSITION RULES.—

(1) WAIVER OF INTEREST AND PENALTIES.—No interest, penalty, or addition to tax shall be imposed or required to be paid solely by reason of a failure, before the date of the enactment of this Act, to treat educational assistance in a manner consistent with the provisions of section 103(a) of the Tax Extension Act of 1991 (as in effect before the amendments made by subsection (a)).

(2) SPECIAL RULES FOR 1992.—

(A) EMPLOYMENT TAXES.—If—

(i) an employer provided an employee with educational assistance during the period beginning on July 1, 1992, and ending on December 31, 1992,

(ii) consistent with the provisions of section 103(a) of the Tax Extension Act of 1991 (as so in effect), such employer treated such assistance as taxable for purposes of any employment tax and as a result of such treatment there was an increase in taxable wages for purposes of such tax,

(iii) on or after the date of the enactment of this Act and before January 1, 1994, such employer pays such employee amounts which are taxable wages for purposes of such tax and which equal or exceed the increase referred to in clause (ii), and

(iv) such employee did not treat such assistance for purposes of such employment tax (or for purposes of chapter 1 of the Internal Revenue Code of 1986 in the case of employment tax imposed by chapter 24 of such Code) in a manner inconsistent with the employer's treatment of such assistance,

the amendments made by subsection (a) shall not apply to such educational assistance for purposes of such employment tax, but, for purposes of applying such employment tax (and for purposes of the reporting requirements imposed by chapter 61 of such Code), the taxable wages of the employee referred to in clause (iii) shall be reduced by the amount of the increase referred to in clause (ii). For purposes of clause (iv), an employer may assume that the employee treated the assistance in a manner consistent with the employer's treatment unless such employer has actual knowledge to the contrary.

(B) REPORTING REQUIREMENT.—An employer shall separately report the amounts of any reduction under subparagraph (A) as nontaxable income on any returns or receipts required under chapter 61 of such Code for calendar year 1993.

(C) DEFINITIONS.—For purposes of this paragraph—

(i) EMPLOYMENT TAX.—The term "employment tax" means any tax imposed by subtitle C of such Code.

(ii) TAXABLE WAGES.—The term "taxable wages" means—

(I) wages (as defined in section 3121(a) of such Code) in the case of the taxes imposed by chapter 21 of such Code,

(II) compensation (as defined in section 3231(e) of such Code) in the case of the taxes imposed by chapter 22 of such Code,

(III) wages (as defined in section 3306(b) of such Code) in the case of the taxes imposed by chapter 23 of such Code, and

(IV) wages (as defined in section 3401(a) of such Code) in the case of the taxes imposed by chapter 24 of such Code.

(3) INCOME TAX TREATMENT.—If—

(A) subparagraph (A) of paragraph (2) applies to any educational assistance referred to in such paragraph provided to any employee, and

(B) such employee included such assistance in his taxable income for purposes of the tax imposed by chapter 1 of such Code,

the amendments made by subsection (a) shall not apply to such assistance for purposes of such chapter 1, but the amount included in the gross income of such employee by reason of wages received from the employer referred to in subparagraph (A) of paragraph (2) during 1993 shall be reduced in the manner provided in such subparagraph (A).

SEC. 1102. TARGETED JOBS CREDIT.

(a) PERMANENT EXTENSION OF CREDIT.—

(1) IN GENERAL.—Subsection (c) of section 51 (relating to amount of targeted jobs credit) is amended by striking paragraph (4).

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to individuals who begin work for the employer after June 30, 1992.

(b) CREDIT FOR PARTICIPANTS IN APPROVED SCHOOL-TO-WORK PROGRAMS.—

(1) IN GENERAL.—Subparagraph (I) of section 51(d)(1) (defining members of targeted group) is amended to read as follows:

"(I) a qualified participant in an approved school-to-work program, or".

(2) QUALIFIED PARTICIPANT IN AN APPROVED SCHOOL-TO-WORK PROGRAM.—Paragraph (10) of section 51(d) is amended to read as follows:

"(10) QUALIFIED PARTICIPANT IN AN APPROVED SCHOOL-TO-WORK PROGRAM DEFINED.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'qualified participant in an approved school-to-work program' means any individual who is certified under an approved school-to-work program as—

"(i) having attained age 16 but not having attained age 21, and

"(ii) being enrolled in and making satisfactory progress in completing such approved school-to-work program.

"(B) LIMITATION ON NUMBER OF PARTICIPANTS.—

"(i) IN GENERAL.—Any individual who begins work for the employer during any calendar year shall not be treated as a qualified participant in an approved school-to-work

program unless the individual is certified under such program as an eligible participant with respect to such calendar year.

"(ii) LIMITATION ON CERTIFICATIONS.—The aggregate number of individuals certified under an approved school-to-work program as eligible participants with respect to any calendar year shall not exceed the portion of the national school-to-work program limitation for such calendar year allocated under subsection (l) to such program.

"(C) APPROVED SCHOOL-TO-WORK PROGRAM.—The term 'approved school-to-work program' means any program which—

"(i) is a planned program of structured job training designed to integrate academic instruction provided by an educational institution and work-based learning provided by an employer, and

"(ii) is approved by the Secretaries of Labor and Education.

"(D) LIMITATION ON AMOUNT OF WAGES TAKEN INTO ACCOUNT.—For purposes of applying this subpart to wages paid or incurred to any qualified participant in an approved school-to-work program, subsection (b)(3) shall be applied by substituting '$3,000' for '$6,000'.

"(E) WAGES.—In the case of remuneration attributable to services performed while the individual meets the requirements of subparagraph (A), wages, and unemployment insurance wages, shall be determined without regard to section 3306(c)(10)(C)."

(3) OVERALL LIMITATIONS.—Section 51 is amended by adding at the end thereof the following new subsection:

"(l) OVERALL LIMITATION ON APPROVED SCHOOL-TO-WORK PROGRAM PARTICIPANTS.—

"(1) IN GENERAL.—For purposes of subsection (d)(10), the national school-to-work program limitation—

"(A) for calendar year 1994 is 125,000,

"(B) for calendar year 1995 is 140,000,

"(C) for calendar year 1996 is 160,000,

"(D) for calendar year 1997 is 180,000, and

"(E) for calendar year 1998 and any subsequent calendar year is 200,000.

"(2) ALLOCATION TO STATES.—The national school-to-work program limitation for any calendar year shall be allocated among the States in proportion to the number of their eligible participants that are estimated to be served in approved school-to-work programs for that year. Such estimates shall be published by the Secretaries of Labor and Education before the beginning of the calendar year to which the allocation applies.

"(3) ALLOCATION TO APPROVED SCHOOL-TO-WORK PROGRAMS.—The portion of the national school-to-work program limitation for any calendar year which is allocated to any State shall be allocated among the approved school-to-work programs in such State in such manner as the Secretaries of Labor and Education shall prescribe."

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply in the case of individuals who begin work for the employer after December 31, 1993.

Subtitle B—Investment Incentives

PART I—INVESTMENT TAX CREDIT

SEC. 1201. PERMANENT INVESTMENT TAX CREDIT FOR SMALL BUSINESS.

(a) ALLOWANCE OF CREDIT.—Section 46 (relating to amount of investment credit) is amended by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (3), and (4) and by inserting before paragraph (2) (as so redesignated) the following new paragraph:

"(1) in the case of an eligible small business (as defined in section 46A(b)), the small business regular credit,"

(b) SMALL BUSINESS REGULAR CREDIT.—Subpart E of part IV of subchapter A of chapter 1 (relating to rules for computing the investment credit) is amended by inserting after section 46 the following new section:

"SEC. 46A. SMALL BUSINESS REGULAR CREDIT.

"(a) DETERMINATION OF CREDIT.—For purposes of section 46—

"(1) IN GENERAL.—In the case of an eligible small business, the small business regular credit for any taxable year is an amount equal to 5 percent of the taxpayer's qualified investment in regular credit property.

"(2) SPECIAL RULE FOR PROPERTY PLACED IN SERVICE BEFORE 1995.—In the case of regular credit property placed in service before January 1, 1995, paragraph (1) shall be applied by substituting '7 percent' for '5 percent'.

"(b) ELIGIBLE SMALL BUSINESS.—For purposes of this section—

"(1) IN GENERAL.—The term 'eligible small business' means, with respect to any taxable year, a taxpayer the average annual gross receipts of which for the 3-taxable-year period ending with the preceding taxable year does not exceed $5,000,000.

"(2) APPLICABLE RULES.—

"(A) AGGREGATION RULES.—All persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as 1 person for purposes of paragraph (1).

"(B) SPECIAL RULES.—The rules of subsections (c)(3) and (d)(8) of section 448 shall apply for purposes of this subsection.

"(c) REGULAR CREDIT PROPERTY.—For purposes of this subpart—

"(1) IN GENERAL.—The term 'regular credit property' means any eligible property—

"(A) which is property to which section 168 applies,

"(B) which is placed in service after December 3, 1992, and

"(C)(i) the construction, reconstruction, or erection of which is completed by the taxpayer, or

"(ii) which is acquired by the taxpayer if the original use of such property commences with the taxpayer.

"(2) ELIGIBLE PROPERTY.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'eligible property' means—

"(i) tangible personal property,

"(ii) other tangible property (not including a building or its structural components), but only if such property—

"(I) is used as an integral part of manufacturing, production, or extraction, or of furnishing transportation, communications, electrical energy, gas, water, or sewage disposal services,

"(II) constitutes a research facility used in connection with any of the activities referred to in subclause (I), or

"(III) constitutes a facility used in connection with any of the activities referred to in subclause (I) for the bulk storage of fungible commodities (including commodities in a liquid or gaseous state),

"(iii) an elevator or escalator,

"(iv) a storage facility used in connection with the distribution of petroleum or any primary product of petroleum, or

"(v) a single purpose agricultural or horticultural structure (as defined in section 168(i)(13)).

"(B) PROPERTY RECEIVING OTHER CREDITS.—The term 'eligible property' shall not include—

"(i) any property to the extent the basis of such property is attributable to qualified rehabilitation expenditures (as defined in section 47(c)(2)),

"(ii) any energy property,

"(iii) any property to the extent the basis of such property is attributable to qualified enhanced oil recovery costs (as defined in section 43(c)(1)), or

"(iv) any qualified electric vehicle (as defined in section 30(c)).

"(C) SPECIAL RULES RELATING TO EXCEPTIONS.—

"(i) AIR AND HEATING UNITS.—The term 'eligible property' does not include an air conditioning or heating unit.

"(ii) STRUCTURAL COMPONENTS.—For purposes of subparagraph (A)(ii), the term 'structural component' includes, with respect to any building, property which—

"(I) relates (in whole or in part) to the operation, maintenance, or appearance of the building, and

"(II) is attached to the building (whether or not permanently attached).

"(D) LIVESTOCK.—The term 'eligible property' shall include livestock acquired by the taxpayer, except—

"(i) such term shall not include horses, and

"(ii) the qualified investment in such livestock shall be reduced by the amount realized on the sale or other disposition (other than in an involuntary conversion within the meaning of section 1033) of substantially identical livestock during the 1-year period beginning 6 months before such acquisition.

"(E) PROPERTY COMPLETED ABROAD WHERE FOREIGN COUNTRY ENGAGED IN DISCRIMINATORY ACTS.—The term 'eligible property' shall not include property described in section 168(g)(1)(D).

"(d) QUALIFIED INVESTMENT.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified investment' means the applicable percentage of the basis of each regular credit property placed in service by the taxpayer during the taxable year.

"(2) ANNUAL LIMITATION.—

"(A) IN GENERAL.—The aggregate bases of regular credit property taken into account in computing the qualified investment of a taxpayer for any taxable year shall not exceed $250,000.

"(B) PRO RATA ALLOCATION WHERE BASES EXCEED LIMIT.—If subparagraph (A) applies to a taxpayer for any taxable year, the bases taken into account in computing qualified investment shall be allocated among regular credit properties placed in service during the taxable year in proportion to their cost.

"(C) SPECIAL RULES.—For purposes of subparagraph (A)—

"(i) all persons treated as 1 person under subsection (a) or (b) of section 52 shall be treated as 1 person for purposes of this paragraph, and

"(ii) in the case of—

"(I) a taxable year beginning January 1, 1993, subparagraph (A) shall be applied by substituting '$270,000' for '$250,000', and

"(II) a taxable year which is less than 12 months or which includes any period before December 4, 1992, the $250,000 amount shall be ratably reduced to reflect the shorter taxable year or such period.

"(3) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage shall be determined under the following table:

"In the case of property which is:	The applicable percentage is:
3-year property	33
5-year property	67
7-year property	80
All other property	100.

For purposes of this paragraph, the terms '3-year property', '5-year property', and '7-year property' have the meanings given such terms by section 168(e).

"(4) RECONSTRUCTION.—In the case of regular credit property the reconstruction of which is completed by the taxpayer, qualified investment shall only include that portion of the basis which is properly attributable to the reconstruction by the taxpayer.

"(5) SPECIAL RULE FOR CERTAIN VESSELS.—For purposes of paragraph (1), the basis of any regular credit property shall not include any portion of the basis which is attributable to a qualified withdrawal from any ordinary income or capital gain account (within the meaning of section 7518) of a fund established under section 607 of the Merchant Marine Act, 1936.

"(e) SPECIAL RULES RELATING TO LEASED PROPERTY.—

"(1) IN GENERAL.—Except as provided in this subsection, regular credit property shall not include property subject to a lease.

"(2) EXCEPTION FOR QUALIFIED SHORT-TERM LEASES.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to regular credit property of a lessor subject to a qualified short-term lease.

"(B) QUALIFIED SHORT-TERM LEASE.—For purposes of this subsection, the term 'qualified short-term lease' means any lease—

"(i) the term of which is less than 1 year, and

"(ii) which is made in connection with the active conduct by the lessor of a qualified leasing trade or business.

"(C) QUALIFIED LEASING TRADE OR BUSINESS.—For purposes of this subsection, the term 'qualified leasing trade or business' means any trade or business which normally derives at least 80 percent of its gross receipts from leases of tangible personal property with terms of less than 30 days.

"(D) LEASE TERMS.—The rules of section 168(i)(3) shall apply for purposes of this paragraph.

"(3) EXCEPTION FOR LONGER TERM LEASES.—

"(A) IN GENERAL.—If regular credit property is subject to a lease with a term of 3 years or more and the original use of the property begins with the lessee—

"(i) paragraph (1) shall not apply to such property,

"(ii) the lessee shall be treated for purposes of this section as having acquired such property with a basis equal to the fair market value of the property as of the beginning of the lease, and

"(iii) if the lease term is shorter than the applicable recovery period for the property determined under section 168, the applicable percentage under subsection (d)(3) shall be determined as if the recovery period were equal to the longest such recovery period which does not exceed the lease term.

"(B) LEASE TERM.—For purposes of this paragraph, in determining any lease term—

"(i) options to renew shall not be taken into account, and

"(ii) 2 or more successive leases described in section 168(i)(3)(A)(ii) shall not be treated as 1 lease.

"(C) SPECIAL RULE FOR PERSONS UNDER COMMON CONTROL.—For purposes of subparagraph (A)(ii), if any property is leased by a person to another person which is under common control with such person (as determined under subsection (a) or (b) of section 52), the basis of the property shall be substituted for its fair market value.

"(4) RECAPTURE RULES TO APPLY.—For purposes of section 50(a), if a lessee of regular credit property—

"(A) terminates the lease before the expiration of its term (other than by acquiring the property), or

"(B) sublets the property,

the lessee shall be treated as having disposed of the property on the date of the termination or sublease.

"(5) PRIOR LEASE RULES NOT TO APPLY.—The provisions of section 50(d)(5) shall not apply for purposes of this section.

"(f) OTHER SPECIAL RULES.—For purposes of this section—

"(1) PARTNERSHIPS AND S CORPORATIONS.—

"(A) IN GENERAL.—In the case of a partnership or S corporation—

"(i) the limitation on the application of this section to eligible small businesses, and

"(ii) the limitation under subsection (d)(2), shall be applied at both the partnership and S corporation level and at the partner and shareholder level.

"(B) REPORTING REQUIREMENTS.—A partnership or S corporation shall include in any return or statement it is otherwise required to provide to a partner or shareholder such information as the Secretary may prescribe as necessary to carry out the provisions of this section.

"(2) CERTAIN ENTITIES INELIGIBLE.—Notwithstanding paragraphs (1) and (6) of section 50(d), no credit shall be determined under this section with respect to regular credit property of—

"(A) an estate or trust, or

"(B) a regulated investment company, real estate investment trust, REMIC, or common trust fund described in section 584.

"(3) NORMALIZATION RULES.—The provisions of section 50(d)(2) shall apply, except that—

"(A) no election shall be allowed under the last sentence of section 46(f)(1) or under section 46(f)(3) (as such provisions were in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990), and

"(B) the election under section 46(f)(2) (as so in effect) shall be made by including it on the taxpayer's first return to which this section applies.

"(4) TRANSITION RULES.—

"(A) PRE-1993 PROPERTY.—In the case of a taxpayer whose taxable year is the calendar year, any property placed in service after December 3, 1992, and before January 1, 1993, shall be treated as placed in service on January 1, 1993.

"(B) AMOUNTS ALLOCABLE TO PERIODS BEFORE DECEMBER 4, 1992.—The basis of any property with an actual construction period of more than 2 years shall not include any amount attributable to construction, reconstruction, or erection by or for the taxpayer before December 4, 1992.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section and section 50A, including regulations providing for the determination of lease terms."

(c) CREDIT MAY OFFSET 25 PERCENT OF MINIMUM TAX.—

(1) IN GENERAL.—Section 38(c) (relating to limitation based on amount of tax) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) REGULAR INVESTMENT CREDIT MAY OFFSET 25 PERCENT OF MINIMUM TAX.—

"(A) IN GENERAL.—In the case of the regular investment tax credit—

"(i) this section and section 39 shall be applied separately with respect to such credit, and

"(ii) for purposes of applying paragraph (1) to such credit—

"(I) 75 percent of the tentative minimum tax shall be substituted for the tentative minimum tax under subparagraph (A) thereof, and

"(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the regular investment tax credit).

"(B) REGULAR INVESTMENT TAX CREDIT.—For purposes of this paragraph, the term 'regular investment tax credit' means the portion of the credit under subsection (a) which is attributable to the credit determined under section 46A. In the case of taxable years beginning after December 31, 1992, the regular investment tax credit shall include any credit to which section 38(c)(2) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990) applies, and such section shall not apply to such taxable years."

(2) CONFORMING AMENDMENT.—Section 38(d) (relating to components of investment credit) is amended by adding at the end the following new paragraph:

"(4) SPECIAL RULE FOR SMALL BUSINESS CREDIT.—Notwithstanding paragraphs (1) and (2), the small business regular credit described in subsection (b)(1) shall be treated as used last."

(d) APPLICATION OF OTHER RULES.—

(1) AT-RISK RULES.—Clause (ii) of section 49(a)(1)(C) (defining credit base) is amended by inserting "or regular credit property" after "energy property".

(2) RECAPTURE RULES.—Subparagraph (B) of section 50(a)(1) (defining recapture percentage) is amended by adding at the end the following new sentence:

"In the case of regular credit property which is 3-year property, the recapture percentage under clause (ii) shall be 67 percent, under clause (iii) shall be 33 percent, and under clauses (iv) and (v) shall be zero."

(3) AUTOMOBILES.—

(A) IN GENERAL.—Section 280F(a) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) INVESTMENT TAX CREDIT.—The amount of the credit determined under section 46A with respect to any passenger automobile shall not exceed $675."

(B) CONFORMING AMENDMENTS.—

(i) Section 280F(b)(1) is amended—

(I) by inserting "and such property shall not be treated as regular credit property for purposes of section 46A for such taxable year" before the period, and

(II) by inserting "OR CREDIT" after "DEPRECIATION" in the heading.

(ii) Section 280F(c)(1) is amended by inserting "(other than subsection (a)(2))" after "section".

(iii) Section 280F(d) is amended—

(I) by inserting "the amount of any credit allowable under section 38 to the employee or" after "determining" in paragraph (3)(A),

(II) by striking "subsection (a)" in paragraph (7)(A) and inserting "subsection (a)(1)", and

(III) by striking "subsection (a)(2)" in paragraphs (8) and (10) and inserting "subsection (a)(3)".

(iv)(I) The heading for section 280F is amended by inserting "AND CREDIT" after "DEPRECIATION".

(II) The item relating to section 280F in the table of contents for part IX of subchapter B of chapter 1 is amended by inserting "and credit" after "depreciation".

(e) CONFORMING AMENDMENTS.—

(1) Section 38(d)(3)(B)(i) is amended by striking "paragraph (1)" and inserting "paragraph (2)".

(2) Section 39(d) is amended by adding at the end the following new paragraph:

"(4) INVESTMENT TAX CREDIT.—No portion of the unused business credit which is attributable to the credit determined under section 46A (relating to the small business regular investment credit) may be carried to any taxable year ending before January 1, 1993."

(3) Section 1033(g)(3)(A) is amended by inserting "with respect to which the regular credit determined under section 46A is or has been claimed or," before "with respect to which".

(4) The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by adding after the item relating to section 46 the following new item:

"Sec. 46A. Small business regular credit."

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to property placed in service after December 3, 1992.

(2) TRANSITION PROPERTY.—The amendments made by this section shall not apply to any transition property (as defined in section 49(e) of the Internal Revenue Code of 1986, as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 1202. TEMPORARY INCREMENTAL INVESTMENT TAX CREDIT.

(a) IN GENERAL.—Subpart E of part IV of subchapter A of chapter 1 (relating to rules for computing investment tax credit) is amended by inserting after section 50 the following new section:

"SEC. 50A. TEMPORARY INCREMENTAL INVESTMENT TAX CREDIT.

"(a) DETERMINATION OF CREDIT.—In the case of any taxable year which includes December 31 of calendar year 1993 or 1994, the amount of the credit determined under section 46 for such taxable year shall be increased by an amount equal to 7 percent of the excess (if any) of—

"(1) the taxpayer's qualified net investment for such calendar year, over

"(2) the base amount for such calendar year.

"(b) QUALIFIED NET INVESTMENT.—For purposes of this section—

"(1) IN GENERAL.—The qualified net investment for any calendar year is the excess (if any) of—

"(A) qualified investment, over

"(B) the sum of the amounts determined by multiplying—

"(i) the amount realized from each regular credit property—

"(I) the basis of which was taken into account in computing qualified investment under this section, and

"(II) which was disposed of (or otherwise ceased to be regular credit property) during the calendar year, and

"(ii) the applicable percentage for the property.

"(2) QUALIFIED INVESTMENT.—

"(A) IN GENERAL.—The term 'qualified investment' has the meaning given such term by section 46A(d) (without regard to the $250,000 limitation of paragraph (2) thereof and by treating the calendar year as the taxpayer's taxable year).

"(B) COORDINATION WITH PROGRESS EXPENDITURES.—The amount which (but for this subparagraph) would be taken into account with respect to any regular credit property shall be reduced by the excess (if any) of—

"(i) the qualified investment taken into account under subsection (f)(2) by the taxpayer or a predecessor of the taxpayer, over

"(ii) any portion of the qualified investment described in clause (i) taken into account under paragraph (1)(B).

"(C) SPECIAL RULE WHERE INSUFFICIENT NET INVESTMENT IN 1993.—If, in calendar year 1993, the taxpayer's base amount exceeds qualified net investment, the taxpayer's qualified net investment for calendar year 1994 shall be reduced by the amount of such excess.

"(D) AUTOMOBILES.—The qualified investment taken into account with respect to any passenger automobile (as defined in section 280F(d)(5)) shall not exceed $9,600.

"(E) INTERNATIONAL INTERMODAL CARGO CONTAINERS.—

"(i) IN GENERAL.—In the case of any international intermodal cargo container of a United States person, section 50(b)(1) shall not apply and 50 percent of the basis of the container shall be taken into account in computing qualified investment.

"(ii) INTERNATIONAL INTERMODAL CARGO CONTAINER.—For purposes of clause (i), the term 'international intermodal cargo container' means any intermodal cargo container which is leased to, or owned by, a container user that has one or more trade routes that contact outside the United States.

"(iii) TRADE ROUTES.—For purposes of clause (ii), a container user shall be treated as having one or more trade routes that contact outside the United States if, at any time during the taxable year, such user—

"(I) owns, operates, or charters any vessel that receives or delivers any intermodal cargo container outside the United States, or

"(II) uses any intermodal cargo container to ship cargo to or from the United States.

"(c) BASE AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The term 'base amount' means, with respect to any computation year, an amount equal to 80 percent (70 percent in the case of calendar year 1993) of the average of the indexed base investment for each of the base period years.

"(2) MINIMUM BASE AMOUNT.—In no event shall the base amount for calendar year 1993 or 1994 be less than 50 percent of the qualified net investment for the year.

"(3) INDEXED BASE INVESTMENT.—For purposes of paragraph (1)—

"(A) IN GENERAL.—The indexed base investment for any base period year—

"(i) shall be computed separately with respect to each computation year, and

"(ii) shall be equal to the product of—

"(I) the base investment for the base period year, and

"(II) the applicable inflation ratio for that computation year and that base period year.

"(B) BASE INVESTMENT.—For purposes of this paragraph, the base investment for any base period year is an amount equal to the sum of the amounts determined by applying the applicable percentage to each regular credit property placed in service during such base period year.

"(C) APPLICABLE INFLATION RATIO.—The applicable inflation ratio for any computation year and any base period year is the percentage arrived at by dividing—

"(i) the GDP implicit price deflator for the calendar year preceding the computation year, by

"(ii) such deflator for the calendar year preceding the calendar year in which occurs the 1st day of the base period year.

For purposes of this subparagraph, the term 'GDP implicit price deflator' for each of the years described in clauses (i) and (ii) is the most recent revision of the implicit price deflator for the gross domestic product, as computed and published by the Department of Commerce before March 15 of the computation year.

"(4) BASE PERIOD YEAR.—For purposes of this subsection, the term 'base period year' means any taxable year—

"(A) beginning after December 31, 1988, and before January 1, 1992, or

"(B) at the election of the taxpayer, beginning after December 31, 1986, and before January 1, 1992.

"(5) COMPUTATION YEAR.—The term 'computation year' means the calendar year for which the excess described in subsection (a) is being determined.

"(6) SPECIAL RULES.—For purposes of this subsection—

"(A) REGULAR CREDIT PROPERTY DEFINED.—The term 'regular credit property' has the meaning given such term by section 46A(c), without regard to paragraphs (1) (B) and (C) thereof (relating to requirements for original use and date of placement in service) or paragraph (2)(B) (relating to certain ineligible property).

"(B) LEASES.—

"(i) LESSORS.—A lessor of any regular credit property placed in service during any taxable year in the base period shall take into account the adjusted basis of such property unless the property was subject to a lease the term of which was at least 3 years and the lessor did not use such property during the base period other than as a lessor.

"(ii) LESSEES.—A lessee shall not take into account regular credit property the use of which by the lessee began during the base period unless the value of the property as of the beginning of the lease exceeded $1,000,000.

"(d) RECAPTURE RULES.—

"(1) IN GENERAL.—If, for calendar year 1994, 1995, 1996, or 1997, the base amount exceeds the qualified net investment of the taxpayer, then the tax under this chapter for the taxable year in which the last day of the calendar year occurs shall be increased by the least of—

"(A) 7 percent of such excess,

"(B) the balance in the credit recapture account as of the close of the taxable year, or

"(C) the aggregate increase in the credits allowed under section 38 by reason of the credit determined under this section (reduced by prior amounts taken into account under this subparagraph).

"(2) SPECIAL RULE FOR BASE AMOUNT.—For purposes of paragraph (1), if the limitation of subsection (c)(2) applied for 1993 or 1994, the base amount shall be determined as if the base investment for each of the taxable years in the base period were equal to the greater of—

"(A) the amount determined without regard to this paragraph, or

"(B) in the case of a taxpayer for which a base amount was determined under subsection (c)(2)—

"(i) if the taxpayer's base amount for both calendar years 1993 and 1994 was so determined, the lesser of such base amounts, or

"(ii) if the taxpayer's base amount for only one of such calendar years was so determined, the base amount for that year.

"(3) CREDIT RECAPTURE ACCOUNT.—

"(A) OPENING BALANCE.—The opening balance of the credit recapture account shall be zero.

"(B) ACCOUNT INCREASED BY CREDIT ALLOWED.—The credit recapture account shall be increased as of the close of any calendar year by the credit determined under this section for the calendar year.

"(C) VESTING OF CREDIT.—

"(i) IN GENERAL.—If the credit recapture account is increased under subparagraph (B) for any calendar year, the account shall be reduced—

"(I) in the case of the credit determined for 1993, as of the close of each of the 4 succeeding calendar years by an amount equal to 25 percent of such increase, and

"(II) in the case of the credit determined for 1994, as of the close of each of the 3 succeeding years by an amount equal to 33⅓ percent of such increase.

"(ii) CREDIT STOPS BEING VESTED WHEN RECAPTURED.—If an increase in tax under paragraph (1) for any calendar year is properly allocable to any portion of the credit to which clause (i) applies, no reduction shall be made under clause (i) with respect to such portion for any succeeding calendar year. Any such increase shall be allocated to credits on a first-in first-out basis.

"(D) REDUCTION FOR TAX INCREASE.—The credit recapture account as of the beginning of any calendar year shall be equal to the balance as of the close of the preceding calendar year, reduced by any increase in tax for the preceding calendar year under paragraph (1).

"(4) CARRYBACKS AND CARRYOVERS ADJUSTED.—If subparagraph (C) of paragraph (1) applies for any taxable year, the carrybacks and carryovers under section 39 shall be adjusted by reason of any increase in tax under paragraph (1) which would have occurred but for such subparagraph.

"(5) TAX.—Any increase in tax under paragraph (1) shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit allowable under subpart A, B, D, or G or the amount of the regular tax for purposes of section 55.

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

"(1) CERTAIN EVENTS TREATED AS DISPOSITIONS.—

"(A) IN GENERAL.—If, during any calendar year—

"(i) regular credit property ceases to be regular credit property with respect to the taxpayer, or

"(ii) any property to which subsection (f)(2) applied ceases (by reason of sale or other disposition, cancellation or abandonment of contract, or otherwise) to be, with respect to the taxpayer, property which will be regular credit property when placed in service,

such property shall be treated as having been disposed of during the calendar year.

"(B) SPECIAL RULES FOR LEASES.—

"(i) LESSOR.—A lessor of regular credit property with respect to which a credit is determined under this section by reason of subsection (e)(2) of section 46A shall be treated as having disposed of regular credit property if the taxpayer leases such property in a lease other than a qualified short-term lease (as defined in subsection (e)(2)(B) of section 46A).

"(ii) LESSEES.—If a credit is allowed to a lessee with respect to any property by reason of subsection (e)(3) of section 46A, the rules of section 46A(e)(4) shall apply in determining when the lessee disposed of the property.

"(2) AMOUNT REALIZED.—The amount realized in the case of any disposition under paragraph (1) shall be equal to—

"(A) in the case described in paragraph (1)(A)(i) or (B)(i), the fair market value of the property as of the time of cessation or lease,

"(B) in the case described in paragraph (1)(A)(ii), the increase in qualified investment with respect to the property for preceding taxable years under subsection (f)(2), or

"(C) in the case described in paragraph (1)(B)(ii), the fair market value of the property as of the time of the disposition.

"(3) EXCEPTIONS FOR CERTAIN CASES.—

"(A) IN GENERAL.—The following shall not be treated as a disposition:

"(i) A transfer by reason of death.

"(ii) A transaction to which section 381(a) applies.

"(iii) A disposition with respect to which gain is not recognized under section 1031 or 1033, but only to the extent of an amount which bears the same ratio to the amount realized as the gain not recognized bears to the gain realized.

"(iv) A transfer described in section 1041(a).

"(B) CHANGES IN FORM OF BUSINESS.—Property shall not be treated as ceasing to be regular credit property with respect to the taxpayer by reason of a mere change in the form of conducting the trade or business so long as the property is retained in such trade or business as regular credit property and the taxpayer retains a substantial interest in such trade or business.

"(f) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) DEFINITIONS.—Except as otherwise provided, the terms 'applicable percentage' and 'regular credit property' have the meanings given such terms by section 46A.

"(2) QUALIFIED PROGRESS EXPENDITURES.—

"(A) IN GENERAL.—In the case of any progress expenditure property which is regular credit property, qualified progress expenditures shall be taken into account in computing qualified investment but only to the extent attributable to periods after December 3, 1992.

"(B) TERMS.—For purposes of subparagraph (A), the terms 'progress expenditure property' and 'qualified progress expenditures' shall be determined under rules similar to the rules of section 47(d), except that—

"(i) paragraph (5) thereof shall not apply, and

"(ii) in the case of non-self-constructed property, amounts chargeable to capital account before December 4, 1992, with respect to the property shall be treated as qualified progress expenditures made before such date (whether or not paid before such date).

"(3) PRE-1993 PROPERTY AND EXPENDITURES.—Any property placed in service (or any qualified progress expenditures described in paragraph (2) made) during the period beginning December 4, 1992, and ending December 31, 1992, shall be treated as placed in service (or made) on January 1, 1993.

"(4) COORDINATION WITH SECTION 46A.—

"(A) LEASING RULES.—The rules of section 46A(e) shall apply.

"(B) REPORTING REQUIREMENTS.—The rules of section 46A(f)(1)(B) shall apply.

"(C) CERTAIN ENTITIES INELIGIBLE.—The rule of section 46A(f)(2) shall apply.

"(D) NORMALIZATION RULES APPLY.—The rules of section 46A(f)(3) shall apply.

"(5) RESEARCH CREDIT RULES APPLICABLE.—Rules similar to the rules of section 41 (f) and (g) shall apply.

"(6) CERTAIN LEASING RULES NOT TO APPLY.—Section 50(d)(5) shall not apply.

"(g) CREDIT ELECTIVE.—Subsection (a) shall apply to a taxpayer for a taxable year only if the taxpayer elects to have subsection (a) apply and in the case of an eligible small business (as defined in section 46A(b)), elects not to have section 46A apply."

(b) INCREASE IN INCOME TO REFLECT CREDIT.—

(1) IN GENERAL.—Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end the following new section:

"SEC. 91. INCOME INCLUSION RELATING TO TEMPORARY INVESTMENT TAX CREDIT.

"(a) GENERAL RULE.—The amount of the current year business credit under section 38 for any taxable year which is determined under section 50A shall be included in gross income ratably—

"(1) in the case of the credit determined for 1993, over the 4-taxable-year period beginning with the taxable year following the taxable year for which the credit was determined, and

"(2) in the case of the credit determined for 1994, over the 3-taxable-year period beginning with the taxable year following the taxable year for which the credit was determined.

"(b) RECAPTURED AMOUNTS.—If any increase in tax under section 50A(d)(1) is properly allocable (as determined under section 50A(d)(3)(C)(ii)) to any portion of any credit described in subsection (a) for any taxable year, subsection (a) shall cease to apply to such portion for the taxable year of recapture and for any succeeding taxable year."

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 50(c) (relating to basis adjustment) is amended by inserting "(other than regular credit property to which section 50A applies)" after "any property".

(c) CREDIT ALLOWED AGAINST MINIMUM TAX.—Subparagraph (B) of section 38(c)(2) (relating to regular investment credit may offset minimum tax), as added by section 1201(c)(1), is amended by inserting "or 50A" after "section 46A".

(d) APPLICATION OF OTHER RULES.—

(1) AT-RISK RULES.—

(A) Clause (ii) of section 49(a)(1)(C) (defining credit base), as amended by section 1201(d)(1), is amended by inserting "to which section 46A or 50A applies" after "regular credit property".

(B) Section 49(b)(1) is amended by adding at the end the following new sentence: "For purposes of section 50A(b)(1)(B), any increase during any taxable year in nonqualified nonrecourse financing with respect to any regular credit property shall be treated as an amount realized during such taxable year with respect to the disposition of such property.".

(2) RECAPTURE RULES.—Subparagraph (A) of section 50(a)(5) (defining investment credit property) is amended by adding at the end the following new sentence: "Such term does not include regular credit property to which section 50A applies.".

(e) CONFORMING AMENDMENTS.—

(1) Section 39(d)(4), as added by section 1201(e)(2), is amended by inserting "or 50A (relating to incremental investment credit)" after "credit)".

(2) Section 55(c)(1) is amended by striking "49(b)" and inserting "50A(d), 49(b),".

(3) Section 1033(g)(3)(A), as amended by section 1201(e)(3), is amended by inserting "or 50A" after "section 46A".

(4) Section 1371(d)(3) is amended by striking "49(b)" and inserting "50A(d), 49(b),".

(5) The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by adding after the item relating to section 50 the following new item:

"Sec. 50A. Temporary incremental investment tax credit."

(6) The table of sections for part II of subchapter B of chapter 1 is amended by adding at the end the following new item:

"Sec. 91. Income inclusion relating to temporary investment tax credit."

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to property placed in service after December 3, 1992.

(2) TRANSITION PROPERTY.—The amendments made by this section shall not apply to any transition property (as defined in section 49(e) of the Internal Revenue Code of 1986, as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990). This paragraph shall not apply for purposes of section 50A(c) of the Internal Revenue Code of 1986.

PART II—RESEARCH CREDIT

SEC. 1211. PERMANENT EXTENSION OF RESEARCH CREDIT.

(a) IN GENERAL.—Section 41 (relating to credit for increasing research activities) is amended by striking subsection (h).

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 28(b) is amended by striking subparagraph (D).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after June 30, 1992.

SEC. 1212. MODIFICATION OF FIXED BASE PERCENTAGE FOR STARTUP COMPANIES.

(a) GENERAL RULE.—Clause (ii) of section 41(c)(3)(B) is amended to read as follows:

"(ii) FIXED-BASE PERCENTAGE.—In a case to which this subparagraph applies, the fixed-base percentage is—

"(I) 3 percent for each of the taxpayer's 1st 5 taxable years beginning after December 31, 1993, for which the taxpayer has qualified research expenses,

"(II) in the case of the taxpayer's 6th such taxable year, ⅙ of the percentage which the aggregate qualified research expenses of the taxpayer for the 4th and 5th such taxable years is of the aggregate gross receipts of the taxpayer for such years,

"(III) in the case of the taxpayer's 7th such taxable year, ⅓ of the percentage which the aggregate qualified research expenses of the taxpayer for the 5th and 6th such taxable years is of the aggregate gross receipts of the taxpayer for such years,

"(IV) in the case of the taxpayer's 8th such taxable year, ½ of the percentage which the aggregate qualified research expenses of the taxpayer for the 5th, 6th, and 7th such taxable years is of the aggregate gross receipts of the taxpayer for such years,

"(V) in the case of the taxpayer's 9th such taxable year, ⅔ of the percentage which the aggregate qualified research expenses of the taxpayer for the 5th, 6th, 7th, and 8th such taxable years is of the aggregate gross receipts of the taxpayer for such years,

"(VI) in the case of the taxpayer's 10th such taxable year, ⅚ of the percentage which the aggregate qualified research expenses of the taxpayer for the 5th, 6th, 7th, 8th, and 9th such taxable years is of the aggregate gross receipts of the taxpayer for such years, and

"(VII) for taxable years thereafter, the percentage which the aggregate qualified research expenses for any 5 taxable years selected by the taxpayer from among the 5th through the 10th such taxable years is of the aggregate gross receipts of the taxpayer for such selected years."

(b) CONFORMING AMENDMENTS.—

(1) Clause (iii) of section 41(c)(3)(B) is amended by striking "clause (i)" and inserting "clauses (i) and (ii)".

(2) Subparagraph (D) of section 41(c)(3) is amended by striking "subparagraph (A)" and inserting "subparagraphs (A) and (B)(ii)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

PART III—INCENTIVE FOR INVESTMENT IN SMALL BUSINESS STOCK

SEC. 1221. 50-PERCENT EXCLUSION FOR GAIN FROM CERTAIN SMALL BUSINESS STOCK.

(a) GENERAL RULE.—Part I of subchapter P of chapter 1 (relating to capital gains and losses) is amended by adding at the end thereof the following new section:

"SEC. 1202. 50-PERCENT EXCLUSION FOR GAIN FROM CERTAIN SMALL BUSINESS STOCK.

"(a) 50-PERCENT EXCLUSION.—In the case of a taxpayer other than a corporation, gross income shall not include 50 percent of any gain from the sale or exchange of qualified small business stock held for more than 5 years.

"(b) PER-ISSUER LIMITATION ON TAXPAYER'S ELIGIBLE GAIN.—

"(1) IN GENERAL.—If the taxpayer has eligible gain for the taxable year from 1 or more dispositions of stock issued by any corporation, the aggregate amount of such gain from dispositions of stock issued by such corporation which may be taken into account under subsection (a) for the taxable year shall not exceed the greater of—

"(A) $10,000,000 reduced by the aggregate amount of eligible gain taken into account under subsection (a) for prior taxable years and attributable to dispositions of stock issued by such corporation, or

"(B) 10 times the aggregate adjusted bases of qualified small business stock issued by such corporation and disposed of by the taxpayer during the taxable year.

For purposes of subparagraph (B), the adjusted basis of any stock shall be determined without regard to any addition to basis after the date on which such stock was originally issued.

"(2) ELIGIBLE GAIN.—For purposes of this subsection, the term 'eligible gain' means any gain from the sale or exchange of qualified small business stock held for more than 5 years.

"(3) TREATMENT OF MARRIED INDIVIDUALS.—

"(A) SEPARATE RETURNS.—In the case of a separate return by a married individual, paragraph (1)(A) shall be applied by substituting '$5,000,000' for '$10,000,000'.

"(B) ALLOCATION OF EXCLUSION.—In the case of any joint return, the amount of gain taken into account under subsection (a) shall be allocated equally between the spouses for purposes of applying this subsection to subsequent taxable years.

"(C) MARITAL STATUS.—For purposes of this subsection, marital status shall be determined under section 7703.

"(c) QUALIFIED SMALL BUSINESS STOCK.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this section, the term 'qualified small business stock' means any stock in a C corporation which is originally issued after December 31, 1992, if—

"(A) as of the date of issuance, such corporation is a qualified small business, and

"(B) except as provided in subsections (f) and (h), such stock is acquired by the taxpayer at its original issue (directly or through an underwriter)—

"(i) in exchange for money or other property (not including stock), or

"(ii) as compensation for services provided to such corporation (other than services performed as an underwriter of such stock).

"(2) ACTIVE BUSINESS REQUIREMENT; ETC.—Stock in a corporation shall not be treated as qualified small business stock unless, during substantially all of the taxpayer's holding period for such stock, such corporation meets the active business requirements of subsection (e) and such corporation is a C corporation.

"(3) CERTAIN PURCHASES BY CORPORATION OF ITS OWN STOCK.—

"(A) REDEMPTIONS FROM TAXPAYER OR RELATED PERSON.—Stock acquired by the taxpayer shall not be treated as qualified small business stock if, at any time during the 4-year period beginning on the date 2 years before the issuance of such stock, the corporation issuing such stock purchased (directly or indirectly) any of its stock from the taxpayer or from a person related (within the meaning of section 267(b) or 707(b)) to the taxpayer.

"(B) SIGNIFICANT REDEMPTIONS.—Stock issued by a corporation shall not be treated as qualified business stock if, during the 2-year period beginning on the date 1 year before the issuance of such stock, such corporation made 1 or more purchases of its stock with an aggregate value (as of the time of the respective purchases) exceeding 5 percent of the aggregate value of all of its stock as of the beginning of such 2-year period.

"(C) ACQUISITIONS BY RELATED PERSONS.—For purposes of this paragraph, the purchase by any person related (within the meaning of section 267(b) or 707(b)) to the issuing corporation of any stock in the issuing corporation shall be treated as a purchase by the issuing corporation.

"(d) QUALIFIED SMALL BUSINESS.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified small business' means any domestic corporation which is a C corporation if—

"(A) the aggregate capitalization of such corporation (or any predecessor thereof) at all times on or after January 1, 1993, and before the issuance did not exceed $50,000,000,

"(B) the aggregate capitalization of such corporation immediately after the issuance (determined by taking into account amounts received in the issuance) does not exceed $50,000,000, and

"(C) such corporation agrees to submit such reports to the Secretary and to shareholders as the Secretary may require to carry out the purposes of this section.

"(2) AGGREGATE CAPITALIZATION.—For purposes of paragraph (1), the term 'aggregate capitalization' means the excess of—

"(A) the amount of cash and the aggregate adjusted bases of other property held by the corporation, over

"(B) the aggregate amount of the short-term indebtedness of the corporation.

For purposes of the preceding sentence, the term 'short-term indebtedness' means any indebtedness which, when incurred, did not have a term in excess of 1 year.

"(3) LOOK-THRU IN CASE OF SUBSIDIARIES.—In determining whether a corporation meets the requirements of this subsection—

"(A) stock and debt of any subsidiary (as defined in subsection (e)(5)(C)) held by such corporation shall be disregarded, and

"(B) such corporation shall be treated as holding its ratable share of the assets of such subsidiary and as being liable for its ratable share of the indebtedness of such subsidiary.

"(e) ACTIVE BUSINESS REQUIREMENT.—

"(1) IN GENERAL.—For purposes of subsection (c)(2), the requirements of this subsection are met by a corporation for any period if during such period—

"(A) at least 80 percent (by value) of the assets of such corporation are used by such corporation in the active conduct of a qualified trade or business, and

"(B) such corporation is an eligible corporation.

"(2) SPECIAL RULE FOR CERTAIN ACTIVITIES.—For purposes of paragraph (1), if, in connection with any future qualified trade or business, a corporation is engaged in—

"(A) start-up activities described in section 195(c)(1)(A),

"(B) activities resulting in the payment or incurring of expenditures which may be treated as research and experimental expenditures under section 174, or

"(C) activities with respect to in-house research expenses described in section 41(b)(4), assets used in such activities shall be treated as used in the active conduct of a qualified trade or business. Any determination under this paragraph shall be made without regard to whether a corporation has any gross income from such activities at the time of the determination.

"(3) QUALIFIED TRADE OR BUSINESS.—For purposes of this subsection, the term 'qualified trade or business' means any trade or business other than—

"(A) any trade or business involving the performance of services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, consulting, athletics, financial services, brokerage services, or any other trade or business where the principal asset of such trade or business is the reputation or skill of 1 or more of its employees,

"(B) any banking, insurance, financing, investing, or similar business,

"(C) any farming business (including the business of raising or harvesting trees),

"(D) any business involving the production or extraction of products of a character with respect to which a deduction is allowable under section 613 or 613A, and

"(E) any business of operating a hotel, motel, restaurant, or similar business.

"(4) ELIGIBLE CORPORATION.—For purposes of this subsection, the term 'eligible corporation' means any domestic corporation; except that such term shall not include—

"(A) a DISC or former DISC,

"(B) a corporation with respect to which an election under section 936 is in effect,

"(C) a regulated investment company, real estate investment trust, or REMIC, and

"(D) a cooperative.

"(5) STOCK IN OTHER CORPORATIONS.—

"(A) LOOK-THRU IN CASE OF SUBSIDIARIES.—For purposes of this subsection, stock and debt in any subsidiary corporation shall be disregarded and the parent corporation shall be deemed to own its ratable share of the subsidiary's assets, and to conduct its ratable share of the subsidiary's activities.

"(B) PORTFOLIO STOCK OR SECURITIES.—A corporation shall be treated as failing to meet the requirements of paragraph (1) for any period during which more than 10 percent of the value of its assets (in excess of liabilities) consist of stock or securities in other corporations which are not subsidiaries of such corporation (other than assets described in paragraph (6)).

"(C) SUBSIDIARY.—For purposes of this paragraph, a corporation shall be considered a subsidiary if the parent owns more than 50 percent of the combined voting power of all classes of stock entitled to vote, or more than 50 percent in value of all outstanding stock, of such corporation.

"(6) WORKING CAPITAL.—For purposes of paragraph (1)(A), any assets which—

"(A) are held as a part of the reasonably required working capital needs of a qualified trade or business of the corporation, or

"(B) are held for investment and are reasonably expected to be used within 2 years to finance future research and experimentation in a qualified trade or business or increases in working capital needs of a qualified trade or business,

shall be treated as used in the active conduct of a qualified trade or business. For periods after the corporation has been in existence for at least 2 years, in no event may more than 50 percent of the assets of the corporation qualify as used in the active conduct of a qualified trade or business by reason of this paragraph.

"(7) MAXIMUM REAL ESTATE HOLDINGS.—A corporation shall not be treated as meeting the requirements of paragraph (1) for any period during which more than 10 percent of the total value of its assets consists of real property which is not used in the active conduct of a qualified trade or business. For purposes of the preceding sentence, the ownership of, dealing in, or renting of real property shall not be treated as the active conduct of a qualified trade or business.

"(8) COMPUTER SOFTWARE ROYALTIES.—For purposes of paragraph (1), rights to computer software which produces active business computer software royalties (within the meaning of section 543(d)(1)) shall be treated as an asset used in the active conduct of a trade or business.

"(f) STOCK ACQUIRED ON CONVERSION OF PREFERRED STOCK.—If any stock in a corporation is acquired solely through the conversion of other stock in such corporation which is qualified small business stock in the hands of the taxpayer—

"(1) the stock so acquired shall be treated as qualified small business stock in the hands of the taxpayer, and

"(2) the stock so acquired shall be treated as having been held during the period during which the converted stock was held.

"(g) TREATMENT OF PASS-THRU ENTITIES.—

"(1) IN GENERAL.—If any amount included in gross income by reason of holding an interest in a pass-thru entity meets the requirements of paragraph (2)—

"(A) such amount shall be treated as gain described in subsection (a), and

"(B) for purposes of applying subsection (b), such amount shall be treated as gain from a disposition of stock in the corporation issuing the stock disposed of by the pass-thru entity and the taxpayer's proportionate share of the adjusted basis of the pass-thru entity in such stock shall be taken into account.

"(2) REQUIREMENTS.—An amount meets the requirements of this paragraph if—

"(A) such amount is attributable to gain on the sale or exchange by the pass-thru entity of stock which is qualified small business stock in the hands of such entity (determined by treating such entity as an individual) and which was held by such entity for more than 5 years, and

"(B) such amount is includible in the gross income of the taxpayer by reason of the holding of an interest in such entity which was held by the taxpayer on the date on which such pass-thru entity acquired such stock and at all times thereafter before the disposition of such stock by such pass-thru entity.

"(3) LIMITATION BASED ON INTEREST ORIGINALLY HELD BY TAXPAYER.—Paragraph (1) shall not apply to any amount to the extent such amount exceeds the amount to which paragraph (1) would have applied if such amount were determined by reference to the interest the taxpayer held in the pass-thru entity on the date the qualified small business stock was acquired.

"(4) PASS-THRU ENTITY.—For purposes of this subsection, the term 'pass-thru entity' means—

"(A) any partnership,

"(B) any S corporation,

"(C) any regulated investment company, and

"(D) any common trust fund.

"(h) CERTAIN TAX-FREE AND OTHER TRANSFERS.—For purposes of this section—

"(1) IN GENERAL.—In the case of a transfer described in paragraph (2), the transferee shall be treated as—

"(A) having acquired such stock in the same manner as the transferor, and

"(B) having held such stock during any continuous period immediately preceding the transfer during which it was held (or treated as held under this subsection) by the transferor.

"(2) DESCRIPTION OF TRANSFERS.—A transfer is described in this subsection if such transfer is—

"(A) by gift,

"(B) at death, or

"(C) from a partnership to a partner of stock with respect to which requirements similar to the requirements of subsection (g) are met at the time of the transfer (without regard to the 5-year holding period requirement).

"(3) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of section 1244(d)(2) shall apply for purposes of this section.

"(4) INCORPORATIONS AND REORGANIZATIONS INVOLVING NONQUALIFIED STOCK.—

"(A) IN GENERAL.—In the case of a transaction described in section 351 or a reorganization described in section 368, if qualified small business stock is exchanged for other stock which would not qualify as qualified small business stock but for this subparagraph, such other stock shall be treated as qualified small business stock acquired on the date on which the exchanged stock was acquired.

"(B) LIMITATION.—This section shall apply to gain from the sale or exchange of stock treated as qualified small business stock by reason of subparagraph (A) only to the extent of the gain which would have been recognized at the time of the transfer described in subparagraph (A) if section 351 or 368 had not applied at such time.

"(C) SUCCESSIVE APPLICATION.—For purposes of this paragraph, stock treated as qualified small business stock under subparagraph (A) shall be so treated for subsequent transactions or reorganizations, except that the limitation of subparagraph (B) shall be applied as of the time of the first transfer to which subparagraph (A) applied.

"(D) CONTROL TEST.—Except in the case of a transaction described in section 368, this paragraph shall apply only if, immediately after the transaction, the corporation issuing the stock owns directly or indirectly stock representing control (within the meaning of section 368(c)) of the corporation whose stock was exchanged.

"(i) BASIS RULES.—For purposes of this section—

"(1) STOCK EXCHANGED FOR PROPERTY.—In the case where the taxpayer transfers property (other than money or stock) to a corporation in exchange for stock in such corporation—

"(A) such stock shall be treated as having been acquired by the taxpayer on the date of such exchange, and

"(B) the basis of such stock in the hands of the taxpayer shall in no event be less than the fair market value of the property exchanged.

"(2) TREATMENT OF CONTRIBUTIONS TO CAPITAL.—If the adjusted basis of any qualified small business stock is adjusted by reason of any contribution to capital after the date on which such stock was originally issued, in determining the amount of the adjustment by reason of such contribution, the basis of the contributed property shall in no event be treated as less than its fair market value on the date of the contribution.

"(j) TREATMENT OF CERTAIN SHORT POSITIONS.—

"(1) IN GENERAL.—If the taxpayer has an offsetting short position with respect to any qualified small business stock, subsection (a) shall not apply to any gain from the sale or exchange of such stock unless—

"(A) such stock was held by the taxpayer for more than 5 years as of the first day on which there was such a short position, and

"(B) the taxpayer elects to recognize gain as if such stock were sold on such first day for its fair market value.

"(2) OFFSETTING SHORT POSITION.—For purposes of paragraph (1), the taxpayer shall be treated as having an offsetting short position with respect to any qualified small business stock if—

"(A) the taxpayer has made a short sale of substantially identical property,

"(B) the taxpayer has acquired an option to sell substantially identical property at a fixed price, or

"(C) to the extent provided in regulations, the taxpayer has entered into any other transaction which substantially reduces the risk of loss from holding such qualified small business stock.

For purposes of the preceding sentence, any reference to the taxpayer shall be treated as including a reference to any person who is related (within the meaning of section 267(b) or 707(b)) to the taxpayer.

"(k) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including regulations to prevent the avoidance of the purposes of this section through split-ups, shell corporations, partnerships, or otherwise."

(b) ONE-HALF OF EXCLUSION TREATED AS PREFERENCE FOR MINIMUM TAX.—

(1) IN GENERAL.—Subsection (a) of section 57 (relating to items of tax preference) is amended by adding at the end thereof the following new paragraph:

"(8) EXCLUSION FOR GAINS ON SALE OF CERTAIN SMALL BUSINESS STOCK.—An amount equal to one-half of the amount excluded from gross income for the taxable year under section 1202."

(2) CONFORMING AMENDMENT.—Subclause (II) of section 53(d)(1)(B)(ii) is amended by striking "and (6)" and inserting "(6), and (8)".

(c) PENALTY FOR FAILURE TO COMPLY WITH REPORTING REQUIREMENTS.—Section 6652 is amended by inserting before the last subsection thereof the following new subsection:

"(l) FAILURE TO MAKE REPORTS REQUIRED UNDER SECTION 1202.—In the case of a failure to make a report required under section 1202(d)(1)(C) which contains the information required by such section on the date prescribed therefor (determined with regard to any extension of time for filing), there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing to make such report, an amount equal to $50 for each report with respect to which there was such a failure. In the case of any failure due to negligence or intentional disregard, the preceding sentence shall be applied by substituting '$100' for '$50'. In the case of a report covering periods in 2 or more years, the penalty determined under preceding provisions of this subsection shall be multiplied by the number of such years."

(d) CONFORMING AMENDMENTS.—

(1)(A) Section 172(d)(2) (relating to modifications with respect to net operating loss deduction) is amended to read as follows:

"(2) CAPITAL GAINS AND LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.—In the case of a taxpayer other than a corporation—

"(A) the amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includable on account of gains from sales or exchanges of capital assets; and

"(B) the exclusion provided by section 1202 shall not be allowed."

(B) Subparagraph (B) of section 172(d)(4) is amended by inserting ", (2)(B)," after "paragraph (1)".

(2) Paragraph (4) of section 642(c) is amended to read as follows:

"(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain described in section 1202(a), proper adjustment shall be made for any exclusion allowable to the estate or trust under section 1202. In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income)."

(3) Paragraph (3) of section 643(a) is amended by adding at the end thereof the following new sentence: "The exclusion under section 1202 shall not be taken into account.".

(4) Paragraph (4) of section 691(c) is amended by striking "1201, and 1211" and inserting "1201, 1202, and 1211".

(5) The second sentence of paragraph (2) of section 871(a) is amended by inserting "such gains and losses shall be determined without regard to section 1202 and" after "except that".

(6) The table of sections for part I of subchapter P of chapter 1 is amended by adding after the item relating to section 1201 the following new item:

"Sec. 1202. 50-percent exclusion for gain from certain small business stock."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to stock issued after December 31, 1992.

PART IV—MODIFICATIONS TO MINIMUM TAX DEPRECIATION RULES

SEC. 1231. MODIFICATION TO MINIMUM TAX DEPRECIATION RULES.

(a) GENERAL RULE.—Paragraph (1) of section 56(a) (relating to depreciation) is amended by redesignating subparagraphs (B), (C), and (D) as subparagraphs (C), (D), and (E), respectively, and by inserting after subparagraph (A) the following new subparagraph:

"(B) TREATMENT OF CERTAIN PERSONAL PROPERTY PLACED IN SERVICE AFTER 1993.—

"(i) IN GENERAL.—In the case of any property to which this subparagraph applies, the depreciation deduction allowable under section 167 shall be determined as provided in section 168(a), except that the method of depreciation used shall be—

"(I) the 120 percent declining balance method switching to the straight line method for the 1st taxable year for which using the straight line method with respect to the adjusted basis as of the beginning of the year will yield a higher allowance, or

"(II) the straight line method in the case of property for which the applicable depreciation method under section 168(a) is the straight line method.

"(ii) PROPERTY TO WHICH SUBPARAGRAPH APPLIES.—This subparagraph shall apply to any tangible property placed in service after December 31, 1993, except that this subparagraph shall not apply to—

"(I) any residential rental property or nonresidential real property (within the meaning of section 168(e)), and

"(II) any other property for which the depreciation deduction provided by section 167(a) for purposes of the regular tax is computed under the alternative depreciation system of section 168(g).

"(iii) COORDINATION WITH SUBPARAGRAPH (A).—Subparagraph (A) shall not apply to any property to which this subparagraph applies."

(b) ELIMINATION OF ACE DEPRECIATION ADJUSTMENT.—Clause (i) of section 56(g)(4)(A) (relating to depreciation adjustments for computing adjusted current earnings) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to any property to which subsection (a)(1)(B) applies, and the depreciation deduction with respect to such property shall be determined under the rules of subsection (a)(1)(B).".

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 168(b) is amended to read as follows:

"(2) SPECIAL RULE FOR DECLINING BALANCE METHOD IN CERTAIN CASES.—

"(A) 150 PERCENT METHOD FOR CERTAIN PROPERTY.—Paragraph (1) shall be applied by substituting '150 percent' for '200 percent' in the case of—

"(i) any 15-year or 20-year property, or

"(ii) any property used in a farming business (within the meaning of section 263A(e)(4)).

"(B) ELECTION TO USE MINIMUM TAX METHOD.—In the case of any property (other than property described in paragraph (3)) with respect to which the taxpayer elects under paragraph (5) to have the provisions of this subparagraph apply, paragraph (1) shall be applied by substituting '120 percent' for '200 percent' (and subparagraph (A) of this paragraph shall not apply)."

(2) Paragraph (5) of section 168(b) is amended by striking "paragraph (2)(C)" and inserting "paragraph (2)(B)".

(3) Subsection (c) of section 168 is amended—

(A) by striking paragraph (2), and

(B) by striking so much of such subsection as precedes the table contained in paragraph (1) and inserting the following:

"(c) APPLICABLE RECOVERY PERIOD.—For purposes of this section, the applicable recovery period shall be determined in accordance with the following table:".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service after December 31, 1993.

(2) COORDINATION WITH TRANSITIONAL RULES.—The amendments made by this section shall not apply to any property to which paragraph (1) of section 56(a) of the Internal Revenue Code of 1986 does not apply by reason of subparagraph (D)(i) thereof (as redesignated by subsection (a) of this section).

Subtitle C—Tax-Exempt Bond Provisions

SEC. 1301. HIGH-SPEED INTERCITY RAIL FACILITY BONDS EXEMPT FROM STATE VOLUME CAP.

(a) IN GENERAL.—Paragraph (4) of section 146(g) (relating to exemption for certain bonds) is amended by striking "75 percent of".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to bonds issued after December 31, 1993.

SEC. 1302. PERMANENT EXTENSION OF QUALIFIED SMALL ISSUE BONDS.

(a) IN GENERAL.—Subparagraph (B) of section 144(a)(12) is amended to read as follows:

"(B) BONDS ISSUED TO FINANCE MANUFACTURING FACILITIES AND FARM PROPERTY.—Subparagraph (A) shall not apply to any bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide—

"(i) any manufacturing facility, or

"(ii) any land or property in accordance with section 147(c)(2)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to bonds issued after June 30, 1992.

Subtitle D—Expansion And Simplification Of Earned Income Tax Credit

SEC. 1401. EXPANSION AND SIMPLIFICATION OF EARNED INCOME TAX CREDIT.

(a) GENERAL RULE.—Section 32 (relating to earned income credit) is amended by striking subsections (a) and (b) and inserting the following:

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the credit percentage of so much of the taxpayer's earned income for the taxable year as does not exceed the earned income amount.

"(2) LIMITATION.—The amount of the credit allowable to a taxpayer under paragraph (1) for any taxable year shall not exceed the excess (if any) of—

"(A) the credit percentage of the earned income amount, over

"(B) the phaseout percentage of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds the phaseout amount.

"(b) PERCENTAGES AND AMOUNTS.—For purposes of subsection (a)—

"(1) PERCENTAGES.—The credit percentage and the phaseout percentage shall be determined as follows:

"(A) IN GENERAL.—In the case of taxable years beginning after 1994:

In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child	34.37	16.16
2 or more qualifying children	39.66	19.83
No qualifying children	7.65	7.65

"(B) TRANSITIONAL PERCENTAGES.—In the case of a taxable year beginning in 1994:

In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child	26.60	16.16
2 or more qualifying children	31.59	15.79
No qualifying children	7.65	7.65

"(2) AMOUNTS.—The earned income amount and the phaseout amount shall be determined as follows:

"(A) IN GENERAL.—In the case of taxable years beginning after 1994:

In the case of an eligible individual with:	The earned income amount is:	The phaseout amount is:
1 qualifying child	$6,000	$11,000
2 or more qualifying children	$8,500	$11,000
No qualifying children	$4,000	$5,000

"(B) TRANSITIONAL AMOUNTS.—In the case of a taxable year beginning in 1994:

In the case of an eligible individual with:	The earned income amount is:	The phaseout amount is:
1 qualifying child	$7,750	$11,000
2 or more qualifying children	$8,500	$11,000
No qualifying children	$4,000	$5,000".

(b) ELIGIBLE INDIVIDUAL.—Subparagraph (A) of section 32(c)(1) (defining eligible individual) is amended to read as follows:

"(A) IN GENERAL.—The term 'eligible individual' means—

"(i) any individual who has a qualifying child for the taxable year, or

"(ii) any other individual who does not have a qualifying child for the taxable year, if—

"(I) such individual's principal place of abode is in the United States for more than one-half of such taxable year,

"(II) such individual (or, if the individual is married, the individual's spouse) has attained age 22 before the close of the taxable year, and

"(III) such individual (or, if the individual is married, the individual's spouse) is not a dependent for whom a deduction is allowable under section 151 to another taxpayer for any taxable year beginning in the same calendar year as such taxable year."

(c) INFLATION ADJUSTMENTS.—Section 32(i) (relating to inflation adjustments) is amended—

(1) by striking paragraphs (1) and (2) and inserting the following new paragraph:

"(1) IN GENERAL.—In the case of any taxable year beginning after 1994, each dollar amount contained in subsection (b)(2)(A) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3), for the calendar year in which the taxable year begins, by substituting 'calendar year 1993' for 'calendar year 1992'.", and

(2) by redesignating paragraph (3) as paragraph (2).

(d) CONFORMING AMENDMENTS.—

(1) Subparagraph (D) of section 32(c)(3) is amended—

(A) by striking "clause (i) or (ii)" in clause (iii) and inserting "clause (i)",

(B) by striking clause (ii), and

(C) by redesignating clause (iii) as clause (ii).

(2) Paragraph (3) of section 162(l) is amended to read as follows:

"(3) COORDINATION WITH MEDICAL DEDUCTION.—Any amount paid by a taxpayer for insurance to which paragraph (1) applies shall not be taken into account in computing the amount allowable to the taxpayer as a deduction under section 213(a)."

(3) Section 213 is amended by striking subsection (f).

(4) Subsection (b) of section 3507 is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) certifies that the employee has 1 or more qualifying children (within the meaning of section 32(c)(3)) for such taxable year,".

(5) Subparagraph (B) of section 3507(c)(2) is amended by striking clauses (i) and (ii) and inserting the following:

"(i) of not more than the credit percentage in effect under section 32(b)(1) for an eligible individual with 1 qualifying child and with earned income not in excess of the earned income amount in effect under section 32(b)(2) for such an eligible individual, which

"(ii) phases out at the phaseout percentage in effect under section 32(b)(1) for such an eligible individual between the phaseout amount in effect under section 32(b)(2) for such an eligible individual and the amount of earned income at which the credit under section 32(a) phases out for such an eligible individual, or".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

Subtitle E—Incentives For Investment In Real Estate

PART I—EXTENSION OF QUALIFIED MORTGAGE BONDS AND LOW-INCOME HOUSING CREDIT

SEC. 1501. PERMANENT EXTENSION OF QUALIFIED MORTGAGE BONDS.

(a) IN GENERAL.—Paragraph (1) of section 143(a) (defining qualified mortgage bond) is amended to read as follows:

"(1) QUALIFIED MORTGAGE BOND DEFINED.—For purposes of this title, the term 'qualified mortgage bond' means a bond which is issued as part of a qualified mortgage issue."

(b) MORTGAGE CREDIT CERTIFICATES.—Section 25 is amended by striking subsection (h) and by redesignating subsections (i) and (j) as subsections (h) and (i), respectively.

(c) EFFECTIVE DATES.—

(1) BONDS.—The amendment made by subsection (a) shall apply to bonds issued after June 30, 1992.

(2) CERTIFICATES.—The amendment made by subsection (b) shall apply to elections for periods after June 30, 1992.

SEC. 1502. PERMANENT EXTENSION OF LOW-INCOME HOUSING CREDIT.

(a) IN GENERAL.—Section 42 (relating to low-income housing credit) is amended by striking subsection (o).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to periods after June 30, 1992.

PART II—MODIFICATION OF PASSIVE LOSS RULES

SEC. 1511. MODIFICATION OF PASSIVE LOSS RULES.

(a) GENERAL RULE.—Section 469 (relating to passive activity losses and credits limited) is amended by redesignating subsections (l) and (m) as subsections (m) and (n), respectively, and by inserting after subsection (k) the following new subsection:

"(l) SPECIAL RULES FOR REAL ESTATE ACTIVITIES.—

"(1) LOSS FROM CERTAIN RENTAL REAL ESTATE ACTIVITIES TREATED AS NOT PASSIVE.—If the taxpayer meets the requirements of paragraph (2) for the taxable year, subsection (a) shall not apply to so much of the passive activity loss for such taxable year as does not exceed the least of—

"(A) the net loss for such taxable year from rental real estate activities in which the taxpayer materially participates,

"(B) the net income of the taxpayer for the taxable year from real property trade or business activities which are not passive activities, or

"(C) the taxable income of the taxpayer for the taxable year determined without regard to this subsection.

A similar rule shall apply to any passive activity credit.

"(2) REQUIREMENTS.—The taxpayer meets the requirements of this paragraph for any taxable year if more than one-half of the personal services performed in trades or businesses by the taxpayer during such taxable year are performed in real property trades or businesses in which the taxpayer materially participates.

"(3) REAL PROPERTY TRADE OR BUSINESS.—For purposes of this paragraph, the term 'real property trade or business' means any real property development, redevelopment, construction, reconstruction, acquisition, conversion, rental, operation, management, leasing, or brokerage trade or business.

"(4) SPECIAL RULES.—

"(A) PERSONAL SERVICES AS AN EMPLOYEE.—For purposes of paragraph (2), personal services performed as an employee shall not be treated as performed in real property trades or businesses. The preceding sentence shall not apply if such employee is a 5-percent owner (as defined in section 416(i)(1)(B)) in the employer.

"(B) CLOSELY HELD C CORPORATIONS.—This subsection shall not apply to any interests held by a closely held C corporation.

"(5) COORDINATION WITH SUBSECTION (i).—

"(A) IN GENERAL.—This subsection shall be applied after the application of subsection (i).

"(B) AMOUNTS ALLOWED UNDER SUBSECTION (i).—For purposes of this subsection—

"(i) the passive activity loss and passive activity credit, and

"(ii) the net loss referred to in paragraph (1)(A),

shall not include any amount allowed under subsection (i)."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

PART III—PROVISIONS RELATING TO REAL ESTATE INVESTMENTS BY PENSION FUNDS

SEC. 1521. REAL ESTATE PROPERTY ACQUIRED BY A QUALIFIED ORGANIZATION.

(a) MODIFICATIONS OF EXCEPTIONS.—Paragraph (9) of section 514(c) (relating to real property acquired by a qualified organization) is amended by adding at the end thereof the following new subparagraphs:

"(G) SPECIAL RULES FOR PURPOSES OF THE EXCEPTIONS.—Except as otherwise provided by regulations—

"(i) SMALL LEASES DISREGARDED.—For purposes of clauses (iii) and (iv) of subparagraph (B), a lease to a person described in such clause (iii) or (iv) shall be disregarded if no more than 25 percent of the leasable floor space in a building (or complex of buildings) is covered by the lease and if the lease is on commercially reasonable terms.

"(ii) COMMERCIALLY REASONABLE FINANCING.—Clause (v) of subparagraph (B) shall not apply if the financing is on commercially reasonable terms.

"(H) QUALIFYING SALES BY FINANCIAL INSTITUTIONS.—

"(i) IN GENERAL.—In the case of a qualifying sale by a financial institution, except as provided in regulations, clauses (i) and (ii) of subparagraph (B) shall not apply with respect to financing provided by such institution for such sale.

"(ii) QUALIFYING SALE.—For purposes of this clause, there is a qualifying sale by a financial institution if—

"(I) a qualified organization acquires property described in clause (iii) from a financial institution and any gain recognized by the financial institution with respect to the property is ordinary income,

"(II) the stated principal amount of the financing provided by the financial institution does not exceed the amount of the outstanding indebtedness (including accrued but unpaid interest) of the financial institution with respect to the property described in clause (iii) immediately before the acquisition referred to in clause (iii) or (v), whichever is applicable, and

"(III) the present value (determined as of the time of the sale and by using the applicable Federal rate determined under section 1274(d)) of the maximum amount payable pursuant to the financing that is determined by reference to the revenue, income, or profits derived from the property cannot exceed 30 percent of the total purchase price of the property (including the contingent payments).

"(iii) PROPERTY TO WHICH SUBPARAGRAPH APPLIES.—Property is described in this clause if such property is foreclosure property, or is real property which—

"(I) was acquired by the qualified organization from a financial institution which is in conservatorship or receivership, or from the conservator or receiver of such an institution, and

"(II) was held by the financial institution at the time it entered into conservatorship or receivership.

"(iv) FINANCIAL INSTITUTION.—For purposes of this subparagraph, the term 'financial institution' means—

"(I) any financial institution described in section 581 or 591(a),

"(II) any other corporation which is a direct or indirect subsidiary of an institution referred to in subclause (I) but only if, by virtue of being affiliated with such institution, such other corporation is subject to supervision and examination by a Federal or State agency which regulates institutions referred to in subclause (I), and

"(III) any person acting as a conservator or receiver of an entity referred to in subclause (I) or (II) (or any government agency or corporation succeeding to the rights or interest of such person).

"(v) FORECLOSURE PROPERTY.—For purposes of this subparagraph, the term 'foreclosure property' means any real property acquired by the financial institution as the result of having bid on such property at foreclosure, or by operation of an agreement or process of law, after there was a default (or a default was imminent) on indebtedness which such property secured."

(b) CONFORMING AMENDMENT.—Paragraph (9) of section 514(c) is amended—

(1) by adding the following new sentence at the end of subparagraph (A): "For purposes of this paragraph, an interest in a mortgage shall in no event be treated as real property.", and

(2) by striking the last sentence of subparagraph (B).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to acquisitions on or after January 1, 1994.

(2) SMALL LEASES.—The provisions of section 514(c)(9)(G)(i) of the Internal Revenue Code of 1986 shall, in addition to any leases to which the provisions apply by reason of paragraph (1), apply to leases entered into on or after January 1, 1994.

SEC. 1522. REPEAL OF SPECIAL TREATMENT OF PUBLICLY TREATED PARTNERSHIPS.

(a) GENERAL RULE.—Subsection (c) of section 512 is amended—

(1) by striking paragraph (2),

(2) by redesignating paragraph (3) as paragraph (2), and

(3) by striking "paragraph (1) or (2)" in paragraph (2) (as so redesignated) and inserting "paragraph (1)".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to partnership years beginning on or after January 1, 1994.

SEC. 1523. TITLE-HOLDING COMPANIES PERMITTED TO RECEIVE SMALL AMOUNTS OF UNRELATED BUSINESS TAXABLE INCOME.

(a) GENERAL RULE.—Paragraph (25) of section 501(c) is amended by adding at the end thereof the following new subparagraph:

"(G)(i) An organization shall not be treated as failing to be described in this paragraph merely by reason of the receipt of any otherwise disqualifying income which is incidentally derived from the holding of real property.

"(ii) Clause (i) shall not apply if the amount of gross income described in such clause exceeds 10 percent of the organization's gross income for the taxable year unless the organization establishes to the satisfaction of the Secretary that the receipt of gross income described in clause (i) in excess of such limitation was inadvertent and reasonable steps are being taken to correct the circumstances giving rise to such income."

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 501(c) is amended by adding at the end thereof the following new sentence: "Rules similar to the rules of subparagraph (G) of paragraph (25) shall apply for purposes of this paragraph."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning on or after January 1, 1994.

SEC. 1524. EXCLUSION FROM UNRELATED BUSINESS TAX OF GAINS FROM CERTAIN PROPERTY.

(a) GENERAL RULE.—Subsection (b) of section 512 (relating to modifications) is amended by adding at the end thereof the following new paragraph:

"(16)(A) Notwithstanding paragraph (5)(B), there shall be excluded all gains or losses from the sale, exchange, or other disposition of any real property described in subparagraph (B) if—

"(i) such property was acquired by the organization from—

"(I) a financial institution described in section 581 or 591(a) which is in conservatorship or receivership, or

"(II) the conservator or receiver of such an institution (or any government agency or corporation succeeding to the rights or interests of the conservator or receiver),

"(ii) such property is designated by the organization within the 9-month period beginning on the date of its acquisition as property held for sale, except that not more than one-half (by value determined as of such date) of property acquired in a single transaction may be so designated,

"(iii) such sale, exchange, or disposition occurs before the later of—

"(I) the date which is 30 months after the date of the acquisition of such property, or

"(II) the date specified by the Secretary in order to assure an orderly disposition of property held by persons described in subparagraph (A), and

"(iv) while such property was held by the organization, the aggregate expenditures on improvements and development activities included in the basis of the property are (or were) not in excess of 20 percent of the net selling price of such property.

"(B) Property is described in this subparagraph if it is real property which—

"(i) was held by the financial institution at the time it entered into conservatorship or receivership, or

"(ii) was foreclosure property (as defined in section 514(c)(9)(H)(v)) which secured indebtedness held by the financial institution at such time.

For purposes of this subparagraph, real property includes an interest in a mortgage."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to property acquired on or after January 1, 1994.

SEC. 1525. EXCLUSION FROM UNRELATED BUSINESS TAX OF CERTAIN FEES AND OPTION PREMIUMS.

(a) LOAN COMMITMENT FEES.—Paragraph (1) of section 512(b) (relating to modifications) is amended by inserting "amounts received or accrued as consideration for entering into agreements to make loans," before "and annuities".

(b) OPTION PREMIUMS.—The second sentence of section 512(b)(5) is amended—

(1) by striking "all gains on" and inserting "all gains or losses recognized, in connection with the organization's investment activities, from",

(2) by striking ", written by the organization in connection with its investment activities," and

(3) by inserting "or real property and all gains or losses from the forfeiture of good-faith deposits (that are consistent with established business practice) for the purchase, sale, or lease of real property in connection with the organization's investment activities" before the period.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received on or after January 1, 1994.

PART IV—INCREASE IN RECOVERY PERIOD FOR NONRESIDENTIAL REAL PROPERTY

SEC. 1531. 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 ..... 37 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 on or after February 25, 1993.

(2) EXCEPTION.—The amendments made by this section shall not apply to property placed in service by the taxpayer before January 1, 1994, if—

(A) the taxpayer or a qualified person entered into a binding written contract to purchase or construct such property before February 25, 1993, or

(B) the construction of such property was commenced by or for the taxpayer or a qualified person before February 25, 1993.

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.

Subtitle F—Other Changes

SEC. 1601. ALTERNATIVE MINIMUM TAX TREATMENT OF CONTRIBUTIONS OF APPRECIATED PROPERTY.

(a) REPEAL OF TAX PREFERENCE.—Subsection (a) of section 57 (as amended by section 1221) is amended by striking paragraph (6) (relating to appreciated property charitable deduction) and by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively.

(b) EFFECT ON ADJUSTED CURRENT EARNINGS.—Paragraph (4) of section 56(g) is amended by adding at the end thereof the following new subparagraph:

"(J) TREATMENT OF CHARITABLE CONTRIBUTIONS.—Notwithstanding subparagraphs (B) and (C), no adjustment related to the earnings and profits effects of any charitable contribution shall be made in computing adjusted current earnings."

(c) CONFORMING AMENDMENT.—Subclause (II) of section 53(d)(1)(B)(ii) (as amended by section 1221) is amended by striking "(5), (6), and (8)" and inserting "(5), and (7)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after June 30, 1992, except that in the case of any contribution of capital gain property which is not tangible personal property, such amendments shall apply only if the contribution is made after December 31, 1992.

SEC. 1602. CERTAIN TRANSFERS TO RAILROAD RETIREMENT ACCOUNT MADE PERMANENT.

Subsection (c)(1)(A) of section 224 of the Railroad Retirement Solvency Act of 1983 (relating to section 72(r) revenue increase transferred to certain railroad accounts) is amended by striking "with respect to benefits received before October 1, 1992".

SEC. 1603. TEMPORARY EXTENSION OF DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—

(1) EXTENSION.—Paragraph (6) of section 162(l) (relating to special rules for health insurance costs of self-employed individuals) is amended by striking "June 30, 1992" and inserting "December 31, 1993".

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 110(a) of the Tax Extension Act of 1991 is hereby repealed.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years ending after June 30, 1992.

(b) DETERMINATION OF ELIGIBILITY FOR EMPLOYER-SPONSORED HEALTH PLAN.—

(1) IN GENERAL.—Paragraph (2)(B) of section 162(l) is amended to read as follows:

"(B) OTHER COVERAGE.—Paragraph (1) shall not apply to any taxpayer for any calendar month for which the taxpayer is eligible to particpate in any subsidized health plan maintained by any employer of the taxpayer or of the spouse of the taxpayer."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1992.

TITLE II—REVENUE INCREASES

Subtitle A—Provisions Affecting Individuals

PART I—RATE INCREASES

SEC. 2101. INCREASE IN TOP MARGINAL RATE UNDER SECTION 1.

(a) GENERAL RULE.—Section 1 (relating to tax imposed) is 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:

"If taxable income is:	The tax is:
Not over $36,900	15% of taxable income.
Over $36,900 but not over $89,150.	$5,535, plus 28% of the excess over $36,900.
Over $89,150 but not over $140,000.	$20,165, plus 31% of the excess over $89,150.
Over $140,000	$35,928.50, plus 36% of the excess over $140,000.

"(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:

"If taxable income is:	The tax is:
Not over $29,600	15% of taxable income.
Over $29,600 but not over $76,400.	$4,440, plus 28% of the excess over $29,600.
Over $76,400 but not over $127,500.	$17,544, plus 31% of the excess over $76,400.
Over $127,500	$33,385, plus 36% of the excess over $127,500.

"(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 7703) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $22,100	15% of taxable income.
Over $22,100 but not over $53,500.	$3,315, plus 28% of the excess over $22,100.
Over $53,500 but not over $115,000.	$12,107, plus 31% of the excess over $53,500.
Over $115,000	$31,172, plus 36% of the excess over $115,000.

"(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:

"If taxable income is:	The tax is:
Not over $18,450	15% of taxable income.
Over $18,450 but not over $44,575.	$2,767.50, plus 28% of the excess over $18,450.
Over $44,575 but not over $70,000.	$10,082.50, plus 31% of the excess over $44,575.
Over $70,000	$17,964.25, plus 36% of the excess over $70,000.

"(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:

"If taxable income is:	The tax is:
Not over $1,500	15% of taxable income.
Over $1,500 but not over $3,500.	$225, plus 28% of the excess over $1,500.
Over $3,500 but not over $5,500.	$785, plus 31% of the excess over $3,500.
Over $5,500	$1,405, plus 36% of the excess over $5,500."

(b) CONFORMING AMENDMENTS.—

(1) Section 531 is amended by striking "28 percent" and inserting "36 percent".

(2) Section 541 is amended by striking "28 percent" and inserting "36 percent".

(3)(A) Subsection (f) of section 1 is amended—

(i) by striking "1990" in paragraph (1) and inserting "1993", and

(ii) by striking "1989" in paragraph (3)(B) and inserting "1992".

(B) Subparagraph (C) of section 41(e)(5) is amended by striking "1989" each place it appears and inserting "1992".

(C) Subparagraph (B) of section 63(c)(4) is amended by striking "1989" and inserting "1992".

(D) Subparagraph (B) of section 68(b)(2) is amended by striking "1989" and inserting "1992".

(E) Subparagraph (B) of section 132(f)(6) is amended by striking ", determined by substituting" and all that follows down through the period at the end thereof and inserting a period.

(F) Subparagraphs (A)(ii) and (B)(ii) of section 151(d)(4) are each amended by striking "1989" and inserting "1992".

(G) Clause (ii) of section 513(h)(2)(C) is amended by striking "1989" and inserting "1992".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 2102. SURTAX ON HIGH-INCOME TAXPAYERS.

(a) GENERAL RULE.—

(1) Subsection (a) of section 1 (as amended by section 2101) is amended by striking the last item in the table contained therein and inserting the following:

Over $140,000 but not over $250,000.	$35,928.50, plus 36% of the excess over $140,000.
Over $250,000	$75,528.50, plus 39.6% of the excess over $250,000."

(2) Subsection (b) of section 1 (as so amended) is amended by striking the last item in the table contained therein and inserting the following:

Over $127,500 but not over $250,000.	$33,385, plus 36% of the excess over $127,500.
Over $250,000	$77,485, plus 39.6% of the excess over $250,000."

(3) Subsection (c) of section 1 (as so amended) is amended by striking the last item in the table contained therein and inserting the following:

Over $115,000 but not over $250,000.	$31,172, plus 36% of the excess over $115,000.
Over $250,000	$79,772, plus 39.6% of the excess over $250,000."

(4) Subsection (d) of section 1 (as so amended) is amended by striking the last item in the table contained therein and inserting the following:

Over $70,000 but not over $125,000.	$17,964.25, plus 36% of the excess over $70,000.
Over $125,000	$37,764.25, plus 39.6% of the excess over $125,000."

(5) Subsection (e) of section 1 (as so amended) is amended by striking the last item in the table contained therein and inserting the following:

Over $5,500 but not over $7,500.	$1,405, plus 36% of the excess over $5,500.
Over $7,500	$2,125, plus 39.6% of the excess over $7,500."

(b) TECHNICAL AMENDMENT.—Sections 531 and 541 (as amended by section 2101) are each amended by striking "36 percent" and inserting "39.6 percent".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 2103. MODIFICATIONS TO ALTERNATIVE MINIMUM TAX RATES AND EXEMPTION AMOUNTS.

(a) INCREASE IN RATE.—Paragraph (1) of section 55(b) (defining tentative minimum tax) is amended to read as follows:

"(1) AMOUNT OF TENTATIVE TAX.—

"(A) NONCORPORATE TAXPAYERS.—

"(i) IN GENERAL.—In the case of a taxpayer other than a corporation, the tentative minimum tax for the taxable year is the sum of—

"(I) 26 percent of so much of the taxable excess as does not exceed $175,000, plus

"(II) 28 percent of so much of the taxable excess as exceeds $175,000.

The amount determined under the preceding sentence shall be reduced by the alternative minimum tax foreign tax credit for the taxable year.

"(ii) TAXABLE EXCESS.—For purposes of clause (i), the term 'taxable excess' means so much of the alternative minimum taxable income for the taxable year as exceeds the exemption amount.

"(iii) MARRIED INDIVIDUAL FILING SEPARATE RETURN.—In the case of a married individual filing a separate return, clause (i) shall be applied by substituting '$87,500' for '$175,000' each place it appears. For purposes of the preceding sentence, marital status shall be determined under section 7703.

"(B) CORPORATIONS.—In the case of a corporation, the tentative minimum tax for the taxable year is—

"(i) 20 percent of so much of the alternative minimum taxable income for the taxable year as exceeds the exemption amount, reduced by

"(ii) the alternative minimum tax foreign tax credit for the taxable year."

(b) INCREASE IN EXEMPTION AMOUNTS.—Paragraph (1) of section 55(d) (defining exemption amount) is amended—

(1) by striking "$40,000" in subparagraph (A) and inserting "$45,000",

(2) by striking "$30,000" in subparagraph (B) and inserting "$33,750", and

(3) by striking "$20,000" in subparagraph (C) and inserting "$22,500".

(c) CONFORMING AMENDMENTS.—

(1) The last sentence of section 55(d)(3) is amended by striking "$155,000 or (ii) $20,000" and inserting "$165,000 or (ii) $22,500".

(2)(A) Subparagraph (A) of section 897(a)(2) is amended by striking "the amount determined under section 55(b)(1)(A) shall not be less than 21 percent of" and inserting "the taxable excess for purposes of section 55(b)(1)(A) shall not be less than".

(B) The heading for paragraph (2) of section 897(a) is amended by striking "21-PERCENT".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 2104. 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. 2105. 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. 2106. PROVISIONS TO PREVENT CONVERSION OF ORDINARY INCOME TO CAPITAL GAIN.

(a) INTEREST EMBEDDED IN FINANCIAL TRANSACTIONS.—

(1) IN GENERAL.—Part IV of subchapter P of chapter 1 (relating to special rules for determining capital gains and losses) is amended by adding at the end thereof the following new section:

"SEC. 1258. RECHARACTERIZATION OF GAIN FROM CERTAIN FINANCIAL TRANSACTIONS.

"(a) GENERAL RULE.—In the case of any gain—

"(1) which (but for this section) would be treated as gain from the sale or exchange of a capital asset, and

"(2) which is recognized on the disposition of any property which was held as part of a conversion transaction,

such gain (to the extent such gain does not exceed the applicable imputed income amount) shall be treated as ordinary income.

"(b) APPLICABLE IMPUTED INCOME AMOUNT.—For purposes of subsection (a), the term 'applicable imputed income amount' means, with respect to any disposition referred to in subsection (a), an amount equal to—

"(1) the amount of interest which would have accrued on the taxpayer's net investment in the conversion transaction for the period ending on the date of such disposition (or, if earlier, the date on which the requirements of subsection (c) ceased to be satisfied) at a rate equal to 120 percent of the applicable rate, reduced by

"(2) the amount treated as ordinary income under subsection (a) with respect to any prior disposition of property which was held as a part of such transaction.

"(c) CONVERSION TRANSACTION.—For purposes of this section, the term 'conversion transaction' means any of the following where substantially all of the taxpayer's ex-

pected net return from the transaction is attributable to the time value of the taxpayer's net investment in such transaction:

"(1) The holding of any property (whether or not actively traded), and the entering into a contract to sell such property (or substantially identical property) at a price determined in accordance with such contract, but only if such property was acquired and such contract was entered into on a substantially contemporaneous basis.

"(2) Any applicable straddle.

"(3) Any other transaction which is marketed or sold as producing capital gains.

"(4) Any other transaction specified in regulations prescribed by the Secretary.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) APPLICABLE STRADDLE.—The term 'applicable straddle' means any straddle (within the meaning of section 1092(c)); except that—

"(A) the term 'personal property' shall include stock, and

"(B) paragraph (4) of section 1092(c) shall not apply.

"(2) APPLICABLE RATE.—The term 'applicable Federal rate' means—

"(A) the applicable Federal rate determined under section 1274(d) (compounded semiannually) as if the conversion transaction were a debt instrument, or

"(B) if the term of the conversion transaction is indefinite, the Federal short-term rates in effect under section 6621(b) during the period of the conversion transaction (compounded daily).

"(3) TREATMENT OF PROPERTY WITH BUILT-IN LOSS.—

"(A) IN GENERAL.—If any property with a built-in loss becomes part of a conversion transaction—

"(i) for purposes of applying this subtitle to such property for periods after such property becomes part of such transaction, the adjusted basis of such property shall be its fair market value as of the time it became part of such transaction, except that

"(ii) upon the disposition of such property in a transaction in which gain or loss is recognized, such built-in loss shall be recognized and shall have a character determined without regard to this section.

"(B) BUILT-IN LOSS.—For purposes of subparagraph (A), the term 'built-in loss' means the excess (if any) of the adjusted basis of any property over its fair market value.

"(4) PROPERTY TAKEN INTO ACCOUNT AT FAIR MARKET VALUE.—In determining the taxpayer's net investment in any conversion transaction, there shall be included the fair market value of any property which becomes part of such transaction (determined as of the date on which such property became part of such transaction)."

(2) CLERICAL AMENDMENT.—The table of sections for part IV of subchapter P of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 1258. Recharacterization of gain from certain financial transactions."

(3) EFFECTIVE DATE.—The amendments made by this section shall apply to conversion transactions entered into after April 30, 1993.

(b) REPEAL OF CERTAIN EXCEPTIONS TO MARKET DISCOUNT RULES.—

(1) MARKET DISCOUNT BONDS ISSUED ON OR BEFORE JULY 18, 1984.—The following provisions are hereby repealed:

(A) Section 1276(e).

(B) Section 1277(d).

(2) TAX-EXEMPT OBLIGATIONS.—

(A) IN GENERAL.—Paragraph (1) of section 1278(a) (defining market discount bond) is amended—

(i) by striking clause (ii) of subparagraph (B) and redesignating subclauses (iii) and (iv) of such subparagraph as clauses (ii) and (iii), respectively,

(ii) by redesignating subparagraph (C) as subparagraph (D), and

(iii) by inserting after subparagraph (B) the following new subparagraph:

"(C) SECTION 1277 NOT APPLICABLE TO TAX-EXEMPT OBLIGATIONS.—For purposes of section 1277, the term 'market discount bond' shall not include any tax-exempt obligation (as defined in section 1275(a)(3))."

(B) CONFORMING AMENDMENT.—Sections 1276(a)(4) and 1278(b)(1) are each amended by striking "sections 871(a)" and inserting "sections 103, 871(a),".

(3) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations purchased (within the meaning of section 1272(d)(1) of the Internal Revenue Code of 1986) after April 30, 1993.

(c) TREATMENT OF STRIPPED PREFERRED STOCK.—

(1) IN GENERAL.—Section 305 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) TREATMENT OF PURCHASER OF STRIPPED PREFERRED STOCK.—

"(1) IN GENERAL.—If any person purchases after April 30, 1993 any stripped preferred stock, then such person, while holding such stock, shall include in gross income amounts equal to the amounts which would have been so includible if such stripped preferred stock were a bond issued on the purchase date and having original issue discount equal to the excess, if any, of—

"(A) the redemption price for such stock, over

"(B) the price at which such person purchased such stock.

The preceding sentence shall also apply in the case of any person whose basis in such stock is determined by reference to the basis in the hands of such purchaser.

"(2) BASIS ADJUSTMENTS.—Appropriate adjustments to basis shall be made for amounts includible in gross income under paragraph (1).

"(3) TAX TREATMENT OF PERSON STRIPPING STOCK.—If any person strips the rights to 1 or more dividends from any stock described in paragraph (5)(B) and after April 30, 1993 disposes of such dividend rights, for purposes of paragraph (1), such person shall be treated as having purchased the stripped preferred stock on the date of such disposition for a purchase price equal to such person's adjusted basis in such stripped preferred stock.

"(4) AMOUNTS TREATED AS ORDINARY INCOME.—Any amount included in gross income under paragraph (1) shall be treated as ordinary income.

"(5) STRIPPED PREFERRED STOCK.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'stripped preferred stock' means any stock described in subparagraph (B) if there has been a separation in ownership between such stock and any dividend on such stock which has not become payable.

"(B) DESCRIPTION OF STOCK.—Stock is described in this subsection if such stock—

"(i) is limited and preferred as to dividends and does not participate in corporate growth to any significant extent, and

"(ii) has a fixed redemption price.

"(6) PURCHASE.—For purposes of this subsection, the term 'purchase' means—

"(A) any acquisition of stock, where

"(B) the basis of such stock is not determined in whole or in part by the reference to the adjusted basis of such stock in the hands of the person from whom acquired."

(2) COORDINATION WITH SECTION 167(e).—Paragraph (2) of section 167(e) is amended to read as follows:

"(2) COORDINATION WITH OTHER PROVISIONS.—

"(A) SECTION 273.—This subsection shall not apply to any term interest to which section 273 applies.

"(B) SECTION 305(e).—This subsection shall not apply to the holder of the dividend rights which were separated from any stripped preferred stock to which section 305(e)(1) applies."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on April 30, 1993.

(d) TREATMENT OF CAPITAL GAIN UNDER LIMITATION ON INVESTMENT INTEREST.—

(1) IN GENERAL.—Subparagraph (B) of section 163(d)(4) (defining investment income) is amended to read as follows:

"(B) INVESTMENT INCOME.—The term 'investment income' means the sum of—

"(i) gross income from property held for investment (other than any gain taken into account under clause (ii)(I)),

"(ii) the excess (if any) of—

"(I) the net gain attributable to the disposition of property held for investment, over

"(II) the net capital gain determined by only taking into account gains and losses from dispositions of property held for investment, plus

"(iii) so much of the net capital gain referred to in clause (ii)(II) (or, if lesser, the net gain referred to in clause (ii)(I)) as the taxpayer elects to take into account under this clause."

(2) COORDINATION WITH SPECIAL CAPITAL GAINS RATE.—Subsection (h) of section 1 is amended by adding at the end thereof the following new sentence:

"For purposes of the preceding sentence, the net capital gain for any taxable year shall be reduced (but not below zero) by the amount which the taxpayer elects to take into account as investment income for the taxable year under section 163(d)(4)(B)(iii)."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1992.

(e) TREATMENT OF CERTAIN APPRECIATED INVENTORY.—

(1) Paragraph (1) of section 751(d) is amended to read as follows:

"(1) SUBSTANTIAL APPRECIATION.—

"(A) IN GENERAL.—Inventory items of the partnership shall be considered to have appreciated substantially in income if their fair market value exceeds 120 percent of the adjusted basis to the partnership of such property.

"(B) CERTAIN PROPERTY EXCLUDED.—For purposes of subparagraph (A), there shall be excluded any inventory property if a principal purpose for acquiring such property was to avoid the provisions of this section relating to inventory items."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to sales, exchanges, and distributions after April 30, 1993.

PART II—OTHER PROVISIONS

SEC. 2111. REPEAL OF LIMITATION ON AMOUNT OF WAGES SUBJECT TO HEALTH INSURANCE EMPLOYMENT TAX.

(a) HOSPITAL INSURANCE TAX.—

(1) Paragraph (1) of section 3121(a) (defining wages) is amended—

(A) by inserting "in the case of the taxes imposed by sections 3101(a) and 3111(a)" after "(1)",

(B) 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

(C) by striking "such applicable contribution base" and inserting "such contribution and benefit base".

(2) Section 3121 is amended by striking subsection (x).

(b) SELF-EMPLOYMENT TAX.—

(1) Subsection (b) of section 1402 is amended—

(A) by striking "that part of the net" in paragraph (1) and inserting "in the case of the tax imposed by section 1401(a), that part of the net",

(B) by striking "applicable contribution base (as determined under subsection (k))" in paragraph (1) and inserting "contribution and benefit base (as determined under section 230 of the Social Security Act)",

(C) by inserting "and" after "section 3121(b),", and

(D) by striking "and (C) includes" and all that follows through "3111(b)".

(2) Section 1402 is amended by striking subsection (k).

(c) RAILROAD RETIREMENT TAX.—

(1) Subparagraph (A) of section 3231(e)(2) is amended by adding at the end thereof the following new clause:

"(iii) HOSPITAL INSURANCE TAXES.—Clause (i) shall not apply to—

"(I) so much of the rate applicable under section 3201(a) or 3221(a) as does not exceed the rate of tax in effect under section 3101(b), and

"(II) so much of the rate applicable under section 3211(a)(1) as does not exceed the rate of tax in effect under section 1402(b)."

(2) Clause (i) 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."

(d) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 6413(c) is amended by striking "section 3101 or section 3201" and inserting "section 3101(a) or section 3201(a) (to the extent the rate applicable under section 3201(a) as does not exceed the rate of tax in effect under section 3101(a))".

(2) Subparagraphs (B) and (C) of section 6413(c)(2) are each amended by striking "section 3101" each place it appears and inserting "section 3101(a)".

(3) Subsection (c) of section 6413 is amended by striking paragraph (3).

(4) Sections 3122 and 3125 of such Code are each amended by striking "applicable contribution base limitation" and inserting "contribution and benefit base limitation".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to 1994 and later calendar years.

SEC. 2112. 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)".

(3) The last sentence of section 2101(b) is amended by striking "section 2001(c)(3)" and inserting "section 2001(c)(2)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply in the case of decedents dying, and gifts made, after December 31, 1992.

SEC. 2113. REDUCTION IN DEDUCTIBLE PORTION OF BUSINESS MEALS AND ENTERTAINMENT.

(a) GENERAL RULE.—Paragraph (1) of section 274(n) (relating to only 80 percent of meal and entertainment expenses allowed as deduction) is amended by striking "80 percent" and inserting "50 percent".

(b) CONFORMING AMENDMENT.—The subsection heading for section 274(n) is amended by striking "80" and inserting "50".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 2114. 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) EXCEPTION FOR EMPLOYEE RECREATIONAL EXPENSES NOT TO APPLY.—Paragraph (4) of section 274(e) is amended by adding at the end thereof the following: "This paragraph shall not apply for purposes of subsection (a)(3)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 1993.

SEC. 2115. DISALLOWANCE OF DEDUCTION FOR CERTAIN EMPLOYEE REMUNERATION IN EXCESS OF $1,000,000.

(a) GENERAL RULE.—Section 162 (relating to trade or business expenses) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) CERTAIN EXCESSIVE EMPLOYEE REMUNERATION.—

"(1) IN GENERAL.—In the case of any publicly held corporation, no deduction shall be allowed under this chapter for applicable employee remuneration with respect to any covered employee to the extent that the amount of such remuneration for the taxable year with respect to such employee exceeds $1,000,000.

"(2) PUBLICLY HELD CORPORATION.—For purposes of this subsection, the term 'publicly held corporation' means any corporation issuing any class of common equity securities required to be registered under section 12 of the Securities Exchange Act of 1934.

"(3) COVERED EMPLOYEE.—For purposes of this subsection, the term 'covered employee' means any employee of the taxpayer if—

"(A) as of the close of the taxable year, such employee is the chief executive officer of the taxpayer or an individual acting in such a capacity, or

"(B) the total compensation for the taxable year of such employee is required to be reported to shareholders under the Securities Exchange Act of 1934 by reason of such employee being among the 4 highest compensated officers for the taxable year (other than the chief executive officer).

"(4) APPLICABLE EMPLOYEE REMUNERATION.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'applicable employee remuneration' means, with respect to any covered employee for any taxable year, the aggregate amount allowable as a deduction under this chapter for such taxable year (determined without regard to this subsection) for remuneration for services performed by such employee (whether or not during the taxable year).

"(B) EXCEPTION FOR REMUNERATION PAYABLE ON COMMISSION BASIS.—The term 'applicable employee remuneration' shall not include any remuneration payable on a commission basis solely on account of income generated directly by the individual performance of the individual to whom such remuneration is payable.

"(C) OTHER PERFORMANCE-BASED COMPENSATION.—The term 'applicable employee remuneration' shall not include any remuneration payable solely on account of the attainment of one or more performance goals but only if—

"(i) the performance goals are determined by a compensation committee of the board of directors of the taxpayer which is comprised solely of 2 or more independent directors,

"(ii) the material terms under which the remuneration is to be paid, including the performance goals, are disclosed to shareholders and approved by a majority of the vote in a separate shareholder vote before the payment of such remuneration, and

"(iii) before any payment of such remuneration, the compensation committee referred to in clause (i) certifies that the performance goals and any other material terms were in fact satisfied.

"(D) EXCEPTION FOR EXISTING BINDING CONTRACTS.—The term 'applicable employee remuneration' shall not include any remuneration payable under a written binding contract which was in effect on February 17, 1993, and which was not modified thereafter in any material respect before such remuneration is paid.

"(E) REMUNERATION.—For purposes of this paragraph, the term 'remuneration' includes any remuneration (including benefits) in any medium other than cash, but shall not include—

"(i) any payment referred to in so much of section 3121(a)(5) as precedes subparagraph (E) thereof, and

"(ii) any benefit provided to or on behalf of an employee if at the time such benefit is provided it is reasonable to believe that the employee will be able to exclude such benefit from gross income under this chapter.

For purposes of clause (i), section 3121(a)(5) shall be applied without regard to section 3121(v)(1).

"(F) COORDINATION WITH DISALLOWED GOLDEN PARACHUTE PAYMENTS.—The dollar limitation contained in paragraph (1) shall be reduced (but not below zero) by the amount (if any) which would have been included in the applicable employee remuneration of the covered employee for the taxable year but for being disallowed under section 280G."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts which would otherwise be deductible for taxable years beginning on or after January 1, 1994.

SEC. 2116. REDUCTION IN COMPENSATION TAKEN INTO ACCOUNT IN DETERMINING CONTRIBUTIONS AND BENEFITS UNDER QUALIFIED RETIREMENT PLANS.

(a) IN GENERAL.—Sections 401(a)(17), 404(l), and 505(b)(7) are each amended—

(1) by striking "$200,000" in the first sentence and inserting "$150,000", and

(2) by striking the second sentence and inserting "In the case of years beginning after 1994, the Secretary shall adjust the $150,000 amount at the same time and in the same manner as under section 415(d), except that the base period for purposes of section 415(d)(1)(A) shall be the calendar quarter beginning October 1, 1994."

(b) SIMPLIFIED EMPLOYEE PENSIONS.—

(1) IN GENERAL.—Paragraphs (3)(C) and (6)(D)(ii) of section 408(k) are each amended by striking "$200,000" and inserting "$150,000".

(2) COST-OF-LIVING.—Paragraph (8) of section 408(k) is amended to read as follows:

"(8) COST-OF-LIVING ADJUSTMENT.—The Secretary shall adjust the $300 amount in paragraph (2)(C) at the same time and in the same manner as under section 415(d) and shall adjust the $150,000 amount in paragraphs (3)(C) and (6)(D)(ii) at the same time and by the same amount as the adjustment to the $150,000 amount in section 401(a)(17)."

(c) CONFORMING AMENDMENT.—The heading for section 505(b)(7) is amended by striking "$200,000".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits accruing in plan years beginning after December 31, 1993.

SEC. 2117. MODIFICATION TO DEDUCTION 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) Paragraph (2) of section 217(b) (as redesignated by subparagraph (A)) is amended—

(i) by striking the last sentence of subparagraph (A), and

(ii) by striking ", and by" in subparagraph (B) and all that follows down through the period at the end of subparagraph (B) and inserting a period.

(C) 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) subsection (b)(2)(B) shall be applied as if the last sentence of such subsection read as follows: 'In the case of a husband and wife filing separate returns, subparagraph (A) shall be applied by substituting "$2,250" for "$4,500".' "

(D) 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) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses incurred after December 31, 1993.

Subtitle B—Provisions Affecting Businesses

SEC. 2201. INCREASE IN TOP MARGINAL RATE UNDER SECTION 11.

(a) GENERAL RULE.—Paragraph (1) of section 11(b) (relating to amount of tax) is amended—

(1) by striking "and" at the end of subparagraph (B),

(2) by striking subparagraph (C) and inserting the following:

"(C) 34 percent of so much of the taxable income as exceeds $75,000 but does not exceed $10,000,000, and

"(D) 36 percent of so much of the taxable income as exceeds $10,000,000.", and

(3) by adding at the end thereof the following new sentence: "In the case of a corporation which has taxable income in excess of $15,000,000, the amount of the tax determined under the foregoing provisions of this paragraph shall be increased by an additional amount equal to the lesser of (i) 3 percent of such excess, or (ii) $200,000.".

(b) CERTAIN PERSONAL SERVICE CORPORATIONS.—Paragraph (2) of section 11(b) is amended by striking "34 percent" and inserting "36 percent".

(c) CONFORMING AMENDMENTS.—

(1) Clause (iii) of section 852(b)(3)(D) is amended by striking "66 percent" and inserting "64 percent".

(2) Subsection (a) of section 1201 is amended by striking "34 percent" each place it appears and inserting "36 percent".

(3) Paragraphs (1) and (2) of section 1445(e) are each amended by striking "34 percent" and inserting "36 percent".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning on or after January 1, 1993; except that the amendment made by subsection (c)(3) shall take effect on the date of the enactment of this Act.

SEC. 2202. DENIAL OF DEDUCTION FOR LOBBYING EXPENSES.

(a) DISALLOWANCE OF DEDUCTION.—Section 162(e) (relating to appearances, etc., with respect to legislation) is amended to read as follows:

"(e) DENIAL OF DEDUCTION FOR CERTAIN LOBBYING AND POLITICAL EXPENDITURES.—

"(1) IN GENERAL.—No deduction shall be allowed under subsection (a) for any amount paid or incurred—

"(A) in connection with influencing legislation,

"(B) for participation in, or intervention in, any political campaign on behalf of (or in opposition to) any candidate for public office, or

"(C) in connection with any attempt to influence the general public, or segments thereof, with respect to elections.

"(2) APPLICATION TO DUES.—

"(A) IN GENERAL.—No deduction shall be allowed under subsection (a) for the portion of dues or other similar amounts (paid by the taxpayer with respect to an organization) which is allocable to the expenditures described in paragraph (1).

"(B) ALLOCATION.—

"(i) IN GENERAL.—For purposes of subparagraph (A), expenditures described in paragraph (1) shall be treated as paid out of dues or other similar amounts.

"(ii) CARRYOVER OF LOBBYING EXPENDITURES IN EXCESS OF DUES.—For purposes of this paragraph, if expenditures described in paragraph (1) exceed the dues or other similar amounts for any calendar year, such excess shall be treated as expenditures described in paragraph (1) which are paid or incurred by the organization during the following calendar year.

"(3) INFLUENCING LEGISLATION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'influencing legislation' means—

"(i) any attempt to influence the general public, or segments thereof, with respect to legislation, and

"(ii) any attempt to influence any legislation through communication with any member or employee of the legislative body, or with any government official or employee who may participate in the formulation of the legislation.

"(B) EXCEPTION FOR CERTAIN TECHNICAL ADVICE.—The term 'influencing legislation' shall not include the providing of technical advice or assistance to a governmental body or to a committee or other subdivision thereof in response to a specific written request by such governmental entity to the taxpayer which specifies the nature of the advice or assistance requested.

"(C) LEGISLATION.—The term 'legislation' has the meaning given such term by section 4911(e)(2).

"(4) EXCEPTION FOR CERTAIN TAXPAYERS.—In the case of any taxpayer engaged in the trade or business of conducting activities described in paragraph (1), paragraph (1) shall not apply to expenditures of the taxpayer in conducting such activities on behalf of another person (but shall apply to payments by such other person to the taxpayer for conducting such activities).

"(5) CROSS REFERENCE.—

"For reporting requirements related to this subsection, see section 6050O."

(b) REPORTING REQUIREMENTS.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end the following new section:

"SEC. 6050O. RETURNS RELATING TO LOBBYING EXPENDITURES OF CERTAIN ORGANIZATIONS.

"(a) REQUIREMENT OF REPORTING.—Each organization referred to in section 162(e)(2) shall make a return, according to the forms or regulations prescribed by the Secretary, setting forth the names and addresses of persons paying dues to the organization, the amount of the dues paid by such person, and the portion of such dues which is nondeductible under section 162(e)(2).

"(b) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS FURNISHED.—Any organization required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the organization, and

"(2) the dues paid by the person during the calendar year and the portion of such dues which is nondeductible under section 162(e)(2).

The written statement required under the preceding sentence shall be furnished (either in person or in a statement mailing by first-class mail which includes adequate notice that the statement is enclosed) to the persons on or before January 31 of the year following the calendar year for which the return under subsection (a) was made and shall be in such form as the Secretary may prescribe by regulations.

"(c) WAIVER.—The Secretary may waive the reporting requirements of this section with respect to any organization or class of

organizations if the Secretary determines that such reporting is not necessary to carry out the purposes of section 162(e).

"(d) DUES.—For purposes of this section, the term 'dues' includes other similar amounts."

(2) PENALTIES.—

(A) RETURNS.—Subparagraph (A) of section 6724(d)(1) (defining information return) is amended by striking "or" at the end of clause (xi), by striking the period at the end of the clause (xii) relating to section 4101(d) and inserting a comma, by redesignating the clause (xii) relating to section 338(h)(10) as clause (xiii), by striking the period at the end of clause (xiii) (as so redesignated) and inserting ", or", and by adding at the end the following new clause:

"(xiv) section 6050O(a) (relating to information on nondeductible lobbying expenditures)."

(B) PAYEE STATEMENTS.—Paragraph (2) of section 6724(d) (defining payee statement) is amended by striking "or" at the end of subparagraph (R), by striking the period at the end of subparagraph (S) and inserting ", or", and by adding at the end the following new subparagraph:

"(T) section 6050O(b) (relating to returns on nondeductible lobbying expenditures)."

(C) EXCESSIVE UNDERREPORTING.—Section 6721 (relating to failure to file correct information returns) is amended by adding at the end the following new subsection:

"(f) PENALTY IN CASE OF EXCESSIVE UNDERREPORTING ON NONDEDUCTIBLE DUES.—If the aggregate amount of nondeductible dues which is reported on the return required to be filed under section 6050O(a) for any calendar year is less than 75 percent of the aggregate amount required to be so reported—

"(1) subsections (b), (c), and (d) shall not apply, and

"(2) the penalty imposed under subsection (a) shall be equal to the product of—

"(A) the amount required to be reported which was not so reported, and

"(B) the highest rate of tax imposed by section 11 for taxable years beginning in such calendar year."

(3) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end the following new item:

"Sec. 6050O. Returns relating to lobbying expenditures of certain organizations."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 1993.

SEC. 2203. 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 (iii) 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 previously 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 se-

curity, 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, 1993.

(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) except as provided in paragraph (3), 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 5-taxable year period beginning with the first taxable year ending on or after December 31, 1993.

(3) SPECIAL RULE FOR FLOOR SPECIALISTS AND MARKET MAKERS.—

(A) IN GENERAL.—If—

(i) a taxpayer used the last-in first-out (LIFO) method of accounting with respect to any qualified securities for its last taxable year ending before December 31, 1993, and

(ii) any portion of the net amount described in paragraph (2)(C) is attributable to the use of such method of accounting,

then paragraph (2)(C) shall be applied by taking such portion into account ratably over the 20-taxable year period beginning with the first taxable year ending on or after December 31, 1993 (or, if shorter, the period of taxable years equal to the greater of 5 years or the number of taxable years before such first taxable year for which the taxpayer (or any predecessor) used such method of accounting).

(B) QUALIFIED SECURITY.—For purposes of this paragraph, the term "qualified security" means any security acquired—

(i) by a floor specialist (as defined in section 1236(d)(2) of the Internal Revenue Code of 1986) in connection with the specialist's duties as a specialist on an exchange, but only if the security is one in which the specialist is registered with the exchange, or

(ii) by a taxpayer who is a market maker in connection with the taxpayer's duties as a market maker, but only if—

(I) the security is included on the National Association of Security Dealers Automated Quotation System,

(II) the taxpayer is registered as a market maker in such security with the National Association of Security Dealers, and

(III) as of the last day of the taxable year preceding the taxpayer's first taxable year ending on or after December 31, 1993, the taxpayer (or any predecessor) has been actively and regularly engaged as a market maker in such security for the 2-year period ending on such date (or, if shorter, the period beginning 61 days after the security was listed in such quotation system and ending on such date).

SEC. 2204. CLARIFICATION OF TREATMENT OF CERTAIN FSLIC FINANCIAL ASSISTANCE.

(a) GENERAL RULE.—For purposes of chapter 1 of the Internal Revenue Code of 1986—

(1) any FSLIC assistance with respect to any loss of principal, capital, or similar amount upon the disposition of any asset shall be taken into account as compensation for such loss for purposes of section 165 of such Code, and

(2) any FSLIC assistance with respect to any debt shall be taken into account for purposes of section 166, 585, or 593 of such Code in determining whether such debt is worthless (or the extent to which such debt is worthless) and in determining the amount of any addition to a reserve for bad debts arising from the worthlessness or partial worthlessness of such debts.

(b) FSLIC ASSISTANCE.—For purposes of this section, the term "FSLIC assistance" means any assistance (or right to assistance) with respect to a domestic building and loan association (as defined in section 7701(a)(19) of such Code without regard to subparagraph (C) thereof) under section 406(f) of the National Housing Act or section 21A of the Federal Home Loan Bank Act (or under any similar provision of law).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection—

(A) The provisions of this section shall apply to taxable years ending on or after March 4, 1991, but only with respect to FSLIC assistance not credited before March 4, 1991.

(B) If any FSLIC assistance not credited before March 4, 1991, is with respect to a loss sustained or charge-off in a taxable year ending before March 4, 1991, for purposes of determining the amount of any net operating loss carryover to a taxable year ending on or after March 4, 1991, the provisions of this section shall apply to such assistance for purposes of determining the amount of the net operating loss for the taxable year in which such loss was sustained or debt written off. Except as provided in the preceding sentence, this section shall not apply to any FSLIC assistance with respect to a loss sustained or charge-off in a taxable year ending before March 4, 1991.

(2) EXCEPTIONS.—The provisions of this section shall not apply to any assistance to which the amendments made by section 1401(a)(3) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 apply.

SEC. 2205. EXTENSION OF CORPORATE ESTIMATED TAX RULES.

(a) GENERAL RULE.—Clause (i) of section 6655(d)(1)(B) (relating to amount of required installment) is amended by striking "91 percent" each place it appears and inserting "97 percent".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 6655 is amended—

(A) by striking paragraph (3), and

(B) by striking "91 PERCENT" in the paragraph heading of paragraph (2) and inserting "97 PERCENT".

(2) Clause (ii) of section 6655(e)(2)(B) is amended by striking the table contained therein and inserting the following:

"In the case of the following required installments: The applicable percentage is:

1st	24.25
2nd	48.50
3rd	72.75
4th	97. "

(3) Clause (i) of section 6655(e)(3)(A) is amended by striking "91 percent" and inserting "97 percent".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 2206. LIMITATION ON SECTION 936 CREDIT.

(a) GENERAL RULE.—Subsection (a) of section 936 (relating to Puerto Rico and possession tax credit) is amended—

(1) by striking "as provided in paragraph (3)" in paragraph (1) and inserting "as otherwise provided in this section";

(2) by adding at the end thereof the following new paragraph:

"(4) LIMITATIONS ON CREDIT.—

"(A) CREDIT FOR ACTIVE BUSINESS INCOME.—The amount of the credit determined under paragraph (1)(A) for any taxable year shall not exceed 60 percent of the aggregate amount of the possession corporation's qualified possession wages for such taxable year.

"(B) CREDIT FOR INVESTMENT INCOME.—

"(i) IN GENERAL.—If—

"(I) the QPSII assets of the possession corporation for any taxable year, exceed

"(II) 80 percent of such possession corporation's qualified tangible business investment for such taxable year,

the credit determined under paragraph (1)(B) for such taxable year shall be reduced by the amount determined under clause (ii).

"(ii) AMOUNT OF REDUCTION.—The reduction determined under this clause for any taxable year is an amount which bears the same ratio to the credit determined under paragraph (1)(B) for such taxable year (determined without regard to this subparagraph) as—

"(I) the excess determined under clause (i), bears to

"(II) the QPSII assets of the possession corporation for such taxable year.

"(C) CROSS REFERENCE.—

"For definitions and special rules applicable to this paragraph, see subsection (i)."

(b) DEFINITIONS AND SPECIAL RULES.—Section 936 is amended by adding at the end thereof the following new subsection:

"(i) DEFINITIONS AND SPECIAL RULES RELATING TO LIMITATIONS OF SUBSECTION (a)(4).—

"(1) QUALIFIED POSSESSION WAGES.—For purposes of this section—

"(A) IN GENERAL.—The term 'qualified possession wages' means wages paid or incurred by the possession corporation during the taxable year to any employee for services performed in a possession of the United States, but only if such services are performed while the principal place of employment of such employee is within such possession.

"(B) LIMITATION ON AMOUNT OF WAGES TAKEN INTO ACCOUNT.—

"(i) IN GENERAL.—The amount of wages which may be taken into account under subparagraph (A) with respect to any employee for any taxable year shall not exceed the contribution and benefit base determined under section 230 of the Social Security Act for the calendar year in which such taxable year begins.

"(ii) TREATMENT OF PART-TIME EMPLOYEES, ETC.—If—

"(I) any employee is not employed by the possession corporation on a substantially full-time basis at all times during the taxable year, or

"(II) the principal place of employment of any employee with the possession corporation is not within a possession at all times during the taxable year,

the limitation applicable under clause (i) with respect to such employee shall be the appropriate portion (as determined by the Secretary) of the limitation which would otherwise be in effect under clause (i).

"(C) TREATMENT OF CERTAIN EMPLOYEES.—The term 'qualified possession wages' shall not include any wages paid to employees who are assigned by the employer to perform services for another person, unless the principal trade or business of the employer is to make employees available for temporary periods to other persons in return for compensation. All possession corporations treated as 1 corporation under paragraph (4) shall be treated as 1 employer for purposes of the preceding sentence.

"(D) WAGES.—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'wages' has the meaning given to such term by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such section). For purposes of the preceding sentence, such subsection (b) shall be applied as if the term 'United States' included all possessions of the United States.

"(ii) SPECIAL RULE FOR AGRICULTURAL LABOR AND RAILWAY LABOR.—In any case to which subparagraph (A) or (B) of paragraph (1) of section 51(h) applies, the term 'wages' has the meaning given to such term by section 51(h)(2).

"(2) QPSII ASSETS.—For purposes of this section—

"(A) IN GENERAL.—The QPSII assets of a possession corporation for any taxable year is the average of the amounts of the possession corporation's qualified investment assets as of the close of each quarter of such taxable year.

"(B) QUALIFIED INVESTMENT ASSETS.—The term 'qualified investment assets' means the aggregate adjusted bases of the assets which are held by the possession corporation and the income from which qualifies as qualified possession source investment income. For purposes of the preceding sentence, the adjusted basis of any asset shall be its adjusted basis as determined for purposes of computing earnings and profits.

"(3) QUALIFIED TANGIBLE BUSINESS INVESTMENT.—For purposes of this section—

"(A) IN GENERAL.—The qualified tangible business investment of any possession corporation for any taxable year is the average of the amounts of the possession corporation's qualified possession investments as of the close of each quarter of such taxable year.

"(B) QUALIFIED POSSESSION INVESTMENTS.—The term 'qualified possession investments' means the aggregate adjusted bases of tangible property used by the possession corporation in a possession of the United States in the active conduct of a trade or business within such possession. For purposes of the preceding sentence, the adjusted basis of any property shall be its adjusted basis as determined for purposes of computing earnings and profits.

"(4) ELECTION TO COMPUTE CREDIT ON CONSOLIDATED BASIS.—

"(A) IN GENERAL.—Any affiliated group may elect to treat all possession corporations which would be members of such group but for section 1504(b)(4) as 1 corporation for purposes of this section. The credit determined under this section with respect to such 1 corporation shall be allocated among such possession corporations in such manner as the Secretary may prescribe.

"(B) ELECTION.—An election under subparagraph (A) shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary.

"(5) TREATMENT OF CERTAIN TAXES.—Notwithstanding subsection (c), if—

"(A) the credit determined under subsection (a)(1) for any taxable year is limited under subsection (a)(4), and

"(B) the possession corporation has paid or accrued any taxes of a possession of the United States for such taxable year which are treated as not being income, war profits, or excess profits taxes paid or accrued to a possession of the United States by reason of subsection (c),

such possession corporation shall be allowed a deduction for such taxable year equal to the portion of such taxes which are allocable (on a pro rata basis) to taxable income of the possession corporation the tax on which is not offset by reason of the limitations of subsection (a)(4). In determining the credit under subsection (a) and in applying the preceding sentence, taxable income shall be determined without regard to the preceding sentence.

"(6) POSSESSION CORPORATION.—The term 'possession corporation' means a domestic corporation for which the election provided in subsection (a) is in effect.

"(7) TRANSITIONAL RULE.—If any possession corporation elects the benefits of this paragraph for any taxable year beginning in 1994 or 1995—

"(A) subsection (a)(4) shall not apply to such taxable year, and

"(B) the credit determined under subsection (a)(1) for such taxable year shall be the following percentage of the credit which would otherwise have been determined under such subsection:

"(i) 80 percent in the case of a taxable year beginning in 1994.

"(ii) 60 percent in the case of a taxable year beginning in 1995.

A possession corporation which elects the benefits of this paragraph shall be entitled to the benefits of paragraph (5) for taxes allocable to taxable income the tax on which is not offset by reason of this paragraph."

(c) MINIMUM TAX TREATMENT.—

(1) IN GENERAL.—Clause (ii) of section 56(g)(4)(C) (relating to treatment of special rule for certain dividends) is amended by striking "sections 936 and 921" and inserting "sections 936 (including subsection (a)(4) thereof) and 921".

(2) TREATMENT OF FOREIGN TAXES.—Clause (iii) of section 56(g)(4)(C) is amended by adding at the end thereof the following subclauses:

"(IV) SEPARATE APPLICATION OF FOREIGN TAX CREDIT LIMITATIONS.—In determining the alternative minimum foreign tax credit, section 904(d) shall be applied as if dividends from a corporation eligible for the credit provided by section 936 were a separate category of income referred to in a subparagraph of section 904(d)(1).

"(V) COORDINATION WITH LIMITATION ON 936 CREDIT.—Any reference in this clause to a dividend received from a corporation eligible for the credit provided by section 936 shall be treated as a reference to the portion of any such dividend for which the dividends received deduction is disallowed under clause (i) after the application of clause (ii)(I)."

(d) CONFORMING AMENDMENT.—Paragraph (4) of section 904(b) is amended by inserting before the period at the end thereof the following: "(without regard to subsection (a)(4) thereof)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 2207. MODIFICATION TO LIMITATION ON DEDUCTION FOR CERTAIN INTEREST.

(a) GENERAL RULE.—Paragraph (3) of section 163(j) (defining disqualified interest) is amended to read as follows:

"(3) DISQUALIFIED INTEREST.—For purposes of this subsection, the term 'disqualified interest' means—

"(A) any interest paid or accrued by the taxpayer (directly or indirectly) to a related person if no tax is imposed by this subtitle with respect to such interest, and

"(B) any interest paid or accrued by the taxpayer with respect to any indebtedness to a person who is not a related person if—

"(i) there is a disqualified guarantee of such indebtedness, and

"(ii) no gross basis tax is imposed by this subtitle with respect to such interest."

(b) DEFINITIONS.—Paragraph (6) of section 163(j) is amended by adding at the end thereof the following new subparagraphs:

"(D) DISQUALIFIED GUARANTEE.—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'disqualified guarantee' means any guarantee by a related person which is—

"(I) an organization exempt from taxation under this subtitle, or

"(II) a foreign person.

"(ii) EXCEPTIONS.—The term 'disqualified guarantee' shall not include a guarantee—

"(I) in any circumstances identified by the Secretary by regulation, where the interest on the indebtedness would have been subject to a net basis tax if the interest had been paid to the guarantor, or

"(II) if the taxpayer owns a controlling interest in the guarantor.

For purposes of subclause (II), except as provided in regulations, the term 'a controlling interest' means direct or indirect ownership of at least 80 percent of the total voting power and value of all classes of stock of a corporation, or 80 percent of the profit and capital interests in any other entity. For purposes of the preceding sentence, the rules of paragraphs (1) and (5) of section 267(c) shall apply; except that such rules shall also apply to interest in entities other than corporations.

"(iii) GUARANTEE.—Except as provided in regulations, the term 'guarantee' includes any arrangement under which a person (directly or indirectly through an entity or otherwise) assures, on a conditional or unconditional basis, the payment of another person's obligation under any indebtedness.

"(E) GROSS BASIS AND NET BASIS TAXATION.—

"(i) GROSS BASIS TAX.—The term 'gross basis tax' means any tax imposed by this subtitle which is determined by reference to the gross amount of any item of income without any reduction for any deduction allowed by this subtitle.

"(ii) NET BASIS TAX.—The term 'net basis tax' means any tax imposed by this subtitle which is a not a gross basis tax."

(c) CONFORMING AMENDMENT.—Subparagraph (B) of section 163(j)(5) is amended by striking "to a related person".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to interest paid or accrued in taxable years beginning after December 31, 1993.

Subtitle C—Foreign Tax Provisions

PART I—CURRENT TAXATION OF CERTAIN EARNINGS OF CONTROLLED FOREIGN CORPORATIONS

SEC. 2301. EARNINGS INVESTED IN EXCESS PASSIVE ASSETS.

(a) GENERAL RULE.—Paragraph (1) of section 951(a) (relating to amounts included in gross income of United States shareholders) is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting "; and", and by adding at the end thereof the following new subparagraph:

"(C) the amount determined under section 956A with respect to such shareholder for such year (but only to the extent not excluded from gross income under section 959(a)(3)).."

(b) AMOUNT OF INCLUSION.—Subpart F of part III of subchapter N of chapter 1 is amended by inserting after section 956 the following new section:

"SEC. 956A. EARNINGS INVESTED IN EXCESS PASSIVE ASSETS.

"(a) GENERAL RULE.—In the case of any controlled foreign corporation, the amount determined under this section with respect to any United States shareholder for any taxable year is the lesser of—

"(1) the excess (if any) of—

"(A) such shareholder's pro rata share of the amount of the controlled foreign corporation's excess passive assets for such taxable year, over

"(B) the aggregate amount previously included under section 951(a)(1)(C) (or which would have been included but for section 959(a)(3)) in the gross income of such shareholder (or of any other United States person from whom such shareholder acquired any portion of his interest in the controlled foreign corporation, but only to the extent attributable to the acquired interest and subject to such proof of the identity of such interest as the Secretary may require), or

"(2) such shareholder's pro rata share of the applicable earnings of such controlled foreign corporation determined after the application of section 951(a)(1)(B).

"(b) ADJUSTMENT FOR CERTAIN DISTRIBUTIONS OF PREVIOUSLY TAXED INCOME.—The amount determined under subsection (a)(1)(B) shall be reduced by the amount of any distribution excluded from gross income under section 959 and treated as a distribution out of earnings and profits referred to in section 959(c)(1)(B).

"(c) APPLICABLE EARNINGS.—For purposes of this section, the term 'applicable earnings' means, with respect to any controlled foreign corporation, the amounts referred to in sections 316(a)(1) and 316(a)(2) (but reduced by distributions made during the taxable year), reduced by any portion of such amounts which, if distributed, would not be treated as a dividend by reason of section 955 and further reduced by the earnings and profits described in section 959(c)(1).

"(d) EXCESS PASSIVE ASSETS.—For purposes of this section—

"(1) IN GENERAL.—The excess passive assets of any controlled foreign corporation for any taxable year is the excess (if any) of—

"(A) the average of the amounts of passive assets held by such corporation as of the close of each quarter of such taxable year, over

"(B) 25 percent of the average of the amounts of total assets held by such corporation as of the close of each quarter of such taxable year.

For purposes of the preceding sentence, the amount taken into account with respect to any asset shall be its adjusted basis as determined for purposes of computing earnings and profits.

"(2) PASSIVE ASSET.—

"(A) IN GENERAL.—Except as otherwise provided in this section, the term 'passive asset' means any asset held by the controlled foreign corporation which produces passive income (as defined in section 1296(b)) or is held for the production of such income.

"(B) COORDINATION WITH SECTION 956.—The term 'passive asset' shall not include any United States property (as defined in section 956).

"(3) LOOK-THRU RULES MADE APPLICABLE.—For purposes of this subsection, the rules of section 1296(c) shall apply.

"(4) LEASING RULES MADE APPLICABLE.—For purposes of this subsection, the rules of section 1297(d) shall apply.

"(e) SPECIAL RULE WHERE CORPORATION CEASES TO BE CONTROLLED FOREIGN CORPORATION DURING TAXABLE YEAR.—If any foreign corporation ceases to be a controlled foreign corporation during any taxable year—

"(1) the determination of any United States shareholder's pro rata share shall be made on the basis of stock owned (within the meaning of section 958(a)) by such shareholder on the last day during the taxable year on which the foreign corporation is a controlled foreign corporation, and

"(2) the amount of such corporation's excess passive assets for such taxable year shall be determined by only taking into account quarters ending on or before such last day, and

"(3) in determining applicable earnings, the amount taken into account by reason of being described in paragraph (2) of section 316(a) shall be the portion of the amount so described which is allocable (on a pro rata basis) to the part of such year during which the corporation is a controlled foreign corporation.

"(f) TRANSITION RULE.—In the case of any taxable year of a controlled foreign corporation beginning after September 30, 1993, and before October 1, 1997, the amount determined under subsection (a) shall be the applicable percentage (determined under the following table) of the amount which would otherwise be determined under such subsection:

"In the case of a taxable year beginning during the 1-year period beginning on:	The applicable percentage is:
October 1, 1993	20
October 1, 1994	25
October 1, 1995	35
October 1, 1996	50.

"(h) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section, including regulations to prevent the avoidance of the provisions of this section through reorganizations or otherwise.".

(c) PREVIOUSLY TAXED INCOME RULES.—

(1) IN GENERAL.—Subsection (a) of section 959 (relating to exclusion from gross income of previously taxed earnings and profits) is amended by striking "or" at the end of paragraph (1), by adding "or" at the end of paragraph (2), and by inserting after paragraph (2) the following new paragraph:

"(3) such amounts would, but for this subsection, be included under section 951(a)(1)(C) in the gross income of,".

(2) ALLOCATION RULES.—

(A) Subsection (a) of section 959 is amended by adding at the end thereof the following new sentence: "The rules of subsection (c) shall apply for purposes of paragraph (1) of this subsection and the rules of subsection (f) shall apply for purposes of paragraphs (2) and (3) of this subsection.".

(B) Section 959 is amended by adding at the end thereof the following new subsection:

"(f) ALLOCATION RULES FOR CERTAIN INCLUSIONS.—For purposes of this section, amounts that would be included under subparagraph (B) or (C) of section 951(a)(1) (determined without regard to this section) shall be treated as attributable first to earnings described in subsection (c)(2), and then to earnings described in subsection (c)(3)."

(C) Paragraph (1) of section 959(c) is amended to read as follows:

"(1) first to the aggregate of—

"(A) earnings and profits attributable to amounts included in gross income under section 951(a)(1)(B) (or which would have been included except for subsection (a)(2) of this section), and

"(B) earnings and profits attributable to amounts included in gross income under section 951(a)(1)(C) (or which would have been included except for subsection (a)(3) of this section),

with any distribution being allocated between earnings and profits described in subparagraph (A) and earnings and profits described in subparagraph (B) proportionately on the basis of the respective amounts of such earnings and profits,".

(3) CONFORMING AMENDMENTS.—

(A) Subsections (a) and (b) of section 959 are each amended by striking "earnings and profits for a taxable year" and inserting "earnings and profits".

(B) Paragraph (2) of section 959(c) is amended to read as follows:

"(2) then to earnings and profits attributable to amounts included in gross income under section 951(a)(1)(A) (but reduced by amounts not included under subparagraph (B) or (C) of section 951(a)(1) because of the exclusions in paragraphs (2) and (3) of subsection (a) of this section), and"

(d) MODIFICATIONS TO PASSIVE FOREIGN INVESTMENT COMPANY RULES.—

(1) ADJUSTED BASIS USED IN CERTAIN DETERMINATIONS.—Subsection (a) of section 1296 is amended by striking the material following paragraph (2) and inserting the following:

"In the case of a controlled foreign corporation (or any other foreign corporation if such corporation so elects), the determination under paragraph (2) shall be based on the adjusted bases (as determined for purposes of computing earnings and profits) of its assets in lieu of their value. Such an election, once made, may be revoked only with the consent of the Secretary."

(2) TREATMENT OF CERTAIN SUBPART F INCLUSIONS.—Subsection (b) of section 1297 is amended by adding at the end thereof the following new paragraph:

"(9) TREATMENT OF CERTAIN SUBPART F INCLUSIONS.—The term 'distribution' includes any amount included in gross income under subparagraph (B) or (C) of section 951(a)(1)."

(3) TREATMENT OF CERTAIN DEALERS IN SECURITIES.—Subsection (b) of section 1296 is amended by adding at the end thereof the following new paragraph:

"(3) TREATMENT OF CERTAIN DEALERS IN SECURITIES.—In the case of any foreign corporation which is a controlled foreign corporation (as defined in section 957(a)), the term 'passive income' does not include any income derived in the active conduct of a securities business by such corporation if such corporation is registered as a securities broker or dealer under section 15(a) of the Securities

Exchange Act of 1934 or is registered as a Government securities broker or dealer under section 15C(a) of such Act. To the extent provided in regulations, such term shall not include any income derived in the active conduct of a securities business by a controlled foreign corporation which is not so registered. The preceding provisions of this paragraph shall only apply in the case of persons who are United States shareholders (as defined in section 951(b)) in the controlled foreign corporation."

(4) LEASING RULES.—Section 1297 is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) TREATMENT OF CERTAIN LEASED PROPERTY.—For purposes of this part—

"(1) IN GENERAL.—Any tangible personal property with respect to which a foreign corporation is the lessee under a lease with a term of at least 12 months shall be treated as an asset actually held by such corporation.

"(2) DETERMINATION OF ADJUSTED BASIS.—

"(A) IN GENERAL.—The adjusted basis of any asset to which paragraph (1) applies shall be the unamortized portion (as determined under regulations prescribed by the Secretary) of the present value of the payments under the lease for the use of such property.

"(B) PRESENT VALUE.—For purposes of subparagraph (A), the present value of payments described in subparagraph (A) shall be determined in the manner provided in regulations prescribed by the Secretary—

"(i) as of the beginning of the lease term, and

"(ii) except as provided in such regulations, by using a discount rate equal to the applicable Federal rate determined under section 1274(d)—

"(I) by substituting the lease term for the term of the debt instrument, and

"(II) without regard to paragraph (2) or (3) thereof.

"(3) EXCEPTIONS.—This subsection shall not apply in any case where—

"(A) the lessor is a related person (as defined in section 954(d)(3)) with respect to the foreign corporation, or

"(B) a principal purpose of leasing the property was to avoid the provisions of this section."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of controlled foreign corporations beginning after September 30, 1993, and to taxable years of United States shareholders in which or with which such taxable years of controlled foreign corporations end.

SEC. 2302. MODIFICATION TO TAXATION OF INVESTMENT IN UNITED STATES PROPERTY.

(a) GENERAL RULE.—Section 956 (relating to investment of earnings in United States property) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and

(2) by striking subsection (a) and inserting the following:

"(a) GENERAL RULE.—In the case of any controlled foreign corporation, the amount determined under this section with respect to any United States shareholder for any taxable year is the lesser of—

"(1) the excess (if any) of—

"(A) such shareholder's pro rata share of the average of the amounts of United States property held (directly or indirectly) by the controlled foreign corporation as of the close of each quarter of such taxable year, over

"(B) the aggregate amount previously included under section 951(a)(1)(B) (or which would have been included but for section 959(a)(2)) in the gross income of such shareholder (or of any other United States person from whom such shareholder acquired any portion of his interest in the controlled foreign corporation, but only to the extent attributable to the acquired interest and subject to such proof of the identity of such interest as the Secretary may require), or

"(2) such shareholder's pro rata share of the applicable earnings of such controlled foreign corporation.

The amount taken into account under paragraph (1) with respect to any property shall be its adjusted basis as determined for purposes of computing earnings and profits, reduced by any liability to which the property is subject.

"(b) ADJUSTMENTS FOR CERTAIN DISTRIBUTIONS; OTHER SPECIAL RULES.—

"(1) ADJUSTMENT FOR CERTAIN DISTRIBUTIONS OF PREVIOUSLY TAXED INCOME.—The amount determined under subsection (a)(1)(B) shall be reduced by the amount of any distribution excluded from gross income under section 959 and treated as a distribution out of earnings and profits described in section 959(c)(1)(A).

"(2) APPLICABLE EARNINGS.—For purposes of this section, the term 'applicable earnings' has the meaning given to such term by section 956A(c).

"(3) SPECIAL RULE WHERE CORPORATION CEASES TO BE CONTROLLED FOREIGN CORPORATION.—Rules similar to the rules of section 956A(e) shall apply for purposes of this section.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 951(a)(1) is amended to read as follows:

"(B) the amount determined under section 956 with respect to such shareholder for such year (but only to the extent not excluded from gross income under section 959(a)(2)); and"

(2) Subsection (a) of section 951 is amended by striking paragraph (4).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of controlled foreign corporations beginning after September 30, 1993, and to taxable years of United States shareholders in which or with which such taxable years of controlled foreign corporations end.

SEC. 2303. OTHER MODIFICATIONS TO SUBPART F.

(a) SAME COUNTRY EXCEPTION NOT TO APPLY TO CERTAIN DIVIDENDS.—

(1) IN GENERAL.—Paragraph (3) of section 954(c) (relating to certain income received from related persons) is amended by adding at the end thereof the following new subparagraph:

"(C) EXCEPTION FOR CERTAIN DIVIDENDS.—Subparagraph (A)(i) shall not apply to any dividend with respect to any stock which is attributable to earnings and profits of the distributing corporation accumulated during any period during which the person receiving such dividend did not hold such stock."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years of controlled foreign corporations beginning after September 30, 1993, and to taxable years of United States shareholders in which or with which such taxable years of controlled foreign corporations end.

(b) SIMPLIFICATION OF SECTION 960(b).—

(1) IN GENERAL.—Subsection (b) of section 960 is amended—

(A) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and

(B) by striking paragraphs (1) and (2) and inserting the following new paragraphs:

"(1) INCREASE IN SECTION 904 LIMITATION.—In the case of any taxpayer who—

"(A) either (i) chose to have the benefits of subpart A of this part for a taxable year beginning after September 30, 1993, in which he was required under section 951(a) to include any amount in his gross income, or (ii) did not pay or accrue for such taxable year any income, war profits, or excess profits taxes to any foreign country or to any possession of the United States,

"(B) chooses to have the benefits of subpart A of this part for any taxable year in which he receives 1 or more distributions or amounts which are excludable from gross income under section 959(a) and which are attributable to amounts included in his gross income for taxable years referred to in subparagraph (A), and

"(C) for the taxable year in which such distributions or amounts are received, pays, or is deemed to have paid, or accrues income, war profits, or excess profits taxes to a foreign country or to any possession of the United States with respect to such distributions or amounts,

the limitation under section 904 for the taxable year in which such distributions or amounts are received shall be increased by the lesser of the amount of such taxes paid, or deemed paid, or accrued with respect to such distributions or amounts or the amount in the excess limitation account as of the beginning of such taxable year.

"(2) EXCESS LIMITATION ACCOUNT.—

"(A) ESTABLISHMENT OF ACCOUNT.—Each taxpayer meeting the requirements of paragraph (1)(A) shall establish an excess limitation account. The opening balance of such account shall be zero.

"(B) INCREASES IN ACCOUNT.—For each taxable year beginning after September 30, 1993, the taxpayer shall increase the amount in the excess limitation account by the excess (if any) of—

"(i) the amount by which the limitation under section 904(a) for such taxable year was increased by reason of the total amount of the inclusions in gross income under section 951(a) for such taxable year, over

"(ii) the amount of any income, war profits, and excess profits taxes paid, or deemed paid, or accrued to any foreign country or possession of the United States which were allowable as a credit under section 901 for such taxable year and which would not have been allowable but for the inclusions in gross income described in clause (i).

Proper reductions in the amount added to the account under the preceding sentence for any taxable year shall be made for any increase in the credit allowable under section 901 for such taxable year by reason of a carryback if such increase would not have been allowable but for the inclusions in gross income described in clause (i).

"(C) DECREASES IN ACCOUNT.—For each taxable year beginning after September 30, 1993, for which the limitation under section 904 was increased under paragraph (1), the taxpayer shall reduce the amount in the excess limitation account by the amount of such increase.

"(3) DISTRIBUTIONS OF INCOME PREVIOUSLY TAXED IN YEARS BEGINNING BEFORE OCTOBER 1, 1993.—If the taxpayer receives a distribution or amount in a taxable year beginning after September 30, 1993, which is excluded from gross income under section 959(a) and is attributable to any amount included in gross income under section 951(a) for a taxable year beginning before October 1, 1993, the limitation under section 904 for the taxable year in which such amount or distribution is

received shall be increased by the amount determined under this subsection as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1993."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after September 30, 1993.

PART II—ALLOCATION OF RESEARCH AND EXPERIMENTAL EXPENDITURES; TREATMENT OF CERTAIN ROYALTIES

SEC. 2311. ALLOCATION OF RESEARCH AND EXPERIMENTAL EXPENDITURES.

(a) GENERAL RULE.—Paragraph (1) of section 864(f) (relating to allocation of research and experimental expenditures) is amended by striking subparagraphs (B) and (C) and inserting the following:

"(B) In the case of any qualified research and experimental expenditures (not allocated under subparagraph (A))—

"(i) to the extent such expenditures are attributable to activities conducted in the United States, 100 percent of such expenditures shall be allocated and apportioned to income from sources within the United States and deducted from such income in determining the amount of taxable income from sources within the United States, and

"(ii) to the extent such expenditures are attributable to activities conducted outside the United States, such expenditures shall be allocated and apportioned on the basis of gross sales."

(b) CONFORMING AMENDMENTS.—

(1) Subsection (f) of section 864 is amended by striking paragraph (5) and inserting the following:

"(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this subsection, including regulations relating to the determination of whether any expenses are attributable to activities conducted in the United States or outside the United States and regulations providing such adjustments to the provisions of this subsection as may be appropriate in the case of cost-sharing arrangements and contract research."

(2) Subparagraph (D) of section 864(f)(4) is amended by striking "subparagraph (C)" and inserting "subparagraph (B) or (C)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 2312. ROYALTIES TREATED AS PASSIVE INCOME FOR PURPOSES OF SEPARATE APPLICATION OF FOREIGN TAX CREDIT.

(a) GENERAL RULE.—Subparagraph (A) of section 904(d)(2) (defining passive income) is amended by redesignating clauses (iii) and (iv) as clauses (iv) and (v), respectively, and by inserting after clause (ii) the following new clause:

"(iii) INCLUSION OF ROYALTIES.—Except as provided in clause (iv), the term 'passive income' includes—

"(I) any royalty in respect of any intangible property described in section 936(h)(3)(B) (whether or not the requirements of paragraph (2)(A) or (3)(A)(ii) of section 954(c) are met), and

"(II) any other payment for the use of, or for the right or privilege to use, any intangible property so described and any payment made in consideration of a sale or other disposition of any such intangible property to the extent that such payment is contingent on the productivity, use, or disposition of such property."

(b) DETERMINATION OF WHETHER ROYALTIES ARE HIGH-TAXED INCOME.—Subparagraph (F) of section 904(d)(2) is amended by adding at the end thereof the following new sentence:

"For purposes of this subparagraph, all items of income described in clause (iii) of subparagraph (A) shall be treated as 1 item of income.".

(c) LOOK-THRU RULES NOT APPLICABLE TO CERTAIN ROYALTIES.—Paragraph (3) of section 904(d) is amended by adding at the end thereof the following new subparagraph:

"(J) LOOK-THRU RULES NOT APPLICABLE TO CERTAIN ROYALTIES.—For purposes of this paragraph, the term 'royalty' shall not include any royalty in respect of intangible property described in section 936(h)(3)(B)."

(d) CONFORMING AMENDMENTS.—

(1) Clause (ii) of section 904(d)(2)(A) is amended by striking "clause (iii)" and inserting "clause (iv)".

(2) Subclause (II) of section 904(d)(2)(C)(i) is amended by striking "subparagraph (A)(iii)" and inserting "subparagraph (A)(iv)".

(3) Subclause (I) of section 904(d)(3)(F)(ii) is amended by striking "paragraph (2)(A)(iii)" and inserting "paragraph (2)(A)(iv)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

PART III—OTHER PROVISIONS

SEC. 2321. REPEAL OF CERTAIN EXCEPTIONS FOR WORKING CAPITAL.

(a) PROVISIONS RELATING TO OIL AND GAS INCOME.—

(1) AMENDMENTS TO SECTION 907.—

(A) Paragraph (1) of section 907(c) is amended by adding at the end thereof the following new flush sentence:

"Such term does not include any dividend or interest income which is passive income (as defined in section 904(d)(2)(A)).".

(B) Paragraph (2) of section 907(c) is amended by adding at the end thereof the following new flush sentence:

"Such term does not include any dividend or interest income which is passive income (as defined in section 904(d)(2)(A)).".

(2) SEPARATE APPLICATION OF FOREIGN TAX CREDIT.—Clause (iii) of section 904(d)(2)(A) is amended by inserting "and" at the end of subclause (II), by striking ", and" at the end of subclause (III) and inserting a period, and by striking subclause (IV).

(3) TREATMENT UNDER SUBPART F.—

(A) Paragraph (1) of section 954(g) is amended by adding at the end thereof the following new flush sentence:

"Such term shall not include any foreign personal holding company income (as defined in subsection (c)).".

(B) Paragraph (8) of section 954(b) is amended by striking "(1),".

(b) TREATMENT OF SHIPPING INCOME.—Subsection (f) of section 954 is amended by adding at the end thereof the following new sentence: "Such term shall not include any dividend or interest income which is foreign personal holding company income (as defined in subsection (c)).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 2322. MODIFICATIONS OF ACCURACY-RELATED PENALTY.

(a) THRESHOLD REQUIREMENT.—Clause (ii) of section 6662(e)(1)(B) (relating to substantial valuation misstatement under chapter 1) is amended to read as follows:

"(ii) the net section 482 transfer price adjustment for the taxable year exceeds the lesser of $5,000,000 or 10 percent of the taxpayer's gross receipts."

(b) CERTAIN ADJUSTMENTS EXCLUDED IN DETERMINING THRESHOLD.—Subparagraph (B) of section 6662(e)(3) is amended to read as follows:

"(B) CERTAIN ADJUSTMENTS EXCLUDED IN DETERMINING THRESHOLD.—For purposes of determining whether the threshold requirements of paragraph (1)(B)(ii) are met, the following shall be excluded:

"(i) Any portion of the net increase in taxable income referred to in subparagraph (A) which is attributable to any redetermination of a price if—

"(I) it is established that the taxpayer determined such price in accordance with a specific pricing method set forth in the regulations prescribed under section 482 and that the taxpayer's use of such method was reasonable,

"(II) the taxpayer has documentation (which was in existence as of the time of filing the return) which sets forth the determination of such price in accordance with such a method and which establishes that the use of such method was reasonable, and

"(III) the taxpayer provides such documentation to the Secretary within 30 days of a request for such documentation.

"(ii) Any portion of the net increase in taxable income referred to in subparagraph (A) which is attributable to a redetermination of price where such price was not determined in accordance with such a specific pricing method if—

"(I) the taxpayer establishes that none of such pricing methods was likely to result in a price that would clearly reflect income, the taxpayer used another pricing method to determine such price, and such other pricing method was likely to result in a price that would clearly reflect income,

"(II) the taxpayer has documentation (which was in existence as of the time of filing the return) which sets forth the determination of such price in accordance with such other method and which establishes that the requirements of subclause (I) were satisfied, and

"(III) the taxpayer provides such documentation to the Secretary within 30 days of request for such documentation.

"(iii) Any portion of such net increase which is attributable to any transaction solely between foreign corporations unless, in the case of any such corporations, the treatment of such transaction affects the determination of income from sources within the United States or taxable income effectively connected with the conduct of a trade or business within the United States."

(b) COORDINATION WITH REASONABLE CAUSE EXCEPTION.—Paragraph (3) of section 6662(e) is amended by adding at the end thereof the following new subparagraph:

"(D) COORDINATION WITH REASONABLE CAUSE EXCEPTION.—For purposes of section 6664(c) the taxpayer shall not be treated as having reasonable cause for any portion of an underpayment attributable to a net section 482 transfer price adjustment unless such taxpayer meets the requirements of clause (i), (ii), or (iii) of subparagraph (B) with respect to such portion."

(c) CONFORMING AMENDMENT.—Clause (iii) of section 6662(h)(2)(A) is amended to read as follows:

"(iii) in paragraph (1)(B)(ii)—

"(I) '$20,000,000' for '$5,000,000', and

"(II) '20 percent' for '10 percent'."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 2323. DENIAL OF PORTFOLIO INTEREST EXEMPTION FOR CONTINGENT INTEREST.

(a) GENERAL RULE.—

(1) Subsection (h) of section 871 (relating to repeal of tax on interest of nonresident alien individuals received from certain portfolio debt investments) is amended by redesignat-

ing paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) PORTFOLIO INTEREST NOT TO INCLUDE CERTAIN CONTINGENT INTEREST.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'portfolio interest' shall not include—

"(i) any interest if the amount of such interest is determined by reference to—

"(I) any receipts, sales or other cash flow of the debtor or a related person,

"(II) any income or profits of the debtor or a related person,

"(III) any change in value of any property of the debtor or a related person, or

"(IV) any dividend, partnership distributions, or similar payments made by the debtor or a related person, or

"(ii) any other type of contingent interest that is identified by the Secretary by regulation, where a denial of the portfolio interest exemption is necessary or appropriate to prevent avoidance of Federal income tax.

"(B) RELATED PERSON.—The term 'related person' means any person who is related to the debtor within the meaning of section 267(b) or 707(b)(1), or who is a party to any arrangement undertaken for a purpose of avoiding the application of this paragraph.

"(C) EXCEPTIONS.—Subparagraph (A)(i) shall not apply to—

"(i) any amount of interest solely by reason of the fact that the timing of any interest or principal payment is subject to a contingency,

"(ii) any amount of interest solely by reason of the fact that the interest is paid with respect to nonrecourse or limited recourse indebtedness,

"(iii) any amount of interest all or substantially all of which is determined by reference to any other amount of interest not described in subparagraph (A) (or by reference to the principal amount of indebtedness on which such other interest is paid),

"(iv) any amount of interest solely by reason of the fact that the debtor or a related person enters into a hedging transaction to reduce the risk of interest rate or currency fluctuations with respect to such interest,

"(v) any amount of interest determined by reference to—

"(I) changes in the value of property (including stock) that is actively traded (within the meaning of section 1092(d)) other than property described in section 897(c)(1) or (g),

"(II) the yield on property described in subclause (I), other than a debt instrument that pays interest described in subparagraph (A), or stock or other property that represents a beneficial interest in the debtor or a related person, or

"(III) changes in any index of the value of, or yield on, property described in subclause (I), and

"(vi) any other type of interest identified by the Secretary by regulation.

"(D) EXCEPTION FOR CERTAIN EXISTING INDEBTEDNESS.—Subparagraph (A) shall not apply to any interest paid or accrued with respect to any indebtedness with a fixed term—

"(i) which was issued on or before April 7, 1993, or

"(ii) which was issued after such date pursuant to a written binding contract in effect on such date and at all times thereafter before such indebtedness was issued."

(2) Subsection (c) of section 881 is amended by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) PORTFOLIO INTEREST NOT TO INCLUDE CERTAIN CONTINGENT INTEREST.—For purposes of this subsection, the term 'portfolio interest' shall not include any interest which is treated as not being portfolio interest under the rules of section 871(h)(4)."

(b) CONFORMING AMENDMENTS.—

(1) Clause (ii) of section 871(h)(2)(B) is amended by striking "paragraph (4)" and inserting "paragraph (5)".

(2) Clause (ii) of section 881(c)(2)(B) is amended by striking "section 871(h)(4)" and inserting "section 871(h)(5)".

(3) Paragraph (6) of section 881(c) (as redesignated by subsection (a)) is amended by striking "section 871(h)(5)" each place it appears and inserting "section 871(h)(6)".

(4) Paragraph (9) of section 1441(c) is amended by striking "section 871(h)(3)" and inserting "section 871(h)(3) or (4)".

(5) Subsection (a) of section 1442 is amended—

(A) by striking "871(h)(3)" and inserting "871(h)(3) or (4)", and

(B) by striking "881(c)(3)" and inserting "881(c)(3) or (4)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interest received after December 31, 1993.

SEC. 2324. REGULATIONS DEALING WITH CONDUIT ARRANGEMENTS.

Section 7701 is amended by redesignating subsection (l) as subsection (m) and by inserting after subsection (k) the following new subsection:

"(l) REGULATIONS RELATING TO CONDUIT ARRANGEMENTS.—The Secretary may prescribe regulations recharacterizing any multiple-party financing transaction as a transaction directly among any 2 or more of such parties where the Secretary determines that such recharacterization is appropriate to prevent avoidance of any tax imposed by this title."

Subtitle D—Energy Tax Provision

SEC. 2401. IMPOSITION OF ENERGY TAX BASED ON BTU CONTENT.

(a) IN GENERAL.—Chapter 36 (relating to other excise taxes) is amended by redesignating subchapters A and B as subchapters B and C, respectively, and by inserting before subchapter B (as so redesignated) the following new subchapter:

"SUBCHAPTER A—ENERGY TAXES

"Part I. Imposition of taxes.

"Part II. Tax rates; applicable Btu factors.

"Part III. Tax-free sales; refunds of tax for certain sales and uses.

"Part IV. Use taxes; floor stocks taxes; administrative provisions; definitions and special rules.

"Part I—Imposition of Taxes

"Sec. 4441. Taxable refined petroleum products.

"Sec. 4442. Natural gas.

"Sec. 4443. Coal.

"Sec. 4444. Certain electricity.

"SEC. 4441. TAXABLE REFINED PETROLEUM PRODUCTS.

"(a) GENERAL RULE.—There is hereby imposed a tax on any taxable refined petroleum product—

"(1) removed from any United States refinery, or

"(2) entered into the United States for consumption, use, or warehousing.

"(b) RATE OF TAX.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) on each barrel of any taxable refined petroleum product shall be the sum of—

"(A) the base rate, and

"(B) the supplemental rate,

multiplied by the applicable Btu factor for such product.

"(2) ONLY BASE RATE APPLIES TO LIQUEFIED PETROLEUM GASES.—In the case of any liquefied petroleum gas, subparagraph (B) of paragraph (1) shall not apply.

"(c) LIABILITY FOR TAX.—

"(1) REMOVAL.—

"(A) IN GENERAL.—Except as provided in paragraph (2), the tax imposed by subsection (a)(1) shall be paid by the operator of the United States refinery.

"(B) PRODUCTS REMOVED FROM NATURAL GAS PROCESSING OR FRACTIONATION PLANTS.—In the case of a product removed from a natural gas processing or fractionation plant, the tax imposed by subsection (a)(1) shall be paid by the person receiving the product at the time of removal, and the operator of such plant shall collect such tax from such person.

"(2) IMPORTATION.—The tax imposed by subsection (a)(2) shall be paid by the person entering the product into the United States for consumption, use, or warehousing.

"(d) TAXABLE REFINED PETROLEUM PRODUCT.—For purposes of this subchapter, the term 'taxable refined petroleum product' means—

"(1) aviation gasoline,

"(2) motor gasoline (including blending components of gasoline),

"(3) kerosene-type jet fuel,

"(4) naphtha-type jet fuel,

"(5) distillate fuel oil,

"(6) kerosene,

"(7) residual fuel oil,

"(8) petroleum coke,

"(9) butane,

"(10) propane, and

"(11) to the extent provided in regulations prescribed by the Secretary, any other petroleum product.

"(e) CREDIT OR REFUND WHERE PRIOR TAX IMPOSED.—If tax was imposed under this section with respect to any taxable refined petroleum product and such product is received at any United States refinery other than for use as a fuel, credit or refund (without interest) of such tax shall be allowed or made to the operator of such refinery.

"(f) OTHER DEFINITIONS.—For purposes of this subchapter—

"(1) UNITED STATES REFINERY.—The term 'United States refinery' means any facility in the United States—

"(A) at which crude oil or any petroleum product is refined, or

"(B) which is a natural gas processing or fractionation plant.

"(2) BARREL.—The term 'barrel' means 42 United States gallons measured at 60 degrees Fahrenheit. In the case of a taxable refined petroleum product which is not a liquid at such temperature, the term 'barrel' means a volume determined under regulations prescribed by the Secretary on the basis of an equivalence to a barrel of oil.

"SEC. 4442. NATURAL GAS.

"(a) GENERAL RULE.—There is hereby imposed a tax on natural gas removed in the United States from any pipeline (not part of a local distribution system)—

"(1) for transmission to ultimate users through a local distribution system, or

"(2) for use prior to entry into a local distribution system.

"(b) RATE OF TAX.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) on each MCF of natural gas shall be the base rate multiplied by the applicable Btu factor.

"(2) AUTHORITY TO USE ACTUAL BTU CONTENT.—To the extent provided in regulations

prescribed by the Secretary, the amount of the tax imposed by subsection (a) shall be the base rate for each million Btu's of the actual Btu content of the natural gas.

"(c) LIABILITY FOR, AND COLLECTION OF, TAX.—

"(1) LIABILITY FOR TAX.—

"(A) The tax imposed by subsection (a)(1) shall be paid by the operator of the local distribution system.

"(B) The tax imposed by subsection (a)(2) shall be paid by the person receiving the natural gas at the time of removal.

"(2) COLLECTION OF TAX.—The operator of the pipeline shall collect the tax imposed by subsection (a) from the person liable for payment of such tax.

"(d) DEFINITIONS.—For purposes of this subchapter—

"(1) NATURAL GAS.—The term 'natural gas' includes synthetic natural gas produced from coal or from natural gas liquids.

"(2) MCF.—The term 'MCF' means 1,000 cubic feet of natural gas measured at a pressure of 14.73 pounds per square inch (absolute) and a temperature of 60 degrees Fahrenheit.

"(e) TAX ON ENTRY INTO LOCAL DISTRIBUTION SYSTEM WHERE NO PRIOR TAX.—

"(1) IN GENERAL.—There is hereby imposed a tax (computed as provided in subsection (b)) on the entry of natural gas into any local distribution system in the United States if no tax has been imposed by subsection (a) before such entry.

"(2) LIABILITY FOR TAX.—The tax imposed by this subsection shall be paid by the operator of the local distribution system.

"SEC. 4443. COAL.

"(a) GENERAL RULE.—There is hereby imposed a tax on coal received at any facility in the United States for use as a fuel at such facility.

"(b) RATE OF TAX.—The amount of the tax imposed by subsection (a) shall be the base rate for each million Btu's of the actual Btu content of the coal. For purposes of the preceding sentence, the actual Btu content of any coal shall be determined under procedures prescribed by the Secretary.

"(c) LIABILITY FOR TAX.—

"(1) IN GENERAL.—Except as provided in this subsection, the tax imposed by subsection (a) shall be paid by the operator of the facility.

"(2) COAL RECEIVED AT SMALL FACILITIES.—If the ultimate vendor of coal received at a facility receives a certificate from the operator of such facility (or otherwise determines) that such facility received less than 1,000 tons of coal during the preceding calendar year, the tax imposed by subsection (a) shall be paid by the ultimate vendor.

"(3) RESIDENTIAL PROPERTY.—In the case of coal received at a residential property (as defined in section 4448(b)(1)(B)), the tax imposed by subsection (a) shall be paid by the ultimate vendor.

"(d) EXCEPTION FOR COAL USED TO PRODUCE SYNTHETIC NATURAL GAS.—The tax imposed by this section shall not apply to coal received for use in the manufacture or production of synthetic natural gas or any other synthetic fuel specified in regulations prescribed by the Secretary.

"SEC. 4444. CERTAIN ELECTRICITY.

"(a) GENERAL RULE.—There is hereby imposed a tax on—

"(1) the entry of any electricity generated at a hydropower or nuclear power facility in the United States—

"(A) into a transmission system, or

"(B) into a distribution system if not previously entered into a transmission system,

"(2) the use of electricity generated in the United States which was not subject to tax under paragraph (1), and

"(3) the transmission into the United States of electricity which is generated outside the United States.

"(b) RATES OF TAX.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amount of the tax imposed by subsection (a) on each kilowatt hour of electricity shall be the base rate multiplied by the applicable Btu factor for electricity.

"(2) IMPORTED ELECTRICITY.—If the person liable for the tax imposed by subsection (a)(3) establishes to the satisfaction of the Secretary that—

"(A) the electricity was not generated by hydropower or nuclear power, and

"(B) the average Btu content per kilowatt hour of the fuel used to generate the electricity was less than the applicable per unit Btu amount otherwise applicable,

such lesser amount shall be used for purposes of paragraph (1).

"(c) LIABILITY FOR TAX.—

"(1) ENTRY OR USE.—The taxes imposed by paragraphs (1) and (2) of subsection (a) shall be paid by the operator of the generating facility.

"(2) IMPORTATION.—The tax imposed by subsection (a)(3) shall be paid by the contract purchaser of the electricity as of the time of transmission into the United States.

"(d) EXCEPTIONS.—

"(1) CERTAIN IMPORTED ELECTRICITY.—The tax imposed by subsection (a)(3) shall not apply to electricity transmitted into the United States if the person otherwise liable for such tax establishes to the satisfaction of the Secretary that such electricity was not generated using any fossil fuel, hydropower, or nuclear power.

"(2) ELECTRICITY GENERATED FROM PUMPED STORAGE, ETC.—The tax imposed by this section shall not apply to electricity generated in the United States from any hydropower source created by electricity.

"(3) USE TAX EXCEPTION.—The Secretary may provide by regulations that the tax imposed by subsection (a)(2) shall not apply in cases where the Secretary determines that such an exception is warranted, after taking into account the protection of revenues to the United States from this subchapter and the ease of administration for both taxpayers and the Secretary.

"(e) CROSS REFERENCE.—

"For special rules relating to independent power producers, see section 4454(b).

"Part II—Tax Rates; Applicable Btu Factors

"Sec. 4446. Tax rates.

"Sec. 4447. Applicable Btu factors.

"SEC. 4446. TAX RATES.

"(a) BASE RATE.—For purposes of this subchapter—

"(1) PHASE-IN RATES.—Effective during—

"(A) the 1-year period beginning on July 1, 1994, the base rate is 8.6 cents, and

"(B) the 1-year period beginning on July 1, 1995, the base rate is 17.2 cents.

"(2) PERMANENT UNINDEXED RATE.—Effective on and after July 1, 1996, the base rate is 25.7 cents.

"(3) INDEXED RATES.—

"(A) IN GENERAL.—Effective during any calendar year after 1997, the base rate under paragraph (2) shall be increased by an amount equal to—

"(i) 25.7 cents, multiplied by

"(ii) the inflation adjustment for such calendar year.

"(B) INFLATION ADJUSTMENT.—For purposes of subparagraph (A), the inflation adjustment for any calendar year is the percentage (if any) by which—

"(i) the GDP deflator for the preceding calendar year, exceeds

"(ii) the GDP deflator for 1996.

"(C) GDP DEFLATOR FOR CALENDAR YEAR.—For purposes of subparagraph (B), the GDP deflator for any calendar year is the GDP deflator for the second calendar quarter of such year.

"(D) GDP DEFLATOR.—For purposes of subparagraph (C), the term 'GDP deflator' means the most recent revision of the implicit price deflator for the gross domestic product as computed and published by the Department of Commerce before November 15 of the calendar year referred to in subparagraph (B)(i).

"(b) SUPPLEMENTAL RATE.—For purposes of this subchapter—

"(1) PHASE-IN RATES.—Effective during—

"(A) the 1-year period beginning on July 1, 1994, the supplemental rate is 11.4 cents, and

"(B) the 1-year period beginning on July 1, 1995, the supplemental rate is 22.8 cents.

"(2) PERMANENT UNINDEXED RATE.—Effective on and after July 1, 1996, the supplemental rate is 34.2 cents.

"(3) INDEXED RATES.—Effective during any calendar year after 1997, the supplemental rate under paragraph (2) shall be increased by an amount equal to—

"(A) 34.2 cents, multiplied by

"(B) the inflation adjustment for such calendar year determined under subsection (a)(3)(B).

"(c) ROUNDING.—If any increase determined under subsection (a)(3) or (b)(3) is not a multiple of 0.1 cent, such increase shall be rounded to the nearest multiple of 0.1 cent.

"SEC. 4447. APPLICABLE BTU FACTORS.

"(a) IN GENERAL.—For purposes of this subchapter, the applicable Btu factor with respect to any petroleum product, natural gas, or electricity is—

"(1) the applicable per unit Btu amount determined under subsection (b), divided by

"(2) 1,000,000.

"(b) APPLICABLE PER UNIT BTU AMOUNT.—For purposes of this subchapter—

"(1) PETROLEUM PRODUCTS.—

"(A) IN GENERAL.—

"In the case of:	**The applicable per unit Btu amount is the following amount per barrel:**
Aviation gasoline	5,048,000
Motor gasoline (including blending components of gasoline)	5,267,000
Kerosene-type jet fuel	5,670,000
Naphtha-type jet fuel	5,355,000
Distillate fuel oil	5,852,000
Kerosene	5,670,000
Residual fuel oil	6,486,000
Petroleum coke	6,024,000
Butane	4,326,000
Propane	3,836,000.

"(B) MIXTURES.—Any mixture which includes a taxable refined petroleum product shall be treated as specified in subparagraph (A) and—

"(i) if more than 1 such product is included in such mixture, the applicable per unit Btu amount shall be the weighted average of the applicable per unit Btu amounts for the taxable refined petroleum products included in the mixture, and

"(ii) if any substance is included in the mixture which is not a taxable refined petroleum product, the Btu content of such product shall be disregarded for purposes of sub-

section (c) and its volume shall be disregarded.

"(2) NATURAL GAS.—In the case of natural gas, the applicable per unit Btu amount is 1,031,000 per MCF.

"(3) ELECTRICITY.—In the case of electricity, the applicable Btu amount is 10,335 per kilowatt hour.

"(c) ADJUSTMENTS TO PER UNIT BTU AMOUNTS.—

"(1) PETROLEUM AND NATURAL GAS.—

"(A) IN GENERAL.—If the Secretary determines that the applicable per unit Btu amount then in effect for any petroleum product or natural gas does not properly reflect the Btu content per unit for such substance (in the circumstances where taxable events under this subchapter occur with respect to such substance), the Secretary may modify the applicable per unit Btu amount for such substance. Any such modification shall be effective as of the date prescribed by the Secretary.

"(B) MODIFICATION OF LIST OF PETROLEUM PRODUCTS.—The Secretary may modify, as appropriate, the list of petroleum products for which applicable per unit Btu amounts are separately determined.

"(2) ELECTRICITY.—If the Secretary determines that the applicable per unit Btu amount then in effect for electricity differs by more than 1 percent from the national average Btu content per kilowatt hour of fossil fuel used to generate electricity, such national average shall be the applicable per unit Btu amount for such electricity effective as of the date prescribed by the Secretary.

"Part III—Tax-Free Exports; Refunds of Tax for Certain Sales and Uses

"Sec. 4448. Tax-free exports; refunds for certain sales and uses.

"SEC. 4448. TAX-FREE EXPORTS; REFUNDS FOR CERTAIN SALES AND USES.

"(a) EXPORTS.—No tax shall be imposed under part I on any taxable energy source which is exported by the person otherwise liable for such tax.

"(b) REFUNDS TO ULTIMATE VENDORS IN CERTAIN CASES.—Under regulations prescribed by the Secretary—

"(1) HOME HEATING OIL.—

"(A) IN GENERAL.—If tax was imposed under this subchapter with respect to any No. 2 distillate fuel oil and such fuel oil is delivered to any residential property for use in heating such property, the Secretary shall pay to the ultimate vendor of such fuel oil an amount equal to the product of the supplemental rate and the applicable Btu factor per barrel of the fuel oil so delivered.

"(B) RESIDENTIAL PROPERTY.—For purposes of this paragraph, the term 'residential property' means any building which consists primarily of 1 or more dwelling units used for residential purposes other than on a transient basis.

"(2) INTERNATIONAL COMMERCIAL TRANSPORTATION.—

"(A) IN GENERAL.—If tax was imposed under this subchapter with respect to any taxable refined petroleum product and such product is sold for use by the purchaser for international commercial transportation, the Secretary shall pay to the ultimate vendor of such product an amount equal to the tax so imposed.

"(B) INTERNATIONAL COMMERCIAL TRANSPORTATION.—For purposes of subparagraph (A), the term 'international commercial transportation' means transportation in the trade or business of transporting persons or property for hire—

"(i) by any vessel actually engaged in foreign trade or trade between the United States and any of its possessions, or

"(ii) by aircraft from a point within the United States to a point outside the United States and outside the 225-mile zone (as defined in section 4262(c)(2)).

"(3) VENDOR REQUIREMENTS.—A payment may be made under this subsection to a vendor only if the vendor establishes that such vendor—

"(A) has not included the tax in the price of the product, and

"(B) has not collected the tax from the purchaser of such product.

"(c) REFUNDS TO ULTIMATE USERS IN CERTAIN CASES.—Under regulations prescribed by the Secretary—

"(1) IN GENERAL.—If tax was imposed under this subchapter with respect to any taxable energy source and such source is used by any person in an exempt use, the Secretary shall pay to such person an amount equal to the tax so imposed.

"(2) EXEMPT USE.—For purposes of this subsection, the term 'exempt use' means—

"(A) export,

"(B) in the case of any taxable refined petroleum product or natural gas—

"(i) any qualified nonfuel use, or

"(ii) use (other than as a fuel) in the manufacture or production of methanol or ether derivatives of ethanol or methanol,

"(C) the use of natural gas or coal in enhanced heavy oil recovery, and

"(D) the use of any taxable refined petroleum product in the production of synthetic natural gas or other synthetic fuels identified in regulations prescribed by the Secretary.

"(3) SPECIAL RULE FOR EXPORTED ELECTRICITY.—For purposes of this subsection, in the case of electricity—

"(A) this subsection shall apply to all electricity exported from the United States which was generated using hydropower, nuclear power, or any fossil fuel, and

"(B) the rate of tax taken into account under paragraph (1) shall be the rate applicable under section 4444(b)(1).

"(4) QUALIFIED NONFUEL USE.—For purposes of this subsection, the term 'qualified nonfuel use' means any use other than use—

"(A) as a fuel, or

"(B) in the manufacture or production of any fuel.

"(5) ENHANCED HEAVY OIL RECOVERY.—For purposes of this subsection, natural gas or coal shall be treated as used in enhanced heavy oil recovery if such gas or coal is used in a qualified enhanced oil recovery project (as defined in section 43(c)(2) without regard to subparagraph (A)(iii) thereof) for the recovery of oil having a weighted average gravity of 20 degrees API or less (corrected to 60 degrees Fahrenheit). In the case of natural gas or coal which is used to produce both steam and electricity subject to tax under section 4444(a)(1), only the portion of the natural gas or coal not allocable to the production of such electricity (determined on the basis of the proportionate Btu content of the electricity and the steam) shall be treated as used in such project.

"(d) METHANE RECOVERED FROM BIOMASS OR COAL MINING.—

"(1) IN GENERAL.—If—

"(A) methane is recovered from biomass or in conjunction with room and pillar or long wall coal mining operations, and

"(B) such methane is entered into any pipeline the removal from which would subject such methane to the tax imposed by section 4442(a),

the Secretary shall pay to the person so entering such methane an amount equal to the amount of tax which would be imposed under section 4442(a) on such methane if such entry were a taxable event under such section.

"(2) RECAPTURE OF CREDIT FOR METHANE RECOVERED FROM COAL MINING IN CERTAIN CASES.—

"(A) IN GENERAL.—If—

"(i) the Secretary has made a payment under paragraph (1) with respect to methane recovered from coal mining operations before the date the actual mining commences, and

"(ii) the actual mining commences more than 10 years after the date such methane was first recovered,

then the tax under this chapter of the person to whom such payments were made for the taxable year in which such 10th year ends shall be increased by the aggregate of such payments to such person plus interest at the underpayment rate under section 6621 for the periods beginning on the dates such payments were made.

"(B) NO FURTHER PAYMENTS UNTIL MINING COMMENCES.—If there is an increase in tax under subparagraph (A) with respect to any payments for methane recovered from any site, no further payments shall be made under this subsection with respect to methane recovered from such site until actual mining commences at such site.

"(C) NO CREDITS AGAINST TAX, ETC.—Any increase in tax under this paragraph shall not be taken into account in determining the amount of any credit allowable under part IV of subchapter A of chapter 1 or in determining the amount of the tax imposed by section 55.

"(e) PRODUCTION OF COKE FOR STEEL.—If tax was imposed under this subchapter with respect to any coal and such coal is used by any person to produce coke for use in the reduction of iron-bearing ores in the iron and steel process, the Secretary shall pay to such person an amount equal to the base rate for each million Btu's of the actual Btu content of the coke produced.

"(f) PRODUCTION OF CALCINED COKE.—If tax was imposed under this subchapter with respect to any petroleum product and such product is used by any person to produce calcined coke, the Secretary shall pay to such person an amount equal to the base rate for each million Btu's of the actual Btu content of the coke produced.

"Part IV—Use Taxes; Floor Stocks Taxes; Administrative Provisions; Definitions and Special Rules

"Sec. 4451. Tax on certain uses.

"Sec. 4452. Floor stocks taxes.

"Sec. 4453. Administrative provisions.

"Sec. 4454. Definitions and special rules.

"SEC. 4451. TAX ON CERTAIN USES.

"(a) GENERAL RULE.—There is hereby imposed a tax on the use of any fossil fuel (other than coal)—

"(1) in the manufacture or production of a fuel other than at a United States refinery, or

"(2) as a fuel.

The preceding sentence shall not apply if tax was imposed under this subchapter before such use and such tax is not credited or refunded.

"(b) RATE OF TAX.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the amount of tax imposed by subsection (a) shall be the amount which would be imposed under the appropriate section of part I if such use were a taxable event under such section.

"(2) CRUDE OIL AND OTHER PRODUCTS NOT TAXED ON REMOVAL OR IMPORTATION.—The amount of the tax imposed by subsection (a) on crude oil or other product not subject to tax under part I shall be the base rate (increased by the supplemental rate in the case of crude oil or any petroleum product other than any liquefied petroleum gas, isopentane, and natural gasoline) for each million Btu's of the Btu content of such oil or product.

"(3) AUTHORITY TO PRESCRIBE APPLICABLE PER UNIT BTU AMOUNTS.—In the case of crude oil or any other product for which an applicable per unit Btu amount is not prescribed for purposes of part I, the Secretary may prescribe such an amount, and, if so prescribed, such amount shall apply for purposes of paragraph (2).

"(c) LIABILITY FOR TAX.—The taxes imposed by subsection (a) shall be paid by the person using the fuel.

"(d) EXCEPTIONS.—

"(1) IN GENERAL.—The tax imposed by this section shall not apply to—

"(A) any use to which paragraph (1) or (2) of section 4448(b) applies,

"(B) any exempt use (as defined in section 4448(c)),

"(C) any methane for which a payment may be made under section 4448(d),

"(D) any use to which section 4448(e) applies, and

"(E) any use to which section 4448(f) applies.

"(2) USE ON PRODUCTION PREMISES.—

"(A) IN GENERAL.—The tax imposed by this section shall not apply to any use of crude oil or natural gas on the premises where produced for producing crude oil or natural gas.

"(B) CRUDE OIL USED ON PREMISES.—For purposes of subparagraph (A), crude oil shall be treated as used on the premises where produced if it is used before entry at the lease automatic custody transfer point (or its manual equivalent).

"(C) NATURAL GAS USED ON PREMISES.—For purposes of subparagraph (A), natural gas shall be treated as used on the premises where produced if it is used before entry into a natural gas processing or fractionation plant or into an interstate or intrastate transmission pipeline.

"(3) CRUDE OIL USED AT REFINERY, ETC.—The tax imposed by this section shall not apply to—

"(A) any use of crude oil or any petroleum product (other than natural gas) at a United States refinery, or

"(B) any use of natural gas at a natural gas processing or fractionation plant.

"(4) OTHERWISE TAXABLE EVENT OCCURRING BEFORE EFFECTIVE DATE.—The tax imposed by this section shall not apply to any use if no tax would be imposed by this section on such use were this subchapter in effect for all periods before July 1, 1994.

"(e) TREATMENT OF NATURAL GAS LOST IN TRANSMISSION.—For purposes of this section, natural gas lost in transmission by pipeline shall be treated as used as a fuel for such pipeline.

"SEC. 4452. FLOOR STOCKS TAXES.

"(a) IMPOSITION OF TAX.—There is hereby imposed a tax on any taxable fuel which on any tax-increase date is held in the United States by any person.

"(b) AMOUNT OF TAX.—The amount of the tax imposed by subsection (a) on any taxable fuel with respect to any tax-increase date shall be equal to the excess (if any) of—

"(1) the amount of tax which would be imposed under part I if a taxable event with respect to such fuel had occurred on such date, over

"(2) the prior tax (if any) imposed by this subchapter on such fuel.

"(c) LIABILITY FOR TAX.—The person holding the taxable fuel on any tax-increase date shall pay the tax imposed by subsection (a).

"(d) EXCEPTIONS.—The tax imposed by subsection (a) shall not apply to—

"(1) any taxable refined petroleum product—

"(A) held (other than for use as a fuel) within a United States refinery, or

"(B) held for use by the holder in international commercial transportation (as defined in section 4448(b)(2)),

"(2) any natural gas which has not been removed as described in section 4442(a) and which is not held in any local distribution system, and

"(3) any coal held other than at the facility where it is to be used as a fuel.

"(e) CREDIT AGAINST TAX.—

"(1) IN GENERAL.—Each person shall be allowed $200 as a credit against the taxes imposed by subsection (a) with respect to each tax-increase date. Such credit shall not exceed the amount of taxes imposed by subsection (a) for which such person is liable with respect to such date.

"(2) CONTROLLED GROUPS.—For purposes of paragraph (1)—

"(A) all persons who are treated as a single employer under subsection (a) or (b) of section 52 shall be treated as 1 taxpayer, and

"(B) the $200 amount specified in paragraph (1) shall be apportioned among such persons under regulations prescribed by the Secretary.

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

"(1) TAXABLE FUEL.—The term 'taxable fuel' means any taxable refined petroleum product, natural gas, or coal.

"(2) TAX-INCREASE DATE.—The term 'tax-increase date' means—

"(A) July 1, 1994,

"(B) July 1, 1995,

"(C) July 1, 1996, and

"(D) January 1 of each calendar year for which there is an increase in a rate of tax by reason of subsection (a)(3) or (b)(3) of section 4446 (relating to inflation adjustment).

"(f) DUE DATE.—The tax imposed by subsection (a) shall be paid on or before the close of the 7-month period beginning on the tax-increase date.

"SEC. 4453. ADMINISTRATIVE PROVISIONS.

"(a) RULES RELATING TO REFUNDS FOR EXEMPT AND OTHER USES.—

"(1) PERIOD FOR FILING CLAIMS.—No payment shall be made under section 4448 unless, within 2 years after the date that the event occurs giving rise to a right to such payment, a claim therefor is filed by the person entitled to such payment.

"(2) DENIAL OF INTEREST.—Except as provided in paragraph (3), no interest shall be paid on claims for payments under section 4448.

"(3) MINIMUM AMOUNTS AND PERIODS.—In the case of persons who meet such requirements as the Secretary may prescribe, if—

"(A) a claim for payment is filed under section 4448 for any period for which more than $1,000 is payable and which is not less than 1 week, and

"(B) the Secretary has not paid such claim within 20 days after the date the claim was filed,

such claim shall be paid with interest from such date using the overpayment rate and method under section 6621.

"(3) APPLICABLE LAWS.—

"(A) IN GENERAL.—All provisions of law, including penalties, applicable in respect of the tax imposed by this subchapter shall, insofar as applicable and not inconsistent with this subsection and section 4448, apply in respect of payments provided for in section 4448 to the same extent as if such payments constituted refunds of overpayments of the tax so imposed.

"(B) EXAMINATION OF BOOKS AND WITNESSES.—For the purpose of ascertaining the correctness of any claim made under section 4448, or the correctness of any payment made in respect of such claim, the Secretary shall have the authority granted by paragraphs (1), (2), and (3) of section 7602(a) (relating to examination of books and witnesses) as if the claimant were the person liable for tax.

"(b) PAYMENT OF TAX TO PERSONS REQUIRED TO COLLECT TAX.—

"(1) IN GENERAL.—In the case of the taxes imposed by sections 4441 and 4442 which are required to be collected by another person, the person liable for such tax shall remit the tax to such other person within 30 days after the date of the taxable event.

"(2) RELIEF FROM PENALTY FOR CERTAIN FAILURES TO COLLECT TAX.—No penalty shall be imposed under this title on the failure of any person to collect the taxes referred to in paragraph (1) if—

"(A) during the 30-day period referred to in paragraph (1), such person exercises due diligence in attempting to collect such tax, and

"(B) such person notifies the Secretary, within 15 days after such 30th day, of the failure to collect such tax and provides such other information as the Secretary may require.

"(c) INFORMATION REPORTING.—The Secretary may require—

"(1) information reporting by each remitter of tax imposed by this subchapter, and

"(2) information reporting by, and registration of, such other persons as the Secretary deems necessary to carry out this subchapter.

"SEC. 4454. DEFINITIONS AND SPECIAL RULES.

"(a) DEFINITIONS.—For purposes of this subchapter—

"(1) TAXABLE ENERGY SOURCE.—The term 'taxable energy source' means any taxable refined petroleum product, natural gas, coal, and electricity (within the meaning of such terms under part I).

"(2) FOSSIL FUEL.—The term 'fossil fuel' means crude oil, any petroleum product, natural gas, any natural gas product, and coal.

"(3) CRUDE OIL.—The term 'crude oil' includes condensates from crude oil.

"(4) COAL.—The term 'coal' includes lignite.

"(5) UNITED STATES.—The term 'United States' means the 50 States, the District of Columbia, and the foreign trade zones of the United States.

"(6) PERSON.—The term 'person' includes the United States, any State or political subdivision thereof, the District of Columbia, and any agency or instrumentality of any of the foregoing.

"(b) SPECIAL RULES FOR INDEPENDENT POWER PRODUCERS SELLING ELECTRICITY UNDER FIXED-PRICE CONTRACTS.—

"(1) ELECTRICITY GENERATED USING FOSSIL FUELS.—If electricity is generated by an independent power producer using any fossil fuel and is sold pursuant to a qualified fixed-price contract—

"(A) such use of fossil fuel shall be treated for purposes of this subchapter as an exempt use (as defined in section 4448), and

"(B) a tax is hereby imposed on the contract purchaser of such electricity equal to the amount payable under subparagraph (A) on the fossil fuel used to generate such electricity.

"(2) OTHER ELECTRICITY.—In the case of electricity generated by an independent power producer which is subject to the tax imposed by section 4444 and which is sold pursuant to a qualified fixed-price contract, the tax imposed by section 4444(a)(1) shall be paid by the contract purchaser of the electricity.

"(3) INDEPENDENT POWER PRODUCER.—For purposes of this subsection, electricity shall be treated as generated by an independent power producer if such electricity is generated—

"(A) at a facility—

"(i) which is a qualifying small power production facility or a qualifying cogeneration facility (as such terms are defined under section 3(17) of the Federal Power Act on the date of the enactment of this section), and

"(ii) which is exempt from the laws referred to in section 210(e) of the Public Utility Regulatory Policies Act of 1978 (as so in effect), or

"(B) by an exempt wholesale generator (as defined in section 32(a)(1) of the Public Utility Holding Company Act of 1935).

"(4) QUALIFIED FIXED-PRICE CONTRACT.—For purposes of this subsection, the term 'qualified fixed-price contract' means any contract entered into before the date of the enactment of this section except to the extent the contract purchaser of the electricity establishes to the satisfaction of the Secretary that the price paid for electricity is determined under a formula which directly or indirectly includes the taxes imposed by this subchapter.

"(5) FUEL USED TO PRODUCE ELECTRICITY AND STEAM.—In the case of a facility which produces both steam and electricity, only the portion of the fuel allocable to the production of electricity (determined on the basis of the proportionate Btu content of the electricity and steam) shall be treated as an exempt use under paragraph (1)(A).

"(c) FRACTIONAL PART OF UNIT.—In the case of a fraction of a unit, the tax imposed by this subchapter shall be the same fraction of the amount of such tax imposed on a whole unit.

"(d) SPECIAL RULES RELATING TO PUERTO RICO AND THE VIRGIN ISLANDS.—

"(1) LIKE TAX ON ARTICLES BROUGHT INTO THE UNITED STATES FROM PUERTO RICO OR THE VIRGIN ISLANDS.—For purposes of this subchapter, articles brought into the United States from the Commonwealth of Puerto Rico or the Virgin Islands shall be treated as entered into the United States at the time brought into the United States.

"(2) DISPOSITION OF REVENUES.—The provisions of subsections (a)(3) and (b)(3) of section 7652 shall not apply to any tax imposed by this subchapter.

"(e) NO EXEMPTION FROM TAX.—No person shall be exempt from any tax imposed by this subchapter except to the extent provided in this subchapter or in any provision of law enacted after the date of the enactment of this subchapter which grants a specific exemption, by reference to this subchapter, from a tax imposed by this subchapter.

"(f) NORMALIZATION OF TAX.—For purposes of section 168, a taxpayer shall not be treated as using a normalization method of accounting unless—

"(1) not later than the 1st ratemaking order taking effect after the date of the enactment of this subchapter, the ratemaking body permits the full amount of—

"(A) the taxes imposed by this subchapter on natural gas,

"(B) the taxes imposed by section 4444 and subsection (b) of this section on any electricity, and

"(C) the taxes imposed by this subchapter on fuels used to generate electricity,

to be added to the otherwise permitted rate for the furnishing or sale of the natural gas or electricity, and

"(2) any amount of such tax which was not fully reflected as provided in paragraph (1) by reason of being imposed before the 1st ratemaking order taking effect after the date of the enactment of this subchapter is added to the base to which the taxpayer's rate of return for ratemaking purposes is applied in such 1st order.

In determining for purposes of the preceding sentence whether a ratemaking order is the 1st ratemaking order referred to therein, there shall be taken into account only ratemaking orders from proceedings in which the recovery of tax expense is an issue that may be considered."

(b) TECHNICAL AMENDMENTS.—

(1)(A) Subsection (a) of section 6675 is amended by inserting "section 4448 (relating to refunds of Btu tax for certain sales and uses)," before "section 6420".

(B) Subsection (b) of section 6675 is amended by inserting "4448," before "6420".

(2) Section 6206 is amended—

(A) by inserting "(a) FUEL TAXES.—" before "Any portion of", and

(B) by adding at the end thereof the following new subsection:

"(b) BTU TAXES.—Any portion of a payment made under section 4448 which constitutes an excessive amount (as defined in section 6675(b)), and any civil penalty provided by section 6675, may be assessed and collected as if it were a tax imposed by subchapter A of chapter 36 and as if the person who made the claim were liable for such tax. The period for assessing any such portion, and for assessing any such penalty, shall be 3 years from the last day prescribed for filing a claim under section 4448."

(3)(A) The section heading for section 6206 is amended by striking "UNDER SECTIONS 6420, 6421, and 6427" and inserting "FOR CERTAIN FUELS TAX REFUNDS AND ENERGY TAX REFUNDS".

(B) The item relating to section 6206 in the table of sections for subchapter A of chapter 63 is amended by striking "under sections 6420, 6421, and 6427" and inserting "for certain fuels tax refunds and energy tax refunds".

(4) Subparagraph (B) of section 6724(d)(1) is amended—

(A) by striking "or" at the end of clause (xi),

(B) by striking the period at the end of the clause (xii) relating to section 4101(d) and inserting a comma,

(C) by redesignating the clause (xii) relating to section 338(h)(10)(C) as clause (xiii) and by striking the period at the end thereof and inserting ", or", and

(D) by inserting after clause (xiii), as so redesignated, the following new clause:

"(xiv) section 4453(c) (relating to information reporting with respect to energy taxes)."

(5) Sections 7210, section 7603, subsections (b) and (c)(2) of section 7604, section 7605, and 7610(c) are each amended by inserting "4453(a)(3)(B)," before "6420(e)(2)" each place it appears.

(6) Subparagraph (A) of section 9505(c)(3) is amended by striking "subchapter A" and inserting "subchapter B".

(7) The table of subchapters for chapter 36 is amended by striking the items relating to subchapters A and B and inserting the following:

"Subchapter A. Energy taxes.

"Subchapter B. Harbor maintenance tax.

"Subchapter C. Transportation by water."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 1994.

SEC. 2402. EXTENSION OF MOTOR FUEL TAX RATES; INCREASED DEPOSITS INTO HIGHWAY TRUST FUND.

(a) GASOLINE AND SPECIAL MOTOR FUELS.—

(1) IN GENERAL.—Clause (i) of section 4081(a)(2)(B) is amended by striking "11.5 cents" and inserting "14 cents".

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (A) of section 4081(c)(4) is amended to read as follows:

"(A) IN GENERAL.—In the case of the Highway Trust Fund financing rate, the term 'otherwise applicable rate' means—

"(i) 8.6 cents a gallon for 10 percent alcohol,

"(ii) 9.842 cents a gallon for 7.7 percent alcohol,

"(iii) 10.922 cents a gallon for 5.7 percent alcohol.

In the case of gasohol none of the alcohol in which consists of ethanol, clauses (i), (ii), and (iii) shall be applied by substituting '8.0 cents' for '8.6 cents', '9.38 cents' for '9.842 cents', and '10.58 cents' for '10.922'."

(B) Subparagraph (A) of section 4041(m)(1) is amended to read as follows:

"(A) under subsection (a)(2) the Highway Trust Fund financing shall be 7 cents per gallon, and".

(b) DIESEL FUEL.—

(1) IN GENERAL.—Paragraph (2) of section 4091(a) is amended by striking "17.5 cents" and inserting "20 cents".

(2) FUEL USED IN TRAINS.—Subparagraph (B) of section 4093(c)(2) is amended—

(A) by striking "the diesel fuel deficit reduction rate" and inserting "2.5 cents per gallon of the Highway Trust Fund financing rate", and

(B) by striking from the subparagraph heading "DEFICIT REDUCTION TAX ON".

(3) CONFORMING AMENDMENTS.—

(A) Subsection (c) of section 4091 is amended—

(i) by striking "12.1 cents" each place it appears and inserting "14.6 cents", and

(ii) by striking "13.44 cents" in paragraph (1)(B) and inserting "16.22".

(B) Paragraph (4) of section 6427(l) is amended—

(i) by striking "the diesel fuel deficit reduction rate" and inserting "2.5 cents per gallon of the Highway Trust Fund financing rate", and

(ii) by striking "DEFICIT REDUCTION TAX" and inserting "PORTION OF TAX".

(C) Subsection (b) of section 9503 is amended by adding at the end thereof the following new paragraph:

"(6) RETENTION OF CERTAIN TAXES IN GENERAL FUND.—

"(A) IN GENERAL.—There shall not be taken into account under paragraphs (1) and (2)—

"(i) the tax imposed by section 4091 on diesel fuel used in any train, and

"(ii) so much of the following taxes as are attributable to 2.5 cents of the Highway Trust fund financing rate:

"(I) Motorboat fuel taxes (as defined in subsection (c)(4)(D)).

"(II) Small-engine fuel taxes (as defined in subsection (c)(5)(B)).

"(III) Nonhighway recreational fuel taxes (as defined in subsection (c)(6)(D)).

"(B) TRANSFERS FROM HIGHWAY TRUST FUND.—For purposes of determining the

amount paid from the Highway Trust Fund under paragraphs (4), (5), and (6) of subsection (c), the Highway Trust Fund financing rates shall be treated as being 2.5 cents less than the otherwise applicable rates."

(c) INCREASE IN DEPOSITS IN MASS TRANSIT ACCOUNT.—Paragraph (2) of section 9503(e) is amended by striking "1.5 cents" and inserting "2 cents".

(d) REPEAL OF EXPIRED PROVISIONS.—

(1) Subparagraph (A) of section 4081(a)(2) (relating to rate of tax) is amended—

(A) by adding "and" at the end of clause (i),

(B) by striking ", and" at the end of clause (ii) and inserting a period, and

(C) by striking clause (iii).

(2) Subparagraph (B) of section 4081(a)(2) is amended—

(A) by adding "and" at the end of clause (i),

(B) by striking ", and" at the end of clause (ii) and inserting a period, and

(C) by striking clause (iii).

(3) Subsection (d) of section 4081 is amended by striking paragraph (3).

(4) Clause (i) of section 4091(b)(1)(A) is amended by striking "and the diesel fuel deficit reduction rate".

(5) Subsection (b) of section 4091 is amended by striking paragraph (4) and by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(6) Paragraph (5) of section 4091(b), as redesignated by paragraph (5), is amended by striking subparagraph (D).

(7) Paragraphs (1) and (2) of section 4041(a), and paragraph (3) of section 4041(c), are each amended by striking "the sum of the Highway Trust Fund financing rate and the diesel fuel deficit reduction rate" and by inserting "the Highway Trust Fund financing rate".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect October 1, 1995, but the amendment made by subsection (c) shall apply only to amounts attributable to taxes imposed on or after such date.

Subtitle E—Compliance Provisions

SEC. 2501. REPORTING REQUIRED FOR CERTAIN PAYMENTS TO CORPORATIONS.

(a) SECTION 6041.—Section 6041 (relating to information at source) is amended by adding at the end thereof the following new subsection:

"(f) SPECIAL RULES FOR PAYMENTS FOR SERVICES.—No payment for the performance of services shall be exempt from the requirements of this section merely because it is a payment to a corporation."

(b) SECTION 6041A(a).—Subsection (a) of section 6041A is amended by adding at the end thereof the following new sentence: "A payment shall not be exempt from the requirements of this subsection merely because it is a payment to a corporation.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments after December 31, 1993.

SEC. 2502. MODIFICATIONS TO SUBSTANTIAL UNDERSTATEMENT AND RETURN-PREPARER PENALTIES.

(a) REASONABLE BASIS REQUIRED.—

(1) SUBSTANTIAL UNDERSTATEMENT PENALTY.—Clause (ii) of section 6662(d)(2)(B) (relating to reduction for understatement due to position of taxpayer or disclosed item) is amended to read as follows:

"(ii) any item if—

"(I) the relevant facts affecting the item's tax treatment are adequately disclosed in the return or in a statement attached to the return, and

"(II) there is a reasonable basis for the tax treatment of such item by the taxpayer."

(2) RETURN PREPARER PENALTY.—Paragraph (3) of section 6694(a) (relating to understatement of taxpayer's liability by income tax return preparer) is amended to read as follows:

"(3) the requirements of subclauses (I) and (II) of section 6662(d)(2)(B)(ii) are not satisfied with respect to such position,".

(b) SPECIAL TAX SHELTER RULE.—Subclause (II) of section 6662(d)(2)(C)(i) (relating to special rules for tax shelters) is amended by inserting before the period at the end thereof the following: "and the reasonably anticipated after-tax benefits from the taxpayer's investment in such shelter do not significantly exceed the reasonably anticipated pre-tax economic profit or loss from such investment".

(c) REASONABLE CAUSE EXCEPTION.—Paragraph (1) of section 6664(c) is revised by striking "this part" and inserting "section 6662".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due dates for which (determined without regard to extensions) are after December 31, 1993.

Subtitle F—Miscellaneous Provisions

SEC. 2601. SUBSTANTIATION REQUIREMENT FOR DEDUCTION OF CERTAIN CHARITABLE CONTRIBUTIONS.

(a) SUBSTANTIATION REQUIREMENT.—Section 170(f) (providing special rules relating to the deduction of charitable contributions and gifts) is amended by adding at the end the following new paragraph:

"(8) SUBSTANTIATION REQUIREMENT FOR CERTAIN CONTRIBUTIONS.—

"(A) GENERAL RULE.—No deduction shall be allowed under subsection (a) for any contribution of $750 or more unless the taxpayer substantiates the contribution by a contemporaneous written acknowledgment of the contribution by the donee organization that meets the requirements of subparagraph (B).

"(B) CONTENT OF ACKNOWLEDGMENT.—An acknowledgment meets the requirements of this subparagraph if it provides information sufficient to substantiate the amount of the deductible contribution. If the contribution was made by means of a payment part of which constituted consideration for goods or services provided by the donee organization, the acknowledgment must provide a good faith estimate of the value of such goods or services.

"(C) CONTEMPORANEOUS.—For purposes of subparagraph (A), an acknowledgment shall be considered to be contemporaneous if the taxpayer obtains the acknowledgment on or before the earlier of—

"(i) the date on which the taxpayer files a return for the taxable year in which the contribution was made, or

"(ii) the due date (including extensions) for filing such return.

"(D) SUBSTANTIATION NOT REQUIRED FOR CONTRIBUTIONS REPORTED BY THE DONEE ORGANIZATION.—Subparagraph (A) shall not apply to a contribution if the donee organization files a return, on such form and in accordance with such regulations as the Secretary may prescribe, which includes the information described in subparagraph (B) with respect to the contribution.

"(E) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this paragraph, including regulations that may provide that some or all of the requirements of this paragraph do not apply in appropriate cases."

(b) EFFECTIVE DATE.—The provisions of this section shall apply to contributions made on or after January 1, 1994.

SEC. 2602. DISCLOSURE RELATED TO QUID PRO QUO CONTRIBUTIONS.

(a) DISCLOSURE REQUIREMENT.—Subchapter B of chapter 61 (relating to information and returns) is amended by redesignating section 6115 as section 6116 and by inserting after section 6114 the following new section:

"SEC. 6115. DISCLOSURE RELATED TO QUID PRO QUO CONTRIBUTIONS.

"(a) DISCLOSURE REQUIREMENT.—If an organization described in section 170(c) (other than paragraph (1) thereof) receives a quid pro quo contribution, the organization shall, in connection with the solicitation or receipt of the contribution—

"(1) inform the donor that the amount of the contribution that is deductible for Federal income tax purposes is limited to the excess of the amount of any money and the value of any property other than money contributed by the donor over the value of the goods or services provided by the organization, and

"(2) provide the donor with a good faith estimate of the value of such goods or services.

"(b) QUID PRO QUO CONTRIBUTION.—For purposes of this section, the term 'quid pro quo contribution' means a payment made partly as a contribution and partly in consideration for goods or services provided to the payor by the donee organization."

(b) PENALTY FOR FAILURE TO DISCLOSE.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6713 the following new section:

"SEC. 6714. FAILURE TO MEET DISCLOSURE REQUIREMENTS APPLICABLE TO QUID PRO QUO CONTRIBUTIONS.

"(a) IMPOSITION OF PENALTY.—If an organization fails to meet the disclosure requirement of section 6115 with respect to a quid pro quo contribution, such organization shall pay a penalty of $10 for each contribution in respect of which the organization fails to make the required disclosure, except that the total penalty imposed by this subsection with respect to a particular fundraising event or mailing shall not exceed $5,000.

"(b) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause."

(c) CLERICAL AMENDMENTS.—

(1) The table for subchapter B of chapter 61 is amended by striking the item relating to section 6115 and inserting the following new item:

"Sec. 6115. Disclosure related to quid pro quo contributions.

"Sec. 6116. Cross reference."

(2) The table for part I of subchapter B of chapter 68 is amended by inserting after the item for section 6713 the following new item:

"Sec. 6714. Failure to meet disclosure requirements applicable to quid pro quo contributions."

(d) EFFECTIVE DATE.—The provisions of this section shall apply to quid pro quo contributions made on or after January 1, 1994.

SEC. 2603. DISALLOWANCE OF INTEREST ON CERTAIN OVERPAYMENTS OF TAX.

(a) GENERAL RULE.—Subsection (e) of section 6611 is amended to read as follows:

"(e) DISALLOWANCE OF INTEREST ON CERTAIN OVERPAYMENTS.—

"(1) REFUNDS WITHIN 45 DAYS AFTER RETURN IS FILED.—If any overpayment of tax imposed by this title is refunded within 45 days after the last day prescribed for filing the return of such tax (determined without regard to any extension of time for filing the return)

or, in the case of a return filed after such last date, is refunded within 45 days after the date the return is filed, no interest shall be allowed under subsection (a) on such overpayment.

"(2) REFUNDS AFTER CLAIM FOR CREDIT OR REFUND.—If—

"(A) the taxpayer files a claim for a credit or refund for any overpayment of tax imposed by this title, and

"(B) such overpayment is refunded within 45 days after such claim is filed,

no interest shall be allowed on such overpayment from the date the claim is filed until the day the refund is made.

"(3) IRS INITIATED ADJUSTMENTS.—If an adjustment initiated by the Secretary, results in a refund or credit of an overpayment, interest on such overpayment shall be computed by subtracting 45 days from the number of days interest would otherwise be allowed with respect to such overpayment."

(b) EFFECTIVE DATES.—

(1) Paragraph (1) of section 6611(e) of the Internal Revenue Code of 1986 (as amended by subsection (a)) shall apply in the case of returns the due date for which (determined without regard to extensions) is on or after January 1, 1994.

(2) Paragraph (2) of section 6611(e) of such Code (as so amended) shall apply in the case of claims for credit or refund of any overpayment filed on or after January 1, 1995, regardless of the taxable period to which such refund relates.

(3) Paragraph (3) of section 6611(e) of such Code (as so amended) shall apply in the case of any refund paid on or after January 1, 1995, regardless of the taxable period to which such refund relates.

SEC. 2604. DENIAL OF DEDUCTION RELATING TO TRAVEL EXPENSES.

(a) IN GENERAL.—Section 274(m) (relating to additional limitations on travel expenses) is amended by adding at the end thereof the following new paragraph:

"(3) TRAVEL EXPENSES OF SPOUSE, DEPENDENT, OR OTHERS.—No deduction shall be allowed under this chapter (other than section 217) for travel expenses paid or incurred with respect to a spouse, dependent, or other individual accompanying the taxpayer (or an officer or employee of the taxpayer) on business travel, unless—

"(A) the spouse, dependent, or other individual is an employee of the taxpayer,

"(B) the travel of the spouse, dependent, or other individual is for a bona fide business purpose, and

"(C) such expenses would otherwise be deductible by the spouse, dependent, or other individual."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred after December 31, 1993.

SEC. 2605. INCREASE IN WITHHOLDING FROM SUPPLEMENTAL WAGE PAYMENTS.

If an employer elects under Treasury Regulation 31.3402 (g)-1 to determine the amount to be deducted and withheld from any supplemental wage payment by using a flat percentage rate, the rate to be used in determining the amount to be so deducted and withheld shall not be less than 28 percent. The preceding sentence shall apply to payments made after December 31, 1993.

TITLE III—EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES

SEC. 3101. DESIGNATION AND TREATMENT OF EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES.

(a) IN GENERAL.—Chapter 1 (relating to normal taxes and surtaxes) is amended by inserting after subchapter T the following new subchapter:

"Subchapter U—Designation and Treatment of Empowerment Zones and Enterprise Communities

"Part I. Designation.

"Part II. Incentives for empowerment zones and enterprise communities.

"Part III. Additional incentives for empowerment zones.

"Part IV. Regulations.

"PART I—DESIGNATION

"Sec. 1391. Designation procedure.

"Sec. 1392. Eligibility criteria.

"Sec. 1393. Definitions and special rules.

"SEC. 1391. DESIGNATION PROCEDURE.

"(a) IN GENERAL.—From among the areas nominated for designation under this section, the appropriate Secretaries may, in consultation with the Enterprise Board, designate empowerment zones and enterprise communities.

"(b) NUMBER OF DESIGNATIONS.—

"(1) ENTERPRISE COMMUNITIES.—The appropriate Secretaries may designate in the aggregate 100 nominated areas as enterprise communities under this section, subject to the availability of eligible nominated areas. Of that number, not more than 65 may be designated in urban areas, not more than 30 may be designated in rural areas, and not more than 5 may be designated by the Secretary of the Interior in Indian reservations.

"(2) EMPOWERMENT ZONES.—The appropriate Secretaries may designate in the aggregate 10 nominated areas as empowerment zones under this section, subject to the availability of eligible nominated areas. Of that number, not more than 6 may be designated in urban areas, not more than 3 may be designated in rural areas, and not more than 1 may be designated by the Secretary of the Interior in an Indian reservation. If 6 empowerment zones are designated in urban areas, no less than 1 shall be designated in an urban area whose most populous city has a population of 500,000 or less. The Secretary of Housing and Urban Development shall designate empowerment zones located in urban areas in such a manner that the aggregate population of all such zones does not exceed 750,000.

"(c) PERIOD DESIGNATIONS MAY BE MADE.—A designation may be made under this section only after 1993 and before 1996.

"(d) PERIOD FOR WHICH DESIGNATION IS IN EFFECT.—

"(1) IN GENERAL.—Any designation under this section shall remain in effect during the period beginning on the date of the designation and ending on the earliest of—

"(A) the close of the 10th calendar year beginning on or after such date of designation,

"(B) the termination date designated by the State and local governments as provided for in their nomination, or

"(C) the date the appropriate Secretary revokes the designation.

"(2) REVOCATION OF DESIGNATION.—

"(A) IN GENERAL.—The appropriate Secretary, in consultation with the Enterprise Board, may revoke the designation under this section of an area if such Secretary determines that the local government or the State in which it is located—

"(i) has modified the boundaries of the area, or

"(ii) is not complying substantially with, or fails to make progress in achieving the benchmarks set forth in, the strategic plan under subsection (f)(2).

"(B) APPLICABLE PROCEDURES.—A designation may be revoked by the appropriate Secretary under subparagraph (A) only after a hearing on the record involving officials of the State or local government involved.

"(e) LIMITATIONS ON DESIGNATIONS.—An area may be designated under subsection (a) only if—

"(1) the area is nominated by 1 or more local governments and the State or States in which it is located for designation under this section,

"(2) such State or States and the local governments have the authority—

"(A) to nominate the area for designation under this section, and

"(B) to provide the assurances described in paragraph (3),

"(3) such State or States and the local governments provide written assurances satisfactory to the appropriate Secretary that the strategic plan described in the application under subsection (f)(2) for such area will be implemented,

"(4) the appropriate Secretary determines that any information furnished is reasonably accurate, and

"(5) such State or States and local governments certify that no portion of the area nominated is already included in an empowerment zone or in an enterprise community or in an area otherwise nominated to be designated under this section.

"(f) APPLICATION.—An application for designation as an empowerment zone or as an enterprise community shall—

"(1) demonstrate that the nominated area satisfies the eligibility criteria described in section 1392,

"(2) include a strategic plan for accomplishing the purposes of this subchapter that—

"(A) describes the coordinated economic, human, community, and physical development plan and related activities proposed for the nominated area,

"(B) describes the process by which the affected community is a full partner in the process of developing and implementing the plan and the extent to which local institutions and organizations have contributed to the planning process,

"(C) identifies the amount of State, local, and private resources that will be available in the nominated area and the private/public partnerships to be used, which may include participation by, and cooperation with, universities, medical centers, and other private and public entities,

"(D) identifies the funding requested under any Federal program in support of the proposed economic, human, community, and physical development and related activities,

"(E) identifies baselines, methods, and benchmarks for measuring the success of carrying out the strategic plan, including the extent to which poor persons and families will be empowered to become economically self-sufficient, and

"(F) does not include any action to assist any establishment in relocating from one area outside the nominated area to the nominated area, except that assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary is permitted if—

"(i) the establishment of the new branch, affiliate, or subsidiary will not result in a decrease in employment in the area of original location or in any other area where the existing business entity conducts business operations, and

"(ii) there is no reason to believe that the new branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or

in any other area where the existing business entity conducts business operation, and

"(3) include such other information as may be required by the appropriate Secretary or the Enterprise Board.

"SEC. 1392. ELIGIBILITY CRITERIA.

"(a) IN GENERAL.—A nominated area shall be eligible for designation under section 1391 only if it meets the following criteria:

"(1) POPULATION.—The nominated area has a maximum population of—

"(A) in the case of an urban area, the lesser of—

"(i) 200,000, or

"(ii) the greater of 50,000 or 10 percent of the population of the most populous city located within the nominated area, and

"(B) in the case of a rural area, 30,000.

"(2) DISTRESS.—The nominated area is one of pervasive poverty, unemployment, and general distress.

"(3) SIZE.—The nominated area—

"(A) does not exceed 20 square miles if an urban area or 1,000 square miles if a rural area or an Indian reservation,

"(B) has a boundary which is continuous, or, except in the case of a rural area located in more than 1 State, consists of not more than 3 noncontiguous parcels,

"(C)(i) in the case of an urban area, is located entirely within no more than 2 contiguous States, and

"(ii) in the case of a rural area, is located entirely within no more than 3 contiguous States, and

"(D) does not include any portion of a central business district (as such term is used for purposes of the most recent Census of Retail Trade) unless the poverty rate for each population census tract in such district is not less than 35 percent.

"(4) POVERTY RATE.—The poverty rate—

"(A) for each population census tract within the nominated area is not less than 20 percent,

"(B) for at least 90 percent of the population census tracts within the nominated area is not less than 25 percent, and

"(C) for at least 50 percent of the population census tracts within the nominated area is not less than 35 percent.

"(b) SPECIAL RULES RELATING TO DETERMINATION OF POVERTY RATE.—For purposes of subsection (a)(4)—

"(1) TREATMENT OF CENSUS TRACTS WITH SMALL POPULATIONS.—

"(A) TRACTS WITH NO POPULATION.—In the case of a population census tract with no population—

"(i) such tract shall be treated as having a poverty rate which meets the requirements of subparagraphs (A) and (B) of subsection (a)(4), but

"(ii) such tract shall be treated as having a zero poverty rate for purposes of applying subparagraph (C) thereof.

"(B) TRACTS WITH POPULATIONS OF LESS THAN 2,000.—A population census tract with a population of less than 2,000 shall be treated as having a poverty rate which meets the requirements of subparagraphs (A) and (B) of subsection (a)(4) if more than 75 percent of such tract is zoned for commercial or industrial use.

"(2) DISCRETION TO ADJUST REQUIREMENTS.—Where necessary to carry out the purposes of this subchapter, the appropriate Secretary may reduce by 5 percentage points one of the following thresholds for not more than 10 percent of the population census tracts (or, if fewer, 5 population census tracts) in the nominated area:

"(A) The 20 percent threshold in subsection (a)(4)(A).

"(B) The 25 percent threshold in subsection (a)(4)(B).

"(C) The 35 percent threshold in subsection (a)(4)(C).

"(3) EACH NONCONTIGUOUS AREA MUST SATISFY POVERTY RATE RULE.—A nominated area may not include a noncontiguous parcel unless such parcel separately meets (subject to paragraphs (1) and (2)) the criteria set forth in subsection (a)(4).

"(4) AREAS NOT WITHIN CENSUS TRACTS.—In the case of an area which is not tracted for population census tracts, the equivalent county divisions (as defined by the Bureau of the Census for purposes of defining poverty areas) shall be used for purposes of determining poverty rates.

"(c) FACTORS TO CONSIDER.—From among the nominated areas eligible for designation under section 1391 by the appropriate Secretary, such appropriate Secretary shall make designations of empowerment zones and enterprise communities on the basis of—

"(1) the effectiveness of the strategic plan submitted pursuant to section 1391(f)(2) and the assurances made pursuant to section 1391(e)(3), and

"(2) criteria specified by the Enterprise Board.

"SEC. 1393. DEFINITIONS AND SPECIAL RULES.

"(a) IN GENERAL.—For purposes of this subchapter—

"(1) APPROPRIATE SECRETARY.—The term 'appropriate Secretary' means—

"(A) the Secretary of Housing and Urban Development in the case of any nominated area which is located in an urban area,

"(B) the Secretary of Agriculture in the case of any nominated area which is located in a rural area, and

"(C) the Secretary of the Interior in the case of any nominated area which is located in an Indian reservation.

"(2) ENTERPRISE BOARD.—The term 'Enterprise Board' means any board hereafter established and designated for purposes of this subchapter as the 'Enterprise Board'.

"(3) RURAL AREA.—The term 'rural area' means any area which is—

"(A) outside of a metropolitan statistical area (within the meaning of section 143(k)(2)(B)), or

"(B) determined by the Secretary of Agriculture, after consultation with the Secretary of Commerce, to be a rural area.

"(4) URBAN AREA.—The term 'urban area' means an area which is not a rural area.

"(5) INDIAN RESERVATION.—

"(A) IN GENERAL.—The term 'Indian reservation' means a reservation as defined in—

"(i) section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)), or

"(ii) section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(10).

"(B) GOVERNMENTS.—In the case of an area in an Indian reservation, the reservation governing body (as determined by the Secretary of the Interior) shall be deemed to be both the State and local governments with respect to such area.

"(6) LOCAL GOVERNMENT.—The term 'local government' means—

"(A) any county, city, town, township, parish, village, or other general purpose political subdivision of a State, and

"(B) any combination of political subdivisions described in subparagraph (A) recognized by the appropriate Secretary.

"(7) NOMINATED AREA.—The term 'nominated area' means an area which is nominated by 1 or more local governments and the State or States in which it is located for designation under section 1391.

"(8) GOVERNMENTS.—If more than 1 State or local government seeks to nominate an area as a tax enterprise zone, any reference to, or requirement of, this subchapter shall apply to all such governments.

"(9) SPECIAL RULE.—An area shall be treated as nominated by a State and a local government if it is nominated by such other entity as may be specified by the Enterprise Board.

"(10) USE OF CENSUS DATA.—Population and poverty rate shall be determined by the most recent decennial census data available.

"(b) EMPOWERMENT ZONE; ENTERPRISE COMMUNITY.—For purposes of this title, the terms 'empowerment zone' and 'enterprise community' mean areas designated as such under section 1391.

"PART II—INCENTIVES FOR EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES

"Sec. 1394. Zone resident empowerment savings credit.

"Sec. 1395. Additional benefits.

"SEC. 1394. ZONE RESIDENT EMPOWERMENT SAVINGS CREDIT.

"(a) GENERAL RULE.—For purposes of section 38, the amount of the zone resident empowerment savings credit determined under this section with respect to any employer for any taxable year is 50 percent of the qualified savings contributions for the taxable year.

"(b) QUALIFIED SAVINGS CONTRIBUTIONS.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified savings contribution' means any contribution by an employer to a defined contribution plan—

"(A) which is made on behalf of an employee in connection with services performed by such employee while such employee is a qualified zone employee, and

"(B) with respect to which the employee has a nonforfeitable right.

"(2) LIMITATION BASED ON COMPENSATION.—

"(A) IN GENERAL.—The qualified savings contributions taken into account with respect to any qualified zone employee for any taxable year shall not exceed an amount equal to 2 percent of so much of the employee's compensation (as defined in section 414(s)) as does not exceed $35,000.

"(B) ZONE DESIGNATION IN EFFECT FOR PARTIAL YEAR.—If a designation of an area as an empowerment zone or an enterprise community is in effect for less than the entire taxable year, the $35,000 amount under subparagraph (A) shall be ratably reduced to reflect the portion of the year such designation is not in effect.

"(3) CERTAIN CONTRIBUTIONS EXCLUDED.—The term 'qualified savings contribution' shall not include any contribution—

"(A) to a plan subject to the funding requirements of section 412,

"(B) to a tax credit employee stock ownership plan (as defined in section 409(a)) or to an employee stock ownership plan (as defined in section 4975(e)(7)),

"(C) to a stock bonus plan, or

"(D) which is an elective deferral (within the meaning of section 402(g)(3)).

"(4) SIMPLIFIED EMPLOYEE PENSION.—A contribution to an individual savings plan pursuant to a simplified employee pension (as defined in section 408(k)) shall be treated as a contribution to a defined contribution plan.

"(c) EMPLOYER REQUIREMENTS.—This section shall apply to an employer for any taxable year only if—

"(1) the employer elects the application of this section, and

"(2) the plan pursuant to which any qualified savings contribution is made provides

that any contribution to such plan (whether or not a qualified savings contribution) may be withdrawn by a qualified zone employee for the purposes described in section 72(t)(2)(B) or (D).

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

"(1) QUALIFIED ZONE EMPLOYEE.—The term 'qualified zone employee' has the meaning given such term by section 1396(d), except that the references to empowerment zones shall be treated as including references to enterprise communities.

"(2) DEFINED CONTRIBUTION PLAN.—The term 'defined contribution plan' means a defined contribution plan (as defined in section 414(i)) which is described in section 401(a) and includes a trust exempt from tax under section 501(a).

"(e) TREATMENT OF PLANS.—A plan shall not be treated as failing to meet any requirement of part I of subchapter D of chapter 1 by reason of permitting withdrawals for the purposes described in section 72(t)(2) (B) or (D).

"SEC. 1395. ADDITIONAL BENEFITS.

"(a) INCREASE IN LOW INCOME HOUSING CREDIT.—For purposes of section 42(d)(5)(C), a building shall be treated as located in a qualified census tract if—

"(1) such building is located in a census tract having a poverty rate of at least 30 percent (determined in accordance with section 1393(a)(10)), and

"(2) such building is located in an empowerment zone or an enterprise community.

"(b) TAX EXEMPT ENTERPRISE ZONE FACILITY BONDS.—

"(1) IN GENERAL.—For purposes of part IV of subchapter B of chapter 1 (relating to tax exemption requirements for State and local bonds), the term 'exempt facility bond' includes any bond issued as part of an issue 95 percent or more of the net proceeds (as defined in section 150(a)(3)) of which are to be used to provide any enterprise zone facility.

"(2) ENTERPRISE ZONE FACILITY.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'enterprise zone facility' means any qualified zone property the principal user of which is an enterprise zone business (as defined in section 1399A), and any land which is functionally related and subordinated to such property.

"(B) QUALIFIED ZONE PROPERTY.—The term 'qualified zone property' has the meaning given such term by section 1398(c); except that—

"(i) section 1398(c)(3) shall not apply, and

"(ii) the references to empowerment zones shall be treated as including references to enterprise communities.

"(3) LIMITATION ON AMOUNT OF BONDS.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to any issue if the aggregate amount of outstanding enterprise zone facility bonds allocable to any enterprise zone business (taking into account such issue) exceeds—

"(i) $3,000,000 with respect to any 1 empowerment zone or enterprise community, or

"(ii) $20,000,000 with respect to all empowerment zones and enterprise communities.

"(B) AGGREGATE ENTERPRISE ZONE FACILITY BOND BENEFIT.—For purposes of subparagraph (A), the aggregate amount of outstanding enterprise zone facility bonds allocable to any business shall be determined under rules similar to the rules of section 144(a)(10), taking into account only bonds to which paragraph (1) applies.

"(4) ACQUISITION OF LAND AND EXISTING PROPERTY PERMITTED.—The requirements of sections 147(c)(1)(A) and 147(d) shall not apply to any bond described in paragraph (1).

"(5) PARTIAL EXEMPTION FROM VOLUME CAP.—Only for purposes of section 146, the term 'private activity bond' shall not include 50 percent of any bond issued as part of an issue described in paragraph (1).

"(6) PENALTY FOR CEASING TO MEET REQUIREMENTS.—

"(A) FAILURES CORRECTED.—An issue which fails to meet 1 or more of the requirements of paragraphs (1) and (2) shall be treated as meeting such requirements if—

"(i) the issuer and any principal user in good faith attempted to meet such requirements, and

"(ii) any failure to meet such requirements is corrected within a reasonable period after such failure is first discovered.

"(B) LOSS OF DEDUCTIONS WHERE FACILITY CEASES TO BE QUALIFIED.—No deduction shall be allowed under this chapter for interest on any financing provided from any bond to which paragraph (1) applies with respect to any facility to the extent such interest accrues during the period beginning on the first day of the calendar year which includes the date on which—

"(i) substantially all of the facility with respect to which the financing was provided ceases to be used in an empowerment zone or enterprise community, or

"(ii) the principal user of such facility ceases to be an enterprise zone business (as defined in section 1399A, but treating references to empowerment zones as including references to enterprise communities).

"(C) EXCEPTION IF ZONE CEASES.—Subparagraphs (A) and (B) shall not apply solely by reason of the termination or revocation of a designation as an empowerment zone or an enterprise community.

"(D) EXCEPTION FOR BANKRUPTCY.—Subparagraphs (A) and (B) shall not apply to any cessation resulting from bankruptcy.

"(c) ENTERPRISE ZONE FACILITY BONDS NOT SUBJECT TO INTEREST DEDUCTION LIMITATIONS ON FINANCIAL INSTITUTIONS.—Any tax-exempt bond described in paragraph (1)—

"(1) shall be treated as acquired before August 8, 1986, for purposes of sections 265(b) and 291(e)(1)(B), and

"(2) shall not be taken into account in determining whether any issuer is a qualified small issuer for purposes of section 265(b).

"PART III—ADDITIONAL INCENTIVES FOR EMPOWERMENT ZONES

"SUBPART A. Empowerment zone employment credit.

"SUBPART B. Depreciation and other incentives.

"Subpart A—Empowerment Zone Employment Credit

"Sec. 1396. Empowerment zone employment credit.

"Sec. 1397. Other definitions and special rules.

"SEC. 1396. EMPOWERMENT ZONE EMPLOYMENT CREDIT.

"(a) AMOUNT OF CREDIT.—For purposes of section 38, the amount of the empowerment zone employment credit determined under this section with respect to any employer for any taxable year is the applicable percentage of the qualified zone wages paid or incurred during the calendar year which ends with or within such taxable year.

"(b) APPLICABLE PERCENTAGE.—For purposes of this section, the term 'applicable percentage' means the percentage determined in accordance with the following table:

"In the case of wages paid or incurred during calendar year:	The applicable percentage is:
1994 through 2000	25
2001	20
2002	15
2003	10
2004	5

"(c) QUALIFIED ZONE WAGES.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified zone wages' means any wages paid or incurred by an employer for services performed by an employee while such employee is a qualified zone employee.

"(2) ONLY FIRST $20,000 OF WAGES PER YEAR TAKEN INTO ACCOUNT.—With respect to each qualified zone employee, the amount of qualified zone wages which may be taken into account for a calendar year shall not exceed $20,000.

"(3) COORDINATION WITH TARGETED JOBS CREDIT.—

"(A) IN GENERAL.—The term 'qualified zone wages' shall not include wages attributable to service rendered during the 1-year period beginning with the day the individual begins work for the employer if any portion of such wages is taken into account in determining the credit under section 51.

"(B) COORDINATION WITH PARAGRAPH (2).—In the case of the calendar year in which the 1-year period referred to in subparagraph (A) ends, the $20,000 amount in paragraph (2) shall be reduced by the amount of wages attributable to service rendered during the portion of such 1-year period which is within such calendar year.

"(d) QUALIFIED ZONE EMPLOYEE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'qualified zone employee' means, with respect to any period, any employee of an employer if—

"(A) substantially all of the services performed during such period by such employee for such employer are performed within an empowerment zone in a trade or business of the employer, and

"(B) the principal place of abode of such employee while performing such services is within such empowerment zone.

"(2) CERTAIN INDIVIDUALS NOT ELIGIBLE.—The term 'qualified zone employee' shall not include—

"(A) any individual described in subparagraph (A), (B), or (C) of section 51(i)(1),

"(B) any 5-percent owner (as defined in section 416(i)(1)(B)),

"(C) any individual employed by the employer for less than 90 days,

"(D) any individual employed by the employer at any facility described in section 144(c)(6)(B), and

"(E) any individual employed by the employer in a trade or business the principal activity of which is farming (within the meaning of subparagraphs (A) or (B) of section 2032A(e)(5)), but only if, as of the close of the taxable year, the sum of—

"(i) the aggregate unadjusted bases (or, if greater, the fair market value) of the assets owned by the employer which are used in such a trade or business, and

"(ii) the aggregate value of assets leased by the employer which are used in such a trade or business (as determined under regulations prescribed by the Secretary),

exceeds $500,000.

"(3) SPECIAL RULES RELATED TO TERMINATION OF EMPLOYMENT.—

"(A) IN GENERAL.—Paragraph (2)(C) shall not apply to—

"(i) a termination of employment of an individual who before the close of the period

referred to in paragraph (2)(C) becomes disabled to perform the services of such employment unless such disability is removed before the close of such period and the taxpayer fails to offer reemployment to such individual, or

"(ii) a termination of employment of an individual if it is determined under the applicable State unemployment compensation law that the termination was due to the misconduct of such individual.

"(B) CHANGES IN FORM OF BUSINESS.—For purposes of paragraph (2)(C), the employment relationship between the taxpayer and an employee shall not be treated as terminated—

"(i) by a transaction to which section 381(a) applies if the employee continues to be employed by the acquiring corporation, or

"(ii) by reason of a mere change in the form of conducting the trade or business of the taxpayer if the employee continues to be employed in such trade or business and the taxpayer retains a substantial interest in such trade or business.

"SEC. 1397. OTHER DEFINITIONS AND SPECIAL RULES.

"(a) WAGES.—For purposes of this subpart—

"(1) IN GENERAL.—The term 'wages' has the same meaning as when used in section 51.

"(2) CERTAIN TRAINING AND EDUCATIONAL BENEFITS.—

"(A) IN GENERAL.—The following amounts shall be treated as wages paid to an employee:

"(i) Any amount paid or incurred by an employer which is excludable from the gross income of an employee under section 127, but only to the extent paid or incurred to a person not related to the employer.

"(ii) In the case of an employee who has not attained the age of 19, any amount paid or incurred by an employer for any youth training program operated by such employer in conjunction with local education officials.

"(B) RELATED PERSON.—A person is related to any other person if the person bears a relationship to such other person specified in section 267(b) or 707(b)(1), or such person and such other person are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52). For purposes of the preceding sentence, in applying section 267(b) or 707(b)(1), '10 percent' shall be substituted for '50 percent'.

"(b) CONTROLLED GROUPS.—For purposes of this subpart—

"(1) all employers treated as a single employer under subsection (a) or (b) of section 52 shall be treated as a single employer for purposes of this subpart, and

"(2) the credit (if any) determined under section 1396 with respect to each such employer shall be its proportionate share of the wages giving rise to such credit.

"(c) CERTAIN OTHER RULES MADE APPLICABLE.—For purposes of this subpart, rules similar to the rules of section 51(k) and subsections (c), (d), and (e) of section 52 shall apply.

"(d) NOTICE OF AVAILABILITY OF ADVANCE PAYMENT OF EARNED INCOME CREDIT.—Each employer shall take reasonable steps to notify all qualified zone employees of the availability to eligible individuals of receiving advanced payments of the credit under section 32 (relating to the earned income credit).

"Subpart B—Depreciation and Other Incentives

"Sec. 1398. Depreciation benefits.

"Sec. 1399. Additional exclusion from volume cap for certain enterprise zone facility bonds.

"Sec. 1399A. Enterprise zone business.

"SEC. 1398. DEPRECIATION BENEFITS.

"(a) INCREASE IN EXPENSING UNDER SECTION 179.—

"(1) IN GENERAL.—In the case of an enterprise zone business, for purposes of section 179—

"(A) qualified zone property shall be treated as section 179 property,

"(B) the limitation under section 179(b)(1) shall be increased by the lesser of—

"(i) $65,000, or

"(ii) the cost of qualified zone property placed in service during the taxable year, and

"(C) section 179(b)(2) shall be applied by substituting 'by one-half of the amount by which the cost of qualified zone property (other than real property)' for 'by the amount by which the cost of section 179 property'.

"(b) ACCELERATED DEPRECIATION.—

"(1) IN GENERAL.—For purposes of section 168(a), with respect to qualified zone property of an enterprise zone business, the applicable recovery period shall be determined in accordance with the table contained in paragraph (2) in lieu of the table contained in section 168(c).

"(2) APPLICABLE RECOVERY PERIOD FOR QUALIFIED ZONE PROPERTY.—For purposes of paragraph (1)—

"In the case of:	The applicable recovery period is:
3-year property	2 years
5-year property	3 years
7-year property	4 years
10-year property	6 years
15-year property	9 years
20-year property	12 years
Nonresidential real property	22 years.

"(3) DEDUCTION ALLOWED IN COMPUTING MINIMUM TAX.—Paragraph (1) shall apply for purposes of determining alternative minimum taxable income under section 55.

"(4) COORDINATION WITH INVESTMENT CREDIT.—This subsection shall not apply to any property with respect to which a credit is determined under section 46A or 50A. If the lessee of any property is treated as the owner of such property for purposes of such credit, this subsection shall not apply to such property in the hands of the lessor.

"(c) QUALIFIED ZONE PROPERTY.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified zone property' means any property to which section 168 applies (or would apply but for section 179) if—

"(A) such property was acquired by the taxpayer by purchase (as defined in section 179(d)(2)) after the date on which the designation of the empowerment zone took effect,

"(B) the original use of which in an empowerment zone commences with the taxpayer, and

"(C) substantially all of the use of which is in an empowerment zone and is in the active conduct of a trade or business by the taxpayer in such zone.

"(2) SPECIAL RULE FOR SUBSTANTIAL RENOVATIONS.—In the case of any property which is substantially renovated by the taxpayer, the requirements of subparagraphs (A) and (B) of paragraph (1) shall be treated as satisfied. For purposes of the preceding sentence, property shall be treated as substantially renovated by the taxpayer if, during any 24-month period beginning after the date on which the designation of the empowerment zone took effect, additions to basis with respect to such property in the hands of the taxpayer exceed the greater of (i) an amount equal to the adjusted basis at the beginning of such 24-month period in the hands of the taxpayer, or (ii) $5,000.

"(3) EXCEPTION FOR ALTERNATIVE DEPRECIATION PROPERTY.—The term 'qualified zone property' does not include any property to which the alternative depreciation system under section 168(g) applies, determined—

"(A) without regard to section 168(g)(7) (relating to election to use alternative depreciation system), and

"(B) after the application of section 280F(b) (relating to listed property with limited business use).

"(d) SPECIAL RULES FOR SALE-LEASE-BACKS.—For purposes of subsection (c)(1)(B), if property is sold and leased back by the taxpayer within 3 months after the date such property was originally placed in service, such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback.

"(e) RECAPTURE.—Rules similar to the rules under section 179(d)(10) shall apply with respect to any qualified zone property of any business which ceases to be an enterprise zone business.

"SEC. 1399. ADDITIONAL EXCLUSION FROM VOLUME CAP FOR CERTAIN ENTERPRISE ZONE FACILITY BONDS.

"(a) IN GENERAL.—Section 1395(b)(5) shall be applied by substituting '75 percent' for '50 percent' in the case of any bond described in section 1395(b)(1) issued as part of an issue 95 percent or more of the net proceeds (as defined in section 150(a)(3)) of which are used to provide qualified zone property the principal user of which is any enterprise zone business if the ownership requirements of subsection (b) are met with respect to such business.

"(b) OWNERSHIP REQUIREMENTS.—The ownership requirements of this subsection are met with respect to an enterprise zone business if—

"(1) in the case of a sole proprietorship, the principal place of abode of the proprietor is in an empowerment zone,

"(2) in the case of a corporation, more than 50 percent of the stock (by vote and value) in the corporation is owned by individuals whose principal place of abode is in an empowerment zone, and

"(3) in the case of a partnership, more than 50 percent of the capital and profits interests in the partnership is owned by individuals whose principal place of abode is in an empowerment zone.

"SEC. 1399A. ENTERPRISE ZONE BUSINESS DEFINED.

"(a) IN GENERAL.—For purposes of this subpart, the term 'enterprise zone business' means—

"(1) any qualified business entity, and

"(2) any qualified proprietorship.

"(b) QUALIFIED BUSINESS ENTITY.—For purposes of this section, the term 'qualified business entity' means, with respect to any taxable year, any corporation or partnership if for such year—

"(1) every trade or business of such entity is the active conduct of a qualified business within an empowerment zone,

"(2) at least 80 percent of the total gross income of such entity is derived from the active conduct of such business,

"(3) substantially all of the use of the tangible property of such entity (whether owned or leased) is within an empowerment zone,

"(4) substantially all of the intangible property of such entity is used in, and exclusively related to, the active conduct of any such business,

"(5) substantially all of the services performed for such entity by its employees are performed in an empowerment zone,

"(6) at least 35 percent of its employees are residents of an empowerment zone,

"(7) less than 5 percent of the average of the aggregate unadjusted bases of the property of such entity is attributable to collectibles (as defined in section 408(m)(2)) other than collectibles that are held primarily for sale to customers in the ordinary course of such business, and

"(8) less than 5 percent of the average of the aggregate unadjusted bases of the property of such entity is attributable to nonqualified financial property.

"(c) QUALIFIED PROPRIETORSHIP.—For purposes of this section, the term 'qualified proprietorship' means, with respect to any taxable year, any qualified business carried on by an individual as a proprietorship if for such year—

"(1) at least 80 percent of the total gross income of such individual from such business is derived from the active conduct of such business in an empowerment zone,

"(2) substantially all of the use of the tangible property of such individual in such business (whether owned or leased) is within an empowerment zone,

"(3) substantially all of the intangible property of such business is used in, and exclusively related to, the active conduct of such business,

"(4) substantially all of the services performed for such individual in such business by employees of such business are performed in an empowerment zone,

"(5) at least 35 percent of such employees are residents of an empowerment zone,

"(6) less than 5 percent of the average of the aggregate unadjusted bases of the property of such individual which is used in such business is attributable to collectibles (as defined in section 408(m)(2)) other than collectibles that are held primarily for sale to customers in the ordinary course of such business, and

"(7) less than 5 percent of the average of the aggregate unadjusted bases of the property of such individual which is used in such business is attributable to nonqualified financial property.

For purposes of this subsection, the term 'employee' includes the proprietor.

"(d) QUALIFIED BUSINESS.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'qualified business' means any trade or business.

"(2) RENTAL OF REAL PROPERTY.—The rental to others of real property located in an empowerment zone shall be treated as a qualified business if and only if—

"(A) the property is not residential rental property (as defined in section 168(e)(2)), and

"(B) at least 50 percent of the gross rental income from the real property is from enterprise zone businesses.

"(3) RENTAL OF TANGIBLE PERSONAL PROPERTY.—The rental to others of tangible personal property shall be treated as a qualified business if and only if substantially all of the rental of such property is by enterprise zone businesses or by residents of an empowerment zone.

"(4) TREATMENT OF BUSINESS HOLDING INTANGIBLES.—The term 'qualified business' shall not include any trade or business consisting predominantly of the development or holding of intangibles for sale or license.

"(5) CERTAIN BUSINESSES EXCLUDED.—The term 'qualified business' shall not include—

"(A) any trade or business consisting of the operation of any facility described in section 144(c)(6)(B), and

"(B) any trade or business the principal activity of which is farming (within the meaning of subparagraphs (A) or (B) of section 2032A(e)(5)), but only if, as of the close of the preceding taxable year, the sum of—

"(i) the aggregate unadjusted bases (or, if greater, the fair market value) of the assets owned by the taxpayer which are used in such a trade or business, and

"(ii) the aggregate value of assets leased by the taxpayer which are used in such a trade or business,

exceeds $500,000.

For purposes of subparagraph (B), rules similar to the rules of section 1397(b) shall apply.

"(e) NONQUALIFIED FINANCIAL PROPERTY.—For purposes of this section, the term 'nonqualified financial property' means debt, stock, partnership interests, options, futures contracts, forward contracts, warrants, notional principal contracts, annuities, and other similar property specified in regulations; except that such term shall not include—

"(1) reasonable amounts of working capital held in cash, cash equivalents, or debt instruments with a term of 18 months or less, or

"(2) debt instruments described in section 1221(4).

"PART IV—REGULATIONS

"Sec. 1399B. Regulations.

"SEC. 1399B. REGULATIONS.

"The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of parts II and III, including—

"(1) regulations limiting the benefit of parts II and III in circumstances where such benefits, in combination with benefits provided under other Federal programs, would result in an activity being 100 percent or more subsidized by the Federal Government,

"(2) regulations preventing abuse of the provisions of parts II and III, and

"(3) regulations dealing with inadvertent failures of entities to be enterprise zone businesses."

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 1 is amended by inserting after the item relating to subchapter T the following new item:

"Subchapter U. Designation and treatment of empowerment zones and enterprise communities."

SEC. 3102. EXPANSION OF TARGETED JOBS CREDIT.

(a) ALLOWANCE OF CREDIT FOR HIRING EMPOWERMENT ZONE RESIDENT.—Paragraph (1) of section 51(d) (defining members of targeted groups) is amended by striking "or" at the end of subparagraph (I), by striking the period at the end of subparagraph (J) and inserting ", or", and by adding at the end the following new subparagraph:

"(K) an empowerment zone resident."

(b) EMPOWERMENT ZONE RESIDENT.—Section 51(d) is amended by redesignating paragraphs (13) through (16) as paragraphs (14) through (17), respectively, and by inserting after paragraph (12) the following new paragraph:

"(13) EMPOWERMENT ZONE RESIDENT.—The term 'empowerment zone resident' means an individual whose principal place of abode while performing services for the employer is within an empowerment zone."

(c) CONFORMING AMENDMENT.—Subparagraph (C) of section 51(d)(12) is amended by striking "paragraph (11)" and inserting "paragraph (12)".

SEC. 3103. TECHNICAL AND CONFORMING AMENDMENTS.

(a) CERTAIN CREDITS PART OF GENERAL BUSINESS CREDIT.—

(1) Subsection (b) of section 38 (relating to current year business credit) is amended by striking "plus" at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting a comma, and by adding at the end the following new paragraphs:

"(9) the zone resident empowerment savings credit determined under section 1394, plus

"(10) the empowerment zone employment credit determined under section 1396(a)."

(2) Subsection (d) of section 39, as amended by section 1201(e)(2), is amended by adding at the end the following new paragraph:

"(5) ENTERPRISE ZONE CREDITS.—No portion of the unused business credit which is attributable to the credit determined under section 1394 (relating to zone resident empowerment savings credit) or section 1396 (relating to empowerment zone employment credit) may be carried to any taxable year ending before January 1, 1994."

(b) DENIAL OF DEDUCTION FOR PORTION OF WAGES EQUAL TO EMPOWERMENT ZONE EMPLOYMENT CREDIT.—

(1) Subsection (a) of section 280C (relating to rule for targeted jobs credit) is amended—

(A) by striking "the amount of the credit determined for the taxable year under section 51(a)" and inserting "the sum of the credits determined for the taxable year under sections 51(a) and 1396(a)", and

(B) by striking "TARGETED JOBS CREDIT" in the subsection heading and inserting "EMPLOYMENT CREDITS".

(2) Subsection (c) of section 196 (relating to deduction for certain unused business credits) 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 the following new paragraph:

"(6) the empowerment zone employment credit determined under section 1396(a)."

(c) EMPLOYMENT AND SAVINGS CREDITS MAY OFFSET 25 PERCENT OF MINIMUM TAX.—

(1) Subparagraph (A) of section 38(c)(2), as added by section 1201(c) of this Act, is amended—

(A) by inserting "and the empowerment zone credits" after "the regular investment tax credit" each place it appears, and

(B) by striking "such credit" in clause (ii) and inserting "such credits".

(2) Paragraph (2) of section 38(c), as so added, is amended by adding at the end thereof the following new subparagraph:

"(C) EMPOWERMENT ZONE CREDITS.—For purposes of this paragraph, the term 'empowerment zone credits' means the portion of the credit under subsection (a) which is attributable to the credits determined under section 1394 (relating to zone resident empowerment savings credit) and section 1396 (relating to empowerment zone employment credit)."

(d) CHANGES RELATING TO EMPOWERMENT ZONE RESIDENT EMPOWERMENT SAVINGS CREDIT.—

(1) DISALLOWANCE OF DEDUCTION.—Section 404 (relating to deduction for certain employer contributions) is amended by adding at the end the following new subsection:

"(m) COORDINATION WITH EMPOWERMENT ZONE CREDIT.—No deduction shall be allowed under this section for any qualified employer contribution taken into account in computing the credit determined under section 1394."

(2) PENALTY-FREE DISTRIBUTIONS.—

(A) IN GENERAL.—Paragraph (2) of section 72(t) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by

adding at the end thereof the following new subparagraph:

"(D) DISTRIBUTIONS FROM CERTAIN PLANS FOR FIRST HOME PURCHASES OR EDUCATIONAL EXPENSES.—

"(i) IN GENERAL.—Distributions to an individual from a qualified retirement plan—

"(I) which are qualified first-time homebuyer distributions (as defined in paragraph (6)),

"(II) to the extent such distributions do not exceed the qualified higher education expenses (as defined in paragraph (7)) of the taxpayer for the taxable year, or

"(III) to the extent such distributions do not exceed an amount equal to the aggregate investment made by the taxpayer during the taxable year in any enterprise zone business (as defined in section 1399A) that meets the ownership requirements of section 1399(b).

"(ii) LIMITATION.—Clause (i) shall not apply to the extent that the aggregate amount of the distributions described in clause (i) are greater than the excess of—

"(I) the qualified retirement contributions (as defined in section 1394(b)) of the taxpayer, and any earnings thereon, over

"(II) the aggregate amounts to which clause (i) and the last sentence of paragraph (3)(A) applied for preceding taxable years."

(B) DEFINITIONS.—Section 72(t) is amended by adding at the end thereof the following new paragraphs:

"(6) QUALIFIED FIRST-TIME HOMEBUYER DISTRIBUTIONS.—For purposes of paragraph (2)(D)(i)(I)—

"(A) IN GENERAL.—The term 'qualified first-time homebuyer distribution' means any payment or distribution received by an individual to the extent such payment or distribution is used by the individual before the close of the 60th day after the day on which such payment or distribution is received to pay qualified acquisition costs with respect to a principal residence of a first-time homebuyer who is such individual or the spouse of such individual.

"(B) QUALIFIED ACQUISITION COSTS.—For purposes of this paragraph, the term 'qualified acquisition costs' means the costs of acquiring, constructing, or reconstructing a residence. Such term includes any usual or reasonable settlement, financing, or other closing costs.

"(C) FIRST-TIME HOMEBUYER; OTHER DEFINITIONS.—For purposes of this paragraph—

"(i) FIRST-TIME HOMEBUYER.—The term 'first-time homebuyer' means any individual if—

"(I) such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence during the 3-year period ending on the date of acquisition of the principal residence to which this paragraph applies, and

"(II) subsection (a)(6), (h), or (k) of section 1034 did not suspend the running of any period of time specified in section 1034 with respect to such individual on the day before the date the distribution is applied pursuant to subparagraph (A)(ii).

"(ii) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 1034.

"(iii) DATE OF ACQUISITION.—The term 'date of acquisition' means the date—

"(I) on which a binding contract to acquire the principal residence to which subparagraph (A) applies is entered into, or

"(II) on which construction or reconstruction of such a principal residence is commenced.

"(D) SPECIAL RULE WHERE DELAY IN ACQUISITION.—If any distribution from any qualified retirement plan fails to meet the requirements of subparagraph (A) solely by reason of a delay or cancellation of the purchase or construction of the residence, the amount of the distribution may be recontributed to the plan from which it was distributed within 120 days after the date of such distribution.

"(7) QUALIFIED HIGHER EDUCATION EXPENSES.—For purposes of paragraph (2)(D)(ii)(II)—

"(A) IN GENERAL.—The term 'qualified higher education expenses' means tuition, fees, books, supplies, and equipment required for the enrollment or attendance of—

"(i) the taxpayer,

"(ii) the taxpayer's spouse, or

"(iii) the taxpayer's child (as defined in section 151(c)(3)) or grandchild,

at an eligible educational institution (as defined in section 135(c)(3)).

"(B) COORDINATION WITH SAVINGS BOND PROVISIONS.—The amount of qualified higher education expenses for any taxable year shall be reduced by any amount excludable from gross income under section 135."

(C) CONFORMING AMENDMENTS.—

(i) Subparagraph (B) of section 72(t)(2) is amended by striking "or (C)" and inserting ", (C), or (D)".

(ii) Section 401(k)(2)(B)(i) is amended by striking "or" at the end of subclause (III), by striking "and" at the end of subclause (IV) and inserting "or", and by inserting after subclause (IV) the following new subclause:

"(V) subject to the limitation of section 72(t)(2)(D)(ii), the date on which qualified first-time homebuyer distributions (as defined in section 72(t)(6)), distributions for qualified higher education expenses (as defined in section 72(t)(7)), or distributions for investments described in section 72(t)(2)(D)(i)(III) are made, and".

(e) AMENDMENT OF TARGETED JOBS CREDIT.—Subparagraph (A) of section 51(i)(1) is amended by inserting ", or, if the taxpayer is an entity other than a corporation, to any individual who owns, directly or indirectly, more than 50 percent of the capital and profits interests in the entity," after "of the corporation".

(f) CARRYOVERS.—Subsection (c) of section 381 (relating to carryovers in certain corporate acquisitions) is amended by adding at the end the following new paragraph:

"(26) ENTERPRISE ZONE PROVISIONS.—The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and subchapter U, and under such regulations as may be prescribed by the Secretary) the items required to be taken into account for purposes of subchapter U in respect of the distributor or transferor corporation."

SEC. 3104. EFFECTIVE DATE.

The amendments made by this title shall take effect on the date of the enactment of this Act.

By Mr. ROCKEFELLER:

S. 879. A bill to provide technology implementation through the training of the American work force, and for other purposes; to the Committee on Commerce, Science, and Transportation.

WORK FORCE ENHANCEMENT FOR TECHNOLOGY TRANSFER ACT

• Mr. ROCKEFELLER. Mr. President, today, I introduce legislation, the Work Force Enhancement For Technology Transfer Act, to link practical skill training to technology transfer. This bill is designed to strengthen manufacturing extension efforts by emphasizing the critical link between training and technology transfer. If companies ignore the need for practical training for workers when new technology is introduced on the factory floor, they will fail to maximize the gains of new equipment and technology. Workers must be trained to use new equipment and production methods.

The National Institute of Science and Technology [NIST] has several ongoing extension programs including the manufacturing technology centers [MTC's] and the State Technology Extension Program [STEP] which are providing limited, but quality assistance to small- and medium-sized manufacturers. I have supported these programs over the years and heartily agree that efforts at NIST to promote industrial extension should be expanded as proposed by the national Competitiveness Act.

The Office of Technology Assessment published an excellent report in 1990 on worker training and competitiveness. This study took an indepth look at the range of training issues, including technology transfer. The report states:

> State and Federal industrial extension services are slowly learning that small firms need more than just the latest hardware—they need help in benefiting from the technology which includes training the workers. * * *

My bill responds directly to this point. It directs NIST to provide practical advice on worker skills for operation of new equipment as an integral part of its technology transfer efforts.

This legislation also directs NIST to establish a clearinghouse on the best available training materials for new technologies. It is designed to encourage producers of technology and modern equipment to develop quality training materials on their latest technology. NIST has the expertise to evaluate such materials and is the natural place to link technology transfer and advise on the use of new technology.

At a Senate Commerce Committee hearing, Secretary Brown emphasized the concept of one-stop shopping for small manufacturers as a goal of the Commerce Department's 21st Century Manufacturing Infrastructure Program. I agree with this goal, and believe that my legislation will help to achieve it.

In practical terms, U.S. firms which turn to manufacturing extension centers for technology advice will be poorly served if advice on the specific training required to make the transferred technology effective is not provided. This would make about as much sense as an agriculture extension agent telling a farmer which corn to cultivate but then telling him to call the Department of Education to learn how to plant and harvest it.

In West Virginia and other rural States, a comprehensive extension program is essential. Small manufacturers in isolated areas do not have the time or access to seek out specialized training programs on how to use newly purchased equipment. Experts from the manufacturing extension centers will be in a pivotal position to offer practical advice or some hands-on training on the skills and training needed to successfully implement technology transfers. My legislation would ensure that such advice is provided, and it should help ensure that our initiatives on manufacturing extension are effective.

In my view, directing manufacturing extension centers to link worker skills with technology transfer is not a substitute for retraining dislocated workers, basic skills education, or general training initiatives. The Department of Labor and Department of Education are the leaders for these essential broad programs on education and worker training, and the Clinton administration has pledged to develop initiatives in this crucial area in its package, technology for America's economic growth.

But NIST's manufacturing extension centers can fill a unique niche in providing practical advice on the skills required to successfully implement new technology in the workplace.

My legislation is not a substitute for basic worker training and education. Our country should be investing in such programs, and I look forward to working with my colleagues and administration officials on separate initiatives for dislocated workers and general education and training in the future.

I believe my legislation is an important enhancement to ensure that firms which turn to manufacturing extension centers for expertise on technology transfer also get practical advice on the skills workers will need to integrate new technology into the workplace.

The report, "America's Choice: High Skills or Low Wages," lays out the stark choice our country faces. Either we invest in our workers to enhance our competitiveness or we resort to low wages.

Given that choice, I believe we must choose high skills and high wages. We must choose to train our workers in the latest technologies. It will mean new initiatives on a variety of fronts to enhance worker training at every level; from practical skills tied to technology transfer at manufacturing extension centers, to broad programs for general worker training, and retraining for dislocated workers. These initiatives are being developed by the Department of Labor and Education.

My bill, the Work Force Skills Enhancement Through Technology Implementation Act, fills a small, but fundamental, niche by ensuring that practical skills and training are an integral part of manufacturing extension. I believe this measure should be adopted as part of the National Competitiveness Act. Overall, I am truly encouraged about the new opportunities to promote competitiveness based on years of work on this legislation, and President Clinton's economic plan and technology initiative.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD immediately following my remarks.

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

S. 879

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 "Work Force Enhancement for Technology Transfer Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds and declares the following:

(1) Skilled American workers are as essential to the Nation's productivity and long-term competitiveness as are new technologies. As technologies become more sophisticated and computer controlled, managers and other workers in manufacturing firms who are skilled in the effective utilization and operation of those advanced and modern technologies will become increasingly important to the Nation's international competitiveness, standard of living, and national security.

(2) When United States manufacturing firms invest in advanced and modern technologies, they can increase their productivity and competitiveness by simultaneously investing in targeted worker training for the effective utilization and operation of those specific technologies.

(3) United States manufacturing firms, particularly smaller firms, are increasingly turning to the expanding technology extension activities of the Department of Commerce's National Institute of Standards and Technology for technical and managerial assistance in order to identify and install the best and most appropriate advanced and modern technologies.

(4) With its extensive knowledge of the best available technologies, the National Institute of Standards and Technology, with its associated Regional Centers for the Transfer of Manufacturing Technology and, when established, its Manufacturing Outreach Centers, can provide training in the effective utilization and operation of these technologies, can promote the development of effective training materials for these technologies, and can serve as a clearinghouse for information on the best available training materials.

(b) PURPOSE.—It is the purpose of this Act to enhance the international competitiveness, standard of living, and national security of the United States by expanding the current technology extension activities of the Department of Commerce's National Institute of Standards and Technology (hereafter in this Act referred to as the "Institute") to include worker training in the effective utilization and operation of specific advanced and modern technologies.

SEC. 3. WORKER TRAINING ACTIVITIES.

In addition to existing responsibilities and authorities prescribed by law, the Secretary of Commerce (hereafter in this Act referred to as the "Secretary"), through the Director of the Institute (hereafter in this Act referred to as the "Director"), shall direct Regional Centers for the Transfer of Manufacturing Technology and, when established, Manufacturing Outreach Centers, to utilize, when appropriate, their expertise and capability to assist managers and other workers in United States manufacturing firms in effectively utilizing and operating advanced and modern technologies—

(1) by making available assessments of the needs of United States manufacturing firms for worker training in the effective utilization and operation of specific technologies the firms have adopted or are planning to adopt;

(2) by making available to United States manufacturing firms information on commercially and publicly provided worker training services, including those provided by United States sources of technologies, in the effective utilization and operation of specific technologies the firms have adopted or are planning to adopt; and

(3) by making available to United States manufacturing firms accessible and affordable training services for the effective utilization and operation of specific technologies the firms have adopted or are planning to adopt when such training is not available from commercially or other publicly provided training services.

SEC. 4. WORKER TRAINING ANALYSIS AND INFORMATION DISSEMINATION.

In addition to existing responsibilities and authorities prescribed by law, the Secretary, through the Director and in consultation with appropriate Federal officials and with leaders of industry and labor, shall assist managers and other workers in United States manufacturing firms in effectively utilizing and operating advanced and modern technologies—

(1) by establishing and managing a clearinghouse for information, to be available through the National Technology Transfer Center to the Regional Centers for the Transfer of Manufacturing Technology, to the Manufacturing Outreach Centers when they are established, to other technology training entities, or directly to United States manufacturing firms, on the best available training material and services for the effective utilization and operation of specific advanced and modern technologies;

(2) by encouraging United States providers of advanced and modern technologies for manufacturing firms to develop training material specifically designed for the managers and other workers responsible for utilizing and operating such technologies; and

(3) by establishing as an important criterion in the assessment of advanced and modern technologies the availability of training material specifically designed for the managers and other workers responsible for utilizing and operating such technologies.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary for the establishment and management of a technology training clearinghouse $2,000,000 for fiscal year 1994 and $3,000,000 for each of fiscal years 1995 and 1996.●

By Mr. BOREN (for himself and Mr. PRYOR):

S. 880. A bill to amend the Internal Revenue Code of 1986 to clarify the treatment of interest income and rental expense in connection with safe har-

bor leases involving rural electric cooperatives; to the Committee on Finance.

INTEREST INCOME AND RENTAL EXPENSE CLARIFICATION ACT OF 1993

• Mr. BOREN. Mr. President, I am pleased today to reintroduce a bill to clarify the tax treatment of safe harbor leases entered into by rural electric cooperatives when the Tax Code allowed such transactions. My colleague from Arkansas, Mr. PRYOR, again joins me as an original cosponsor of this legislation. This provision was included in legislation that passed the Senate Finance Committee last year.

The bill would amend the Internal Revenue Code to clarify that ongoing income and deductions generated by a safe harbor lease transaction and reported by a cooperative should be matched to avoid distortion of income. Cooperatives typically separate business with members from business with nonmembers, in effect, treating their operations as if they were carried on through two separate entities.

This bill would amend the Tax Code to recognize this member/nonmember accounting procedure that is unique to cooperatives. The proposal will thus prevent the cooperatives from being subjected to substantial and harsh tax consequences simply because they entered into safe harbor leases, which were authorized by Congress in the early 1980's. The Internal Revenue Service's position, on the other hand, does not allow the offset of losses and income. As a result, a cooperative could be subject to large tax bills when it actually has a loss.

It now appears that the affected cooperatives may be forced into prolonged litigation; a loss in court could dramatically impact the electric rates of their consumer members. In one instance, this situation could lead to the filing of bankruptcy—a particularly disturbing result considering that the Federal Government is the primary lender to this organization.

When safe harbor leasing was enacted it was intended to benefit financially distressed companies. Even though safe harbor leasing was subsequently repealed, it did serve this purpose. It seems odd that the very businesses this provision was meant to rescue will now lose that benefit because of an obscure accounting principle unique to cooperatives.

Mr. President, I urge my colleagues to study this issue closely. It is one of great urgency to the electric cooperatives that provide needed services to so many Americans.

I ask unanimous consent that copy 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. 880

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in the case of a rural electric cooperative described in section 1381(a)(2)(C) of the Internal Revenue Code of 1986, any interest income in connection with a transaction involving qualified leased property which was treated as a lease under section 168(i) of the Internal Revenue Code of 1986 (as in effect before the amendments made by the Tax Reform Act of 1986) or any corresponding prior provision of law shall be offset by any rental expense in connection with such transaction before allocation of such income or expense to members and nonmembers of such cooperatives for purposes of such Code.•

By Mr. DODD (for himself, Mr. HATFIELD, Mr. PELL, Mrs. FEINSTEIN, Mr. INOUYE, Mr. DECONCINI, Mr. CONRAD, Mr. JOHNSTON, Mr. COCHRAN, Mr. DORGAN, Mr. HEFLIN, Mr. LEVIN, Mr. LUGAR, Mr. BYRD, Mr. PRYOR, Mr. KENNEDY, Mr. COATS, Mr. CHAFEE, Mr. LIEBERMAN, Mr. JEFFORDS, Mr. AKAKA, Mrs. BOXER, Mr. BRADLEY, Mr. HATCH, Mr. GRAHAM, Mrs. MURRAY, Mr. DANFORTH, Mr. BOND, Mr. EXON, Mr. BINGAMAN, Mr. BUMPERS, Mr. KERREY, Mr. MOYNIHAN, Mr. BAUCUS, Mr. SHELBY, Mr. COHEN, Mr. DOMENICI, Mr. DASCHLE, and Mr. GORTON):

S. 881. A bill to amend the Elementary and Secondary Education Act of 1965 to reauthorize and make certain technical corrections in the Civic Education Program, and for other purposes; to the Committee on Labor and Human Resources.

CIVICS EDUCATION ACT

• Mr. DODD. Mr. President, I introduce the Civics Education Act of 1993, which will continue successful efforts to enhance citizenship among our Nation's youth. I am pleased to be joined by Senator HATFIELD and so many of my other colleagues including Senators KENNEDY, PELL, JEFFORDS, BYRD, FEINSTEIN, INOUYE, DECONCINI, CONRAD, LIEBERMAN, JOHNSTON, COCHRAN, DORGAN, HEFLIN, LEVIN, LUGAR, PRYOR, COATS, CHAFEE, AKAKA, BOXER, BRADLEY, HATCH, GRAHAM, MURRAY, DANFORTH, EXON, BINGAMAN, BUMPERS, KERREY, MOYNIHAN, BAUCUS, SHELBY, DOMENICI, DASCHLE, GORTON, and COHEN.

Over the last decade, there has been much discussion about the purposes, successes, and failures of American schools. We talk about how schools hold in trust our Nation's future—the next generation of workers, parents, and artists. One of the most important, and perhaps least mentioned, roles that today's students will play tomorrow is as citizens. Yet in too many schools citizenship education is an afterthought to an American history or government course.

The Civics Education Act of 1993 will reauthorize a highly successful program established by Congress in 1985 that helps meet these needs. The We the People * * * the Citizen and the Constitution Program has demonstrated its effectiveness in fostering a reasoned commitment to the fundamental principles and values of our constitutional democracy among elementary and secondary education students. Now in its sixth year, this program has provided nearly 16 million students in over 21,000 schools with instruction and learning opportunities that enable them to meet the highest standards of achievement in civics and government and that encourages active and responsible participation in government.

In separate evaluations of the program in 1991, the Educational Testing Service found that students at upper elementary, middle, and high school levels significantly outperformed comparison students on all topics studied. Even more impressive were the results of a comparison of a random sample of high school students in the program with a group of sophomores and juniors in political science courses at a major university. The We the People high school students outperformed the university students on every topic tested. Finally, an analysis of student voter registration at the Clark County School District in Las Vegas, NV, revealed that 80 percent of the seniors in the program registered to vote compared to a school average among seniors of 37 percent.

Many of us here in this Chamber are fortunate to have experienced firsthand the quality of this program. Each spring, outstanding classes of students from around the country come to Washington to participate in the final round of national competitive hearings on the Constitution and the Bill of Rights. While these students' knowledge of the Constitution is impressive, what is most striking is the students' excitement about the Constitution and their Government. Just this morning I met with a talented and enthusiastic group of students from Shelton High School, who have studied the We the People curriculum this year and won our State competition. Although they did not make it into the final round of the competition, their knowledge of the foundations of our Government and their few days in Washington are something that they will carry with them as citizens for the rest of their lives.

This legislation would assure that students across the Nation will continue to have access to this quality program. In addition, it would assure all of us of a stronger foundation for our country's future. I look forward to working with my colleagues to move this legislation forward and would urge others to join us as cosponsors of this important measure.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 881

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CIVIC EDUCATION PROGRAM.

Section 4609 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3156b) is amended—

(1) in subsection (a)—

(A) by striking "civil responsibility" in paragraph (1) and inserting "civic responsibility";

(B) by striking "National Bicentennial Competition of the Constitution and Bill or Rights" in paragraph (2) and inserting "We the People . . . the Citizen and the Constitution program"; and

(C) by inserting before the period in paragraph (2) the following: "and authorized under section 4009 of part F of title IV of this Act";

(2) in subsection (c), by inserting "and secondary" after "elementary";

(3) in subsection (d), by striking "about the Constitution and the Bill of Rights" and inserting "in civics and government"; and

(4) in subsection (f), by striking "1991" and all that follows through the period and inserting "1994, and such sums as may be necessary for each of the fiscal years 1995 through 1998, to carry out the provisions of this section.".●

● Mr. HATFIELD. Mr. President, just a few weeks ago, we celebrated the 250th birthday of Thomas Jefferson. He died on July 4, 1826, exactly 50 years after the Declaration of Independence was adopted. These distinct moments do not in themselves define the type of man Thomas Jefferson was or the country he helped found. He was not only our third President and the author of the Declaration of Independence, but he was also a scientist, a philosopher, a revolutionary, an architect; he believed in education and the idea of self-government. He was a wealthy man and a slave owner. Although the face of society has changed since Thomas Jefferson's time, the truths that he held to be self-evident have remained our guides for the last 200 years: "that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness."

My dream is that future generations of Americans will have the chance to learn more than just the moments of history. History has little meaning if the people reading it don't transcend the words and the dates. I want our young people to be empowered by history and the minds that have guided over the last 200 years. As James Monroe put it, "the question to be asked at the end of an educational step is not 'what has the student learned,' but 'what has the student become.' " Thomas Jefferson would have wanted young people to become conscientious citizens who work as teachers, scientists, and philosophers.

In a letter to Col. Charles Yancey, in 1816, Thomas Jefferson wrote, "I am a great friend to the improvement of roads, canals, and schools. But I wish I could see some provision for the former as solid as that of the latter." He went on later to say that, "if a nation expects to be ignorant and free, it expects what never was and never will be." Thomas Jefferson saw the ideas of education and self-government to be inseparable.

For almost three decades now, I have been watching young people come to Washington. They visit the Jefferson Memorial, the Lincoln Memorial, the Capitol, the White House. Captivated by the enormity of Government and by the splendor of its historic houses, these young visitors often fail to appreciate that Government is more than just the sum of its historic moments, more than just the marble facade that covers these historic structures.

Like Thomas Jefferson and other leaders, I envision ideal education as a simultaneous encouragement of spirited citizenry and intellectual blossoming. These spheres are by no means mutually exclusive. Only a combined effort of government and citizens can foster the concurrent evolution of mind and character.

In 1978, in a speech at the National Archives, Chief Justice Warren Burger proposed a 3-year-long observance of the bicentennial of the Constitution with the intent of reeducating citizens about the founding principles and ideals of this Nation focusing especially on young people. He wanted young minds to realize that the Constitution is a living document that continues to reflect the philosophies of its Framers and the current American values. I was fortunate to serve with my friend, the Chief Justice, as a member of the National Commission on the Bicentennial of the United States Constitution, which was created to oversee these events.

In the final report of the Commission, Chief Justice Burger said:

> A symbolic linkage of past, present, and future was reflected on that day in the range of generations of Americans present. The Nation's leaders on the main platform were surrounded by thousands of schoolchildren as representatives of future American leaders who will see the 250th anniversary of the Constitution in 2037. * * * We pointedly gave these children a prominent place on the platform to symbolize our emphasis on the education of America's youth contemplated by the Commission's programs, to give Americans "a history and civics lesson."

Mr. President, in the name of Thomas Jefferson and other Founding Fathers, let us ensure that the lesson never ends, that young minds continue to have the opportunity to experience Government and its history, and that they remain committed to this constitutional democracy. Today, I am pleased to join Senator DODD in introducing legislation to reauthorize the We the People . . . the Citizen and the Constitution Program established by Congress in 1985 and currently administered by the Center for Civic Education. This act authorizes $5 million for fiscal year 1994 and such sums as may be necessary for each of the fiscal years 1995, 1996, 1997, and 1998 to conduct a national program for high school students emphasizing the origins and modern interpretations of the U.S. Constitution and Bill of Rights.

The program has been implemented nationwide in 21,490 schools, involving 176,000 teachers, and more than 12 million students. It immerses upper elementary, middle, and high school students in an innovative approach to studying the history of the Constitution and the Bill of Rights. The program was created so that young minds could explore and learn to effectively defend the political philosophies behind the founding documents. Finally, the program leverages an additional $30,000,000 from State, local, and private sources.

In 1991, several studies were conducted to measure the impact of the We the People Program: a study commissioned by the Office of Technology Assessment found the program to be the best example of performance-based assessment in history and the social sciences. The Educational Testing Service found that participating students at upper elementary, middle, and high school levels significantly outperformed comparison students on all topics studied. Perhaps more indicative of the program's influence was the comparison of a random sample of high school students in the program with a group of sophomores and juniors in political science courses at a major university. This study concluded that participating high school students outperformed the university students on every subject tested. Finally, Clark County School District in Nevada revealed that 80 percent of the seniors in the program registered to vote compared to a school average among seniors of 37 percent.

In just a few short weeks, this year's program, now in its sixth year, will culminate here in Washington. Students from around the country are coming to compete in their knowledge of the Constitution and the Bill of Rights. I hope my colleagues will show these young people that government supports their efforts and the efforts of their community leaders who have donated valuable time to help this program succeed by cosponsoring this legislation.

I have been privileged to experience the results generated by this program first hand because students from Lincoln High School in Portland, OR have been the victors in this national competition for 2 of the 6 years of its existence. So as you can see, I wholeheartedly support the program. In all seriousness, however, there is nothing more rewarding than seeing the impact

of this program in those young people's eyes or hearing it as they defend the very philosophies we guard here each day.●

By Mr. KOHL:

S. 882. A bill to amend the Internal Revenue Code of 1986 to provide for the rollover of gain from the sale of farm assets into an individual retirement account; to the Committee on Finance.

FAMILY FARM RETIREMENT EQUITY ACT OF 1993

● Mr. KOHL. Mr. President, I rise today to introduce the Family Farm Retirement Equity Act of 1993, a bill to help improve the financial security of our Nation's retired farmers.

Farming is a highly capital-intensive business. To the extent that if the average farmer reaps any profits from his or her farming operation, much of that income is directly reinvested into the farm. Rarely are there opportunities for farmers to put money aside in individual retirement accounts. Instead, farmers tend to rely on the sale of their accumulated capital assets, such as real estate, livestock, and machinery, in order to provide the income to sustain them during retirement. All too often, farmers are finding that the lump-sum payments of capital gains taxes levied on those assets leave little for retirement. It is with that problem in mind that I am introducing the Family Farm Retirement Equity Act.

This legislation would provide retiring farmers the opportunity to rollover the proceeds from the sale of their farms into a tax-deferred retirement account. Instead of paying a large lump-sum capital gains tax at the point of sale, the income from the sale of a farm would be taxed only as it is withdrawn from the retirement account. Such a change in method of taxation would help prevent the financial distress that many farmers now face upon retirement.

Another concern that I have about rural America is the diminishing interest of our younger rural citizens in continuing in farming. Because this legislation will facilitate the transition of our older farmers into a successful retirement, the Family Farm Retirement Equity Act will also pave the way for a more graceful transition of our younger farmers toward farm ownership. While low prices and low profits in farming will continue to take their toll on our younger farmers, I believe that this will be one tool we can use to make farming more viable for the next generation.

This proposal, which was originally introduced in the 102d Congress by former Senator Kasten, is supported by the Wisconsin Farm Bureau and farmers throughout Wisconsin. I am proud to introduce this legislation, and I ask unanimous consent that the full text of this measure be entered into 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. 882

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCE TO INTERNAL REVENUE CODE.

(a) SHORT TITLE.—This Act may be cited as the "Family Farm Retirement Equity Act of 1993".

(b) REFERENCE TO INTERNAL REVENUE CODE OF 1986.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. ROLLOVER OF GAIN FROM SALE OF FARM ASSETS TO INDIVIDUAL RETIREMENT PLANS.

(a) IN GENERAL.—Part III of subchapter O of chapter 1 of the Internal Revenue Code of 1986 (relating to common nontaxable exchanges) is amended by inserting after section 1034 the following new section:

"SEC. 1034A. ROLLOVER OF GAIN ON SALE OF FARM ASSETS INTO ASSET ROLLOVER ACCOUNT.

"(a) NONRECOGNITION OF GAIN.—If a taxpayer has a qualified net farm gain from the sale of a qualified farm asset, then, at the election of the taxpayer, gain (if any) from such sale shall be recognized only to the extent such gain exceeds the contributions—

"(1) to 1 or more asset rollover accounts of the taxpayer for the taxable year in which such sale occurs, and

"(2) not in excess of the limits under subsection (c).

"(b) ASSET ROLLOVER ACCOUNT.—

"(1) GENERAL RULE.—Except as provided in this section, an asset rollover account shall be treated for purposes of this title in the same manner as an individual retirement plan.

"(2) ASSET ROLLOVER ACCOUNT.—For purposes of this title, the term 'asset rollover account' means an individual retirement plan which is designated at the time of the establishment of the plan as an asset rollover account. Such designation shall be made in such manner as the Secretary may prescribe.

"(c) CONTRIBUTION RULES.—

"(1) NO DEDUCTION ALLOWED.—No deduction shall be allowed under section 219 for a contribution to an asset rollover account.

"(2) AGGREGATE CONTRIBUTION LIMITATION.—Except in the case of rollover contributions, the aggregate amount for all taxable years which may be contributed to all asset rollover accounts established on behalf of an individual during a qualified period shall not exceed—

"(A) $500,000 ($250,000 in the case of a separate return by a married individual), reduced by

"(B) the amount by which the aggregate value of the assets held by the individual (and spouse) in individual retirement plans (other than asset rollover accounts) exceeds $100,000.

"(3) ANNUAL CONTRIBUTION LIMITATIONS.—

"(A) GENERAL RULE.—The aggregate contribution which may be made in any taxable year to all asset rollover accounts shall not exceed the lesser of—

"(i) the qualified net farm gain for the taxable year, or

"(ii) an amount determined by multiplying the number of years the taxpayer is a qualified farmer by $10,000.

"(B) SPOUSE.—In the case of a married couple filing a joint return under section 6013 for the taxable year, subparagraph (A) shall be applied by substituting '$20,000' for '$10,000' for each year the taxpayer's spouse is a qualified farmer.

"(4) TIME WHEN CONTRIBUTION DEEMED MADE.—For purposes of this section, a taxpayer shall be deemed to have made a contribution to an asset rollover account on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

"(d) QUALIFIED NET FARM GAIN; ETC.—For purposes of this section—

"(1) QUALIFIED NET FARM GAIN.—The term 'qualified net farm gain' means the lesser of—

"(A) the net capital gain of the taxpayer for the taxable year, or

"(B) the net capital gain for the taxable year determined by only taking into account gain (or loss) in connection with a disposition of a qualified farm asset.

"(2) QUALIFIED FARM ASSET.—The term 'qualified farm asset' means an asset used by a qualified farmer in the active conduct of the trade or business of farming (as defined in section 2032A(e)).

"(3) QUALIFIED FARMER.—

"(A) IN GENERAL.—The term 'qualified farmer' means a taxpayer who—

"(i) during the 5-year period ending on the date of the disposition of a qualified farm asset materially participated in the trade or business of farming, and

"(ii) 50 percent or more of such trade or business is owned by the taxpayer (or his spouse) during such 5-year period.

"(B) MATERIAL PARTICIPATION.—For purposes of this paragraph, a taxpayer shall be treated as materially participating in a trade or business if the taxpayer meets the requirements of section 2032A(e)(6).

"(4) ROLLOVER CONTRIBUTIONS.—Rollover contributions to an asset rollover account may be made only from other asset rollover accounts.

"(e) DISTRIBUTION RULES.—For purposes of this title, the rules of paragraphs (1) and (2) of section 408(d) shall apply to any distribution from an asset rollover account.

"(f) INDIVIDUAL REQUIRED TO REPORT QUALIFIED CONTRIBUTIONS.—

"(1) IN GENERAL.—Any individual who—

"(A) makes a contribution to any asset rollover account for any taxable year, or

"(B) receives any amount from any asset rollover account for any taxable year,

shall include on the return of tax imposed by chapter 1 for such taxable year and any succeeding taxable year (or on such other form as the Secretary may prescribe) information described in paragraph (2).

"(2) INFORMATION REQUIRED TO BE SUPPLIED.—The information described in this paragraph is information required by the Secretary which is similar to the information described in section 408(o)(4)(B).

"(3) PENALTIES.—For penalties relating to reports under this paragraph, see section 6693(b)."

(b) CONTRIBUTIONS NOT DEDUCTIBLE.—Section 219(d) of the Internal Revenue Code of 1986 (relating to other limitations and restrictions) is amended by adding at the end thereof the following new paragraph:

"(5) CONTRIBUTIONS TO ASSET ROLLOVER ACCOUNTS.—No deduction shall be allowed under this section with respect to a contribution under section 1034A."

(c) EXCESS CONTRIBUTIONS.—

(1) IN GENERAL.—Section 4973 of the Internal Revenue Code of 1986 (relating to tax on excess contributions to individual retirement accounts, certain section 403(b) contracts, and certain individual retirement annuities) is amended by adding at the end the following new subsection:

"(d) ASSET ROLLOVER ACCOUNTS.—For purposes of this section, in the case of an asset rollover account referred to in subsection (a)(1), the term 'excess contribution' means the excess (if any) of the amount contributed for the taxable year to such account over the amount which may be contributed under section 1034A."

(2) CONFORMING AMENDMENTS.—

(A) Section 4973(a)(1) of such Code is amended by striking "or" and inserting "an asset rollover account (within the meaning of section 1034A), or".

(B) The heading for section 4973 of such Code is amended by inserting "asset rollover accounts," after "contracts".

(C) The table of sections for chapter 43 of such Code is amended by inserting "asset rollover accounts," after "contracts" in the item relating to section 4973.

(d) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 408(a) of the Internal Revenue Code of 1986 (defining individual retirement account) is amended by inserting "or a qualified contribution under section 1034A," before "no contribution".

(2) Subparagraph (A) of section 408(d)(5) of such Code is amended by inserting "or qualified contributions under section 1034A" after "rollover contributions".

(3)(A) Section 6693(b)(1) of such Code is amended by inserting "or 1034A(f)(1)" after "408(o)(4)" in subparagraph (A).

(B) Section 6693(b)(2) of such Code is amended by inserting "or 1034A(f)(1)" after "408(o)(4)".

(4) The table of sections for part III of subchapter O of chapter 1 of such Code is amended by inserting after the item relating to section 1034 the following new item:

"Sec. 1034A. Rollover of gain on sale of farm assets into asset rollover account."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and exchanges after the date of enactment of this Act.•

By Mr. ROCKEFELLER:

S. 883. A bill to amend title 38, United States Code, to increase, effective as of December 1, 1993, the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans; to the Committee on Veterans Affairs.

VETERANS' COMPENSATION COST-OF-LIVING ADJUSTMENT ACT OF 1993

• Mr. ROCKEFELLER. Mr. President, as chairman of the Veterans' Affairs Committee, I have today introduced, at request of the Secretary of Veterans' Affairs, S. 883, the proposed Veterans' Compensation Cost-of-Living Adjustment Act of 1993. The Secretary of Veterans Affairs submitted this legislation by letter dated April 22, 1993, to the President of the Senate.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point, together with the transmittal letter.

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

S. 883

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 "Veterans' Compensation Cost-of-Living Adjustment Act of 1993".

SEC. 2. DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION RATE INCREASES.

(a) IN GENERAL.—(1) The Secretary of Veterans Affairs shall, as provided in paragraph (2), increase, effective December 1, 1993, the rates of and limitations on Department of Veterans Affairs disability compensation and dependency and indemnity compensation.

(2)(A) The Secretary shall increase each of the rates and limitations in sections 1114, 1115(1), 1162, 1311, 1313, and 1314 of title 38, United States Code, that were increased by the amendments made by the Veterans' Compensation Cost-of-Living Adjustment Act of 1992 (Public Law 102-510; 106 Stat. 3318). This increase shall be made in such rates and limitations as in effect on November 30, 1993, and shall be by the same percentage that benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 1993, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(B) In the computation of increased rates and limitations pursuant to subparagraph (A), amounts of $0.50 or more shall be rounded to the next higher dollar amount and amounts of less than $0.50 shall be rounded to the next lower dollar amount.

(b) SPECIAL RULE.—The Secretary may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 (72 Stat. 1263) who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

(c) PUBLICATION REQUIREMENT.—At the same time as the matters specified in section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are required to be published by reason of a determination made under section 215(i) of such Act during fiscal year 1993, the Secretary shall publish in the Federal Register the rates and limitations referred to in subsection (a)(2)(A) as increased under this section.

DEPARTMENT OF VETERANS AFFAIRS,
April 22, 1993.

Hon. ALBERT GORE, Jr.
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill entitled the "Veterans' Compensation Cost-of-Living Adjustment Act of 1993." I request that this bill be referred to the appropriate committee for prompt consideration and enactment.

The draft bill would provide a cost-of-living increase, effective December 1, 1993, in the rates of compensation for service-disabled veterans and of dependency and indemnity compensation (DIC) for the survivors of veterans who die as a result of service. The rate of increase, currently estimated to be 3 percent, would be the same as the costs-of-living adjustment that will be provided under current law to veterans' pension and Social Security recipients. In computing increased rates, fractions of $0.50 or more would be rounded to the next higher dollar amount and fractions of less than $0.50 would be rounded to the next lower dollar amount.

Compensation under title 38, United States Code, is payable only for disabilities resulting from injuries or diseases incurred or aggravated during active service. Payments are based upon a statutory schedule of rates which vary with the degree of disability assigned by the Department of Veterans Affairs (VA), and additional amounts are payable to veterans with spouses and children if the veteran's disability is rated 30-percent or more disabling. DIC benefits are payable at statutorily directed rates to the surviving spouses or children of veterans who die of service-connected causes, or who die of other causes if they suffered service-connected total disability for prescribed periods immediately preceding their deaths. This proposed cost-of-living increase will protect these benefits against inflation.

Enactment of this legislation would result in estimated additional costs of $330.2 million in fiscal year 1994 and $1.9 billion over the five-year period fiscal year 1994 through fiscal year 1998.

The effect of this draft bill on the deficit is:

Fiscal years

[in millions of dollars]

Outlays:	
1993	.....
1994	.....
1995	.....
1996	.....
1997	.....
1998	.....
1993–98	.....

Section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, requires that the baseline for veterans' compensation assume a cost-of-living adjustment (COLA) equal to the veterans' pension program COLA. We currently estimate a 3.0 percent COLA for veterans' pensions. The COLA increase in this draft bill would be the same as that for the veterans' pension program. Therefore, the pay-as-you-go effect of this draft bill is zero. However, if Congress were to enact a VA compensation COLA different from the increase for veterans' pensions, then the difference between the two COLAs would be subject to the pay-as-you-go requirement of the Budget Enforcement Act. We urge that the House promptly consider and pass this legislative item.

We are advised by the Office of Management and Budget that there is no objection to the transmittal of this draft bill to the Congress and that its enactment would be in accord with the program of the President.

Sincerely yours,

JESSE BROWN.•

By Mr. LAUTENBERG (for himself, Mr. BOREN, Mr. LEVIN, Mr.

WELLSTONE, Mr. FEINGOLD, and Mr. KOHL):

S. 885. A bill to limit the acceptance of gifts, meals, and travel by Members of Congress and congressional staff, and for other purposes; to the Committee on Governmental Affairs.

CONGRESSIONAL ETHICS REFORM ACT

• Mr. LAUTENBERG. Mr. President, today, along with Senators BOREN, LEVIN, WELLSTONE, FEINGOLD, and KOHL, I am introducing legislation, the Congressional Ethics Reform Act, to substantially tighten the existing rules governing the acceptance of gifts, meals, and travel by Members of Congress and congressional staff.

Mr. President, Americans have become deeply distrustful of elected officials in recent years, especially those in the Congress. There is a widespread perception that Members of Congress are failing to pursue the public interest, and instead spend their time catering to the special interests of the wealthy and powerful. In the view of many, Members have lost touch with ordinary Americans in part because they enjoy an assortment of special perks and privileges that are unavailable to the general public.

Mr. President, I know many of my colleagues believe that these perceptions are inaccurate, or at least overstated. But the fact is, Members of Congress do enjoy many special advantages that ordinary Americans do not. And many of these special perks are specifically designed to influence Members in the performance of their official duties.

One important way that lobbyists and others seek to influence legislation is to shower Members of Congress with gifts. It is not unusual, for example, for lobbyists to give Members free tickets to a show, concert, or sporting event. Some lobbyists regularly take Members out for lavish dinners at expensive restaurants. Sometimes they provide Members with free trips, typically involving stays at expensive luxury hotels along with various forms of entertainment.

Mr. President, it would be nice to believe that all these special favors are being provided to Members out of the goodness of lobbyists' hearts. But let's be realistic. Lobbyists are using money to buy influence, often at the expense of the general public.

I know many of my colleagues will deny that they can be influenced by a free dinner or even a luxury trip to the Caribbean. However, it seems indisputable that these kinds of special favors have contributed to Americans' deepening distrust of Government. It's a serious problem. For as public trust diminishes, the ability of Congress to address our Nation's serious problems also diminishes.

Mr. President, to address Americans' distrust of Congress, it is essential that we tighten the rules on acceptance of gifts. The current rules are far too lax. Members of the Senate may accept gifts worth up to $250 from any person. However, gifts worth less than $100 are not counted. Thus, a lobbyist legally may provide Senators with unlimited numbers of gifts worth $99.

Moreover, some types of gifts are excluded from the limits altogether. There is no limit, for example, on the number of meals at Washington restaurants that lobbyists can provide to Senators. In addition, the rules allow Members broad latitude to accept reimbursement for various travel expenses, regardless of cost.

By contrast, Mr. President, officials in the executive branch must abide by much stricter rules of conduct. Generally speaking, executive branch officials may not accept gifts from any person who does business with the official's agency or who has interests that may be substantially affected by the performance of the employee's official duties. There are limited exceptions, such as awards, honorary degrees, food at conferences attended in an official capacity, and other items worth less than $20. However, the rules apply broadly to any items of value, including meals and travel expenses.

This bill would require Members of Congress, and congressional staff, to abide essentially by the same rules on gift acceptance that already apply to the executive branch. However, there are a few modifications designed to strengthen the rules further and to adapt them to the Congress.

Perhaps most importantly, the bill's proposed limits would apply to acceptance of gifts not just from certain prohibited sources, as under the executive branch rules, but from any person other than a family member or personal friend. This is appropriate, in my view, since virtually all Americans are potentially affected by the actions of the Congress.

The bill also would prohibit Members from knowingly soliciting contributions from registered lobbyists for charities and other organizations. Let me say, first, that many such solicitations are motivated by the best of motives, often on behalf of the noblest of causes. Nevertheless, in my view, such direct solicitation is problematic. First, many lobbyists who receive such solicitations feel that they are being pressured unfairly to make these contributions, and understandably fear that a legislator will treat them worse if they fail to ante up. Moreover, in a more general sense, this practice further aggravates the unfair ability of the wealthy to use money in order to tilt the political system to their advantage.

Another bill provision would prohibit Members from directing honoraria received for speaking engagements to certain charities. Congress prohibited Members from accepting honoraria in order to reduce the influence of special interests. Yet some have expressed concern that allowing Members to direct contributions to specific charities or other organizations runs counter to that goal.

The bill also has provisions to specifically prohibit the private financing of congressional retreats. In the past, lobbyists have paid for the privilege of meeting Members at such gatherings. This gives lobbyists special access to Members, and can provide an unfair advantage in the legislative process.

Another bill provision clarifies that the gift limits should not apply to books and other written materials. There is no similar language in the executive branch rules. However, it is important to ensure that we not reduce the ability of Americans to communicate with their elected officials, or to share information with the Congress.

Mr. President, I want to emphasize that in introducing this legislation, I do not mean to impugn the integrity of any Member of Congress. Frankly, many of us, myself included, have followed the existing rules in the past and accepted some items, without providing any special treatment in return.

But, Mr. President, public cynicism has reached deeply disturbing levels. As a consequence, practices that may have seemed innocuous a few years ago clearly are not innocuous today.

We can't ignore that widespread feeling, Mr. President. We've got to address it head-on.

I also want to emphasize that this legislation is not a cure-all, and is not designed to address every abuse in the current system. We must take other steps to better regulate lobbyists and to eliminate special perks and privileges for Members of Congress. However, no comprehensive program for political reform would be complete without addressing the problem of lobbyists' gifts.

Finally, Mr. President, let me add that this bill is rather lengthy and detailed, and may not be perfect. While I am committed to its goals, I am not committed to its specific language. I hope my colleagues, and other interested parties, will let me know if they have any suggestions for improvements.

I ask unanimous consent that a copy of the legislation and a summary of its provisions be printed in the RECORD at this point.

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

S. 885

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 "Congressional Ethics Reform Act".

SEC. 2. GENERAL STANDARDS.

(a) GENERAL PROHIBITIONS.—A Member or employee shall not, directly or indirectly,

solicit or accept a gift from any source except as provided in this Act.

(b) RELATIONSHIP TO ILLEGAL GRATUITIES STATUTE.—Unless accepted in violation of subsection (c)(1), a gift accepted under the standards set forth in this Act shall not constitute an illegal gratuity otherwise prohibited by section 201(c)(1)(B) of title 18, United States Code.

(c) LIMITATIONS ON USE OF EXCEPTIONS.—A Member or employee shall not—

(1) accept a gift in return for being influenced in the performance of an official act;

(2) solicit or coerce the offering of a gift;

(3) accept gifts from the same or different sources on a basis so frequent that a reasonable person would be led to believe the Member or employee is using his public office for private gain;

(4) accept a gift in violation of any statute; or

(5) accept vendor promotional training contrary to any applicable regulations, policies, or guidance relating to the procurement of supplies and services for the Congress.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) EMPLOYEE.—The term "employee" means an employee of the legislative branch.

(2) GIFT.—The term "gift" includes any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. It includes services as well as gifts of training, transportation, local travel, lodgings and meals, whether provided in-kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred. It does not include—

(A) modest items of food and refreshments, such as soft drinks, coffee, and donuts, offered other than as part of a meal;

(B) greeting cards and items with little intrinsic value, such as plaques, certificates and trophies, which are intended solely for presentation;

(C) loans from banks and other financial institutions on terms generally available to the public;

(D) opportunities and benefits, including favorable rates and commercial discounts, available to the public or to a class consisting of all Government employees, whether or not restricted on the basis of geographic considerations;

(E) rewards and prizes given to competitors in contests or events, including random drawings, open to the public unless the Member's or employee's entry into the contest or event is required as part of his official duties;

(F) pension and other benefits resulting from continued participation in a Member or employee welfare and benefits plan maintained by a former employer;

(G) anything which is paid for by the Government or secured by the Government under Government contract;

(H) any gift accepted by the Congress under specific statutory authority;

(I) anything for which the market value is paid by the Member or employee; and

(J) any books, written materials, audio tapes, videotapes, or other informational materials.

(3) MARKET VALUE.—The term "market value" means the retail cost the Member or employee would incur to purchase the gift. A Member or employee who cannot ascertain the market value of a gift may estimate the market value by reference to the retail cost of similar items of like quality. The market value of a gift of a ticket entitling the holder to food, refreshments, entertainment, or any other benefit shall be the face value of the ticket.

(4) MEMBER.—The term "Member" has the meaning given such term in section 109(12) of the Ethics in Government Act of 1978 (5 U.S.C. App. 6 sec. 109).

(5) SOLICITATION OR ACCEPTANCE.—(A) A gift is solicited or accepted because of the Member's or employee's official position if it is from a person other than a Member or employee and if a reasonable person with knowledge of all relevant facts would conclude that it would not have been solicited, offered, or given had the Member or employee not held his position as a Member or employee.

(B) A gift which is solicited or accepted indirectly includes a gift—

(i) given with the Member's or employee's knowledge and acquiescence to his or her parent, sibling, spouse, child, or dependent relative if a reasonable person with knowledge of all relevant facts would conclude that the gift was given because of that person's relationship to the Member or employee; or

(ii) given to any other person, including any charitable organization, on the basis of designation, recommendation, or other specification by the Member or employee, except as permitted for the disposition of perishable items by section 5(a)(2).

(6) ETHICS COMMITTEE.—The term Ethics Committee with respect to the House means the Committee on Standards of Official Conduct and with respect to the Senate means the Select Committee on Ethics.

(7) VENDOR PROMOTIONAL TRAINING.—The term "vendor promotional training" means training provided by any person for the purpose of promoting its products or services. It does not include training provided under a congressional contract or by a contractor to facilitate use of products or services it furnishes under a congressional contract.

SEC. 4. EXCEPTIONS.

The prohibitions set forth in section 2 do not apply to a gift accepted under the circumstances described in paragraphs (1) through (10) of this section and a gift accepted in accordance with one of those paragraphs will not be deemed to violate section 2 of this Act.

(1) GIFTS OF $20 OR LESS.—A Member or employee may accept unsolicited gifts having an aggregate market value of $20 or less per occasion, provided that the aggregate market value of individual gifts received from any one person or entity under the authority of this paragraph shall not exceed $50 in a calendar year. This exception does not apply to gifts of cash or of investment interests such as stock, bonds, or certificates of deposit. Where the market value of a gift or the aggregate market value of gifts offered on any single occasion exceeds $20, the Member or employee may not pay the excess value over $20 in order to accept that portion of the gift or those gifts worth $20. Where the aggregate value of tangible items offered on a single occasion exceeds $20, the Member or employee may decline any distinct and separate item in order to accept those items aggregating $20 or less.

(2) GIFTS BASED ON A PERSONAL RELATIONSHIP.—A Member or employee may accept a gift given under circumstances which make it clear that the gift is motivated by a family relationship or personal friendship rather than the position of the Member or employee. Relevant factors in making such a determination include the history of the relationship and whether the family member or friend personally pays for the gift.

(3) DISCOUNTS AND SIMILAR BENEFITS.—In addition to those opportunities and benefits excluded from the definition of a gift by section 3(2)(D), a Member or employee may accept—

(A) reduced membership or other fees for participation in organization activities offered to all Government employees by professional organizations if the only restrictions on membership relate to professional qualifications; and

(B) opportunities and benefits—

(i) offered to members of a group or class in which membership is unrelated to congressional employment; or

(ii) offered to members of an organization, such as an employees' association or congressional credit union, in which membership is related to congressional employment if the same offer is broadly available to large segments of the public through organizations of similar size.

A Member or employee may not accept for personal use any benefit to which the Government is entitled as a result of an expenditure of Government funds.

(4) HONORARY DEGREES.—(A) A Member or employee may accept an honorary degree from an institution of higher education (as defined in section 1141(a) of title 20, United States Code) based on a written determination by the Ethics Committee that the timing of the award of the degree would not cause a reasonable person to question the Member's or employee's impartiality in a matter affecting the institution.

(B) A Member or employee who may accept an honorary degree pursuant to subparagraph (A) may also accept meals and entertainment given to him and to members of his family at the event at which the presentation takes place.

(5) GIFTS BASED ON OUTSIDE BUSINESS OR EMPLOYMENT RELATIONSHIPS.—A Member or employee may accept meals, lodgings, transportation and other benefits—

(A) resulting from the business or employment activities of a Member's or employee's spouse when it is clear that such benefits have not been offered or enhanced because of the Member's or employee's official position; or

(B) resulting from his or her outside business or employment activities when it is clear that such benefits have not been offered or enhanced because of his or her official status.

(6) POLITICAL EVENTS.—A Member or employee may accept meals, lodgings, transportation and other benefits, including free attendance at events, when provided in connection with active participation in political management or political campaigns by a political organization described in section 527(e) of the Internal Revenue Code of 1986.

(7) WIDELY ATTENDED GATHERINGS AND OTHER EVENTS.—

(A) SPEAKING AND SIMILAR ENGAGEMENTS.—When a Member or employee participates as a speaker or panel participant or otherwise presents information related directly or indirectly to the Congress or matters before the Congress at a conference or other event, his or her acceptance of an offer of free attendance at the event on the day of the presentation is permissible when provided by the sponsor of the event. The Member's or employee's participation in the event on that day represents a customary and necessary part of the performance of his or her responsibilities and does not involve a gift to him or to the Congress.

(B) WIDELY ATTENDED GATHERINGS.—(i) A Member or employee may accept a sponsor's

unsolicited gift of free attendance at all or appropriate parts of a widely attended gathering of mutual interest to a number of parties. A gathering is widely attended if, for example, it is open to members from throughout a given industry or profession or if those in attendance represent a range of persons interested in a given matter.

(ii) A gathering is not widely attended if it is a congressional retreat to which a majority of Members of either House of Congress or the majority of the Members of a political party in one or both Houses are invited and which is held outside the United States Capitol grounds.

(C) FREE ATTENDANCE.—For purposes of subparagraphs (A) and (B), free attendance may include waiver of all or part of a conference or other fee or the provision of food, refreshments, entertainment, instruction and materials furnished to all attendees as an integral part of the event. It does not include travel expenses, lodgings, entertainment collateral to the event, or meals taken other than in a group setting with all other attendees.

(D) COST PROVIDED BY SPONSOR OF EVENT.—The cost of the Member's or employee's attendance will not be considered to be provided by the sponsor where a person other than the sponsor designates the Member or employee to be invited and bears the cost of the Member's or employee's attendance through a contribution or other payment intended to facilitate that Member's or employee's attendance. Payment of dues or a similar assessment to a sponsoring organization does not constitute a payment intended to facilitate a particular Member's or employee's attendance.

(E) ACCOMPANYING SPOUSE.—When others in attendance will generally be accompanied by spouses, a Member or employee may accept a sponsor's invitation to an accompanying spouse to participate in all or a portion of the event at which the Member's or employee's free attendance is permitted under subparagraph (A) or (B).

(8) PROTOCOL EXCEPTION.—A Member or employee who is on official travel to a foreign area or who is attending an event sponsored by a foreign government may accept food, refreshments, or entertainment in the course of such travel or event provided that such acceptance is in accordance with any rules that the Ethics Committee may establish.

(9) GIFTS ACCEPTED UNDER SPECIFIC STATUTORY AUTHORITY.—The prohibitions on acceptance of gifts contained in this Act do not apply to any item, receipt of which is specifically authorized by statute.

(10) ITEMS PRIMARILY FOR FREE DISTRIBUTION TO CONSTITUENTS.—A Member or employee may accept food or other items of minimal value intended primarily for free distribution to visiting constituents.

SEC. 5. PROPER DISPOSITION OF PROHIBITED GIFTS.

(a) IN GENERAL.—A Member or employee who has received a gift that cannot be accepted under this Act shall—

(1) return any tangible item to the donor or pay the donor its market value (a Member or employee who cannot ascertain the actual market value of an item may estimate its market value by reference to the retail cost of similar items of like quality);

(2) when it is not practical to return a tangible item because it is perishable, the item may be given to an appropriate charity or destroyed;

(3) for any entertainment, favor, service, benefit or other intangible, reimburse the donor the market value (subsequent reciprocation by the employee does not constitute reimbursement); and

(4) dispose of gifts from foreign governments or international organizations in accordance with rules established by the Ethics Committee.

(b) USE OF APPROPRIATED FUNDS TO RETURN GIFTS.—A Member or employee may use appropriated funds and franked mail to return gifts.

(c) PROMPT COMPLIANCE.—A Member or employee who, on his own initiative, promptly complies with the requirements of this section will not be deemed to have improperly accepted an unsolicited gift. A Member or employee who promptly consults his Ethics Committee to determine whether acceptance of an unsolicited gift is proper and who, upon the advice of the Ethics Committee, returns the gift or otherwise disposes of the gift in accordance with this section, will be considered to have complied with the requirements of this section on his own initiative.

SEC. 6. CHARITABLE DESIGNATION OF OUTSIDE EARNED INCOME.

Subsection (c) of section 501 of the Ethics in Government Act of 1978 is repealed.

SEC. 7. REPEAL OF OLD RULE.

Section 901 of the Ethics Reform Act of 1989 (2 U.S.C. 31-2) is repealed.

SEC. 8. ACCEPTANCE OF TRAVEL AND RELATED EXPENSES FROM NON-FEDERAL SOURCES.

(a) IN GENERAL.—The Ethics Committees shall prescribe rules establishing the conditions under which their respective Houses may accept payment, or authorize a Member or employee to accept payment on the House's behalf, from non-Federal sources for travel, subsistence, and related expenses with respect to attendance of the Member or employee (or the spouse of such Member or employee) at any meeting or similar function relating to the official duties of the Member or employee. Any cash payment so accepted shall be credited to the appropriation applicable to such expenses. In the case of a payment in kind so accepted, a pro rata reduction shall be made in any entitlement of the Member or employee to payment from the Government for such expenses.

(b) RULES.—The rules prescribed pursuant to subsection (a) shall—

(1) require that the Ethics Committee approve in advance all travel for which related expenses are to be reimbursed;

(2) condition such approval on a determination by the Ethics Committee that acceptance of reimbursement would not cause a reasonable person with knowledge of all the facts relevant to a particular case to question the integrity of the Member, the Congress or congressional operations; and

(3) prohibit reimbursement for items beyond those reasonably necessary for the Member or employee to participate in the event.

(c) GENERAL PROHIBITION.—Except as provided in this section or any other statute, no Member, employee, or House of Congress may accept payment in cash or in kind for expenses referred to in subsection (a). A Member or employee who accepts any such payment in violation of the preceding sentence—

(1) may be required, in addition to any penalty provided by law, to repay, for deposit in the general fund of the Treasury, an amount equal to the amount of the payment so accepted; and

(2) in the case of a repayment under paragraph (1), shall not be entitled to any payment from the Government for such expenses.

(d) REPORTS.—

(1) IN GENERAL.—The Ethics Committees shall, in the manner provided in paragraph (2), publish in the Congressional Record reports of payments of more than $250 accepted under this section.

(2) CONTENTS.—The reports required by paragraph (1) shall, with respect to each payment—

(A) specify the amount and method of payment, the name of the person making the payment, the name of the Member or employee, the nature of the meeting or similar function, the time and place of travel, the nature of the expenses, and such other information as the Ethics Committee may prescribe;

(B) be submitted not later than May 31 of each year with respect to payments in the preceding period beginning on October 1 and ending on March 31; and

(C) be submitted not later than November 30 of each year with respect to payments in the preceding period beginning on April 1 and ending on September 30.

SEC. 9. SOLICITATION OF REGISTERED LOBBYISTS.

A Member or employee shall not knowingly solicit contributions from any registered lobbyist for an organization described under section 501(c) of the Internal Revenue Code of 1986. For purposes of this section, the fact that the name of a Member or employee is on the letterhead of a solicitation is not sufficient to establish that the named Member or employee has solicited a contribution.

SUMMARY—CONGRESSIONAL ETHICS REFORM ACT

GIFTS [BASED LARGELY ON EXECUTIVE BRANCH RULES]

Under the bill, no Member of Congress or congressional employee may accept any item of value, subject to these exceptions:

(1) De minimus: Members/staff may accept gifts of $20 or less at any one time, provided the aggregate value of all gifts received from any one person may not exceed $50 in a calendar year.

(2) Gifts based on personal relationship: Members/staff may accept gifts based on a personal relationship, under circumstances that make it clear the gift is motivated by a family relationship or personal friendship.

(3) Discounts and similar benefits: Members/staff may accept discounts and similar benefits that are generally available to the public or government employees.

(4) Greeting cards/items of little intrinsic value: Members/staff may accept greeting cards and items with little intrinsic value, such as plaques and trophies, which are intended solely for presentation.

(5) Honorary degrees: Members/staff may accept honorary degrees.

(6) Widely attended gatherings/speaking: Members/staff may accept invitations to speak or to participate in widely attended gatherings, such as conferences, seminars and receptions. In such situations, Members/staff may accept food, refreshments, entertainment and materials provided to all attendees as an integral part of the event. [Note: this exception does not apply to travel expenses, which are covered below.]

(7) Political events: Members/staff may accept meals, lodging and other benefits provided by a political organization in connection with participation in political events.

(8) Protocol exception: The Ethics Committees would establish rules under which Members/staff could accept meals, refreshments and entertainment in foreign areas in the course of official travel to such areas, or at events sponsored by foreign governments.

(9) Informational materials: There would be no limit on the acceptance of books, audio or video tapes, and other informational materials.

(10) Items primarily for free distribution to constituents: A Member or employee may accept food or other items of minimal value intended primarily for free distribution to visiting constituents.

MEALS AND ENTERTAINMENT

Under the bill, meals, beverages and entertainment are considered as gifts. However, there is an exception for modest items of food and refreshments, such as soft drinks, coffee and donuts, offered other than as part of a meal.

TRAVEL

Travel expenses generally are treated as gifts and thus cannot be accepted directly by Members/staff beyond the strict limits noted above. However, acceptance of such expenses may be authorized by the Ethics Committees if associated with travel related to the official duties of Members/staff [e.g. attendance at a meeting, conference or similar function], and if the Ethics Committee approves the travel in advance. The Committee must find that acceptance under the circumstances would not cause a reasonable person with knowledge of all the facts relevant to a particular case to question the integrity of the Member, the Congress or congressional operations.

Payment cannot be accepted for items beyond those reasonably necessary for the Member to participate in the event. Thus, for example, if a Member participates in a conference only one day, hotel expenses for more than one night generally will not be reimbursable.

SOLICITATIONS OF LOBBYISTS

The bill would prohibit Members/staff from knowingly soliciting contributions from registered lobbyists to 501(c) organizations (nonprofits). The bill stipulates that a Member/staff would not violate this section simply because his/her name appears on the letterhead of a solicitation.

HONORARIA

The bill would prohibit Members from directing to charities honoraria received for speaking engagements.

CONGRESSIONAL RETREATS

The bill prohibits the private financing of congressional retreats.●

By Mr. DANFORTH (for himself, Mrs. KASSEBAUM, Mr. DURENBERGER, Mr. GREGG, and Mr. BOND):

S. 886. A bill to amend the Social Security Act and the Internal Revenue Code of 1986 to improve immunization rates among children and for other purposes; to the Committee on Finance.

S. 887. A bill to amend the Public Health Service Act to improve immunization rates among children through the establishment of data registries and educational programs, and for other purposes; to the Committee on Finance.

IMMUNIZATION LEGISLATION

● Mr. DANFORTH. Mr. President, I rise today to offer legislation that Senators KASSEBAUM, DURENBERGER, and I have developed to address our Nation's disturbingly low childhood immunization rates. We have spoken out against the administration's universal purchase proposal and in favor of a wiser and better targeted approach and we believe that our bill, the National Immunization Improvement Act of 1993, outlines the appropriate course of action on this very important issue.

Clearly there is a problem with timely childhood immunization in this country. Although over 90 percent of children are fully vaccinated by the time they enter grade school, only 40 to 60 percent are fully vaccinated at age 2. When I visited St. Louis Children's Hospital in 1989, the leading cause of admission was measles. There should not be even a single case of measles—we have the ability to protect children from the dreaded diseases that plagued children in past decades. In the years following the measles epidemic of 1989–90, we have learned a lot about what is causing our law immunization rates. And overwhelmingly, we have heard that it is not lack of low cost or free vaccines, but delivery, education, and outreach.

In fact, I understand that the administration has been listening and may be moving away from universal purchase. While I am not familiar with the details of their new proposal and believe, based on what I have heard about it, that there may still be some serious flaws, I am optimistic that the administration is considering proposals that will target resources more effectively. I would welcome the opportunity to work with the administration, Senators KENNEDY and RIEGLE, and others on this issue.

Our legislation has five main components. First, it establishes a voluntary grant program to assist States in developing State systems to monitor the immunization status of children. Under this program States will receive Federal grant money and technical assistance to develop and implement a computerized State registry pursuant to national guidelines that will track children from birth and record the vaccines they receive as they grow older.

Second, the legislation proposes national and State measures to improve delivery, education and outreach in immunizations, including the development of standard national materials for provider and public education; national public awareness campaigns; and increased funds for State immunization action plans [IAP's] which States are using to conduct innovative education and outreach and expand vaccine delivery via extending clinic hours and mobile vans, among other things.

Third, the legislation will give States some additional options under their Medicaid Programs that will improve access and save State and Federal dollars. States will be encouraged to expand their Medicaid coverage of childhood vaccines to children up to 185 percent of the poverty line through a 90 percent match for the immunizations of children between 133 and 185 percent of the poverty line. At 185 percent, Medicaid would cover nearly one-half of all children under age 6. And for this new category of Medicaid enrollee, the Secretary of HHS will design expedited enrollment and billing procedures available in increased locations for those who will be eligible for Medicaid only for purposes of immunization.

In addition, State Medicaid programs will be able to contract directly with the vaccine manufacturers for the supply of vaccine for Medicaid patients at the CDC discount price. Under this system called vaccine replacement, a doctor who gives a vaccine to a Medicaid child will receive a replacement vaccine, rather than an inadequate reimbursement check. This will remove a significant deterrent for vaccinating Medicaid children and will also save State and Federal Medicaid Program money, since the program buys at the Federal discount price which is often lower than what States are now spending to reimburse doctors.

Fourth, the legislation gives States the authority, at their option, to implement procedures to reduce the adult benefit portion of Aid to Families With Dependent Children [AFDC] for adults who fail to properly immunize their children.

Fifth, the legislation continues the Vaccine Injury Compensation Fund and requires a simplification of the informed consent pamphlet distributed under the auspices of that program.

We believe this puts into legislation the suggestions we have distilled from the public health community and others who have studied these issues and been working on the front lines to improve immunization among children. We look forward to working with colleagues on both sides of the aisle and with the administration to support those front-line people and to address this problem.●

● Mr. DURENBERGER. Mr. President, I rise today to join my distinguished colleagues, Senator DANFORTH and Senator KASSEBAUM in introducing the National Immunization Improvement Act of 1993

We all have a strong commitment to a healthier America through prevention and well-baby care. There is absolutely no doubt that early childhood immunization is essential to a successful strategy for improving the general health of America. And there is no doubt that we could improve the immunization rates for America's children.

We are fully committed to immunization. Indeed, we are very long on commitment. But while it is true that commitment often leads to action, I would caution at this point that commitment is not enough.

There is a health policy expert at the University of Minnesota named Bryan Dowd, who says the problem with

health policy today is—and I quote—"we have 1,000 answers and no questions."

To address an issue effectively, it is absolutely essential that we first accurately define the problem. And defining the problem means asking the right questions.

I believe that the bill we are introducing today starts with an accurate definition of the problem. The problem is not a problem of cost. It is a problem of getting parents and children to the immunizations they need. And the answer to this problem cannot be imposed by the Federal Government—it must arise from strengthened communities and strengthened families.

There are many factors affecting low immunization levels. Some of the barriers are cultural. Some are due to lack of education, and some to infrastructure problems like limited clinic hours, long waits, and lack of transportation. The fact is that every community is different, and that strategies to overcome these barriers depend on understanding the people in those communities. We need to allow State flexibility to address these issues, community by community. Federal dollars alone simply won't solve these problems.

Last session, I supported efforts by the Appropriations Committee to expand funding for immunization grants to States. We raised appropriations for immunizations under this program to $341.78 million, an increase of $45.08 million over fiscal year 1992.

These grants allow States to determine what barriers really exist to access in their communities. In other words, States have the flexibility to ask the right questions, and then come up with appropriate solutions. Under this program, the CDC awards grants to States and local governments to develop and implement immunization action plans [IAP's].

Minnesota has received a grant of $900,000 to develop an action plan and implement an improved vaccine delivery system. Even in Minnesota—which is a relatively homogenous State—there are tremendous variations among communities in immunization rates, and the causes are as various as the solutions.

The bill we are introducing today would provide an additional money to States for community-based immunization action plans, or IAP's. These IAP's fund locally based assessment and outreach programs. This kind of funding enabled Minnesota to identify pockets of the State population where there were low rates of immunization, and to set up appropriate programs to address the needs of these populations.

Our bill also authorizes optional grants that fund the development of State and local immunization tracking registries. The grants address the substantial issues of privacy in setting up such registries.

Some States like Minnesota, and localities like Philadelphia, have already done assessments under the IAP grants, and have identified barriers to immunization—particularly among Medicaid recipients. Our bill uses this kind of information to give States the flexibility to improve the Medicaid program. For some low income children, economic barriers may exist and we want to allows States to design voucher programs or selective expansion of Medicaid to address these barriers.

It would also permit States to establish a vaccine replacement program to insure that Medicaid children get vaccinated when they are in their doctor's office. As has already been demonstrated in Virginia, this kind of flexibility allows States to save on Medicaid costs.

The administration, on the other hand, has introduced a so-called universal purchase bill. That bill would authorize the Federal Government to buy all vaccines needed each year and distribute them to States. But, the question is: is the cost of vaccines the key barrier to immunization? Is there evidence that this answer will solve the problem?

The answer is "No."

Wise policy dictates, and experience supports, a program that allows States to use all the necessary tools to raise immunization rates without throwing resources into communities that do not need these funds. We must concentrate our efforts where they can do the most good. We simply do not have money to waste.

It appears that the administration, having touted its universal purchase bill, is now backing off that approach. I hope that, having discovered the limitations of their proposal, they will consider supporting the bill we are introducing today.

There is really only one basic question, and it is this: What is the real goal here? The answer is healthy children. As we focus on immunization, we must be cautious lest we fixate on immunizations rather than on the whole child. Why spend vast resources to raise immunization rates from 55 to 75 percent, for example, but overlook the child's well-being? A child's health needs and a child's human needs are much more complicated and important. We are going to need an intelligent commitment to public health and healthy communities if we want to reach our goal.

I believe that this bill—the National Immunization Improvement Act of 1993—is the best answer, because it is based on the best understanding of the problem. We don't need and can't afford wrong answers. Our children are too important for that.●

● Mrs. KASSEBAUM. Mr. President, I rise today to join my colleagues, Senators DANFORTH, DURENBERGER, and GREGG, in introducing the National Immunization Improvement Act of 1993, legislation providing a comprehensive, cost-effective, well-focused approach to improving our Nation's alarmingly low preschool immunization rates.

The measles epidemic that swept across our Nation in 1989 and 1990 and outbreaks of other preventable diseases reveal that our Nation's children are again at risk for devastating childhood diseases which we thought we were conquering. Fewer than 60 percent of 2-year-olds in most States are fully immunized, and in some inner-city areas, fewer than 10 percent are.

The legislation my colleagues and I are introducing today reflects the recommendations of the National Vaccine Advisory Committee's study of the measles epidemic, recommendations of the Centers for Disease Control, and recommendations from public health officials from across the Nation on how to most effectively overcome the problems in our Nation's vaccine delivery system that these outbreaks of preventable childhood diseases have revealed. We believe these proposals are vital to the success of the immunization improvement strategy ultimately adopted by Congress, and we wish to work constructively on this strategy with the Clinton administration and our colleagues in Congress who have introduced the administration's immunization plan.

President Clinton is to be commended for focusing national attention on this compelling public health problem. But my colleagues and I are deeply concerned that the centerpiece of the President's plan—an over $1 billion a year program for the Federal purchase and free distribution of vaccines—largely misdiagnoses the major causes of the problem of low immunization rates and prescribes a remedy likely to be ineffective and wasteful of scarce taxpayer dollars.

The President's plan is based on the premise that the rising cost of vaccines is the major cause of low immunization rates. But this is not the case. I agree that the cost of vaccines may be one facet of the problem for some parents. But the National Vaccine Advisory Committee, former Surgeon General Koop, and most public health officials across the Nation find that the major causes of low immunization rates are the lack of parental education about the importance of preschool immunizations, the failure of health professionals to use every opportunity to vaccinate children, the lack of readily accessible, family friendly immunization services, and the lack of physician participation in Medicaid due to unreasonably low reimbursement rates and paperwork hassles.

If we are to achieve the goal of appropriately immunizing every child, these are the problems on which we should be focusing.

The legislation we are introducing today provides increased Federal funding for the implementation of innovative State immunization action plans to educate parents about the importance of immunization; strengthen, expand, and make more accessible local vaccine delivery services; and conduct grassroots outreach plans involving the private sector. In return, States are held accountable for achieving measurable and significant improvements in their immunization rates.

Our proposal makes immunization a priority in all Federal programs serving children, such as WIC, AFDC, food stamps, and Head Start by making the assessment of immunization status an integral part of the application for benefits.

Recognizing that the cost of vaccines is a significant barrier for some families, we provide the States with strong incentives to expand Medicaid eligibility for immunizations to children in families with income levels of up to 185 percent of poverty. Our proposal will also simplify Medicaid applications for immunization services, ensure the timely and reasonable reimbursement of Medicaid providers, and give the States opportunities and incentives to purchase vaccines at the Centers for Disease Control discounted price.

In summary, the legislation my colleagues and I are introducing today provides for a comprehensive Federal-State-local strategy for significantly improving our Nation's childhood immunization rates. It reflects our strong commitment to the goal of ensuring that every child in this Nation is protected against often devastating and preventable childhood diseases.●

By Mr. D'AMATO:

S.J. Res. 87. A joint resolution to designate September 13, 1993, as "Commodore John Barry Day"; to the Committee on the Judiciary.

COMMODORE JOHN BARRY DAY

● Mr. D'AMATO. Mr. President, I introduce a resolution designating September 13, 1993, "Commodore John Barry Day."

Prominently featured on the quay in Waterford, Ireland, is a statue of Commodore John Barry, a favorite son on both sides of the Atlantic. Barry's naval exploits, and those of John Paul Jones, represented the first successful challenge by any nation to England's mastery of the seas. It would not be America's last.

My commemorative, which has also been introduced in the House, documents the achievements of Commodore Barry. I look forward to its swift passage.●

ADDITIONAL COSPONSORS

S. 11

At the request of Mr. BIDEN, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of S. 11, a bill to combat violence and crimes against women on the streets and in homes.

S. 27

At the request of Mr. SARBANES, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 27, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia.

S. 70

At the request of Mr. COCHRAN, the names of the Senator from Washington [Mr. GORTON], the Senator from Virginia [Mr. WARNER], and the Senator from Alabama [Mr. HEFLIN] were added as cosponsors of S. 70, a bill to reauthorize the National Writing Project, and for other purposes.

S. 216

At the request of Mr. D'AMATO, the names of the Senator from Iowa [Mr. GRASSLEY], the Senator from Utah [Mr. BENNETT], the Senator from Missouri [Mr. BOND], the Senator from Arizona [Mr. DECONCINI], the Senator from Tennessee [Mr. SASSER], the Senator from Michigan [Mr. RIEGLE], and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of S. 216, a bill to provide for the minting of coins to commemorate the World University Games.

S. 257

At the request of Mr. BUMPERS, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 257, a bill to modify the requirements applicable to locatable minerals on public domain lands, consistent with the principles of self-initiation of mining claims, and for other purposes.

S. 267

At the request of Mr. COCHRAN, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 267, a bill to amend the Fair Labor Standards Act of 1938 to exempt garment and certain other related employees from minimum wage and maximum hour requirements, and for other purposes.

S. 268

At the request of Mr. BAUCUS, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 268, a bill to extend the period during which the United States Trade Representative is required to identify trade liberalization priorities, and for other purposes.

S. 342

At the request of Mr. BOREN, the name of the Senator from Wyoming [Mr. WALLOP] was added as a cosponsor of S. 342, a bill to amend the Internal Revenue Code of 1986 to encourage investment in real estate and for other purposes.

S. 348

At the request of Mr. RIEGLE, the names of the Senator from Wisconsin [Mr. KOHL], the Senator from Illinois [Mr. SIMON], the Senator from Alabama [Mr. HEFLIN], the Senator from Tennessee [Mr. SASSER], the Senator from Arkansas [Mr. PRYOR], and the Senator from New Hampshire [Mr. SMITH] were added as cosponsors of S. 348, a bill to amend the Internal Revenue Code of 1986 to permanently extend qualified mortgage bonds.

S. 427

At the request of Mr. MITCHELL, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 427, a bill to amend the Internal Revenue Code of 1986 to permit private foundations to use common investment funds.

S. 452

At the request of Mr. CONRAD, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of S. 452, a bill to amend chapter 17 of title 38, United States Code, to establish a program of rural health-care clinics, and for other purposes.

S. 466

At the request of Mr. DASCHLE, the name of the Senator from California [Mrs. BOXER] was added as a cosponsor of S. 466, a bill to amend title XIX of the Social Security Act to provide for medicaid coverage of all certified nurse practitioners and clinical nurse specialists services.

S. 482

At the request of Mr. BOREN, the names of the Senator from New Jersey [Mr. BRADLEY], the Senator from Oregon [Mr. HATFIELD], and the Senator from Kentucky [Mr. FORD] were added as cosponsors of S. 482, a bill to amend title 38, United States Code, to require the Secretary of Veterans Affairs to furnish outpatient medical services for any disability of a former prisoner of war.

S. 487

At the request of Mr. MITCHELL, the names of the Senator from Pennsylvania [Mr. WOFFORD], the Senator from Arkansas [Mr. PRYOR], and the Senator from Tennessee [Mr. SASSER] were added as cosponsors of S. 487, a bill to amend the Internal Revenue Code of 1986 to permanently extend and modify the low-income housing tax credit.

S. 540

At the request of Mr. GRASSLEY, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 540, a bill to improve the administration of the bankruptcy system, address certain commercial issues and consumer issues in bankruptcy, and establish a commission to study and make recommendations on problems with the bankruptcy system, and for other purposes.

S. 545

At the request of Mr. BOREN, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 545, a bill to amend the Internal

Revenue Code of 1986 to allow farmers' cooperatives to elect to include gains or losses from certain dispositions in the determination of net earnings, and for other purposes.

S. 565

At the request of Mr. WARNER, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 565, a bill to amend the Internal Revenue Code of 1986 to improve disclosure requirements for tax-exempt organizations.

S. 568

At the request of Mr. BRYAN, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 568, a bill to strengthen the authority of the Federal Trade Commission regarding fraud committed in connection with sales made with a telephone, and for other purposes.

S. 573

At the request of Mr. BREAUX, the names of the Senator from Washington [Mr. GORTON] and the Senator from Wyoming [Mr. WALLOP] were added as cosponsors of S. 573, a bill to amend the Internal Revenue Code of 1986 to provide for a credit for the portion of employer Social Security taxes paid with respect to employee cash tips.

S. 578

At the request of Mr. KENNEDY, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of S. 578, a bill to protect the free exercise of religion.

S. 585

At the request of Mr. GRASSLEY, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 585, a bill to provide greater access to civil justice by reducing costs and delay, and for other purposes.

S. 687

At the request of Mr. ROCKEFELLER, the names of the Senator from Oklahoma [Mr. BOREN], the Senator from Nebraska [Mr. EXON], and the Senator from Oklahoma [Mr. NICKLES] were added as cosponsors of S. 687, a bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes.

S. 729

At the request of Mr. REID, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S. 729, a bill to amend the Toxic Substances Control Act to reduce the levels of lead in the environment, and for other purposes.

S. 731

At the request of Mr. PRESSLER, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 731, a bill to assist rural rail infrastructure, and for other purposes.

S. 764

At the request of Mr. WOFFORD, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 764, a bill to exclude service of election officials and election workers from the Social Security payroll tax.

S. 818

At the request of Mr. HATFIELD, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 818, a bill to amend the Solid Waste Disposal Act to require a refund value for certain beverage containers, and to provide resources for State pollution prevention and recycling programs, and for other purposes.

S. 824

At the request of Mr. BOND, the names of the Senator from Washington [Mr. GORTON], the Senator from Wyoming [Mr. SIMPSON], and the Senator from Montana [Mr. BURNS] were added as cosponsors of S. 824, a bill to amend the Food, Agriculture, Conservation, and Trade Act of 1990 to provide that a single Federal agency shall be responsible for making technical determinations with respect to wetland or converted wetland on agricultural lands, and for other purposes.

SENATE JOINT RESOLUTION 14

At the request of Mr. THURMOND, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of Senate Joint Resolution 14, a joint resolution to designate the month of May 1993, as "National Foster Care Month".

SENATE JOINT RESOLUTION 50

At the request of Mr. SPECTER, the names of the Senator from Ohio [Mr. METZENBAUM], the Senator from Pennsylvania [Mr. WOFFORD], and the Senator from Rhode Island [Mr. CHAFEE] were added as cosponsors of Senate Joint Resolution 50, a joint resolution to designate the weeks of September 19, 1993, through September 25, 1993, and of September 18, 1994, through September 24, 1994, as "National Rehabilitation Week."

SENATE JOINT RESOLUTION 58

At the request of Mr. RIEGLE, the names of the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from Alabama [Mr. HEFLIN], the Senator from Delaware [Mr. BIDEN], the Senator from Illinois [Mr. SIMON], the Senator from Florida [Mr. MACK], the Senator from West Virginia [Mr. BYRD], the Senator from South Dakota [Mr. PRESSLER], the Senator from Utah [Mr. HATCH], the Senator from New Mexico [Mr. DOMENICI], the Senator from South Dakota [Mr. DASCHLE], and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of Senate Joint Resolution 58, a joint resolution to designate the weeks of May 2, 1993, through May 8, 1993, and May 1, 1994, through May 7, 1994, as "National Correctional Officers Week."

SENATE JOINT RESOLUTION 61

At the request of Mr. SIMON, the names of the Senator from Florida [Mr. GRAHAM], the Senator from North Carolina [Mr. HELMS], the Senator from New York [Mr. D'AMATO], the Senator from North Dakota [Mr. CONRAD], the Senator from Pennsylvania [Mr. WOFFORD], the Senator from Rhode Island [Mr. CHAFEE], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of Senate Joint Resolution 61, a joint resolution to designate the week of October 3, 1993, through October 9, 1993, as "Mental Illness Awareness Week."

SENATE JOINT RESOLUTION 73

At the request of Mr. RIEGLE, the names of the Senator from Alabama [Mr. HEFLIN] and the Senator from New York [Mr. MOYNIHAN] were added as cosponsors of Senate Joint Resolution 73, a joint resolution to designate July 5, 1993, through July 12, 1993, as "National Awareness Week for Life-Saving Techniques."

SENATE JOINT RESOLUTION 83

At the request of Mr. DECONCINI, the names of the Senator from Hawaii [Mr. INOUYE], the Senator from Colorado [Mr. BROWN], and the Senator from New York [Mr. D'AMATO] were added as cosponsors of Senate Joint Resolution 83, a joint resolution designating the week beginning February 6, 1994, as "Lincoln Legacy Week."

SENATE CONCURRENT RESOLUTION 16

At the request of Mr. SHELBY, the names of the Senator from South Carolina [Mr. HOLLINGS] and the Senator from New Jersey [Mr. LAUTENBERG] were added as cosponsors of Senate Concurrent Resolution 16, a concurrent resolution expressing the sense of Congress that equitable mental health care benefits must be included in any health care reform legislation passed by Congress.

SENATE RESOLUTION 79

At the request of Mr. FEINGOLD, the names of the Senator from New Jersey [Mr. LAUTENBERG] and the Senator from Tennessee [Mr. SASSER] were added as cosponsors of Senate Resolution 79, a resolution expressing the sense of the Senate concerning the United Nation's arms embargo against Bosnia-Herzegovina, a nation's right to self-defense, and peace negotiations.

SENATE RESOLUTION 94

At the request of Mr. SIMON, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of Senate Resolution 94, a resolution expressing the sense of the Senate with respect to the tragic humanitarian crisis in Sudan.

SENATE RESOLUTION 104

At the request of Mr. DECONCINI, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of Senate Resolution 104, a resolution relating to Bosnia-Herzegovina's right to self-defense.

AMENDMENTS SUBMITTED

DEPARTMENT OF THE ENVIRONMENT ACT OF 1993

BOND (AND OTHERS) AMENDMENT NO. 340

Mr. BOND (for himself, Mr. MCCONNELL, Mr. CONRAD, Mr. COATS, Mr. NICKLES, Mr. SIMPSON, Mr. HATCH, Mr. GRASSLEY, Mr. BURNS, Mr. FAIRCLOTH, Mr. MATHEWS, Mr. COVERDELL, Mr. KEMPTHORNE, Mr. BENNETT, and Mr. PACKWOOD) proposed an amendment to the bill (S. 171) to establish the Department of the Environment, provide for a Bureau of Environmental Statistics and a Presidential Commission on Improving Environmental Protection, and for other purposes, as follows:

At the appropriate place, insert the following new section:

SEC. . COMPLIANCE WITH WETLAND CONSERVATION REQUIREMENTS.

Section 1222(j) of the Food Security Act of 1985 (16 U.S.C. 3822(j)) is amended by adding at the end the following new paragraph:

"(4) EFFECT OF DETERMINATIONS.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, a technical determination with respect to wetland or converted wetland on agricultural lands (including the identification of wetland under paragraph (1) and the development of a wetland restoration or mitigation plan developed under paragraph (1)) shall be used in the administration of section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344).

"(B) CONSISTENCY.—Any area of agricultural land or any activities related to the land determined to be exempt from the requirements of section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) for such period of time as those lands are used as agricultural lands.

"(C) DEFINITION.—As used in this paragraph, the term 'agricultural lands' means cropland, pastureland, native pasture, rangeland, orchards, vineyards, nonindustrial forest land, and any other land used to produce or support the production of an annual perennial crop of a commodity, acquaculture product, nursery product, or livestock.".

BAUCUS (AND GLENN) AMENDMENT NO. 341

Mr. BAUCUS (for himself and Mr. GLENN) proposed an amendment to amendment No. 340 proposed by Mr. BOND to the bill (S. 117), supra, as follows:

In lieu of the matter proposed, insert the follows:

SEC. . WETLAND DETERMINATIONS BY A SINGLE AGENCY.

In consultation with the Secretary of Agriculture, the Secretary of the Environment, the Secretary of the Army, and the Secretary of the Interior, the President shall, within 90 days of the date of enactment of this Act, make recommendations and report to the Congress on measures to—

(1) provide that a single Federal agency be responsible for making technical determinations, including identification of wetlands, on agricultural lands with respect to wetland or converted wetland in order to reduce confusion among agricultural producers; and

(2) provide that the soil Conservation Service be the Federal Agency responsible for all such technical determinations concerning wetlands on agricultural lands.

LOBBYING DISCLOSURE ACT OF 1993

PRESSLER (AND OTHERS) AMENDMENT NO. 342

Mr. PRESSLER (for himself, Mr. DOLE, and Mr. MCCONNELL) proposed an amendment to the bill (S. 349) to provided for the disclosure of lobbying activities to influence the Federal Government, and for other purposes, as follows:

At the appropriate place, insert the following:

SEC. . BAN ON ACTIVITIES OF POLITICAL ACTION COMMITTEES IN FEDERAL ELECTIONS.

(a) IN GENERAL.—Title III of Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following new section:

"BAN ON FEDERAL ELECTION ACTIVITIES BY POLITICAL ACTION COMMITTEES

"SEC. 324. Notwithstanding any other provision of this Act, no person other than an individual or a political committee may make contributions, solicit or receive contributions, or make expenditures for the purpose of influencing an election for Federal office.".

(b) DEFINITION OF POLITICAL COMMITTEE.—(1) Section 301(4) of Federal Election Campaign Act (2 U.S.C. 431(4)) is amended to read as follows:

"(4) The term 'political committee' means—

"(A) the principal campaign committee of a candidate;

"(B) any national, State, or district committee of a political party, including any subordinate committee thereof;

"(C) any local committee of a political party which—

"(i) receives contributions aggregating in excess of $5,000 during a calendar year;

"(ii) makes payments exempted from the definition of contribution or expenditures under paragraph (8) or (9) aggregating in excess of $5,000 during a calendar year; or

"(iii) makes contributions or expenditures aggregating in excess of $1,000 during a calendar year; and

"(D) any committee jointly established by a principal campaign committee and any committee described in subparagraph (B) or (C) for the purpose of conducting joint fundraising activities.".

(2) Section 316(b)(2) of Federal Election Campaign Act (2 U.S.C. 441b(b)(2)) is amended by striking subparagraphs (B) and (C).

(c) CANDIDATE'S COMMITTEES.—(1) Section 315(a) of Federal Election Campaign Act (2 U.S.C. 441a(a)) is amended by adding at the end the following new paragraph:

"(9) For the purposes of the limitations provided by paragraphs (1) and (2), any political committee which is established or financed or maintained or controlled by any candidate of Federal officeholder shall be deemed to be an authorized committee of such candidate or officeholder.".

(2) Section 302(e)(3) of Federal Election Campaign Act (2 U.S.C. 432(e)) is amended to read as follows:

"(3) No political committee that supports or has supported more than one candidate may be designated as an authorized committee, except that—

"(A) a candidate for the office of President nominated by a political party may designate the national committee of such political party as the candidate's principal campaign committee, but only if that national committee maintains separate books of account with respect to its functions as a principal campaign committee; and

"(B) a candidate may designate a political committee established solely for the purpose of joint fundraising by such candidates as an authorized committee".

(d) RULES APPLICABLE WHEN BAN NOT IN EFFECT.—For purposes of the Federal Election Campaign Act of 1971, during any period in which the limitation under section 324 of that Act (as added by subsection (a)) is not in effect—

(1) the amendments made by subsections (a) and (b) shall not be in effect; and

(2) it shall be unlawful for any person that—

(A) is treated as a political committee by reason of paragraph (1); and

(B) is not directly or indirectly established, administered, or supported by a connected organization which is a corporation, labor organization, or trade association, to make contributions to any candidate or the candidate's authorized committee for any election aggregating in excess of $1,000.

NOTICES OF HEARINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will hold a hearing on the nominations of Ellen Haas, to be Assistant Secretary for Food and Consumer Services, Eugene Moos, to be Under Secretary for International Affairs and Commodity Programs, and James Gulliland, to be general counsel of the Department of Agriculture on Tuesday, May 11, 1993 at 2:30 p.m. in SR-332.

For further information please contact Chris Sarcone of the committee staff at 224-2035.

COMMITTEE ON SMALL BUSINESS

Mr. BUMPERS. Mr. President, I would like to announce that the Small Business Committee has changed the date and time for the confirmation hearing of Erskine Bowles to be Administrator of the Small Business Administration. The hearing originally scheduled for Wednesday, May 5, 1993, will now take place on Thursday, May 6, 1993, at 1 p.m., in room 428A of the Russell Senate Office Building. For further information, please call Patricia Forbes, counsel to the Small Business Committee at 224-5175.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for the public that a hearing has been scheduled before the full Committee on Energy and Natural Resources.

The hearing will take place Tuesday, May 11, 1993 at 9:30 a.m. in room 366 of the Senate Dirksen Office Building in Washington, DC.

The purpose of the hearing is to receive testimony from James Hoecker, Donald Santa, Jr., and William Massey, nominees to be members of the Federal Energy Regulatory Commission.

For further information, please contact Rebecca Murphy at (202) 224-7562.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON AFRICAN AFFAIRS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Subcommittee on African Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, May 4, at 10 a.m., to hold a hearing on the crisis in Sudan.

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

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2:30 p.m., May 4, 1993, to receive testimony on hardrock mining royalty issues and written statements on S. 775, the Hardrock Mining Reform Act of 1993.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on May 4, 1993, at 9:30 a.m. on surface transportation implications of NAFTA.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. LEVIN. 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., May 4, 1993, to receive testimony from Thomas Grumbly, nominee to be Assistant Secretary of Energy for Environmental Restoration and Waste Management; Susan Tierney, nominee to be Assistant Secretary of Energy for Domestic and International Policy; and John Leshy, nominee to be Solicitor for the Department of the Interior.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. LEVIN. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be authorized to meet during the session of the Senate on Tuesday, May 4 at 2:30 p.m. to consider the nomination of Robert M. Sussman, to be Deputy Administrator of the U.S. Environmental Protection Agency.

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

COMMITTEE ON FINANCE

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet on May 4, 1993 at 10 a.m., to hear testimony on the administration's proposals relating to the taxation of Social Security benefits.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, May 4 at 2:30 p.m. to hold ambassadorial nominations.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on Goals 2000: Educate America Act, during the session of the Senate on Tuesday, May 4, at 10 a.m. in SD-430.

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

ADDITIONAL STATEMENTS

WE THE PEOPLE * * * THE CITIZEN AND THE CONSTITUTION NATIONAL FINALS 1993

• Mrs. MURRAY. Mr. President, on May 1-3, more than 1,200 students from 47 States and the District of Columbia will be in our Nation's Capital to compete in the national finals of the "We the People * * * The Citizen and the Constitution Program." I am proud to announce that the class from Kelso High School from Kelso, WA, will represent Washington State's Third Congressional District. These young scholars have worked diligently to reach the national finals by winning district and State competitions.

The distinguished members of the team representing Washington State are: Bill Aberle, Marin Fox, Paul Hazen, Rick Heston, Julie Holt, Kathy Holter, Kirk Ireton, Jennica Jacobsen, Peter Manning, Trent McGhee, Eddie Miller, Alysha Reinard, Kay Rittenback, Lindie Schmidt, Thad Shelton, and Lisa Tippery.

I also would like to recognize their teacher Kay Stern who deserves much of the credit for the success of the team. Ms. Stern, the district coordinator, together with Kathy Hand, the State coordinator, have both contributed a great deal of time and effort to help the team reach the national finals.

The We the People * * * The Citizen and the Constitution Program, supported and funded by Congress, is the most extensive educational program in the country developed specifically to educate young people about the Constitution and the Bill of Rights. The 3-day academic competition simulates a congressional hearing. Students, acting as expert witnesses, testify before a panel of prominent professionals from across the country to demonstrate their knowledge of constitutional issues. Administered by the Center for Civic Education, the program, now in its sixth year, has reached over 12,000,000 students in 21,490 elementary, middle, and high schools nationwide.

The program provides an excellent opportunity for students to gain an appreciation of the significance of our Constitution and its place in our history and our lives today. I am proud of these students representing Washington State's Third Congressional District and commend them and their teacher for their hard work. I wish them the best of luck in this competition—and a bright future thereafter.•

THE PEACE PLAN AND THE PEACE KEEPING

• Mr. D'AMATO. Mr. President, for a brief moment, I was buoyed by the Bosnian Serbs' acquiescence to the peace plan. Soon afterward, my optimism turned to fear of an impending disaster. While the self-proclaimed President of the Bosnian Serbs, Radovan Karadzic, signed the Vance-Owen peace plan, his forces continue to shell and attack civilians in Bosnia, in total violation of the agreement. No one should be surprised at this, because this is what the Bosnian Serbs have done, and what they will continue to do, even if it gets to the point at which American and other nations' troops are dispatched to Bosnia as peacekeepers.

In threatening to conduct air strikes against Serbian positions in Bosnia, President Clinton sent a clear message that the violence must end. Yet, he failed to go far enough. The life line for Karadzic and his band of murderers comes right out of Belgrade. Unless Slobodan Milosevic is made to understand that the war must end, the Vance-Owen plan may end up being only another scrap of paper on top of the pile of other agreements and ceasefires that the Serbs have broken. Milosevic must be told that breaking the ceasefire will result in the bombing of economic and military targets in Serbia itself.

Yet, plans reportedly being devised make this impossible by placing Serbia itself, off-limits to attack. If we proceed in this manner, we will only cre-

ate another sanctuary for aggression—repeating our Southeast Asian mistakes. In effect, we will be bombing the victims, not the aggressors.

In August 1992, in a Senate speech, I called for these very actions to make Milosevic and his supporters pay a price for supporting genocide. Electric plants and oil distribution facilities should be targeted. If these facilities were bombed, Serbia's railroads would stop because more than half of them are electrified. Additionally, highways and railways should be hit to prevent Serbian logistical support for Bosnian Serb aggression. Finally, bridges across the Drina River, the Bosna River, the Sava River, and the Danube River itself should be taken out.

If Serbia's leadership does not believe we are determined to stop their ruthless aggression, then we will give them the green light to move into Kosova. If Serbia attempts to cleanse Kosova, it will then trigger a full-scale Balkan war, perhaps pulling in Albania, Turkey, Greece, and Bulgaria.

Any planned bombing campaign against Serbia should be coupled with a lifting of the arms embargo against Bosnia. I wrote the President on April 20, asking him to do just this. The Bosnians are in need of equipment that will help them defend themselves. The Bosnians do not want our troops to defend them. They only ask that we supply them with weapons.

To provide for this eventuality, last year, Senator BIDEN, myself, and others, passed legislation appropriating $50 million to pay for such weapons should the arms embargo be lifted.

If U.S. troops are dispatched as part of a U.N. peacekeeping force, they will be sent there because of the Vance-Owen agreement. If the Bosnian Serbs violate this agreement and start shooting, as they are doing right now, then Serb gunners in the hills above Sarajevo will have fresh targets—American troops.

The American commander of NATO forces in Southern Europe, Adm. Jeremy Michael Boorda, commented on this very point in a recent speech. He said that while getting the Serbs to sign the peace plan was his fondest wish, it was also his greatest fear. This Senator agrees. I am deeply concerned that the centuries-old animosity that has driven this war to the level of genocide, might well cast American troops into an open-ended mission, with no defined goal or end to their assignment.

We must be careful that United States troops are not dribbled into the black hole of war in Bosnia. Like the proposed bombing of Serb positions in the country, our plans must be precise and our mission clear. Most importantly, the American force assignment must have a beginning as well as a dignified end. While we must protect the peace, we must also protect ourselves.

We learned the folly of gradual escalation in Vietnam. Then, it was advisers, and more advisers, and then combat troops, and then more and more combat troops. Here, the stairway of escalation may have different steps—peacekeepers and then more peacekeepers—but it still leads to the meatgrinder known as war.•

WANDO HIGH SCHOOL: REACHING OUT TO HOMESTEAD

• Mr. HOLLINGS. Mr. President, Wando High School in Mount Pleasant, SC, has long been recognized as one of the best public schools in my State. It has been named "Best School of the Year" for 3 years running, and has distinguished itself in virtually every category of academic and extracurricular excellence.

To cite just several examples of Wando's standout performance, its student council has been named the best in the State, its debate team placed first in a number of statewide competitions, the Wando choral group performed at President Clinton's inauguration, and the school newspaper won numerous first-place awards in the 1993 South Carolina Scholastic Press Association competition.

Even more impressive than these individual accomplishments, however, has been Wando High School's commitment to adopting hurricane-stricken Homestead High School in Florida. Students at Wando have vivid memories of their own difficulties in the wake of Hurricane Hugo, so they were powerfully motivated to extend a helping hand to strangers in Florida. Since late last summer, Wando students have raised thousands of dollars to purchase gifts and school supplies for students and teachers at Homestead High. This outreach effort has been sustained throughout the school year, with a steady stream of shipments and visitors arriving at Homestead from Wando.

Mr. President, this is an inspiring example of generosity and plain, old-fashioned thoughtfulness. I extend my admiration and gratitude to all the young men and women at Wando who have worked so hard to make their adoption of Homestead High School such a success. It has truly been a total-school effort at Wando—an effort that we South Carolinians take tremendous pride in.•

TRIBUTE TO NICK M. NIBI

• Mr. CHAFEE. Mr. President, it is with great pleasure that I rise today to pay tribute to Mr. Nick Nibi of Wellesley, MA, in honor of his retirement on April 2, 1993, after 35 years as one of the Federal Government's most active affordable housing advocates.

Nick began his career in public service in 1958 as an attorney-advisor with the Housing and Home Finance Agency [HHFA] in New York City. In 1967, soon after the HHFA was renamed the Department of Housing and Urban Development [HUD], he was promoted to Deputy Assistant Regional Administrator for Metropolitan Development for region I, then located in New York.

In 1970, Nick left his native New York to become the Assistant Regional Administrator [ARA] for Metropolitan Planning and Development for the new region I in Boston. As the Department grew and changed over the next decade, he demonstrated the wide scope of his expertise, serving as the ARA for Community Planning and Management, and later for Housing Production and Mortgage Credit. By the late 1970's, his hard work and dedication earned this well-respected gentleman the position of Director of the Office of Housing, in HUD's regional office in Boston.

Under his leadership, region I surpassed each and every year the goals outlined by the Secretary of the Department for subsidized housing production and for providing housing for the elderly. In fact, it is estimated that during his tenure as Director of Housing, over 200,000 housing units insured, subsidized, or funded HUD were built in Rhode Island, and that more than 300,000 such units were built in New England. Clearly, this true servant of the public built his career by tackling our Nation's affordable housing crisis head on.

It should come as no surprise, then, that in recognition of his resourcefulness and diligence, Nick has been presented numerous awards for superior service from every Regional Administrator. This achievement is topped only by the prestigious Supervisory Excellence Award for Superior Performance, which the late HUD Secretary Patricia Harris presented to him at HUD's annual awards ceremony here in Washington in 1977.

Therefore, I ask my colleagues in the Senate to join with me and all New Englanders in commending Nick Nibi for his 35 years of outstanding service, and in wishing him all the best.•

OUTSTANDING VOLUNTEER PERFORMANCE BY BROWARD COUNTY SENIORS

• Mr. GRAHAM. Mr. President, today I am delighted to have the opportunity to salute the 1993 electees to the Dr. Nan S. Hutchison Broward Senior Hall of Fame. These outstanding volunteers have contributed time, talents, and love toward benefiting the residents of Broward County.

On May 21, 1993, 11 new members, selected for this prestigious honor, will be at ceremonies celebrating their election, and their names will be added to a commemorative plaque housed in the Broward County government building.

This year's electees are: Sophie Berger, Edris Mae Poitier Cox, Bea-

trice Crystal, Nettie Gross, Ted Latimer, Bert Lichtenstein, Leonard Marcus, Nan Namiot, Hannah Schaeffer, Frances Scruggs, and Sheila Steinberg.

Sophie Berger has been a steadfast member of the area agency's advisory council for the past 3 years. In her role as chair of the council's fundraising committee, she has consistently provided outstanding leadership.

Edris Mae Poitier Cox was instrumental in establishing Broward County's first Alzheimer's day care center. In addition, she has served as president of the Women's Reach Out Club for the past 7 years, working diligently to provide food, clothing, and furniture to Broward's needy families.

Beatrice Crystal has tirelessly served as a volunteer coordinator for the Students in Service to the Aged [SISTA] program. Moreover, as a friendly visitor and coordinator for the volunteer service unit of Broward County Human Services Elderly Services Section, she has donated over 2,000 hours of service.

Nettie Gross has been an invaluable volunteer at the Northwest Focal Point Senior Center for over 15 years. She also serves as president of the advisory council and is an active member of the International Ladies Garment Workers Union.

Ted Latimer has been actively involved with the Listening Program, helping young men cope with life's daily problems. In addition, he has tirelessly worked on behalf of Jackson Memorial Hospital's Health Fair For Children and the citizens band emergency channel.

Bert Lichtenstein has served as chairman of the civic affairs committee of his condominium for the past 15 years. He is also a working board member of the Gold Coast Home Health Agency and secretary to the board of directors of Hospice Care of Broward.

Leonard Marcus has been the local coordinator for AARP's Medicare/Medicaid assistance program for 2 years, and has been a volunteer counselor with the program for 8 years. He is also an active volunteer for AARP's Tax Aid for the Elderly Program and past secretary for the Knights of Pythias.

Nan Namiot has opened up her home for the past 14 years to care for hundreds of disabled persons, bringing warmth and love into their lives. She is also active with the City of Hope and Hadassah, in addition to her work coordinating blood drives for the Jewish Community Center's WECARE program.

Hannah Schaeffer was the director and teacher of a children's program for Head Start for 5 years. She has also served as musical director of the Gert Weinberg Wynmoor Dance Troupe, playing a pivotal role in raising funding for such local charities as the Northwest Focal Point Senior Center, and the Area Agency on Aging.

Frances Scruggs has worked selflessly toward obtaining a grant for the minority oral history research. She is also an active member of both the Storks Nest Program and Healthy Mothers/Healthy Babies of Broward County, and serves as chairman of the scholarship fund of the Northwest Federated Woman's Club.

Sheila Steinberg has been a volunteer coordinator for both Piper and Nova High Schools. She also volunteers for the MediVan, Coral Springs Medical Center, and B'nai B'rith.

Florida and Broward County are fortunate to have these inspiring senior citizens who give so much to their communities. I congratulate them today and wish for them many more productive and healthy years.•

NAFTA BENEFITS AMERICA IN MANY WAYS

• Mr. COCHRAN. Mr. President, I invite the attention of my colleagues to an op-ed article written by Susan Kaufman Purcell in yesterday's Washington Post. It provides a comprehensive and thoughtful analysis of the reasons why the United States should sign the North American Free-Trade Agreement with Mexico.

Critics of NAFTA warn that Mexico's low wage scale and lax labor and environmental laws will give its firms a comparative advantage over United States companies—and force our firms to move south of the border in order to remain competitive. Others maintain that if we open our border with Mexico, we will flood our country with all of Mexico's problems.

The central point of Ms. Purcell's article is the need to view NAFTA from a broader perspective. NAFTA is not merely a free-trade agreement between two countries. It is an effort to promote the long-term national security and economic interests of Mexico, the United States, and the entire continent.

The best way to accomplish that goal is to promote mutually beneficial economic growth.

I ask that a copy of Ms. Purcell's article be printed in the RECORD.

The article follows:

[From the Washington Post, May 3, 1993]

WHAT'S IN NAFTA FOR US

(By Susan Kaufman Purcell)

There is a popular misconception that the proposed North American free trade agreement is mainly about free trade. What it really involves is the protection of the interests and national security of the United States.

Critics of the agreement argue that it makes no sense for the United States, the richest country in the world, to sign an agreement with Mexico, a developing country. They claim that Mexico's considerably lower wage scale and relatively lax enforcement of labor and environmental laws will give its companies a comparative advantage over U.S. firms. Their conclusion: The agreement will force U.S. companies to move south of the border to remain competitive.

Opponents also fear that free trade between the United States and Mexico will exacerbate three other current threats from Mexico: illegal immigration, drug trafficking and pollution along the 2,000-mile shared border. They reason that the freer flow of goods and services between the two countries will make it easier for unwanted people and drugs to enter the United States, while the increase in U.S. companies setting up shop on the Mexican side of the Rio Grande will lead to ever higher levels of contamination along the border.

They could not be more wrong. It is precisely because of these problems emanating from Mexico that the free trade agreement makes sense for the United States. The best way to protect U.S. interests against a continued inflow of undocumented workers, illegal drugs and spreading border pollution is to help Mexico develop economically. A prosperous Mexico will pose as little threat to the United States and be as good and congenial a neighbor as Canada is now.

The proposed free trade agreement will encourage Mexico's continued economic development in a number of ways. It will persuade potential investors that Mexico's recent economic reforms will be difficult if not impossible to reverse, thereby encouraging them to continue investing their capital in Mexico, an absolute necessity if Mexico is ever to join the club of industrialized nations. As the Mexican economy grows, wage levels in Mexico will rise. The European integration experience shows that once wages in the poorest countries reach 40 percent of those in the richest, illegal immigration dramatically tapers off. U.S. jobs are far more threatened by the entry of hundreds of thousands of undocumented Mexican workers to the United States than by the movement of U.S. companies to Mexico. U.S. workers therefore stand to gain far more from the NAFTA than they will lose.

The free trade agreement would also help solve the pollution problem. Studies show that the relationship between industrialization and environmental degradation resembles a bell curve. Pollution is greatest in the earliest phases of industrialization but begin to level off and then decrease as more wealth is available for controlling pollution. As one of the wealthier developing countries, Mexico is almost at the point where it will be able to begin devoting more resources to environmental cleanup. The free trade agreement will help get there faster.

Finally, we know from our own experience that drug traffickers thrive when poverty and hopelessness are widespread. As more Mexicans are able to earn a decent living legally, and as Mexico has more money to spend on drug enforcement, the entry of illegal drugs from Mexico will decrease. The free trade agreement will therefore reduce, not increase, the flow of illegal drugs from Mexico into the United States.

Although the proposed North American free trade agreement is a win-win proposition for both the United States and Mexico, there will obviously be losers on both sides of the border, since not all companies or workers will be able to adjust to the larger and more competitive market. It is only fair that the governments of both countries devise policies for socializing the cost of the agreement. Washington should therefore proceed with plans to improve the education and vocational training of all Americans who wish to upgrade their skills in order to find employment in a U.S. economy that will in-

creasingly have fewer jobs for illiterate or untrained workers. The problem has its origin, however, not in the NAFTA, but in the increasing globalization of the world economy.

It is time to reorient the debate over NAFTA to focus on its potential impact on the U.S.-Mexican relationship in all its complexity. Only then will the logic of a free trade agreement between a rich, industrialized country and its poorer, developing neighbor begin to make sense.●

COMMUNITY POLICING ASSISTANCE ACT OF 1993

●Mr. KRUEGER. Mr. President, I rise in support of Senate bill 864 introduced by my distinguished colleague from New Jersey, Senator BRADLEY. I am honored to join him as an original cosponsor of this crime-fighting measure entitled the "Community Policing Assistance Act of 1993."

Mr. President, this measure would provide cities and community groups with the financial resources to strike back against a siege of crime.

Specifically, this legislation would authorize $200 million in grants to help local governments and community groups establish or expand community policing programs. Even more to the point, however, this measure empowers economically challenged cities with more than 30,000 people—cities like San Antonio, El Paso, Corpus Christi, Laredo, Beaumont, Brownsville, Texarkana—to add 2,200 police officers where they're needed most: Throughout local neighborhoods, around our homes and near our loved ones, between the bad guys and us.

The resources in this measure also would let communities relieve peace officers from desk jobs to patrol a beat, and it would enable cities and towns to relocate police substations close to the action.

Mr. President, when we speak of America as a land of hope, we mean something more than the hope our homes will not be broken into, the hope our children will be safe at school, or the hope our car will not be stolen or our friends and loved ones assaulted.

When we speak of the shared experience of being American, we mean more than the shared victimization by theft, rape, assault family violence, child abuse, drug abuse, and murder.

Yet those are becoming the common features of today's American experience as crime spreads pervasively into all our lives, regardless of income, race, gender, or age.

America shouldn't have to tolerate crime, and we'll tolerate much less of it if we give concepts like community policing the chance they deserve.

Community policing puts more law enforcement officers on America's streets and in America's neighborhoods. The key is assigning the same officers repeatedly to the same neighborhoods. Those officers become a constant personal presence in each neighborhood. Unity and trust grow between police and residents. Police come to feel that their beat is their neighborhood to protect, its people their people to serve. And in time, communities come to see those patrolling officers as their officers, real people serving their real needs. The adversarial attitude that two regrettably characterizes the relationship between police and residents disappears. And because they know the community, officers can deter crime before it happens, learn to spot smoldering problems before they become tinder boxes, and become part of the communities taking charge of themselves.

Mr. President, I know as a personal certainty how well the community policing concept works. In my home State's capital of Austin, for example, the crime rate has fallen 15 percent since January 1992, thanks to Austin's successfully launched and aggressively expanded community policing operation. And this even though the Austin Police Department stands below the national average in number of officers per capita compared to cities of similar size.

The community policing counterstrike is particularly effective against drugs. Through community policing, Austin has been able to wipe out crack houses, clear dealers from the streets, restrain gang problems, and control graffiti.

Mr. President, Austin's success is but one bit of evidence. Many success stories are like it, and they rightfully compel the Federal Government to help foster this commonsense law enforcement strategy.

This legislation will enable other communities to launch and adapt this approach in their own settings. It is an approach that works, and we must seize this opportunity to make sure it works in more communities.

CONNECTICUT'S WINNING SCHOOL, WE THE PEOPLE * * * THE CITIZEN AND THE CONSTITUTION PROGRAM

• Mr. LIEBERMAN. Mr. President, more than 1,200 students from 47 States and the District of Columbia were in our Nation's Capital May 1-3 to compete in the 1993 national finals of the We the People * * * The Citizen and the Constitution Program. I am very pleased that Shelton High School, our State winner, represented Connecticut in the national finals.

These young scholars worked diligently to reach the national finals by winning district and State competitions. The distinguished members of Connecticut's team are: Tara Addenbrooke, Maureen Brant, Jeffrey Browne, Suzanne Dougherty, Rebecca Ellis, Nigel Fernandes, Christine Chione, Marissa Chione, Julie Gilberti, Jennifer Kichinko, Susan Kruk, Rebecca Peterson, Julia Schucker, Sara Simeonidis, Mary-Kate Smith, Lindsay Smythe, Lily Suh, and Manoj Wadhwani.

I would also like to recognize their teacher, Joan Velms, who deserves much of the credit for the success of the Shelton High School team. The district coordinator, Rosemary Marczewski, and the State coordinator, Joani Byer, have also contributed a great deal of time and effort to help the team reach the national finals.

The We the People * * * The Citizen and the Constitution Program is the most extensive educational program in the country developed specifically to educate young people about the Constitution and the Bill of Rights. The 3-day academic competition simulates a congressional hearing. Students, acting as a panel of expert witnesses, testify before a panel of prominent professionals from across the country to demonstrate their knowledge of constitutional issues. Administered by the Center for Civic Education, the program, now in its 6th year, has reached over 12,000,000 students in 21,490 elementary, middle, and high schools nationwide.

This program provides an excellent opportunity for students to gain an appreciation of the significance of our Constitution and its place in our history and our lives today. I am very proud of these Connecticut students and commend them and their teacher for their hard work. I congratulate them for their efforts in this competition and wish them a bright future.●

NATIONAL TRAINING AND DEMONSTRATION CENTER FOR COMPREHENSIVE SCHOOL HEALTH PROGRAMS

• Mr. ROCKEFELLER. Mr. President, of all the issues facing our country, I feel that health care and children especially demand our attention. While serving in the Senate, I have had the opportunity to chair both the Pepper Commission and the National Commission on Children, and each was an extraordinary experience that reaffirmed my commitment to health care and children.

Today, I rise to recognize a program that represents a union between these two issues. The Centers for Disease Control recently awarded the West Virginia Department of Education a 5-year cooperative agreement to establish a National Training and Demonstration Center for Comprehensive School Health Programs. West Virginia received this grant because its comprehensive school health programs were among the most outstanding in the country.

As the National Training and Demonstration Center, West Virginia will provide teams from other States such

as Arizona, Louisiana, New Mexico, New York, Rhode Island, Virginia, and Wisconsin with a model for improving the health status of students. This model will involve more than just basic health education. It will also include nutritional information, teacher-staff wellness counseling, and community involvement. In short, the model will provide a more global view of health promotion, and ultimately, those States which participate in the training program will be able to transmit this global view to their own States as they begin to develop and implement similar programs.

In the National Commission on Children's Final Report Beyond Rhetoric: A New American Agenda for Children and Families, we stressed that "the ability to make informed decisions plays a significant role in personal health behavior. To make informed decisions, children and their parents need information on health risks, their consequences, and how to avoid them, as well as on ways to promote good health." I take great pride in knowing that West Virginia has stepped to the forefront of developing a means by which children and parents may gain this kind of information. I salute the West Virginia Department of Education's National Training and Demonstration Center. May their comprehensive school health model serve as a source of inspiration for other States to follow.●

PRESIDENT CLINTON'S EMPOWERMENT ZONES PROPOSAL

● Mr. BRADLEY. Mr. President, I rise today to congratulate President Clinton on his empowerment zones proposal. I would also like to compliment the President for recognizing that tax incentives alone will not be enough to revitalize our economically distressed central cities. Finally, I would like to say how delighted I am that the President's proposal contains many components which resemble pieces of my Urban Community-Building Initiative.

Over the last 12 years, we have heard a lot about enterprise zones from the Republicans. Republican enterprise zones were touted as places where businesses would be attracted to economically distressed urban and rural areas solely on the basis of the tax breaks they could receive.

In the past, I have supported tax-based enterprise zones as a partial solution to the problems of distressed communities. But I have also stressed how important it is for the Government to supplement tax incentives like wage credits with direct spending for crime prevention, job training, capital access, family support, the opportunities for savings and investment. My belief that tax incentives alone will not solve the problems of our economically distressed areas was underscored last week by the introduction of my Urban Community-Building Initiative. I am delighted that 25 of my colleagues from both sides of the aisle cosponsored all or part of this package.

My Urban Community-Building Initiative calls for the creation of Neighborhood Reconstruction Corps to make it possible for disadvantaged workers to receive training in the construction trades while repairing public infrastructure in their communities. It provides Federal assistance to community development financial institutions in economically distressed communities. It provides money for community policing, funds programs to transport urban workers to entry-level jobs in the suburbs, and makes funds available to community organizations that want to keep schools open as safe havens for kids after the end of the school day. The initiative also includes a program to encourage poor people to save money for education, the purchase of a home, or the establishment of a small business.

I am delighted that the President has embraced this coordinated community-building strategy in his empowerment zones proposal. In addition to tax incentives, areas designated as either empowerment zones or enterprise communities will be eligible to receive funds for coordinated social service spending, funds for community policing, and funds from the various Federal departments for other investments that are consistent with my proposals to link urban workers with jobs in the suburbs, train disadvantaged residents to rebuild public infrastructure in their communities, provide assistance to community development financial institutions, keep schools open as safe havens, and help poor people build assets. Direct government spending in economically distressed areas is essential to revitalizing our cities. I look forward to working with the President on his proposal.●

THE 50TH ANNIVERSARY OF FORT DETRICK

● Mr. SARBANES. Mr. President, this year Fort Detrick in Frederick, MD, is celebrating its 50th anniversary, and I want to congratulate those who are making the celebration a success.

For half a century, Fort Detrick and the men and women who have worked at the post have served our Nation with pride and distinction. This important Army installation was established as Camp Detrick in 1943, during the height of World War II, to prepare for and counter the threatened use of biological weapons.

The facility's U.S. Biological Laboratories made pioneering discoveries in decontamination, gaseous sterilization, and agent purification. Fort Detrick's early team of scientist's developed the science of safety in the laboratory and left a legacy to medical science that has greatly advanced modern medical technology.

Camp Detrick became Fort Detrick in 1956 and, under its new designation, its primary mission of protecting the American soldier was greatly expanded. Over the years it has become a national center for advanced biomedical research and development, medical materiel management, as well as global telecommunications for the White House, the Department of Defense, and other Government agencies.

Today it is the home of the largest strategic communications center of its kind in the Defense Information Systems Agency and is a vital link in the hotline to Moscow. It is also home to the Frederick Cancer Research and Development Center of the National Institutes of Health, a major force in our Nation's struggle to find a cure for cancer and acquired immune deficiency syndrome.

In addition to aiding our national defense during four major world conflicts, units from Fort Detrick have been deployed to Central America, Africa, and Southwest Asia. Its organizations have been deeply involved in humanitarian efforts in Eastern Europe and in Panama as part of Operation Just Cause. Operations Desert Shield and Desert Storm also made extensive use of the expertise at Fort Detrick. The base coordinated shipments of medical supplies and equipment and was responsible for setting up and running deployable medical hospitals.

Fort Detrick has a history of innovation and dedication which is exhibited daily by the soldiers, sailors, airmen, marines, and their civilian counterparts who live and work on the post. Working together, these men and women have made the facility one of the Army's most important and effective research centers.

Mr. President, I salute the thousands of people—military and civilian—at Fort Detrick who have earned the facility its excellent reputation. Each of them deserves our praise and our thanks.●

NATIONAL TEACHER APPRECIATION DAY

● Mr. AKAKA. Mr. President, I rise today to recognize our Nation's teachers, a group of hard-working, dedicated, committed, and often overlooked professionals. National Teacher Appreciation Day provides us an opportunity to share with our Nation's teachers our deep appreciation for all that they do each and every day to prepare our Nation's children and youth for the future.

Nearly 47 million students are educated by 2.5 million teachers, who often face difficult and challenging environments, environments in which many children come to them unprepared,

physically and mentally, for learning. As we strive to ensure that every school in America be free of drugs and violence and provide a disciplined environment conducive to learning, many teachers, especially those in our inner cities, face the daily challenge of motivating youths who are lured by drugs and violence near their homes and schools. Yet, students are expected to be the first in the world in science and mathematics achievement while facing these adverse conditions.

Still, our teachers come to school each day encouraging and enriching the lives of their students. As a former teacher, I understand the deep commitment teachers have for their pupils. I recall those students who were not necessarily outstanding in their scholastic achievement but continue to strive for improvement despite the obstacles. Students who faced a difficult time adjusting to their new environment became more actively involved in school activities with support from their teachers. It is these experiences that allow teachers to recognize that their sacrifice and dedication are worth the effort.

I hope that students, administrators, parents, and their communities will take time to recognize their teachers today. Just a simple thank you or a small gesture of appreciation will let teachers know that their students care and are grateful for their sacrifices.

Let me take this opportunity to express my warmest aloha to the teachers across this Nation and, particularly, to those in my home State of Hawaii. They are the cornerstones to our society in developing the future leaders of this Nation, and they should be recognized for their invaluable contributions.●

ORDER FOR STAR PRINT—S. 856

Mr. LEVIN. Madam President, I ask unanimous consent that there be a star print of S. 856 to reflect the changes that I now send to the desk.

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

RELATIVE TO THE RESUMPTION OF COMMERCIAL WHALING

Mr. LEVIN. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 45, House Concurrent Resolution 34, a resolution regarding commercial whaling; that the resolution be agreed to; that the preamble be agreed to; that the motion to reconsider be laid upon the table; and any statements relative to the adoption of this item appear at the appropriate place in the RECORD.

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

So the concurrent resolution (H. Con. Res. 34) was deemed agreed to.

RESOLUTION OPPOSED TO COMMERCIAL WHALING

Mr. KERRY. Madam President, I strongly support adoption of House Concurrent Resolution 34, a concurrent resolution opposing resumption of commercial whaling.

The purpose of this concurrent resolution is to encourage the continuation of the moratorium on commercial whaling declared by the International Whaling Commission [IWC] in 1982 and also to urge the establishment of sanctuaries where whaling will be permanently prohibited. I want to compliment Representative GERRY STUDDS, who not only chairs the House Committee on Merchant Marine and Fisheries but also very ably represents the people of the 10th District of Massachusetts, for his leadership on this issue, for his authorship of this resolution, and for shepherding it to rapid House passage.

This concurrent resolution reflects a continuation of U.S. policy and underscores the importance of that policy to the American people. Since the passage of the Marine Mammal Protection Act in 1972, our Nation has opposed commercial whaling and advocated its suspension or termination at meetings of the IWC.

I am pleased to champion this resolution. Last year, I submitted Senate Concurrent Resolution 125, stating that U.S. policy should promote the conservation and protection of whale, dolphin, and porpoise populations. This year, we have the opportunity to adopt a concurrent resolution showing the strong support of both Houses of Congress, reflecting in turn the views of the American people, on this issue.

The House of Representatives unanimously passed this resolution in February, 382–0. This is an important and critical time for the concepts in this resolution to be fully supported by the U.S. Congress. Two members of the IWC, Japan and Norway, have declared their intention to resume commercial whaling. The choice in Kyoto will be clear—either to support resumption of commercial whaling or to support maintaining the moratorium on this activity. The original moratorium was enacted because of the depleted nature of the stocks of most of the great whale species; while many species through protective measures are repopulating, there are still questions about our ability to manage commercial whaling activities adequately and of issues outside of the IWC, specifically pirate whaling. Pirate whaling would be likely to increase as a result of the opening of new and legitimate markets. This might severely impact whale populations at a time when many whale species are still recovering, and our science is still developing methodologies to understand them and collect good data on them.

A bipartisan, bicameral resolution would provide the necessary backing for our delegation to the upcoming IWC annual meeting held in Kyoto, Japan, to maintain support for the long-standing United States policy of opposition to commercial whaling and to press to maintain the IWC moratorium on commercial whaling. With my confidence heightened by Vice President GORE's consistency and strength of support in this Chamber on these very issues, I have great faith that the new administration will take a firm stand that reflects the thrust of the resolution we are considering today. One manifestation will be to support a proposal for a southern ocean sanctuary at the 40° south latitude where whaling will be permanently prohibited.

Active commercial whaling has driven 8 of the 10 largest species of whales to the brink of extinction. As a result, the few nations left with an interest in commercial whaling are focusing on the Minke whale. The Minke is the smallest of the great whale species and was viewed by commercial whalers as uneconomical to harvest, until such time as the other much larger species were depleted. With the market value of whale meat in Japan now at $200 a pound, the temptation to exploit this whale species is strong.

There was a time when our ancestors—including the Yankee whalers from my home State of Massachusetts—hunted whales for their oil, meat, and whalebone. The whales provided necessary means to light lamps, feed coastal populations, and make commodities out of whalebones such as combs and other toiletries. At that time the whaling industry and much of the world looked upon many natural resources as expendable, and extermination was acceptable if it meant maximizing profits in the short run. Technology has evolved to make it unnecessary for us to exploit the whales to meet our daily needs. If our attitude had not also evolved, in all likelihood all of the seriously endangered whale species now would be extinct.

We must not disregard the fact that the abatement of whaling came almost too late for many species of whales. We were fortunate that nations around the globe recognized the extent of the slaughter and came together in 1946 to sign a landmark conservation treaty: the International Convention for the Regulation of Whaling. But even that mechanism failed to stop the precipitous decline in population of a number of the whale species. Finally, in 1982, in response to global concerns over the endangered status of many whale species following centuries of commercial exploitation, the Convention's secretariat, the IWC, approved a moratorium on the commercial killing of whales to go into effect in 1986.

The IWC called upon its members to use the time during the moratorium to undertake a more thorough assessment of whale stocks. In addition, in rec-

ognition of the failure of the IWC to manage whale stocks adequately as a resource, the IWC was to draft revised management procedures. Despite the fact that the assessments have not been completed, the methodology for gathering information is still evolving, and some scientists question the population estimates that have been published, this new commercial whaling management procedure is expected to be debated by the IWC members at its annual meeting in May 1993, in Kyoto, Japan.

This resolution encourages American representatives to the IWC to point out to their colleagues in Kyoto that the revised management procedures do not have supporting data nor sufficiently developed mechanisms to procure data for proper implementation.

Second, the IWC historically has failed to manage whale stocks adequately. The Commission consistently set quotas above the recommendations of its scientific committee, and failed to take action when some nations simply unilaterally set their own quotas. The IWC has been unable to monitor and enforce its quotas—it has not had an international observer scheme and has had to rely on national enforcement of catch quotas, with no backup to verify catch numbers—and has never set penalties for infractions of its quotas. These are still areas of great concern. Even the best management procedures are worth little if there are not acceptable monitoring and enforcement mechanisms, with incentives and penalties to deter infractions. Importantly, there has been no precedent to suggest that the scope of whaling can be limited and quotas enforced, especially for non-IWC member nations.

To follow through on this point, if commercial whaling resumes, it sanctions the opening of markets where whale meat currently brings $200 a pound. The whale meat for this existing market is obtained from scientific research takes as approved by the IWC. Pirate whaling on the high seas, however, results in the random killing of any and all species of whales. While few ships to our knowledge are now involved in pirate whaling due to the current moratorium, the possibility of rapid increase exists should a sizeable legitimate commercial market for whale meat be established. In time, pirate whaling could lead to another serious depletion, if not extinction, of some and perhaps many species of our great whales which are still recovering from past decimation.

Fourth, issues such as marine pollution, global climate change, and loss of whales' food resources have not been taken adequately into account in models which assess whale stock viability. Since the moratorium was approved in 1982, scientific understanding of escalating environmental threats to whales has increased enormously. The ozone hole over the Antarctic has resulted in increased ultraviolet-b radiation which leads to a significant loss in phytoplankton production. Further reduction in its production could have catastrophic consequences for whale populations, among other marine species.

Die-offs of dolphins and whales are becoming more and more common in many parts of the world. Toxic blooms of algae, driftnets, habitat destruction, oil spills, coastal run-off, and ocean dumping of toxic wastes all contribute to these die-offs. In addition, pollution in the form of PCB's and other organochlorines is known to cause a loss of reproductive fertility in many species of animals, including marine mammals.

Fifth, I do not deny that Minke whales are widely distributed, and reasonably abundant, with a world population in the hundreds of thousands. However, some geographically, and perhaps genetically, distinct stocks have been depleted by commercial whaling. The Sea of Japan-Yellow Sea-East China Sea stock and the Northeastern North Atlantic stock are depleted, and there are reports that the West Greenland stock may be severely depleted. This indicates that, where there has been whaling on Minke whales, good management practices have not been implemented.

It is important in considering the resumption of whaling to assess the species and its ability to reproduce. Very little is known about the reproductive lifespan of whales. But research indicates that Mink females carry their young for 10 months; that over 99 percent only carry 1 calf; and that the minimum time between pregnancies is 14 months. Currently, sexual maturity is achieved in 6–8 years.

When we take into account this incredibly slow recruitment rate, the impacts already exerted on the species by human-induced pollution, the inability to manage, monitor and enforce whaling regulations effectively, and the lucrative market accessible by whalers not constrained by IWC mechanisms even if they did exist, the re-introduction of commercial whaling does not make any sense at all.

When we look at issues of development, income, and livelihood, those IWC-member countries interested in whaling and those seafarers who have their own interests at stake have an alternative—a proven sustainable development alternative with far-reaching economic, educational, and environmental benefits. In Massachusetts, the old tradition of hunting whales for profit has been replaced by a new enterprise—whale watching for profit. This new industry brings almost 2 million whalewatchers to Massachusetts Bay each year, generates $22.5 million in direct income, results in tourism income for the State of over $70 million annually, and provides many jobs. The funds from whalewatching trips also help to support scientific efforts to identify whales and learn more about them.

Whales have captured the hearts of people around the world. This fact has led to whalewatching ventures all over the globe, with even Japan and Norway profiting from such eco-tourism. The original IWC mandate called for the optimum utilization of whale resources. Increasingly, the nations of the world have come to realize that whales have far greater value as living marine resources than they do as steaks on the dinner plates of those wealthy few able to afford whale meat. The argument can be made that the optimal utilization of whales is a benign, non-lethal interaction.

We must remember that whale meat did not become a food staple for most Japanese until after World War II when, with strong encouragement from American occupation authorities, the nation built up a large whaling fleet. In starving postwar Japan, whales represented an easily available source of protein. Although many restaurants in Tokyo and around Japan still serve whale meat from Scientific takes, they appeal largely to older Japanese who grew up eating the meat before it was one of the nation's most expensive delicacies.

Internationally, whalewatching has become a multi-billion dollar industry. Commercial whalewatching currently occurs in over 30 countries as well as in Antarctica. This activity world-wide has been estimated at producing an income of $65.6 million for whale- and dolphin-watching tours, with total tourism revenues estimated at $275.7 million in 1992. This sustainable development growth industry has benefitted numerous coastal locales all over the globe, as well as maintained a maritime heritage and culture.

For example, in Norway, the whalewatching business has expanded every year since it started. In 1991, 4,536 people from 26 countries went on tours and the total estimated impact on the economy was $1.5 million. Meanwhile, the Foreign Department in Norway reports that world opinion is so strongly in favor of nonlethal uses of whales that travel agencies are having problems with the promotion of Norway as a tourist destination since it announced it would resume commercial whaling.

In Japan, whale-watching has expanded to include numerous tour operators on different islands. In 1991, while this industry still was fledgling, there were 8,790 whale watchers, with tour revenues of just under $300,000 and a total economic impact of $3.3 million.

This form of recreation and tourism has the added benefit of educating the public about pollution prevention, conservation of our marine living re-

sources, and the importance to all of us of a healthy ecosystem.

I cannot predict what the needs of our future generations will be and the decisions they will have to face in terms of natural resource utilization. But it seems certain they will face harder choices with fewer alternatives than we face, and those choices can be made more difficult by decisions we are making today. We must increase our commitment to the concept of sustainable development; we must look at the big picture, take account of all costs and all benefits in the long run, and attempt to make the best decisions we can make in light of the information available to us. It is for these reasons that I support the resolution before us today, and urge my colleagues to join in supporting it.

MAKING TECHNICAL AMENDMENTS TO THE HIGHER EDUCATION ACT OF 1965

Mr. LEVIN. Madam President, I ask unanimous consent that the Senate proceed to the consideration of S. 884, introduced earlier today by Senators PELL, JEFFORDS, and others, making technical amendments to the Higher Education Act of 1965; that the bill be deemed read a third time and passed; the motion to reconsider be laid upon the table; and any statements thereon appear in the RECORD at the appropriate place as though read.

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

So the bill (S. 884) was deemed read the third time and passed, as follows:

S. 884

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. COOPERATIVE EDUCATION.

(a) RESERVATION FOR CONTINUATION AWARDS.—The matter preceding paragraph (1) of section 802(b) of the Higher Education Act of 1965 (20 U.S.C. 1133a(b)(1)) is amended to read as follows:

"(b) RESERVATIONS.—From the amounts appropriated pursuant to the authority of subsection (a) for fiscal year 1993 the Secretary shall reserve such sums as are necessary to make grant awards in accordance with section 803(a)(6) for such year. From the amounts appropriated pursuant to the authority of subsection (a) and not reserved pursuant to the preceding sentence in each fiscal year—".

(b) CLARIFICATION REGARDING SUBSEQUENT PARTICIPATION OF CERTAIN GRANT RECIPIENTS.—Section 803 of the Higher Education Act of 1965 (20 U.S.C. 1133b) is amended—

(1) in subparagraph (A) of subsection (a)(1), by striking "that have not received a grant under this paragraph in the 10-year period preceding the date for which a grant under this section is requested";

(2) in the heading of subsection (c), by inserting "; SUBSEQUENT PARTICIPATION RULE" after "SHARE"; and

(3) in subsection (c)—

(A) in the matter preceding subparagraph (A) of paragraph (1), by striking "No" and inserting "Except as provided in paragraph (4), no";

(B) in subparagraph (A), by inserting ", except that any grant awarded pursuant to section 802 of the Higher Education Act of 1965 (as such Act was in effect on July 22, 1992) shall be included in the calculation of the 5 fiscal year period described in this subparagraph" before the semicolon; and

(C) by adding at the end the following new paragraph:

"(4) SUBSEQUENT PARTICIPATION RULE.—An institution of higher education or a combination of such institutions shall be eligible to receive a grant under subsection (a)(1)(A) after the expiration of the 10 fiscal year period following the final fiscal year in which such institution or combination receives grant funds in accordance with subparagraph (A) or (B) of paragraph (1).".

(c) PRIORITY.—Subsection (a) of section 803 of the Higher Education Act of 1965 (20 U.S.C. 1135b) is further amended by adding at the end the following new paragraph:

"(6) PRIORITY.—In awarding grants under paragraph (1)(A) in any fiscal year the Secretary shall give priority to institutions of higher education or combinations of such institutions that have received grant funds in the preceding fiscal year pursuant to a multiyear grant award under paragraph (1)(A) or section 802 of the Higher Education Act of 1965 (as such section was in effect on July 22, 1992).".

(d) FEDERAL SHARE.—Subsection (c) of section 803 of the Higher Education Act of 1965 (20 U.S.C. 1133b(c)) is further amended—

(1) in the matter preceding subparagraph (A) of paragraph (2), by striking "The" and inserting "Except as provided in paragraph (3), the"; and

(2) by amending paragraph (3) to read as follows:

"(3) SPECIAL RULE.—The Secretary shall not waive the provisions of this subsection, except that if an institution of higher education or combination of such institutions received grant funds under section 802 of the Higher Education Act of 1965 (as such section was in effect on July 22, 1992) pursuant to a multiyear grant award and such institution or combination is eligible to receive grant funds under this section, then the Secretary shall waive the Federal share provisions set forth in paragraph (2) for such institution or combination and shall apply the Federal share provisions set forth in section 802(c)(2) of the Higher Education Act of 1965 (as such section was in effect on July 22, 1992) to such institution or combination for the duration of such multiyear grant award.".

(e) AVAILABILITY OF APPROPRIATIONS.—Subsection (c) of section 802 of the Higher Education Act of 1965 (20 U.S.C. 1133a(c)) is amended to read as follows:

"(c) AVAILABILITY OF APPROPRIATIONS.—

"(1) LIMITATION REGARDING COMPENSATION OF STUDENTS.—Appropriations under this title shall not be available for the payment of compensation of students for employment by employers under arrangements pursuant to this title.

"(2) SPECIAL RULE.—Funds appropriated pursuant to the authority of subsection (a) for fiscal year 1993 shall remain available for obligation until September 30, 1994.".

SEC. 2. GRADUATE PROGRAMS.

Notwithstanding any other provision of law, if an individual received multiyear fellowship assistance under part B, C, or D of title IX of the Higher Education Act of 1965 in fiscal year 1992, then the Secretary of Education shall apply the provisions of such parts (as such parts were in effect on July 22, 1992) for the remainder of the duration of such multiyear fellowship assistance.

SEC. 3. PACIFIC REGIONAL EDUCATIONAL LABORATORY.

The matter preceding paragraph (1) of section 101A(b) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2311a(b)) is amended—

(1) by striking "Center for the Advancement of Pacific Education, Honolulu, Hawaii, or its successor entity as the Pacific regional educational laboratory" and inserting "Pacific Regional Educational Laboratory, Honolulu, Hawaii"; and

(2) by inserting "or provide direct services regarding" after "grants for".

SEC. 4. DISTRIBUTION OF FUNDS TO POST-SECONDARY AND ADULT PROGRAMS.

Section 232 of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2341a) is amended—

(1) in subsection (a)—

(A) in the first sentence, by inserting "or consortia thereof" before "within"; and

(B) in the second sentence—

(i) by inserting "or consortium" before "shall"; and

(ii) by inserting "or consortium" before "in the preceding";

(2) in subsection (b)—

(A) in paragraph (1), by inserting "or consortia" after "institutions"; and

(B) in the matter preceding subparagraph (A) of paragraph (2), by inserting "or consortia" after "institutions"; and

(3) in subsection (c)—

(A) in paragraph (1), by inserting "or consortium" after "institution"; and

(B) in paragraph (2), by inserting "or consortia" after "institutions".

SEC. 5. NATIONAL BOARD FOR PROFESSIONAL TEACHING STANDARDS.

Section 551 of the Higher Education Act of 1965 (20 U.S.C. 1107(f)) is amended—

(1) in paragraph (1) of subsection (b), by striking "the Federal share of";

(2) in subparagraph (B) of subsection (e)(1), by striking "share of the cost of the activities of the Board is" and inserting "contributions described in subsection (f) are"; and

(3) by amending subsection (f) to read as follows:

"(f) MATCHING FUNDS REQUIREMENT.—

"(1) IN GENERAL.—The Secretary shall not provide financial assistance under this subpart to the Board unless the Board agrees to expend non-Federal contributions equal to $1 for every $1 of the Federal funds provided pursuant to such financial assistance.

"(2) NON-FEDERAL CONTRIBUTIONS.—The non-Federal contributions described in paragraph (1)—

"(A) may include all non-Federal funds raised by the Board on or after January 1, 1987; and

"(B) may be used for outreach, implementation, administration, operation, and other costs associated with the development and implementation of national teacher assessment and certification procedures under this subpart.".

ORDERS FOR WEDNESDAY, MAY 5, 1993

Mr. LEVIN. Madam President, I ask unanimous consent that, when the Senate completes its business today, it stand in recess until 10:15 a.m., Wednesday, May 5; that, following the prayer, the Journal of proceedings be approved to date and the time for the two leaders reserved for their use later

in the day; that there then be a period for morning business, with Senators permitted to speak in the order listed and for the times indicated: Senator CHAFEE for not to exceed 30 minutes, Senator BYRD for not to exceed 1 hour, and Senator KRUEGER or his designee for not to exceed 45 minutes, and that the time between the conclusion of the controlled time just indicated and 2:30 p.m., be for additional morning business, with Senators permitted to speak therein for not to exceed 10 minutes each; and that at 2:30 p.m., the Senate resume consideration of the pending business, S. 349, the lobbying disclosure bill.

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

RECESS UNTIL WEDNESDAY, MAY 5, 1995, AT 10:15 A.M.

Mr. LEVIN. Madam President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess, as previously ordered.

There being no objection, the Senate, at 6:59 p.m., recessed until Wednesday, May 5, 1993, at 10:15 a.m.

EXTENSIONS OF REMARKS

SIXTH CONGRESSIONAL DISTRICT ESSAY CONTEST

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 4, 1993

Mr. HYDE. Mr. Speaker, it is my privilege every year to sponsor jointly with schools in the Sixth Congressional District an essay contest featuring the works of numerous young people.

This year's contest elicited more than 500 entries on the topic of creating a balance between the need for jobs and protecting our natural environment.

In reading some of the winning essays, two of which are featured here, I am very heartened by the time and thought invested in these projects.

Park Ridge, IL resident Brenda Saavedra, a senior at Maine South High School, placed first among high school seniors with her essay, "Money for a Greener World."

In her winning junior division essay "Recycling Resources," eighth-grader Laura Beckerdite of Park Ridge, describes the principles of waste recycling. Laura attends Mary Seat of Wisdom School.

Please permit me to add my heartfelt congratulations to these and the other participants who took the time to research, write and edit their papers. A special note of thanks also to Mrs. Vivian Turner, former principal of Blackhawk Junior High School, who coordinates this annual event.

I commend the following two well-written essays to my colleagues:

MONEY FOR A GREENER WORLD

HOW WOULD YOU RESOLVE THE CONFLICT BETWEEN THE NEED FOR ECONOMIC GROWTH AND PROTECTING OUR ENVIRONMENT?

(By Brenda Saavedra)

On February twenty-first, forty children questioned President Clinton in the East Room of the White House about the hopes they have invested in their new president. One girl from Washington state told Clinton that her father and many of her friends' fathers have been laid off from their logging jobs due to the spotted owl. The spotted owl controversy in the Pacific Northwest has been presented as a classic clash between environmental protection and economic growth. Although there is a growing Main Street demand for a greener world, many believe that if we choose a healthful environment, we must sacrifice jobs and economic growth. Tension and mistrust between the environmental movement and the business community have slowed environmental progress. Yet it is indisputable that our constant assaults on our planet are jeopardizing our increasingly complex and fragile world. However, realizing that competitive, profitable companies are not an obstacle to a clean environment, but its very hope, through a four point program involving the expansion of market environmentalism, moving away from fossil fuels, altering national income accounts, and actively engaging the American citizen, we can protect our environment and encourage economic growth and a healthy economy.

The question is not if we need a clean environment, but whether we can afford one. We can, if the profit motive is harnessed by expanding three aspects of market environmentalism: pollution allotment, the surpassing of EPA standards, and the development of new pollution control devices. Pollution allotment, the procedure in which government sets broad limits on the amount of pollution allowed for a region of industry and allots permits to firms for their share of control, has been extremely successful in reducing overall pollution levels, and should be expanded to include more industries. Polluters can buy or sell these allowances so that firms that can reduce a pollutant inexpensively will financially benefit by selling their allowances to their less ecologically sound neighbors. Already, the experiments with market environmentalism have saved the economy $1 billion to $10 billion,[1] while cleaning up the nation. Under earlier regulations, each utility had to reduce its pollution equally and there were no incentives to make extra reductions. Although not every environmental problem has a magic market solution, corporations which share common air and water and must also share the responsibility of keeping them clean.

Secondly, it must be emphasized that those corporations that stay one step ahead of environmental regulators will stay two steps ahead of the competition. Obviously, pollution reductions do not yield fast profits; environmental commitments demand initial investment and patience as the returns slowly trickle in. But there are many other benefits to staying ahead of EPA regulations, such as the value of improved public relations. Also, without pressure from the regulators, companies have the time and flexibility to reduce pollution at the least possible cost. They will also save more money by preventing pollution early, rather than spending more money trying to cope with it later. In addition, by rethinking their manufacturing processes from the ground up, many companies discover that they are unnecessarily squandering raw materials. And lastly, companies that cut pollution early can more easily beat their competitors to the market; and every month spent awaiting EPA authorization to operate a new factory means a month of lost profits.

The third aspect of market environmentalism is to expand the research and production of new pollution control devices. The market for desulfurization alone could reach $24 billion in the United States by the year 2000.[2] Staying ahead in environmental technology will open up jobs for people who can improve air quality through better equipment design and better emission monitoring, and for those who understand water quality issues and the mechanics of global climate change. When the system of market environmentalism rewards overcompliance, it stimulates the most advanced and cost effective control technologies. When this technology is advanced, both the environment and the economy will benefit.

The second point of this plan requires that we move away from the burning of fossil fuels through both a carbon tax and the exploration of new sources of power. Taxes on the carbon dioxide emissions from the burning of fossil fuels would increase government revenues and fight pollution. Unlike a BTU tax, which is based on the heat content of fuel and would apply to oil, coal, natural gas, uranium and hydropower, a carbon tax would cause a major shift in fuel choices and decrease a major cause of global warming. Although the funds would come from carbon use utilities and their customers, the burden would primarily be placed on coal producers. These coal producing areas could be given funds to begin harnessing new, cleaner forms of energy. Although the initial cost would be high, eventually this major shift will dramatically slow global warming and create new jobs.

In addition to moving consumers away from fossil fuels through a carbon tax, we must develop new energy sources. On a worldwide scale, only hydroelectricity can today be considered a sustainable energy resource; it cannot be depleted and does not produce greenhouse gases. However, only ten percent of the total energy used in the world comes from this source.[3] We must also increase the use of other renewable energy sources such as wind power, solar thermoelectric power, photovoltaic and biomass power. These new industries can be designed to employ large numbers of people while using less energy and generating less pollution, all without sacrificing productivity. The cost of building and operating a wind farm are far less than for a nuclear power plant, yet the wind farm needs five hundred forty-two workers and the nuclear power plant only one hundred workers to generate one thousand gigawatt hours of electricity per year.[4]

The third tier of this plan is to alter national income accounts to reflect changes in a country's natural wealth. When a forest is cut down and sold, the country appears to grow richer, even though the trees may not be replaced and their removal may result in soil erosion, flooding, and the loss of food and fuel gathered by local people. Such statistical oddities encourage policy makers to behave as though natural wealth were limitless and technology could always compensate for environmental change. At present, animals and plants are treated differently: an increase in a country's livestock is counted when it occurs, but an increase in its commercial forests is recorded only when they are felled. The United Nations, whose statistical office sets guidelines for the standard system of national accounts, should no longer treat the depletion of natural resources as current income. The SNA should either include natural assets under the control of man in the concept of national wealth or draw up these adjusted accounts along with conventional accounts. This would not only more accurately assess a nation's wealth, but also discourage countries from

Footnotes at end of article.

exploiting natural resources in search of short term monetary gains.

Finally, we must encourage American citizens to actively protect our environment through ecologically safe products and recycling. There is an enormous, growing market for products that make a genuine difference for the planet. But there must be strict guidelines for environmental claims. A package should not be allowed to claim "recycled" unless it explicitly lists which elements of the product are recycled and what percentage of their materials are reused. Recycling is another industry in which more jobs are created as pollution is decreased. An American city of one million people could create one thousand five hundred jobs for its citizens by recycling its own paper, glass, plastics, and aluminum, while adding more than $250 million to the local economy if local manufacturers process the materials into finished goods. At the same time, the city would divert fifty percent of its garbage from the waste stream.[5] Local communities should make taxpayers pay according to the amount of waste they create. Seattle, for example, charges $9 per month for each extra trash can left at the curb. This fee would encourage Americans to take advantage of recycling and to cut down on excess waste.

This four point program, which calls for a change in behavior and attitudes which will be felt by many as a sacrifice, will need time to bear its fruit. But short term pro-occupations can no longer obstruct long term imperatives. Thoroughly changing the behavior of the individual, the institution and the government is the only basis from which a healthy future can emerge from our planet. Rather than being misled by economic models that encourage us to believe that the infinite exists in a finite world, we must protect the environment while continuing to stimulate economic growth and improving the quality of life for humankind as a whole.

FOOTNOTES

[1] "Put a Price on Pollution." *U.S. News & World Report*, March 25, 1991, p. 46.

[2] "Scrub the World Clean." *U.S. New & World Report*, March 25, 1991, p. 50.

[3] "Energy for a sustainable world." *The UNESCO Courier*, November 1991, p. 23.

[4] "Can we have both spotted owls and jobs?" *The Utne Reader*, May/June 1992, p. 43.

[5] "Can we have both spotted owls and jobs?" *The Utne Reader*, May/June 1992, p. 43.

RECYCLING RESOURCES

(By Laura Beckerdite)

The earth is the only planet known to support life. It has all the resources and materials that enable plants, animals, and humans to survive. Both our economy and our environment depend on natural resources. However there is only a limited supply, and we must find a way to conserve it. Recycling is one way that can help conserve our resources and benefit both our economy and our environment.

Ecomony is not only the ability to manage expense, but it is also the thrifty and efficient use of material resources. One way to efficiently manage resources is through recycling. Recycling is a process designed to reuse materials instead of using them once and throwing them away. Recycling helps conserve raw materials that manufacturers would otherwise need to use in vast quantities. Recycling also decreases the rate at which materials are discarded thus helping to reduce the pollution that may result from the disposal of various waste materials.

The presence of natural resources drives labor to produce technology. Technology produces capital. Capital is then used to pay workers to further build technology which produces more capital. However natural resources cannot be replaced in this cycle. Nature is the only way resources can be replenished. Our dynamic economy cannot afford to wait thousands of years for these natural resources to be replenished. Recycling can facilitate almost immediate access to resources. In addition, recycling can help by not draining our limited supply of resources. The constant drainage will cause us to run out, and once that happens we will lose the main thing that drives our economy.

A major problem affecting our environment is the amount of garbage Americans produce. Many of the products manufacturers make are disposable. We use a product once and throw it away. Each week a family of four produces a hundred pounds of trash. Each year fourteen billion pounds of trash are dumped in the ocean. In the United States alone five hundred new garbage dumps need to be created every year. Landfills pollute water, destroy animal habitats, and smell bad. In addition, it can take thousands of years for the garbage in a landfill to biodegrade. Recycling is a way to cut down on all the garbage. Most of the items that we throw away are recyclable. Paper, plastic, rubber products, aluminum, and motor oil are just a few of the recyclable items that we currently discard. By recycling we can decrease the number of landfills and prevent the garbage from being dumped in our lakes, rivers, and oceans. This can help keep our country a cleaner and healthier place to live.

The earth's resources are limited and need to be conserved. The earth's natural systems are vital to life. These systems will break down if they are abused. The survival and well-being of life on earth is linked to these natural resources.

TRIBUTE TO DAVID F. WORKMAN

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 4, 1993

Mr. GILLMOR. Mr. Speaker, I would like to take this opportunity to recognize an exceptional young man from my district who has recently accepted his appointment as a member of the class of 1997 at the U.S. Naval Academy.

David F. Workman will soon graduate Vermilion High School after 4 years of outstanding academic and athletic achievement. During his high school career, Frank has established himself as one of the premier student-athletes in Ohio. He participated in varsity soccer, varsity football, and varsity wrestling. Frank's high school wrestling career culminated in the Ohio division II State championship.

Mr. Speaker, one of the most important responsibilities of Members of Congress is to identify outstanding young men and women and to nominate them for admission to the U.S. service academies. While at the Academy, they will be the beneficiaries of one of the finest educations available, so that in the future, they might be entrusted with the very security of our Nation.

I am confident that Frank Workman has both the ability and the desire to meet this challenge. I ask my colleagues to join me in congratulating him for his accomplishments to date and to wish him the best of luck as he begins his career in service to our country.

THE TIRE RECYCLING AND RECOVERY ACT

HON. JIM SLATTERY

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 4, 1993

Mr. SLATTERY. Mr. Speaker, today, my colleagues, Representative MCMILLAN of North Carolina and Representative SAWYER of Ohio, join me in re-introducing legislation which is sorely needed to address a critically important environmental problem facing our Nation: scrap tires.

The United States stores between 2 to 3 billion waste tires in piles across the country. The annual number of waste tires Americans generate each year is nearly 250 million.

States around the country are trying to cope with the problems associated with large tire piles. These scrap tire piles are environmentally hazardous and pose serious threats to human health. Improper or absentee management of these tires has resulted in huge fires that can take months to extinguish. In addition, recent reports have indicated that tire piles have become breeding grounds for rodents and insects which spread disease and infection.

Last Congress we introduced the Tire Recycling and Recovery Act, two bills which would address this critical problem. This year we are re-introducing this legislation. The first bill would amend the Resource Conservation and Recovery Act [RCRA] to require the Environmental Protection Agency [EPA] to promulgate guidelines and establish a model which States could use to develop plans to manage or eliminate tire piles. The second bill would designate the EPA to administer the Scrap Tire Trust Fund which would be financed through an $.85 per tire fee, collected from 1993 through 2004 at the Federal level on all new tires.

Financial assistance would be provided to states conducting surveys of existing scrap tire piles, and establishing and implementing a scrap tire plan which provides for reuse, recycling, recovery, or environmentally sound disposal.

Scrap tires are a valuable resource that can be reused, recycled or recovered in a wide variety of ways. Examples of uses for scrap tires include: retreading tires; producing rubberized asphalt, road, and highway pavement; recovering energy from tires, and manufacturing reclaimed or ground rubber materials into products such as floor mats, carpet backing, molded goods, or railroad crossings.

This legislation would enhance the efforts of the States which already have programs. Other States which have not taken the initiative or do not have the resources to address the problem would be encouraged to develop constructive uses of scrap tires with the incentives provided in these bills.

This legislation was included in the RCRA reauthorization measure which was approved by the Energy and Commerce Committee last year but which failed to receive consideration by the House. And, while some changes and modifications will still be necessary to address concerns raised late in the process last Congress, I am confident this legislation will serve

as the best approach to solving this pressing environmental problem. I urge my colleagues to support it.

TRIBUTE TO FRAN BURNSTEIN

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 4, 1993

Mr. SAXTON. Mr. Speaker, I rise today to pay tribute to the recipient of the B'nai B'rith International Distinguished Achievement Award, Fran Burnstein.

Fran Burnstein is a role model for all Jewish-American women. Past mayor of Cherry Hill, NJ, Fran went on to be the executive director of the Greater Cherry Hill Chamber of Commerce. Fran lead the Greater Cherry Hill Chamber of Commerce to be recognized as the fastest growing in the United States.

Fran has served both her community and the State of New Jersey with pride and distinction. She has served as president of the New Jersey Association of Chamber Executives, a member on the board of trustees of the Camden Count United Way, a board member of Cooper's Ferry Development Corp., a member of the board of trustees of the Police Athletic League, and the board of directors of the American Heart Association.

Listings in Who's Who in the East and Who's Who of American Women, the Humanitarian Award from the National Conference of Christians and Jews, and the Newsmaker of the Year Award, as well as being named one of New Jersey's "Women to Watch" are but a few of the many recognitions of achievement with which Fran Burnstein has been honored.

I am pleased to show my appreciation to this deserving individual for the many contributions she has made to enrich the lives and committees of those surrounding her.

CURE FOR SMALL BUSINESS HEALTH-CARE ILLS

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 4, 1993

Mr. DUNCAN. Mr. Speaker, many of the laws, rules, and regulations of the Federal Government work to the benefit of big business because they drive small business out of existence.

Monica Langley made this same point in the May 4 issue of the Wall Street Journal in an excellent column on health care.

Ms. Langley says at one point: "If health insurance is mandated, some of my clients and others like them will have to lay off employees or close."

I urge all my colleagues and other readers of the RECORD to thoughtfully consider this article.

CURE FOR SMALL BUSINESS'S HEALTH-CARE ILLS

(By Monica Langley)

One of the latest leaks about the Clinton health-care plan is that it will let the nation's big companies serve as their own insurers and stay outside the Clintons' managed-care insurance pools. That's welcome news because it allows those companies to direct their own budgets instead of forcing them into a government program. But small and medium-sized businesses appear to remain inside the scope of the Clintons' plans. These businesses fear the Clintons will back a law requiring them to cover every one of their employees—and pay for it. For such businesses, the Clintons could do a second favor: Give them a tax credit for insuring their employees.

The issue of health insurance at small and medium-sized businesses is at the core of our national health-insurance problem. These businesses often have difficulty purchasing health insurance, or pay up to 20% more for it than big business. Rather than bear those prohibitive costs, many companies choose to insure only partially, or not at all: An estimated two-thirds of the 37 million uninsured in the U.S. work for or are dependents of people who work for small businesses. An indication that affordable insurance decreases along with business size is that in 1990 only 27% of firms with fewer than 10 employees offered health benefits, while 98% of firms with more than 100 workers provided such insurance.

For many small and medium-sized companies, the cost of health coverage for their employees is a large part of overhead, and is often larger than their operating profits.

Some examples from my experience: One company I represent as an attorney has 21 full-time employees and pays about $58,000 in health insurance premiums each year. This adds 13% to its payroll costs. Another client business pays more than $56,000 in insurance premiums for 18 employees, at a cost of $3,135 per employee. For lower-salaried employees, this company spends an amount equal to 24% of their salaries to provide health insurance.

Businesses such as these want to do the right thing. But they frequently come to me about their obligations to continue coverage as insurance costs escalate. In our society, what we call "insurance" is no longer insurance: The health of a single employee can dramatically affect the rates a company pays. The businesses know they may have insurance now, but their premiums for next year can double if one employee gets very sick. One small business I represent employs a woman who had a spina bifida baby. Needless to say, the business's insurance premiums skyrocketed.

If health insurance is mandated, some of my clients and others like them will have to lay off employees or close. In particular, the relatively high cost of insurance for lower-salaried employees is a substantial disincentive to hiring less-skilled workers on a full-time basis. Already businesses have turned to hiring contract or temporary workers, for whom they don't have to provide benefits, to cut costs. Such a result clearly runs counter to the president's much-touted plans to create jobs.

For my clients, the best solution would be a tax credit they would receive whenever they provide their employees with health insurance. This credit would replace the current business deduction for insurance premiums. It would widen the tax break enough to make it worth it for businesses to cover employees. Besides handing more money back to businesses, the tax credit has a second advantage over the deduction: It is not regressive. Deductions are—they provide greater compensation to businesses in higher brackets—and so help bigger companies more.

Here's how a health-care tax credit would work: Companies could subtract a certain share, say 50%, of health-insurance costs from their federal tax bill. Take a business with a $1.5 million payroll that pays an annual insurance premium of $135,000 or 9% of payroll. A tax credit for 50% of the insurance cost would produce a tax savings of $67,500 (minus the business-expense deduction companies now take). Such a savings might permit a business to hire an additional employee.

The health-insurance tax credit would not have to be permanent. It could run for a few years, while the federal government attempts to lower medical costs and institute some type of national health-care policy. (Assuming the Clintons' national policy is successful, employee health insurance would be more affordable for all businesses.) It would cost the government less in lost revenues—and be more politically palatable—if it is limited to small and medium-sized businesses. The Clinton administration has backed other forms of tax credit—the investment tax credit, for example. If it tries this one, it may achieve its most touted goal: creating jobs.

IN TRIBUTE TO THE ERIE BRANCH 284 OF THE NATIONAL ASSOCIATION OF LETTER CARRIERS

HON. THOMAS J. RIDGE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 4, 1993

Mr. RIDGE. Mr. Speaker, I rise today before the 103d Congress to pay tribute to Erie branch 284 of the National Association of Letter Carriers in conjunction with the U.S. Postal Service who are participating in the National Association of Letter Carriers Food Drive in Erie, PA on Friday, May 14, 1993.

Not only do the letter carriers continue to carry on their proud tradition of delivering the mail, but they also have a reputation and a tradition of giving to their community as volunteers. As a group and as individuals, they and their families are active and caring participants in many of Erie County's charitable and worthwhile causes.

The First Harvest Food Bank in Erie is a very worthy recipient of the letter carriers' attention. Their goals and ideals of feeding all those who are unable to provide for themselves or their families good nourishing food are shared by the letter carriers.

Therefore, on Friday, May 14, 1993, letter carriers from all over Erie County will voluntarily pick up donations of canned goods and other food stuffs that are left by the mailboxes of customers on their routes. This food that is collected will then be delivered to the First Harvest Food Bank which will distribute the food to the other food pantries, soup kitchens, shelters, and other needy organizations and individuals throughout the county.

I am pleased to be able to pay tribute to branch 284 letter carrier volunteers for undertaking this very worthy project and also to salute all of those men and women who do their job faithfully day in and day out for the U.S. Postal Service. It is due in large part to these dedicated employees that our postal service is the finest in the world.

I also want to pay tribute to those customers of the Post Office who I know will generously give so that many will not go hungry tonight.

Hopefully, through efforts such as the letter carriers are making later this month, we can help eradicate hunger in the United States. It will, and can only be done by each and everyone of us joining hands, pitching in and getting the job done.

Mr. Speaker, it is with great pride and honor that I salute all of the fine, dedicated men and women of branch 284 of the National Association of Letter Carriers for their outstanding contribution to the hungry of Erie County, PA.

CONGRATULATIONS TO ARCADIA HIGH SCHOOL STUDENTS

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 4, 1993

Mr. DREIER. Mr. Speaker, I would like to ask my colleagues to join me in congratulating students from Arcadia High School in California on their victory at the "We the People * * * the Citizen and the Constitution" national competition in Washington DC.

I am extremely impressed by the hard work these students put into this worthwhile program. They not only completed an intensive, 6-week study of the Constitution and the Bill of Rights, but also spent months competing at local and State levels against 500,000 students from around the country.

As part of the national competition, the Arcadia High students competed in 3 days of simulated congressional hearings on constitutional principles and historical facts. They were judged to be the best prepared and most knowledgeable out of 1,200 students representing 48 States.

Mr. Speaker, I know our Founding Fathers would be very proud of their commitment to understanding the principles and values of our Constitution and Bill of Rights. It is an honor to serve as their Congressman, and I believe they are examples of what all Americans should strive to be.

TRIBUTE TO DICK THORNBURGH

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 4, 1993

Mr. GILLMOR. Mr. Speaker, I would like to take this opportunity to salute a great public servant who has been selected as the commencement speaker at Tiffin University in Tiffin, OH.

Dick Thornburgh has truly distinguished himself as one of the most effective, most trusted, and most respected public servants in the history of our country. During his term of Federal service, Dick Thornburgh served under Presidents Nixon, Ford, Carter, Reagan, and Bush in the U.S. Department of Justice. From August 12, 1988 through August 15, 1991, Dick Thornburgh served as the 76th Attorney General of the United States.

My great respect and admiration for Dick Thornburgh dates back to the early to mid-1980's when I was serving as president of the Ohio Senate and Dick was serving in his two terms as Governor of the Commonwealth of Pennsylvania.

While serving as Governor, Dick Thornburgh restored integrity and efficiency to State government and fostered expansion and diversification of the economy by innovative economic development policies, reducing taxes and indebtedness and eliminating 15,000 unnecessary positions in the State bureaucracy. His programs for welfare and education reform and for upgrading the State's transportation system were nationally acclaimed.

Mr. Speaker, on behalf of the students, graduates, faculty, and staff of Tiffin University, I ask my colleagues to join me in saluting Dick Thornburgh for his distinguished service to our country and to thank him for sharing his thoughts with these fine young men and women as they accept their diplomas and enter the dawn of their professional careers.

TOBACCO LEGISLATION

HON. JIM SLATTERY

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 4, 1993

Mr. SLATTERY. Mr. Speaker, as a nonsmoking American, I am pleased to introduce today two important pieces of legislation—one to fight our national addiction to nicotine through stronger warnings on cigarette packaging and another to eliminate the Federal Government's subsidy of tobacco advertising.

Cigarette smoking is responsible for an estimated 435,000 deaths each year in the United States and smoking-related illnesses place a tremendous burden on our health care system. Amazingly, these enormous medical expenses and this tragic loss of life are avoidable. By quitting smoking today, Americans would save millions in medical costs and lost wages each year.

Education about the addictive nature of nicotine is critical to discouraging potential smokers and encouraging current smokers to quit their deadly habit. The legislation I am reintroducing today will require a new, permanent warning label, in addition to the current four rotating warning labels, on cigarette packages and advertising to read as follows: "Surgeon General's Warning: Nicotine in Cigarettes Is an Addictive Drug."

Recent studies have shown that one-third of all high school seniors do not know that smoking a pack or more of cigarettes each day causes great risk to their health. Studies also have shown that 90 percent of all new smokers are teenagers. My legislation is intended to rivet smokers' and potential smokers' attention to the addictive properties of nicotine. As a nation battling the war against illegal drugs, we must not overlook the most obvious drug in our society—nicotine.

I also am introducing today related legislation to eliminate tax deductions for the promotion and advertising of tobacco products.

At a time when Congress and President Clinton are facing difficult choices for reducing the deficit and dealing with a national health care crisis, it is unconscionable that cigarette and tobacco product producers are deducting an estimated $2.5 billion in advertising dollars each year.

My legislation would eliminate deductions for tobacco product advertising, and related travel expenses, lodging, and gifts. The billions of dollars in revenues generated by taxing these activities could be dedicated to paying part of the bill for national health care reform.

It is time to end this subsidy for the tobacco industry. I urge my colleagues in Congress to support me in the speedy enactment of this important legislation.

TRIBUTE TO C. WILLIAM TUXBURY

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 4, 1993

Mr. SAXTON. Mr. Speaker, I rise today to pay tribute to one of the U.S. Government's most loyal employees, C. William Tuxbury. Mr. Tuxbury was born in Salem, MA. He remained there until 1942 when he began his military career with the Navy. He went on to serve in the Marine Corps and the Army, where he found the time to earn his degree at night from the University of Alabama. In 1957, he lost a leg in a helicopter crash while serving as an Army flight instructor. However, he had the courage and fortitude to remain on flight duty until December 1964 when he retired from military service as a lieutenant colonel, taking with him a Purple Heart.

After retirement, he worked for the Internal Revenue Service and then the Social Security Administration, from which he is retiring on June 1, 1993. Bill Tuxbury's career with the U.S. Government has spanned over 50 years. Still going strong at age 71, he is an avid skier and has won many awards, including the gold medal for downhill skiing at St. Jovite, Canada recently.

I will always remember the numerous discussions with Mr. Tuxbury involving issues of mutual concern. I thank you, Bill, for the excellent service you have always provided to me and my staff, and we congratulate you on a lifetime of distinguished service to your Government.

TAX RELIEF FOR MIDDLE-CLASS HOMEOWNERS

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 4, 1993

Mr. STUDDS. Mr. Speaker, today I join with my Massachusetts colleague Representative RICHARD NEAL and other members of our State's delegation in introducing legislation which will benefit middle-class homeowners in Massachusetts and across the Nation. Our bill would allow the deduction of fees for sewer and water services in the same manner as local property taxes.

In the past, many communities provided these services and covered the cost with the property tax, the same way they funded schools, or fire and police departments. But in recent years, in response to tax limits such as Massachusetts Proposition 2½, communities began to pay for these services by imposing fees. The Internal Revenue Service has ruled that these fees are not deductible.

For thousands of families in my district, this in not a matter of nickels and dimes. They are, in fact, paying among the highest water and sewer rates in the Nation. In the Boston area, the average household will pay nearly $600 this year. By 1996, the bill will rise to almost $900 and to well over $1,000 a year at the turn of the century. Many families will be paying more in water and sewer bills than property taxes.

The itemized deduction for property taxes is one of the most basic of Federal deductions for homeowners. Taxpayers should not be denied the ability to deduct for payments made for municipal services just because they are called fees, and no longer included in the property tax assessment.

My bill would address this problem by allowing taxpayers to deduct fees for sewer and water services to the extent that those fees exceed 1 percent of the taxpayer's gross income. In the coming decade, as America meets the challenge of cleaning rivers and bays and ensuring clean drinking water, these fees will increase across the Nation. This measure would help provide some small measure of relief for financially stressed homeowners.

A technical description of my legislation follows:

PRESENT LAW

In computing taxable income, taxpayers may claim itemized deductions. Allowable itemized deductions include a portion of medical expenses, mortgage interest on a personal residence, moving expenses, certain casualty and theft losses, miscellaneous business expenses, and state and local income and real property taxes.

For purposes of the deduction for property taxes, the Internal Revenue Service has defined the term "tax" as "an enforced contribution, enacted pursuant to legislative authority in the exercise of the taxing power, and imposed and collected for the purpose of raising revenue to be used for governmental purposes." (Rev. Rul. 77-29, 1977-1 CB 44).

The Internal Revenue Service has consistently taken the position that fees imposed for sewer and water services are not deductible as local or state real property taxes (e.g., Rev. Rul. 79-201, 1979-1CB 97, Situations 2 and 3; Rev. Rul. 75-346, 1975-2 CB 66; Rev. Rul. 75-455, 1975-2 CB 68).

EXPLANATION OF PROPOSAL

Under the bill, fees imposed by a state or local government, or the District of Columbia, for sewer and water services would be deductible in the same manner as local real property taxes. The deduction would only be allowed to the extent that the fees exceeded 1 percent of the taxpayer's adjusted gross income.

EFFECTIVE DATE

The proposal would be effective for taxable years beginning after December 31, 1993.

TOM BIGLER HONORED FOR 40 YEARS IN BROADCAST JOURNALISM

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 4, 1993

Mr. KANJORSKI. Mr. Speaker, I am pleased to pay tribute today to a very good friend of mine who has been a leader in broadcast journalism in my district for more than 40 years, Mr. Tom Bigler. I have known Tom for that entire period and I can personally attest to his high level of journalistic integrity, concern for his community, and commitment to seeking truth.

Now a columnist for a leading area newspaper, and a professor of communications at Wilkes University, Tom's love for broadcast news began in the summer of 1939 at a radio station in Hazleton, PA. Tom enjoyed working in radio, but what would become his life's work began with a position as news director at WKST in Newcastle, PA, in 1941.

In 1946, Tom returned to our area and over the years directed news and programming at most of the local stations. In 1966, Tom settled down at WBRE-TV where, for 20 years, he made news broadcasting an exact science and his expertise set the standard in our local television and radio industry practiced to this day. In 1963, King's College bestowed upon Tom an honorary doctor of humanities degree in recognition of his accomplishments.

Over the years, Tom has served his community as a member of the Wilkes-Barre Chamber of Commerce, the United Way, Leadership Wilkes-Barre, the Ethics Institute of Northeastern Pennsylvania, and the Osterhout Library, to name just a few. Today, Tom's thought-provoking commentary on local, national, and global issues can be found weekly in the Times Leader, and other papers throughout the Commonwealth. His lifetime of devotion to current events is obvious as he brings his carefully researched thoughts to print.

Mr. Speaker, today the people of the Wyoming Valley are gathering to honor this man for a lifetime of excellence in journalism. I am proud to be among those who thank Tom for keeping us informed and enlightened for more than 40 years. Tom represents the highest ideals of journalism, without which the principle of government "of the people, by the people, and for the people" is an empty promise.

PROVIDING CONTINUITY AT THE HELM OF THE FEDERAL AVIATION ADMINISTRATION

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 4, 1993

Mr. WOLF. Mr. Speaker, I am today, together with my colleague Mr. CARR, the chairman of the House Transportation Appropriations Subcommittee, introducing legislation to provide for the appointment and confirmation of the Administrator of the Federal Aviation Administration [FAA] to a set, 7-year term.

In its management of the Nation's air traffic control system, the FAA deals on a daily basis with extremely complex systems and makes split-second decisions with wide-ranging implications for the safety of the flying public.

In fiscal year 1994, the FAA will operate 24 enroute facilities and an estimated 429 terminal facilities of which approximately 150 provide full radar service. These facilities will handle a daily average of 175,616 takeoffs and landings, and 130,411 instrument flight rules [IFR's], and provide 102,740 flight services. The system also will be responsible for the safety of a daily average of nearly 1.5 million revenue passengers in the United States.

Mr. Speaker, this agency has an awesome responsibility to the public. That is why I am introducing this legislation to provide some continuity in leadership at the helm of the FAA.

In the last decade since 1982, we have had five administrators at the FAA. That averages out to about 2-year terms, not counting the fact that there have been a couple of 6-month gaps between Administrators, including the current situation where we have an Acting Administrator.

During this period of time, when we have had extensive turnover at the helm of the FAA, this agency, in addition to its day-to-day rigors, has had some larger difficult challenges. One highly visible example was dealing with the aftermath of the PATCO strike. A current challenge is embarking on an extensive $33-plus billion program to modernize our National Airspace System [NAS].

At a recent FAA hearing, the GAO agreed with me that the FAA Administrator should be confirmed for a set period of time. The GAO testified, "It would be very difficult for an Administrator who is going to be there for 2, at the outside, 3 years, to really be able to manage that program (NAS modernization) and have a vision of the future for it."

Given the highly technical nature of the FAA's programs and the impact of these programs of the safety of the flying public, this agency is in need of leadership continuity. The bill I am introducing will make it possible for a new Administrator not only to have time to get up a highly complex learning curve, but also to actually guide FAA programs well into the future, regardless of the outcome of national elections.

Mr. Speaker, I urge immediate action of this legislation and I invite my colleagues to cosponsor this bill.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TERM OF SERVICE OF FAA ADMINISTRATOR.

Section 106(b) of title 49, United States Code, is amended by inserting after the 3rd sentence the following: "The term of service of the Administrator shall be 7 years.".

SEC. 2. APPLICABILITY.

The amendment made by section 1 shall be effective with respect to any individual appointed by the President, by and with the advice and consent of the Senate, after September 30, 1993, as the Administrator of the Federal Aviation Administration.

TRIBUTE TO JOSHUA VAN ORMAN

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 4, 1993

Mr. GILLMOR. Mr. Speaker, I would like to take this opportunity to recognize an exceptional young man from my district who has recently accepted his appointment as a member of the class of 1997 at the U.S. Air Force Academy.

Joshua Van Orman will soon graduate Kelleys Island High School after 4 years of outstanding academic achievement. During his high school career, Josh had the unique privilege to be designated as being first in a class of one. He has continuously set high standards for himself, exceeded them, and then set higher standards. Among his accomplishments include his organization of and participation on the Kelleys High School track team.

Mr. Speaker, one of the most important responsibilities of Members of Congress is to identify outstanding young men and women and to nominate them for admission to the U.S. service academies. While at the Academy, they will be the beneficiaries of one of the finest educations available, so that in the future, they might be entrusted with the very security of our Nation.

I am confident that Josh Van Orman has both the ability and the desire to meet this challenge. I ask my colleagues to join me in congratulating him for his accomplishments to date and to wish him the best of luck as he begins his career in service to our country.

THE WORLD WAR II U.S. CADET NURSE CIVIL SERVICE FAIRNESS ACT

HON. JIM SLATTERY

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 4, 1993

Mr. SLATTERY. Mr. Speaker, during the 99th Congress, the World War II Cadet Nurse Civil Service Credit Act, Public Law 99–638, was signed into law. This act, which I sponsored, allowed women who were employed by the Government and who had served in the U.S. Cadet Nurse Corps during World War II, to credit the time they served in the Cadet Nurse Corps toward their civil service retirement.

Unfortunately, some cadet nurses were unfairly excluded from benefiting under this law.

Today, I am introducing legislation which allows those women who retired from service before the World War II cadet nurse civil service credit legislation was enacted, to receive credit toward their civil service retirement for the time they served as U.S. cadet nurses during World War II.

I have introduced similar legislation in the past, 100th through 102nd Congresses. This legislation would benefit approximately 1,000 cadet nurses across the country who were not covered under Public Law 99–638.

Many nurses who had served as long, if not longer, than their counterparts who were employed by the Government as of the date of the enactment of Public Law 99–638—in many cases up to 20 and 30 years—simply happened to retire months or even days before the bill was signed into law. They should receive credit for the time they spent in the Cadet Nurse Corps just as their counterparts who were working for the Government at the time of enactment.

There is no reason why any cadet nurse, who answered the call of her country to serve in a time of need, should be denied credit for the time in service which she provided.

They deserve this retirement credit, however, not because they were patriotic, but, because they've earned it. All the women who served in the U.S. Cadet Nurse Corps provided two-thirds of this country's nursing service during World War II, a time of dire need for the United States.

This bill will finally recognize all cadet nurses who served and answered the call of their country. It is important to note that due to the advanced age of many of these nurses, this group of women is a small group getting smaller. The minimal cost of this bill, therefore, would diminish even further over the outyears.

I would like to highlight the service of one nurse who would benefit from my legislation as a shining example of the type of women who are cadet nurses and to point out that this June marks the 50th anniversary of the creation of the U.S. Cadet Nurse Corps.

Lt. Col. Melina Leduc has served her country for 50 years. Colonel Leduc returned in 1991 from service in Dhahran, Saudi Arabia, with the 386th Medical Detachment Hospital Unit. She joined the U.S. Cadet Nurse Corps during World War II, soon after her 17th birthday.

Colonel Leduc served in the Cadet Nurse Corps for 3 years. She then joined the nursing service at White River Junction Veterans [VA] Hospital in Vermont. She also served in VA hospitals in Pennsylvania and New York. She retired from the Lake City, FL, VA Hospital in June of 1986, after more than 37 years of service. She has been a member of the Army Reserves for 20 years.

Colonel Leduc reported working 12-hour shifts, 7 days a week in Dhahran. She cared for Iraqi POWs, in addition to American casualties. She experienced the nightly air raid alerts and interrupted surgery preparations to put on her gas mask and protective gear. She helped to care for our military personnel who were injured when a Scud missile hit the American barracks in Dhahran. The barracks was located very near her tent. And when she called the central coordinator for the cadet nurses still seeking recognition, Dorothy Larson, of Topeka, KS, to check on the status of this bill, she expressed her gratitude for the opportunity to again serve her country.

Colonel Leduc, like most of the cadet nurses after World War II, went on to serve in veterans' hospitals across the country. She exemplifies the commitment to service that has been the standard for cadet nurses. Please join me in supporting this legislation which fairly recognizes all cadet nurses who served their country. I urge my colleagues to cosponsor this bill in time to let all cadet nurses celebrate the 50th anniversary of this historic program.

TRIBUTE TO WILLIAM "BILL" CROSKEY

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 4, 1993

Mr. APPLEGATE. Mr. Speaker, I rise today to recognize Mr. William "Bill" Croskey, an outstanding community servant.

Bill Croskey has spent most of his life actively promoting the better human relations in my hometown of Steubenville, OH. He taught social studies at Steubenville High School for 36 years, educating hundreds of students. Upon retirement, in 1987, I appointed him to be the coordinator of the National Bicentennial of the U.S. Constitution Program which is the most extensive program in the country specifically designed to bring the study of the Constitution to students at the upper elementary, middle, and high school levels. Bill Croskey served as the 18th District coordinator for the first 5 years of the program, distributing free classroom sets of textbooks and organizing a simulated congressional hearing on constitutional issues competition at the high school level. In 1992, Mr. Croskey retired as coordinator of this program and will certainly be missed.

It is with pride that I rise to recognize Mr. William Croskey and I ask my colleagues to join me in saluting him for his efforts to educate and promote understanding throughout Ohio's 18th District.

T. TERRELL SESSUMS ADDRESSES THE SIXTH FLORIDA/JAPAN EXECUTIVES MEETING

HON. PETER DEUTSCH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 4, 1993

Mr. DEUTSCH. Mr. Speaker, at a recent meeting of the sixth Florida Japan executives in Miami, FL on March 5, 1993, T. Terrell Sessums, chairman of the Florida Chamber of Commerce, was principal speaker. His remarks were so timely and cogent, especially with regard to how one State views international commerce and its contribution to the State and country. Mr. Speaker, I believe all our colleagues will be interested in this thoughtful presentation:

T. TERRELL SESSUMS, CHAIRMAN, FLORIDA CHAMBER OF COMMERCE

ADDRESS TO SIXTH FLORIDA/JAPAN EXECUTIVES MEETING, MIAMI, FL, MARCH 5, 1993

I am honored to speak to you today and appreciate the opportunity to share some information and several thoughts about Latin America, Japan, and the State of Florida. They concern the nature of the economy which is even now taking shape in this hemisphere, where democratic change and economic liberalization have combined with geography to profoundly improve the lives of millions in North and South America. These changes are accelerating the growth of business between Latin America and the world. My thesis today is that Japan will participate in this economic boom, that Florida

will continue to be the crossroads between the continents and the gateway to Latin America, and that Florida and Japan have common interests in this process which make them natural partners.

Latin America and the Caribbean are now a market of approximately 430 million people with a combined Gross Domestic Product of over 1 trillion U.S. dollars. Total external debt for the region has finally begun to fall, and an increasing portion of the total is for commercial credit rather than government debt. And while debt levels are still high, what was a crisis of the 1980s appears to be a manageable problem today. Much of this improvement is a result of increasing privatization of state-owned industries in the region. Growing economies require increasingly sophisticated infrastructure to support their growth. Transportation, power, and telecommunications are improving throughout the region, largely through privatization and huge capital investments. Led by Chile, Mexico, and Argentina, regional governments have encouraged debt for equity swaps, converting their sovereign debt into foreign equity stakes in their infrastructure. In November of 1990, Argentina privatized its national telephone company and sold half to each of two investor groups backed by U.S. banks. In this one transaction, Argentina retired 10% of its foreign debt, gained billions in foreign investments to improve its phone system, and dramatically improved service to business and residential customers around the country. Infrastructure spending is only one aspect of an explosion of consumption in Latin America which has provided growing opportunity during the first years of this decade. The United States is the largest exporter to the region. Florida represents the largest portion of that trade to much of the region.

Florida has become a key player in the hub of Latin American activities. Our state's current population of 13.2 million would put us in the middle range of the nations of this hemisphere, but our 1992 Gross Domestic Product of $240 billion would exceed all but the U.S., Canada and Brazil. Our economy is now larger than Argentina's, larger even than Mexico's. Total international trade for Florida last year totaled about $35 billion, nearly 11% over 1991, which was 10% greater than 1990. Most of this growth is in exports—most of that is with Latin America and the Caribbean. Florida now has a dominant role in world commerce with Latin America and the Caribbean and will retain and expand that role as the region grows. Both U.S. and foreign companies choose Florida as a distribution center to markets in the region, using our unsurpassed capacity to move cargo to the region.

According to the British Florida Chamber of Commerce, the U.K., with 150 British firms employing over 25,000 here, is considered Florida's largest overseas investor. British exports to Florida are now estimated to be over $1 billion annually and 70% of British exports are trans-shipped via Miami International Airport or the Port of Miami to Latin America. Others exploit our unparalleled communication and passenger air linkages with the region to establish service or communications centers. The superior trade ties which make Florida attractive to these businesses are the product of geography, demography, and international infrastructure. Let's examine each of these.

If geography is destiny, Florida was fated to be the trading center of the Western Hemisphere. Although you sit at this moment in one of our state's major population centers, you are still far closer to Havana than to our state Capitol or Atlanta. Bogota and Caracas are much closer to us today than San Francisco and Los Angeles, and Mexico City is nearer than New York. For much of Florida, the nearest neighbors and the most important potential markets are in foreign countries rather than our own. Even without the other factors, geography alone would be sufficient to ensure Florida's international focus.

However, much more than geography has internationalized Florida. We're meeting today in the U.S. state with the strongest ethnic ties to the rest of the Western Hemisphere. Over its history, Florida has been part of 4 different nations (and 5 if you include our confederacy of the 1860s). The last 30 years have seen a tremendous increase in the internationalization of Florida, primarily through immigration from Latin America and the Caribbean. These new Floridians have brought with them skills and interests which have shifted our gaze increasingly overseas. Today, the languages of the rest of the hemisphere are better understood here than anywhere else in the U.S. When it's time to trade with our neighbors this gives us an overwhelming advantage.

While location and personal ties lay the foundation for our role as crossroads of the Americas, our international infrastructure has been the means of our trading success. We have developed a network of transportation, communications, finance and international services which allow businesses located here to cover all of Latin America and the Caribbean.

It is simple geography which has dictated the development of our international transportation network. Florida is closer to most of Latin America than any other state, and that basic fact has resulted in the finest air and sea linkages with the region anywhere in the U.S. Our airports have the most frequent and convenient flights to the region, so much so that travelers often find it routine to travel between Central and South America via Miami. More Latin American and Caribbean airlines come here than to any other state, and if air cargo is moving to or from the region, it probably passes through here already.

Our 14 deep water ports dominate both cargo and cruise traffic within the region. In the Miami Customs District, which covers most ports on the east coast of Florida, 89% of export shipments are to Latin America and the Caribbean. A cruise to the region is likely to originate in South Florida, the #1 world center for that industry. Transportation of motor vehicles will likely involve our Port of Jacksonville, import center for both Japanese and European auto manufacturers. Whether it's petroleum at Port Everglades or bulk commodities at the Port of Tampa, (the closest American port to the Panama Canal) Florida's position and port infrastructure place it squarely at the center of North-South trade routes in this hemisphere. Even Mexico, with its long land border with the U.S., now looks to Florida ports to move its goods in and out. The reason for this also points to our prospective gains from the North American Free Trade Agreement (NAFTA). That long land border is jammed to the point of paralysis with cross-border traffic. U.S.-Mexico trade doubled between 1987-90, and that growth will accelerate after NAFTA is adopted. The overflow of trade has already been forced to the sea lanes and is increasingly crossing the Gulf of Mexico to Florida.

Communications are critical to successful businesses, and here also Florida is the gateway to the hemisphere. Most U.S. calls to the Caribbean pass through switching centers located here by AT&T and other carriers and, for much of the region, Florida is a communications hub. Many businesses in Latin America find it more efficient to locate offices in Florida purely to maintain communication, as long distance from Florida is more reliable than intercity calls in much of Latin America. As governments in the region have moved to improve communications, Florida companies have found a new role as suppliers to the newly privatized phone services. Florida based operations are now building communications infrastructure throughout Latin America, from fiber-optics lines in Chile to cellular networks in Brazil. Every change in the region brings new opportunities to Florida and companies based here.

Successful international operations require other services, of course. Finance, law accounting, freight forwarding and customs brokerage, even translation. All are necessary in some measure to do business internationally. By now it may not surprise you to learn that Florida is the nation's second leading international banking state, after New York, with banking offices from Europe, Japan, and every part of Latin America. The Export-Import Bank of the United States (Eximbank) has just established an office in Florida to provide greater service to Florida businesses with trade finance needs. Our legal sector offers expertise and linkage with the region unmatched even in New York or Washington. Our international services sector has developed a sophistication to match the increasing volume and complexity of commerce within our region.

I also want to mention the role of our state government, which has recognized the importance of fostering international business in Florida. Our Department of Commerce maintains a strong Division of International Trade to promote international business in Florida. We maintain a network of foreign offices abroad, including one in Tokyo. I think it does say something about state attitudes towards trade that more U.S. states have special offices in Japan than in Washington, D.C.! Florida, I'm glad to say, has an office in both places.

Beyond the government commitments represented by the international operations of our Departments of Citrus, Commerce, Agriculture and Education, Florida has also devoted its efforts to acting strategically in international affairs. The Florida International Affairs Commission (FIAC) is charged with a broad range of international oversight duties, including review of proposed state laws for their potential effect on international business. FIAC also works with the U.S. Congress to preserve Florida's strategic interests in the face of proposals such as NAFTA or the recent revisions to the International Banking Act. In this way, the state attempts to protect the interests of international businesses in Florida and to preserve stability in our international business climate. I'm glad to say that the Florida Chamber was an early partner with the state in the development of FIAC.

The latest example of the Chamber's cooperation with state government is the development of Enterprise Florida, which holds the promise to fully integrate economic development in Florida under a joint venture between business and government. I'm pleased to say that this idea was developed under the leadership of the Florida Chamber, and the Chamber will continue to play a strong role in its development. This is a good

example of the cooperation between business and government which has become the norm in Florida. In this matter, we may have learned from the Japanese experience. We have found that a cooperative relationship between government and business benefits both.

Florida has not only become the crossroads of North-South trade between the Americas, but also the counterpoint for connecting East-West trade to the North-South business axis. Europeans and Asians have found that Florida acts as a transportation, financial and service hub for doing business in Latin America.

The expansion of business opportunities in consumer electronics, telecommunications, and other high tech areas portends tremendous opportunities for Floridians to facilitate and broker Japanese-Latin American trade. In many instances, we simply need to joint venture existing institutions and organizations that are presently doing bilateral trade with our state and Latin America and Japan.

An example of this business-government cooperation is the Southeast U.S./Japan Association, chaired this year by John C. Bierley of Tampa, which is dedicated to developing relations between Japan and our regions of the U.S. Their recent annual meeting was a splendid event held in Orlando and was attended by the governors of the seven southeastern states, including our own Governor, Lawton Chiles, who has given high priority to international business relations. The Japan-America Society of Central Florida has developed a Japanese relationship with Central Florida which is one of the best in the U.S.

Also significant to the Florida/Japan relationship are our educational connections. The Florida-Japan Linkage Institute, co-based nearby at the University of South Florida and St. Petersburg Junior College, supports a number of business and educational programs to develop the relationship between Florida and Japan. Our University of West Florida operates a branch campus at Kobe (Japan) and supports exchanges of Japanese and Florida students. The Dade County school system operates a special bicultural Japanese/English program for the benefit of both Japanese and Florida students.

Finally, perhaps the best indicator of the growing Florida/Japan relationship is the increase in Japanese activity here. The Japan External Trade Organization (JETRO) has maintained a promotion officer in Florida for some time now, and the number of Japanese corporations and banks with offices here is increasing quickly. This Florida/Japan executives meeting is the latest step in our growing relationship, and your presence here shows your readiness to go further in the process.

We at the Florida Chamber of Commerce, in partnership with state government and local communities, can help you benefit from the Florida advantages I've described to you today, to ensure your full participation in the economic boom in this hemisphere. As I close, I want to reaffirm my commitment and that of the Chamber and our International Development Committee, chaired by W. Reeder Glass of Miami, to assist you in any way we can to strengthen the business and personal relationship between Florida and Japan.

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CHANCELLOR JOHN E. THOMAS HONORED AT APPALACHIAN STATE

HON. STEPHEN L. NEAL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 4, 1993

Mr. NEAL of North Carolina. Mr. Speaker, today, May 4, is being celebrated as John E. Thomas Day at Appalachian State University in Boone, NC.

The celebration honors Chancellor John Thomas, who plans to retire July 31 after nearly 14 years at the helm of Appalachian State, a part of the University of North Carolina system.

Mr. Speaker, the Thomas years at ASU have been a time of strong growth and development at the university. Since Chancellor Thomas took over in 1979, enrollment has grown by 25 percent, and applications for admission have risen by more than 60 percent.

Also during his tenure, the Appalachian Summer Arts Festival was established, international exchange programs with Costa Rica, China, Mexico, and Russia were formalized, and the university's first doctoral program was started. He also spearheaded the creation of a sophisticated campus-wide audio, video, and computer network.

Following Chancellor Thomas's retirement announcement, UNC President C.D. Spangler, Jr., noted, "Chancellor Thomas's greatest strength may be that he has always put the students first. He has never been tempted to make his mark through uncontrolled growth or by promoting research at the expense of teaching."

Thanks to this good man's hard work and dedication, Mr. Speaker, Appalachian State now ranks as one of the leading universities in the South. John Thomas has made immense contributions to our part of North Carolina, and we are grateful to him. I am pleased, therefore, to report to my colleagues that the people of my district are today celebrating John E. Thomas Day.

CONGRATULATIONS TO DOUG HARRISON, GENERAL MANAGER OF THE FRESNO METROPOLITAN FLOOD CONTROL DISTRICT

HON. CALVIN M. DOOLEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 4, 1993

Mr. DOOLEY. Mr. Speaker, during the week of May 16–22, 1993, the American Public Works Association and public works officials throughout North America will celebrate National Public Works Week. "Quality of Life Through Public Works" is the theme of the week, which is dedicated to recognizing public works engineers and administrators as resourceful, effective professionals.

Each year since 1960, the association has recognized 10 public works professionals for their excellence and achievement in public works with the Top Ten Public Works Leader of the Year Award. This year, the association has selected Mr. Doug Harrison, general manager of the Fresno Metropolitan Flood Control District, as a recipient of this prestigious award. Mr. Harrison has served as a general manager of the district for the past 21 years. During that time, he has served his community in an exemplary fashion, and has become a leader in the development and implementation of innovative programs for urban storm drainage, flood control, environmental management, water resources management, and recreation.

Mr. Speaker, the community of Fresno is very fortunate to have the services of such a skilled and dedicated professional. I am pleased that the American Public Works Association has chosen to recognize Mr. Harrison's contributions to his community and profession with this award. On behalf of Fresno's other Representative, my colleague RICK LEHMAN, I urge the House to join us in congratulating and honoring Mr. Doug Harrison for his outstanding achievements in public works and community service.

SECRETARY O'KEEFE SHARES INSIGHTS ON IRISH-AMERICANS AND U.S. NAVY

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 4, 1993

Mr. McDADE. Mr. Speaker, I would like to take this opportunity to recognize an outstanding public servant, and to share with my colleagues his reflections on the U.S. Navy and the contributions Irish-Americans have made to our military.

On March 17 the Society of the Friendly Sons of St. Patrick of Lackawanna County, PA, hosted their 88th annual celebration of Irish-American heritage. Through the years at their annual gathering, the Friendly Sons have been enlightened by the insights of such luminaries as Truman, Kennedy, Prime Minister Fitzgerald, Curley, Jackson, O'Connor, and Scranton. This year, through the efforts of Friendly Sons president, Donald Noland, the group was graced by a distinguished Irish-American who is a friend to many of my colleagues—Mr. Sean O'Keefe, past Secretary of the Navy. It should be noted that President Nolan himself had a distinguished career as a Naval officer, serving our Nation with honor.

Those of us who have had the good fortune to work with Sean O'Keefe know he is a man of exceptional ability, dedication, and integrity. Through his outstanding work for Members of Congress, the Department of Defense, and the U.S. Navy, Sean O'Keefe has served the American people with distinction. As Secretary of the Navy he provided exemplary leadership during a challenging period, and he has our gratitude for his efforts.

Mr. Speaker, I would like to enter into the RECORD Sean O'Keefe's recent remarks to the Friendly Sons of St. Patrick, so that all may enjoy his historical perspectives and astute observations:

REMARKS BY THE HONORABLE SEAN O'KEEFE—FORMER SECRETARY OF THE NAVY

SOCIETY OF THE FRIENDLY SONS OF ST. PATRICK, SCRANTON, PA

Over the years, I've been impressed by the convergence of the Irish culture and the history of the American naval service. As a former Secretary of the Navy, I'd like to talk about some of the contributions of Irish-Americans to the U.S. Navy and Marine Corps—and there could not be a more appropriate forum to review the great contributions Irish-Americans have made to the development of America's naval tradition than the Society of the Friendly Sons of St. Patrick. Virtually every ethnic in the vast melting pot of America can point with pride to the contributions made by their sons and daughters to the Navy and Marine Corps * * * but the Irish may very well lead the way.

Here in the United States, many of our Navy and Marine Corps connections with Irish-Americans come in the most important way—through some of our most valiant early heros * * * and there are a few famous Irish-American figures I'd like to tell you about tonight.

The first is Commodore John Barry, who many historians think was the real father of the American Navy—although some believe Scotsman John Paul Jones deserves a share of the title.

Born in County Wexford about 1745, Barry went to sea at an early age. By the time of the revolutionary war, he had become a successful merchant Captain residing in Philadelphia. An ardent patriot, Barry was commissioned Captain in the Continental Navy in March 1776 and immediately took command of the Lexington. A month later, he captured the British sloop EDWARD in the first American naval victory of the revolution. When he died in 1803, he was the senior officer of the Navy. He instilled in the fledgling service a sense of pride, courage, honor and commitment * * * as well as a rich tradition.

One of the early traditions of the Revolutionary War Navy is pretty well illustrated by USS Constitution's famous war cruise. On the 23rd of August, Constitution set sail from Boston with 475 officers and men, 48,000 gallons of fresh water, 7,400 cannon shots, 11,000 pounds of black powder, and 79,400 gallons of rum.

Upon arriving in Jamaica on 6 October, she took on 826 pounds of flour and 69,300 gallons of rum, then headed for the Azores, where she took on 550 tons of beef and 64,000 gallons of Portuguese wine.

On 13 November, she set sail for England. In the ensuing days, she defeated 5 British men of war and sank 12 British merchant ships, salvaging only their rum. By 27 January, her powder and shots were exhausted. Nonetheless, she made a raid on the Firth of Clyde. Her landing party captured a whiskey distillery transferring about 40,000 gallons. She then headed home.

Constitution made port at Boston harbor on the 23rd of February with no cannon shot, no powder, no food, no rum, no whiskey, no wine—but with 48,000 gallons of stagnant water. Drinking at sea is a tradition we've left behind us, but I'm proud to say we've kept our other traditions of valor and heroism—personified by Commodore Barry—alive to this day.

Recall that the Revolutionary War Navy also solidified the necessity for sea soldiers as well as sailors. An integral part of the naval services fittingly, early Marine Corps traditions have also come to us from heroic Irish-Americans. The Irishman who I think personifies all the daring and skill that the wearers of Green have brought to the Corps in Lieutenant Presley O'Bannon, whose people came from County Tipperary.

Universally revered throughout the Marine Corps, O'Bannon is most famous as the Hero of Derna for his daring raid in Tripoli during the Barbary wars—where he won the famous Mameluke sword—and today every officer in the Marine Corps wears a replica of that sword. In fact, in the first verse of the Marine Corps hymn—"From the Hall of Montezuma, To the Shores of Tripoli"—Presley O'Bannon's exploits are the basis of the "shores of Tripoli."

Fittingly, both Commodore Barry and Lieutenant O'Bannon—but two of the thousands of Irish-Americans who have served heroically in the Navy and Marine Corps—have given their name to Destroyers serving today in the U.S. Navy * * * Commodore Barry is honored by the second Aegis Destroyer, *Barry*; and Lieutenant O'Bannon by the 25th Spruance Destroyer, *O'Bannon*.

Indeed, from the opening salvo of the American revolution through the present, the battle reports of the Navy and Marine Corps sparkle with Irish names. Some, like Admiral William Leahy, may be familiar because he was the first Irish-American five star Admiral—one of only four in the history of the republic. Others are part of the long honor roll of Irish-American men and women in uniform. Donovan, Kelly, McNamara, O'Brien, Sullivan, and, yes, O'Keefe. My father is a retired naval officer, and I wish he could be here tonight, for he is yet another link in the long blue and green lines that pass from Commodore Barry and Lieutenant O'Bannon to our Navy and Marine Corps today.

Many of these names belonged to people who gave their lives in defense of their country. Some now rest in endless sleep ashore * * * and others are entombed with their shipmates in gallant vessels that will never put to sea again. But their names, and their deeds, are forever cherished in the memory of the Navy and Marine Corps.

Now let me tell you a story about one other group of Irish-Americans who were a very important part of that long line * * *

I'm sure most of you remember the tragic story of five brothers who died together on a single terrible day in World War II—they were the Sullivans, five young Irish-Americans from the midwest. They were lost at sea when their Cruiser, the *Juneau*, was torpedoed and sunk early in the war off the coast of Guadalcanal.

Their deaths—and the painful story of their grieving mother back home, who lost all five of her sons in a single day—touched the entire country, and a Navy destroyer was named for the five lost brothers. It was called the *Sullivans*, and she served with glory throughout World War II, avenging the sad loss of the Sullivan brothers with fire and steel across the Pacific, winning nine battle stars. That ship also served gallantly in the Korean war and was eventually decommissioned in 1961.

I am very proud that during my tenure as Secretary of the Navy, I was able to ensure that brand-new Aegis Destroyer, the 18th ship of the Arleigh Burke class, will soon be christened *The Sullivans* in honor of these five young Irish-Americans who sacrificed their lives for their country.

I know *The Sullivans* (DDG 68), will serve as a constant reminder to the Fleet and to our Nation of the heroic sacrifices and deep patriotism of Irish-Americans, both living and dead, who have fought so gloriously for their country.

To say that I am proud to have served as Secretary of the Navy would be a monumental understatement. It was one of the great defining experiences of my life. But perhaps the word "proud" is misleading, if not inappropriate. More often in that job I was humbled by the frequent realization that my contributions to the good of the service were consistently outshone by the dedicated and diligent efforts demonstrated every day by the men and women of the naval service. Today and in the future they are facing challenges which are formidable indeed. Some of these have arisen abroad and no doubt will continue to be covered extensively by the media but there are others which are less obvious but equally important to the military community and to the American public at large. I'd like to take this opportunity to say a few words about one of these "stealth challenges."

The military is often used as a proving ground, a laboratory in which to test solutions to problems which beset society as a whole. In this arena, the armed forces have become leaders in setting the standards for adherence to the principles upon which this country was founded. For example, under President Truman in 1948 the military formulated a policy of racial integration which, through a steadfast commitment to merit as the only real yardstick, produced an environment in which a gifted black officer like General Colin Powell would become Chairman of the Joint Chiefs of Staff. It's important to keep in mind that the Truman integration policy was initiated years before the school desegregation cases ignited the civil rights movement in earnest in the civilian community the military led the way.

Long before the war on drugs became a popular issue with the American public, the services embarked upon a zero tolerance drug abuse policy which today is viewed with envy in the civilian community. "Not on my watch, not on my ship, not in my Navy" was the standard.

Today America's military grapples with the issues of gender bias, sexual harassment and gay rights. We all have personal views on these issues which affect our American culture. I regret that I cannot flip forward through the pages of the future to see what the answers will be but this I confidently predict: the military will face these problems squarely and the solutions will be fair and honorable, completely in keeping with the ideals and values which attracted our Irish forebears to this great country.

I trust that the qualities of the Irish—good humor, spirit, stubbornness in the right cause, and the ability to keep our head up when the going gets hard—will continue to stand the Navy and Marine Corps in good stead because, through it all, they are and must continue to be the pre-eminent guardians of American interests abroad and the leading examples of the best features of American character here at home.

It has been a great honor to speak with you and to use this fitting occasion to recall the many contributions by Irish Americans to the ongoing development of our naval service. I am unapologetically proud of our Irish culture heritage. Its tremendous strengths and basic values helped me through many a difficult day in public service. I relied upon it heavily on my last day in office when I prepared my final message to the men and women of our sea service. I borrowed the words from the refrain of an Irish ballad older than time called "The

Parting Glass". It may be familiar to many here tonight:

And since it falls unto my lot
That I should go and you should not
I'll proudly stand and fondly call
Farewell and God go with you all

Perhaps I could rely upon that great asset once more by rendering my final words tonight in the ancient Gaelic language of our ancestors. Go raibh maith agaibh, oiche mhaith, agus Eirinn go bragh.

(Meaning: Thank you, good night, and Ireland forever)

TRIBUTE TO MATTHEW L. YOUNKER

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 4, 1993

Mr. GILLMOR. Mr. Speaker, I would like to take this opportunity to recognize an exceptional young man from my district who has recently accepted his appointment as a member of the class of 1997 at the U.S. Merchant Marine Academy.

Matthew L. Younker will soon graduate Gibsonburg High School after 4 years of outstanding academic achievement as well as extracurricular involvement. During his high school career, Matt has participated in the Congressional Youth Leadership Council, the American Legion Buckeye Boys State, and the Green Creek Wildlife Society. He has established himself as a leader among his peers and was elected senior class president.

Mr. Speaker, one of the most important responsibilities of Members of Congress is to identify outstanding young men and women and to nominate them for admission to the U.S. service academies. While at the academy, they will be the beneficiaries of one of the finest educations available, so that in the future, they might be entrusted with the very security of our Nation.

I am confident that Matt Younker has both the ability and the desire to meet this challenge. I ask my colleagues to join me in congratulating him for his accomplishments to date and to wish him the best of luck as he begins his career in service to our country.

A TRIBUTE TO ROSALYNN CARTER

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 4, 1993

Mr. LANTOS. Mr. Speaker, former First Lady Rosalynn Carter, whose commitment to public service is nothing less than inspiring, will honor us with a visit to Capitol Hill today. She will be on hand as an art exhibit entitled, "The Post-Presidential Work of Rosalynn and Jimmy Carter," opens in the Cannon Rotunda. The exhibit, which will run through May 7, is sponsored by the Congressional Human Rights Caucus, which Congressman JOHN PORTER and I cochair.

On the occasion of Mrs. Carter's visit, I would like to take the opportunity on behalf of Congressman PORTER and the Congressional Human Rights Caucus to pay tribute to her. An exceptional and caring individual with energy and vision, Rosalynn Carter has worked all her life for a better and more humane world for all of us.

Both as First Lady and as a private citizen, Rosalynn Carter has lent here intelligence, time, and energy to many significant causes. In doing so, she has raised the level of public recognition and understanding of pressing social issues that had previously gone unaddressed.

Rosalynn Carter has been a driving force in the field of mental health throughout her career in public service. As active honorary chair of the President's Commission on Mental Health during her husband's administration, she helped bring about passage of the Mental Health Systems Act of 1980. Today she continues her leadership through the Carter Center in Atlanta, which is dedicated to improving the quality of life for people at home and in the developing world through programs in health, agriculture, and conflict resolution. Mrs. Carter is a member of the Carter Center Board of Trustees.

The Carter Center recently assisted in the first successful multiparty elections in Zambia, where a team led by President Carter monitored registration and voting processes. In another outstanding example of its work, the Carter Center in October monitored Guyana's first free and fair elections in 28 years. That mission was the culmination of 2 years of work with Guyanese political parties to construct electoral reforms.

In 1985, Mrs. Carter initiated the Rosalynn Symposium on Mental Health Policy, which brings together representatives of mental health organizations nationwide to focus and coordinate their efforts on key issues. Since then, annual symposia have investigated such topics as mental illness and the elderly, child, and adolescent illness, family coping, financing mental health services and research, and treating mental illness and the stigma still attached to it.

The Task Force on Mental Health Policy, based at the Carter Center of Emory University and chaired by Mrs. Carter, works year-round to sustain the momentum of the symposia and to unify professionals in various mental health disciplines. Task force members include individuals in a position to shape and influence public policy.

Mrs. Carter has received many honors and awards for her support of mental health causes, including Volunteer of the Decade Award from the Mental Illness Foundation, and the Outstanding National Leadership Public Service Award from The American Mental Health Fund.

Mr. Speaker, if there is one image of Rosalynn Carter that symbolizes her commitment, her caring, and her courage in addressing the vital needs of people at home and throughout the world, it is the image of her working side by side with her husband as they build housing for the homeless. Indeed, Mrs. Carter's work with Habitat for Humanity exemplifies her dedication to bringing about a brighter tomorrow for those who will inherit the future. On behalf of Congressman PORTER and the Congressional Human Rights Caucus, I thank Mrs. Carter for a lifetime of selfless accomplishment and for her inspiring vision.

THE RESPIRATORY CARE PRACTITIONER COST SAVINGS AND FAIRNESS ACT OF 1993

HON. JIM SLATTERY

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 4, 1993

Mr. SLATTERY. Mr. Speaker, I am introducing legislation which will make a small but critical change in the Medicaid and Medicare nursing home reform provisions. Under OBRA '87, an individual is considered a nurse's aide unless he or she is specifically included in the statutory definition of a licensed health professional. Respiratory care practitioners were inadvertently omitted from the list of licensed health professionals, and according to the letter of the law, must undergo nurse aide training and competency evaluation which I believe adds unnecessary and expensive costs to our long-term care programs.

While I recognize the important role of the nurse aide in caring for our Nation's elderly and disabled, respiratory care practitioners are not nurse aides. They are licensed professionals in their own right. Most nursing homes employ respiratory care practitioners because the facility cares for a large number of ventilator-dependent patients, those patients who can only breathe on a respirator. Respiratory personnel are intricately involved in the care of these high-technology patients.

This proposed change does not affect coverage or reimbursement issues. But there is a fiscal and fairness issue at stake which only requires a definitional correction. Without it, the statute will remain unchanged and nursing homes will have to continue to incur the cost to provide expensive nurse aide training and competency evaluation to a group of health care professionals who are not nurse aides.

This Nation faces continued skyrocketing costs in providing health care. There is no reason to perpetuate any cost in the system which is unnecessary. Requiring respiratory care practitioners to undergo nurse aide training and competency evaluation is both inappropriate and costly. My legislation will correct this oversight and properly place respiratory care practitioners in the licensed health profession category and decrease the financial burden to nursing homes and the Medicare and Medicaid Programs. I urge my colleagues to support it.

TRIBUTE TO ANGELO MOZILO, TREE OF LIFE AWARD RECIPIENT

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 4, 1993

Mr. TORRES. Mr. Speaker, I want to take this opportunity to pay a special tribute to Mr. Angelo Mozilo, who will be honored on May 11, 1993, as he receives the Jewish National Fund's Tree of Life Award.

Angelo is well known to many of us in Congress in his most recent capacity as president of the Mortgage Bankers Association. He has had a long and distinguished career in mortgage and real estate finance, taking a lead role in advancing the causes of housing and home ownership. Angelo's career has been marked by outstanding achievement and a reputation of excellence. Yet, his success in the business world has not overshadowed his commitment to the values symbolized by the Tree of Life Award.

I congratulate Angelo on a lifetime of accomplishments and for his receipt of the Jewish National Fund's highest honor. It is truly well deserved.

I ask all of my colleagues in the House of Representatives to join me in extending heartfelt congratulations to Angelo on this achievement.

THE CLEANUP OF BOSTON HARBOR

HON. JOHN JOSEPH MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 4, 1993

Mr. MOAKLEY. Mr. Speaker, I rise today to bring to your attention a matter that is extremely important to me and my constituents—the cleanup of Boston Harbor. As you all may know, Boston Harbor has virtually become a household name across the Nation.

Some have termed Boston Harbor as the dirtiest harbor in the United States. In fact, the last two Presidential campaigns have used Boston Harbor as an example of environmental disaster, with its cleanup in desperate need of Federal support. I am here this morning to request $100 million for the cleanup of Boston Harbor, which is one of the most important environmental projects in the Nation.

In addition, the cleanup of wastewater discharges to Boston Harbor is one of the largest public works projects in New England.

The Boston Harbor cleanup project is managed by the Massachusetts Resources Authority [MWRA] and is paid for by 2.5 million citizens in 61 communities in Massachusetts. Later this afternoon this distinguished subcommittee will hear Douglas MacDonald, executive director of the MWRA, offer testimony on this crucial issue. Although substantial efforts have been made to control costs, the total cost of this important project is about $6 billion by the year 1999. I would like to point out that $4.5 billion of this is required to meet federally mandated environmental standards.

During the 1970's and early 1980's similar projects across the Nation have received between 55 and 75 percent Federal funding under the Construction Grants Program of the Clean Water Act. But Mr. Chairman, the Boston Harbor cleanup project has only received a disproportionate 8 percent Federal funding for this essential environmental project.

Unfortunately, the burden of this project is on the ratepayers. In my opinion, this is terribly unfair. The major portion of this project is financed by the MWRA issuance of revenue bonds secured and repaid with interest by rate revenues exacted from the ratepayers. Household bills have gone up by 289 percent, compared to a national increase of 38 percent.

Today, ratepayers in the MWRA district pay the highest rates in the Nation and there is no relief in sight. Future household rate projections average increases of 18 percent annually through 1999. Without Federal relief, this will bring rates to $1,200 per family, with no promise that there will be an end to the upward spiral. What family can afford these types of outrageous bills?

Mr. Chairman in Massachusetts this is causing serious problems for ratepayers who are faced with the difficulty of paying escalating rates along with their mortgages, food, and heating bills. My constituents in some cases have to choose between paying their water and sewer bills or putting food on the table. Over 100,000 households in our service area have limited incomes, and payments of these water and sewer bills are in direct competition with other basic life necessities.

To their great credit, the Clinton administration supports funding of this extremely important project. That is because the Boston Harbor project epitomizes the state of water and sewer infrastructure systems that have been badly neglected across the Nation and therefore deserves assistance.

I feel so strongly about this issue that I have come before you today to personally request your support.

I recognize that this is a particularly difficult budget year and that you must deal with a broad range of worthy competing goals within your subcommittee. But in light of the great need in my district, I am requesting that $100 million be included for the cleanup of Boston Harbor in fiscal year 1994. Quite frankly, Mr. Chairman, I wish I could ask for more, because we need more.

Your subcommittee's support in the past has shown a deep commitment to restoring Boston Harbor for the sake of the environment, public health, recreation and the economics of a clean and safe harbor for Boston, MA, and our Nation. I thank the subcommittee for listening to my testimony today and hope that you will continue your commitment to Boston Harbor.

COVENANT CHRISTIAN HIGH SCHOOL WINS CLASS D BASKETBALL CHAMPIONSHIP

HON. PAUL B. HENRY

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 4, 1993

Mr. HENRY. Mr. Speaker, on Saturday, March 27, 1993, the Covenant Christian High School "Chargers" were victorious in winning the Michigan State Class D basketball championship in The Palace of Auburn Hills. For the team, this was a dream come true and a tribute to their hard work and dedication throughout the season. It also made them the first team from the Grand Rapids area to win a boys' State title since South Christian High School earned the Class B championship in 1988, and it secured the title a second time for them. Covenant Christian won the title back in 1973 and their rivals this year, Western Michigan Christian, had won it last year.

With a perfect 27–0 record this season, the Chargers demonstrated teamwork and school spirit by putting forth their highest level of effort. Our community is proud of them and recognizes the high standard of educational excellence that goes on at Covenant Christian High School, as well as their athletic victories.

Mr. Speaker, each and every player contributed in his own special way to successes enjoyed over the 1992–1993 season. It gives me great pleasure to honor them and their coaching staff by naming them today: Coach Kevin Van Engen, Assistant Coach Greg Holstege, guard Joel Eldersveld, forward Chad Engelsma, center Paul Engelsma, guard Chris Fisher, guard Jeff Holstege, guard Joel Holstege, forward Dennis Kaptein, guard Scott Koole, forward Tim Kuiper, forward/center Dave Meulenberg, guard/forward Tyler Pipe, forward Craig Snippe, forward Joel Van Baren, guard Ryan Van Overloop, and forward Matt Velthouse.

Winning a championship takes hard work, determination, spirit, and ability, but most importantly, it takes teamwork. To quote Chris Fisher, "The thing is, we never wanted to lose. The whole team was willing to do whatever they had to so we didn't lose."

Mr. Speaker and colleagues, please join with me in expressing heartiest congratulations to the 1993 Michigan State Class D basketball champions—the Covenant Christian High School Chargers!

INTRODUCTION OF THE INTERNATIONAL WHALING MORATORIUM ENFORCEMENT ACT

HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 4, 1993

Mr. DEFAZIO. Mr. Speaker, many of our colleagues may believe that whaling has gone the way of the buffalo hunt, ended by depleted stocks and public revulsion. They're dead wrong. At next week's meeting of the International Whaling Commission in Kyoto, Japan, whaling nations are expected to demand an end to the international whaling moratorium, and are threatening to gut the Commission if they don't get their way.

At last year's meeting of the IWC, Norway announced that it would resume commercial whaling this summer, without regard for any management plan adopted by the IWC. Despite worldwide condemnation and strong pressure by the United States and other countries, Norway remains intent on following through with its threat to resume the commercial killing of whales.

Norway's actions clearly undermine the authority of the IWC and even threaten its very existence. Agenda 21, adopted at the U.N. Conference for Environment and Development, recognized the IWC as the sole international organization with authority to manage and protect whales. Norway's resumption of whaling is a flagrant violation of the International Convention for the Regulation of Whaling—to which Norway is a party—and could be a fatal blow to the IWC.

Like many other international bodies, the IWC has no inherent authority to enforce its

policies. Instead, the IWC depends upon its member countries to participate in the decisionmaking process and then abide by the final decisions. I believe the United States must use sanctions already available in our law to put some weight behind the management plans of the IWC.

Today I am introducing the International Whaling Moratorium Enforcement Act of 1993. My bill builds on the Pelly amendment to the Fishermen's Protective Act, which allows the President to embargo fisheries products from nations that violate international fisheries agreements. My legislation will require these sanctions for countries that violate IWC management plans, and allow the President to expand these sanctions beyond fisheries products if necessary. My bill will give whaling nations a simple message: If you ignore the IWC, don't plan on dumping your fish on our market. These sanctions are reasonable and workable, but sufficient to get outlaw whaling nations to sit up and take notice. I hope my colleagues in the House will support this timely effort.

CONGRATULATIONS TO THE "WE THE PEOPLE" PARTICIPANTS FROM GRIDLEY, IL

HON. THOMAS W. EWING

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May, 4, 1993

Mr. EWING. Mr. Speaker, over the past few days students from my congressional district have been in Washington competing in the national finals of the We the people . . . The Citizen and the Constitution Program. I am proud to announce that the class from Gridley High School, located in Gridley, IL, has truly represented the 15th District well by first winning the State championship and then placing in the top 10 teams in the country. I am very proud of these young men and women.

The team from Gridley High School included, Carmen Fields Jason Hany, Brett Hendren, Matt Jenkins, Laura Kingdon, Sandy Kuerth, Paul Laiming, Steve List, Kim Maubach, Arlan Miller, Christine Romersberger, Justin Schaefer, Jodie Schlipf, Jeff Shepley, Scott Stella, Chris Wallin, Benjie Zeler, and Patty Zimmerman.

Since last fall these students have been working with their teacher, Jerry Sax and his student teacher, Christina Sapp, in studying a comprehensive 6-week curriculum that provides students with a fundamental understanding of the Constitution, concentrating on the Bill of Rights. Their coordinators, Fred Drake and John Willie, have also made significant contributions to the success of the Gridley program.

I am very proud of these students, not only because they placed in the top 10 at the competition here in Washington, but more importantly because of their dedication and teamwork. These kids, being from a small town, have basically grown up together, and I think that makes this accomplishment all the more meaningful. They are truly an attribute to smalltown life and the numerous benefits this type of atmosphere provides.

I wish each of the Gridley team members the very best as they continue their educations and hope that they will inspire others to follow in their footsteps.

TRIBUTE TO KAREN A. HOGAN

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 4, 1993

Mr. GILLMOR. Mr. Speaker, I would like to take this opportunity to recognize an exceptional young woman from my district who has recently accepted her appointment as a member of the class of 1997 at the U.S. Merchant Marine Academy.

Karen A. Hogan will soon graduate from Vermilion High School after 4 years of outstanding academic achievement. During her high school career, Karen has participated in many extracurricular activities, including the mock trial team, the model U.N. Program, and the band. She is a member of the National Honor Society and the Arbor Day Society.

Mr. Speaker, one of the most important responsibilities of Members of Congress is to identify outstanding young men and women and to nominate them for admission to the U.S. service academies. While at the academy, they will be the beneficiaries of one of the finest educations available, so that in the future, they might be entrusted with the very security of our Nation.

I am confident that Karen Hogan has both the ability and the desire to meet this challenge. I ask my colleagues to join me in congratulating her for her accomplishments to date and to wish her the best of luck as she begins her career in service to our country.

AMERICANS SUPPORT TRUE LINE-ITEM VETO

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 4, 1993

Mr. DUNCAN. Mr. Speaker, a recent editorial from the Wall Street Journal regarding the line-item veto underscores the sentiments of an overwhelming majority of Americans.

The American people want change, real change. The people want us to balance our budget. They want the Federal Government to live within its means, just as families must. And they want us to give the President true line-item veto authority so he can carve out waste, not some watered down version that passed the House last week.

We need to be doing everything we can to stop the destructive rate of growth in spending and taxes. We need to prune nonessential programs so that enough resources will be left to meet the requirements of the truly needy.

It is unfortunate that this House just passed a very ineffective expedited rescission bill that will not do not thing to reduce unnecessary spending.

The path to lower deficits is not paved with tax increases. We can reduce deficits by encouraging growth and handcuffing the big spenders. I commend the Wall Street Journal article to my colleagues and other readers of the RECORD.

LINE ITEM VOODOO

As with term limits, the American people by overwhelming margins endorse the line item veto as a tool of political reform in the United States. Lately, influential Democrats such as Senator Bill Bradley have endorsed it. Bill Clinton campaigned for the line item veto last year, but now congressional barons are offering him a poor substitute that they hope will placate the public while it does little to curb government's instinct to spending.

Today, the House will likely debate something called "expedited rescission." It is to the line item veto what chicory flavored water is to Colombian coffee. It may look the same but one taste tells the tale.

A true line item veto would mean that the President would receive a spending bill from Congress and would then have the right to strike out items that he considered unnecessary spending. Congress could restore the spending but only by a two-thirds vote of both the House and Senate.

The ersatz "expedited rescission" process would be a charade. The President would have to sign an entire spending bill (often combining spending for three separate federal departments). He could attach a list of spending items he disagreed with and then ask Congress to eliminate them. But he couldn't ask that an existing program be reduced below its previous budget, and he couldn't cut a new program by more than 25%. The modest cuts he could suggest would stick only if both houses decided by majority vote to concur.

Rep. Ernest Istook is a freshman Republican from Oklahoma who has become a champion of a genuine line item veto. He presented his anti-pork credentials last year when he ran for Congress saying he'd refuse to vote for unjustified spending programs even if they helped his district. "A pig is a pig, even if it's one who lives at home," he said.

Rep. Istook says that "expedited rescission" will do almost nothing to control pork. He notes that many Members of Congress aren't embarrassed to be associated with pork barrel spending. They revel in it. "Only a President elected by all Americans can frequently rise above parochial concerns and act in the national interest," Rep. Istook maintains.

When the Cato Institute recently surveyed the nation's current and former Governors it found that 92% backed a true line item veto. "It makes the difference between talking about cutting spending and making it a reality," says Doug Wilder, the Democratic Governor of Virginia. Not surprisingly, all 10 former Governors who serve in Congress back a line item veto for the President.

The push to replace the line item veto with a sham substitute is typical of how Congress is dealing with reform in this session. It is faking it.

Members reluctantly abolished several showboating select committees but then allocated their budgets to other panels so that no overall savings will result. The leadership adopted new House rules ostensibly to expedite legislation, but they'll have the practical effect of limiting real debate. The more Members of Congress avoid changing their arrogant ways, the more the public will continue to clamor for the only real reform it knows will stick: term limits.

HONORING THE MEMORY OF THEODORE COOPER, M.D., PH.D.

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 4, 1993

Mr. DINGELL. Mr. Speaker, I rise today to remember and to pay tribute to Theodore Cooper, M.D., Ph.D., chairman of the board and chief executive officer of the Upjohn Co., who died on April 22 this year. It was my privilege to call Ted Cooper a dear friend.

There are many ways that a man can be remembered. We tend to remember people for the big things they do, the great goals that they accomplish. We remember the powerful positions attained, the awards won, the moments of glory. By these standards, one could easily talk for hours about Ted Cooper's accomplishments. But, what is more remarkable and more noteworthy is that Ted Cooper will be remembered for so much more. His legacy is not power or fame or a place in the spotlight. The greatest legacy of Ted Cooper was his love for his fellow human beings and his commitment to improving the life of all people.

A medical doctor and a Ph.D., he used his intellect and gifts to help and train those that would follow in his footsteps. As a professor of medicine, he taught at St. Louis University, chaired the department of pharmacology and was a professor of surgery at the University of New Mexico Medical School. He taught at Rockefeller University, and in 1977, he was appointed dean of the medical college of Cornell University. The students he taught are now doctors taking care of the sick and making them well. This gift of healing, shared with so many, is Ted Cooper's legacy.

He could have stopped there. Certainly his academic achievements represent enough laurels for a man to rest on. But that was not enough. Ted Cooper turned his attention to helping more Americans through public service. He was associate director of the Heart and Lung Institute at the National Institutes of Health. Thanks Ted Cooper's work at the Institute, Americans learned about cholesterol and its link to heart disease. Ted was also a Deputy Assistant Secretary and Assistant Secretary at the Department of Health, Education, and Welfare during the Ford administration. In these roles, he improved the health and well-being of all Americans, and, was duly recognized for his accomplishments. He received the Distinguished Service Award from the American Institute of Biological Sciences, the Albert Lasker Special Public Service Award, and the Department of Defense Distinguished Public Service Medal, among other honors.

Again, Ted Cooper could have stopped there, taking pride in his many achievements, and gone on to lead a quiet life. Thankfully, he did not. Instead, he devoted himself to the pharmaceutical industry, an industry that has as its goal the saving of human lives. He had been elected to the board of directors of the Upjohn Co. of Kalamazoo, MI in 1977. In 1980, he joined the company as an executive vice president, and was named vice chairman in 1984. In 1987, he was chosen as chairman of the board and chief executive officer, the position he held until his death. Ted made research a top priority at Upjohn, and this emphasis has led to promising compounds in development for AIDS, for nerve damage, and for a host of unmet medical needs. Ted understood that the purpose of a pharmaceutical company is to find innovative therapies for those in need.

When a person does as much as Ted Cooper did in his professional career, it's easy to imagine that he must have made sacrifices in his personal life. Ted Cooper did not. He was a loving husband to his wife, Patsy, and a wonderful father to four children: Michael, Mary, Victoria, and Frank. He enriched the lives of countless friends and he was never too busy to talk to and listen to one of Upjohn's employees, be it a fellow executive or a newly hired intern. Ted Cooper cared about people, those he loved dearly and those he never met. This gift of caring is Ted Cooper's greatest legacy, and I feel honored to have known him. Along with countless others, I will miss him.

AMSA HOLDS 37TH WORLD PIANO COMPETITION

HON. DAVID MANN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 4, 1993

Mr. MANN. Mr. Speaker, and Members of the House, please join me in congratulating the American Music Scholarship Association on its 37th World Piano Competition, which will be held in Cincinnati this summer.

Approximately 100 of the world's best young piano artists from all over the world participate in this event each year. The finalists in this competition are accompanied by the Cincinnati Symphony Orchestra, and all winners are awarded participation in a recital performance taking place at New York's Carnegie Hall. The World Piano Competition is one of the most important piano competitions in the world for its young participants.

Please join me in commending the AMSA's World Piano Competition on its 37 years of providing wonderful opportunities for the gifted artists who perform in the competition. I further wish to express my best wishes to those who will be competing.

TRIBUTE TO CLAIRE McQUADE

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 4, 1993

Mr. FRANK of Massachusetts. Mr. Speaker, there has never been a time when it was more important to call people's attention to public servants who have done their job not just well, but with a dignity, integrity and creativity that stands out. One such person is Claire McQuade, who recently retired after a long career as head of the board of elections in North Attleboro, MA.

I met her in 1982, when congressional redistricting brought us together—it has since once again put us asunder, at least for electoral purposes. But during that tenure period, I came to know, benefit from, admire, and appreciate Claire McQuade's extraordinarily dedicated and skillful performance of an important public service.

She has earned her retirement from the board of elections, but she will continue to be an important force for civility and intelligent public policy in North Attleboro and in Massachusetts.

Mike Kirby of the Sun Chronicle recently gave a good sense of what it was like for him as a young reporter to learn part of his trade with help from Claire McQuade, and I ask that the excellent job he did of giving people a sense of this talented individual be printed here.

CLAIRE MADE HER TOWN A BETTER PLACE TO LIVE IN

(By Mike Kirby)

One of my more pleasurable assignments in working for this publication was the year or so I covered North Attleboro.

And one of the more enjoyable aspects of the time I covered the town was visiting North Attleboro Town Hall—particularly visiting the upper level.

That's where Claire McQuade, chairwoman of the board of election commissioners, presided.

I made it a point to stop in and chat with McQuade whenever I could, partly because she would pass on story tips, partly to hear her strong opinions and partly because she was one of my favorite people in town hall.

Now that she is retiring from her duties after more than 20 years, I'd like to pass on a few of those stories, stories I think speaks volumes about the strong-willed, kind-hearted woman everyone in North Attleboro politics knows simply as "Claire."

Claire carried on her duties as election warden in a totally objective manner, but she was a Democrat with a capital D.

One time, she said, she was named a delegate to a state convention in Springfield. As she checked into the hotel, she met up with a prominent regional politician, one we in newspapers sometimes refer to as "from the old school." He scratched your back and made sure you scratched his as well.

This politician took out his wallet, flashed several large bills and began to pay for Claire's room.

"I told him to keep his money," Claire said. "He insisted, but I can be pretty darn stubborn."

Claire said she hadn't decided which candidate she would back, but there was one thing that was certain: She couldn't be bought.

In an age when we still too often think of men as the boss, she left little doubt who was in charge of the election, census-taking and other duties of her office. This sometimes put her at odds with some people at town hall.

But no one ever doubted that her office was perhaps the most efficiently run in town. Claire would have it no other way.

Her handling of the town census, for instance, is among the best in the area. Her figures often nearly match the federal census, which spends far more time and manpower.

When the town's shifting population meant that a seventh voting precinct was to be added, she anticipated the problem and had several options mapped out—years in advance.

During my time covering North Attleboro, I sensed that Claire's efficiency actually

raised the performance level within town hall, that other workers didn't want to be left in her dust.

She also raised other people's standards.

Early in my tenure in North Attleboro, I referred to the town's preliminary election as a primary. Big mistake.

The next time I stopped at the election office, Claire was ready.

She quoted the section and verse of state law, distinguishing a preliminary election and a primary.

A primary, she said, involved parties; a preliminary was strictly non-partisan.

She was firm about it, but nice too. I apologized and wrote a correction.

From then on, whenever I had any questions about elections, I called Claire. I knew if I did, I'd get things right.

So, not only should the townspeople of North Attleboro say "thank you" to Claire, so should I. And so should the better-informed readers of this publication.

INTRODUCTION OF ENTERPRISE ZONE LEGISLATION

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 4, 1993

Mr. CLYBURN. Mr. Speaker, today I am introducing legislation designed to encourage business expansion, employment stimulation, and the revitalization of areas designated as enterprise zones, including those areas affected by the closure or realignment of military bases.

This legislation authorizes a total of 50 tax enterprise zones; 25 to be designated by either the Secretary of Housing and Urban Development in the case of an urban tax enterprise zone, and 25 by the Secretary of Agriculture, in consultation with the Secretary of Commerce, in the case of a rural development investment zone.

In addition, this legislation authorizes the Secretary of Commerce to designate those areas adversely affected by the closure or realignment of military bases as tax enterprise zones.

By utilizing the tax incentives of an enterprise zone, the legislation I am proposing will soften the economic blow to those communities which have relied on the presence of military bases for jobs and economic stability.

The designation of areas affected by base closings will attract new industry and spur economic development to replace the loss of revenue and jobs created by a base closing.

Many of the tax incentives for enterprise zones in this legislation were included in H.R. 11, the Revenue Act of 1992, which was vetoed by President Bush last November. The tax incentives in this legislation include: 15 percent employer tax credit for qualified zone wages paid or incurred during such taxable year; deduction for the purchase of enterprise zone stock; and 50 percent exclusion for gain from new zone investments.

Mr. Speaker, the passage of this legislation will enable us to make significant progress in attracting businesses to those communities that are most in need of economic development and renewal.

TRIBUTE TO TIMOTHY S. RICKEY

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 4, 1993

Mr. GILLMOR. Mr. Speaker, I would like to take this opportunity to recognize an exceptional young man from my district who has recently accepted his appointment as a member of the class of 1997 at the U.S. Military Academy.

Timothy S. Rickey will soon graduate Bowling Green High School after 4 years of outstanding academic achievement as well as extracurricular involvement. During his high school career, Tim has participated in numerous academic challenges. He is a member of the National Honor Society, the French Club, and participates in Junior Achievement. Tim has also distinguished himself as an outstanding athlete on the BGHS swimming team, as well as serving as team captain.

Mr. Speaker, one of the most important responsibilities of Members of Congress is to identify outstanding young men and women and to nominate them for admission to the U.S. service academies. While at the Academy, they will be the beneficiaries of one of the finest educations available, so that in the future, they might be entrusted with the very security of our Nation.

I am confident that Tim Rickey has both the ability and the desire to meet this challenge. I ask my colleagues to join me in congratulating him for his accomplishments to date and to wish him the best of luck as he takes his place in the "Long Grey Line" and begins his career in service to our country.

A SALUTE TO AMERICAN WOMEN IN RADIO AND TELEVISION

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 4, 1993

Mrs. MORELLA. Mr. Speaker, I rise today to salute the pioneering work of American Women in Radio and Television, a nonprofit organization of professional women and men in the electronic media and allied fields. For more than 40 years, the organization has toiled to improve the quality of the electronic media, especially the image of women. About a year ago, American Women in Radio and Television launched a public service campaign to combat sexual harassment.

Although sexual harassment has received substantial publicity recently, victims often are largely unaware of the law and its remedies, as well as of support groups and resources available to help. Studies show that as many as two-thirds of working women have experienced sexual harassment. This illegal behavior takes its toll not only in self-esteem, but also in lost productivity in the workplace.

With the assistance of a variety of organizations, American Women in Radio and Television has organized a campaign that marries two important societal institutions: the electronic media and our nationwide library system of more than 16,000 libraries. Involved is a "Stop Sexual Harassment" resource booklet that is available to all of the libraries. The booklet discusses the issue of sexual harassment and specific ways to deal with harassment, including a suggested list of Government and private resources. Mr. Speaker, I am impressed with the campaign launched by American Women in Radio and Television and look forward to the day when such a campaign will no longer be necessary.

TRIBUTE TO MS. MARGARET BOIVIN

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 4, 1993

Mr. STUPAK. Mr. Speaker, I rise today to pay tribute to Ms. Margaret Boivin, of Menominee, MI, in Michigan's First Congressional District, which I represent. On May 1, 1993, the community of Menominee will honor Ms. Boivin as she retires after 22 years of being the Menominee County District Court Clerk.

Margaret Boivin has served Menominee County and its citizens with integrity and honor. She has been a leader in the community. The party that will mark her retirement on May 1 does not begin to express Menominee's gratitude and admiration for her years of service. It is our hope, however, that now Margaret will have more time to spend with her family, her friends, and her pets. I know there are many people starving for the attention that she has given over the years to her job. I'm sure they'll be happy to get her back. On the other hand, however, Menominee County will sorely miss her for her work.

It is not only mine, but all of Menominee County's hope that Margaret will continue to enjoy the fruits of her labor starting with her retirement party. We can never adequately express our gratitude for her tireless service. Congratulations Margaret, and best wishes.

51ST ANNIVERSARY OF THE FALL OF CORREGIDOR

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 4, 1993

Mr. HUNTER. Mr. Speaker, on May 5 we recognize the 51st anniversary of the fall of Corregidor and honor the memory of the Filipinos and Americans who fought the brutal Japanese occupation of the Philippines.

Official U.S. Army reports state that of the Filipinos and Americans who were surrendered to the Japanese in 1942, less than half survived to be released after the submission of Japan in 1945. Since 53 percent of POW's in Japanese hands were slaughtered on the Bataan Death March or died from starvation and disease in Japanese prison camps, by far the most barbaric treatment of prisoners of war recorded in modern times.

The few Americans who escaped fought with Filipino guerrillas against the Japanese

throughout the occupation. Gen. Douglas MacArthur in his book "Reminiscences" estimated that the Filipino organized units on Luzon alone equaled the effectiveness of five American divisions. In addition to fighting the Japanese throughout the occupation, the Filipino guerrillas furnished intelligence information to American forces before and during the retaking of the Philippines.

Following through on his pledge to return, General MacArthur led an American attack force to the beaches of Leyte on October 20, 1944. When General MacArthur waded ashore, he had with him President Sergio Osmena and Gen. Carlos Romulo.

To my knowledge, no American was ever betrayed to the Japanese during those dark years of oppression in the Philippines. When American troops landed on Leyte, Comdr. Chick Parsons, organizer of the Filipino guerrilla resistance, completed his mission there and left the island. Although he had been in company with Filipinos on several occasions when stopped by Japanese patrols, and had a $10,000 price on his head, the Filipinos always put his protection above their own. This was true of other legendary Americans who fought with Filipinos guerrilla units on various Philippine islands during World War II, such as Col. T.V. Hanson, Col. Ed Ramsey, Lt. I.F. Richardson, and Lt. Don Jameson.

The bond of friendship demonstrated during World War II between Americans and Filipinos lasts to this day. We will be commemorating this camaraderie at a dinner Friday, May 7 in the office club at the San Diego Marine Recruit Depot. Sponsoring the event is the Pacific Freedom Foundation, with its first vice-president and executive director, Frank Dillman, as honorary dinner chairman. The Honorable Helena Benitez, former Filipino senator and chairwoman of the Philippines Women's University, will be the guest of honor and speaker. Among those attending will be former guerrilla fighters, POW's and others who participated in the defense and liberation of the Philippines.

DR. HENRY DITTMAR'S "HISTORY WITHOUT END"

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 4, 1993

Mr. LEWIS of California. Mr. Speaker, a large contingent of University of Redlands alumni from the Washington area recently gathered to honor one of their most admired professors, Dr. Henry Dittmar, on the occasion of his 80th birthday.

There are presently over 300 University of Redlands alumni working in the Nation's Capital, a large percentage of them products of Dr. Dittmar's four decades of teaching European, African, and Middle East history. Most remarkably, he is still teaching.

Mr. Speaker, I would like to share Dr. Dittmar's address, "History Without End," with you and our colleagues for it conveys this man's view of how history affects many of the major crises we face today around the globe.

HISTORY WITHOUT END

Thank you for your great kindness and generosity in inviting me here to be with you to celebrate my 80th birthday. I am very touched indeed, more than I can possibly express.

I must ask you, though, to make one slight correction. The date of my actual birthday was not the 13th but the 7th of March. The year was and is 1913. It makes me think of the almost superstitious horror which President Wilson had of the No. 13. He had what Harold Nicolson called "a childish belief in the personal relation between himself and the No. 13", a belief which anyone born in the year 1913 would not be inclined to share.

Les Janka mentioned to me that most of you have not heard me in a history class for quite a while, and that for that reason you might actually want me to talk history—and that in a town in which a policy adviser at the State Department propounded the concept of the "end of history". I am not going to try to refute that hypothesis tonight—nor do I intend to talk for the traditional academic 50 minutes which might make you long for the end of history.

What I would like to do is to vary the usual compartmentalisation of history into nation states or powers in evolution or decline, and to shift our attention away from Paris or London, Bonn or Washington, Moscow or Cairo, to the fault lines and border or buffer states in between. In this I want to look at the lands of the European Peninsula and of the Middle East as a single interrelated area. After all, most of the inhabitants of that area believe, or used to believe, in the same single God, however defined by Jews, Christians, or Muslims.

This landmass north and east of the Mediterranean Sea is usually and somewhat arbitrarily considered in the context of either African, Asian, or European history, but rarely as one interrelated area.

It has been divided, not by geography but by human action, along three remarkable fault lines which have been the cause of military action, time and again, over the centuries, and of which so far only one has shown signs of a peaceful demise.

The furthest west of these lines is the one created first by Julius Caesar, and then more effectively, by Louis The Pious, the son of Charlemagne. It was in my childhood and my adolescence still associated with the concept of France and Germany as hereditary enemies. The buffer between these two fairly well defined areas was Alsace-Lorraine, the prize over which all too many wars were fought.

The furthest east of these fault lines is the one which 2,000 years ago still separated the Roman and the Persian Empires. Alexander The Great had blurred that line temporarily, and so had the Arab Khalifate at its peak. However the emergence of the Ottoman Empire as the Successor to the Byzantine Empire and the rejuvenation of the Persian Empire under the Safavids in the 16th century reestablished the ancient rivalries—the buffer in this case being the land we now call Iraq.

The third fault line, in the middle between the others, is the one created by the partition of the Roman Empire into east and west, last negotiated in the year 518, which started just west of what is now the city of Belgrade, and reached the Adriatic at the point which now marks the frontier between Albania and Greece, opposite the heel of the boot of Italy. The buffer here was for many centuries the Venetian Republic, which at times included the Dalmatian coast of what now is Croatia.

A closer look at these fault lines might leave us with some interesting conclusions.

The first, fairly obvious one, is that lines drawn by rulers or other statesmen leave much to be desired. We only have to think of the partition of Africa along lines drawn by European governments without any reference to traditional boundaries between tribes or peoples. These lines have remained a major problem in African politics.

In the case of the three fault lines which I mentioned there was perhaps a little more justice, a little more respect for tradition, but certainly no inclination to leave them alone. There was at all times the inclination of the stronger power to enrich itself at the expense of the weaker power.

The partition of Charlemagne's Empire among his grandsons really created three different states: To the west the Realm of Charles, clearly identifiable as the nucleus of the future France; to the east the Realm of Louis which included the borderlands of the old empire and the newly conquered Saxon Territories, giving it definite German character; and in between the empire of Lothair which consisted of the lands between from the North Sea to Italy, "a sausage of a country" according to some historians. That was clearly the buffer state to be fought over between east and west for over 1,000 years. It was an attractive territory, bordering on Rhine and Meuse, commanding trade routes from the Alps to the North Sea and from West to East. Under the Dukes of Burgundy it became the richest country in Europe, and it gave birth to the first ruler since Charlemagne to think in terms of a united Europe, the Habsburg Emperor Charles V. His plans and policies filled the King of France with such fear that he did everything in his power to mobilize opposition to Charles, even the Muslim Turks and the German Protestants.

There then followed the centuries of French ascendancy which led to the advance of France to the Rhine, culminating in the capture of Strasbourg, today the capital of the Council of Europe, and frequent host to the European Parliament. Louis XIV advanced to the Rhine, and Napoleon incorporated the Rhine lands. The Concert of Europe, in 1815, gave the northern part with its great Catholic tradition to Protestant Prussia, and left French speaking Lorraine and German speaking Alsace in French hands, shattering the dreams of an incipient all-German nationalism.

In 1871 Alsace Lorraine became the price which Bismarck offered and France had to pay to German nationalism to accept Prussian dominance. After World War I France regained the coveted lands, only to lose them to Hitler in 1940, and then again obtain them after World War II. It was a seemingly endless bloody tennis match.

However, wonder of wonders, there emerged after the war statesmen on both sides determined to bring that game to an end. The crisis of post-World War II became in Jean Monnet's words "the great federator". Robert Schuman of France, a native of Luxemburg, Konrad Adenauer, the great Rhinelander, Alcide de Gasperi of Italy, a native of Trent and former member of the imperial Austrian Parliament, and Paul-Henri Spaak, native of the former and future capital of Europe, agreed on a fusion of the coal and steel industries of France, Germany, Italy, and the Benelux countries which make future wars among them impossible. This, in Robert Schuman's words, was to be "a contribution to the raising of living standards and to world peace," and Jean Monnet told Konrad Adenauer: "We want to put Franco-German relations on an entirely

new footing. We want to turn what divided France from Germany—that is the industries of war—into a common asset, which will also be European."

Thus was born the concept of first economic and later political unity—at its very core the idea of permanent Franco-German cooperation to replace the hereditary hostility of the countries towards each other. The fault line was to disappear, and Adenauer replied: "Monsieur Monnet, I regard the implementation of the French proposal as my most important task. If I succeed, I believe that my life will not have been wasted." (Monnet: Memoirs)

What about the second line in the East? In modern times, that is since the 16th century, the Ottoman Empire and the Persian Empire fought almost constant wars over the possession of what once was Mesopotamia and now is Iraq. Parallel to the religious conflicts in Europe brought about by the Reformation, Sultan Selim I, to quote Lord Kinross, "was dedicated above all to the extermination from his empire of the hersey of Shi'ism. His main enemy was its exponent, the Persian Shah Ismail. Before embarking on a holy war against him, Selim saw to the elimination of some 40,000 of Ismail's religious followers in Anatolia, an action comparable in Islamic terms to the contemporary massacre of St. Bartholomew in Christian Europe." (Ottoman Centuries, p. 167) The current term for such action is ethnic cleansing.

The wars between the Turks and the Persians lasted for centuries—until European intervention in the second half of the 19th century brought them to a halt.

With the dismemberment of the Ottoman Empire after World War I in what David Fromkin called "a peace to end all peace" the bufferland, Iraq, was given new status as a power in its own right. Lloyd George diddled Clemenceau out of Mosul, which was then added to the mainly Sunni province of Baghdad and the mainly Shi'ite province of Basra. This prevented the establishment of an independent Kurdistan in the north and barred any Persian claims to the south. A desert king was imported, and thus this potentially very wealthy region given the impetus to recreate both ancient history and the Baghdad of the Khalifs.

When, in the post-World War II years, the Khomeini revolution in Iran, put the safety of western economic as well as political interests in Iran in doubt, the concept that Iraq, whatever its government, should be maintained as a counter force, gained many adherents. Saddam Hussein felt encouraged. He could consider himself the victor in a long war against Iran—and probably thought that further expansionist policies would be tolerated. In an interview with Alasdair Palmer, printed in the Spectator (January 23, 1993), General Michael Dugan, U.S. Air Force Chief of Staff during part of the gulf war, said: "Operation Desert Storm was designed to give Saddam a way of surviving. * * * He might be a bit brutal, but at least he is not a mad Mullah."

The theologian Al-Ghazali, who died in 1111, wrote: "An evil-doing and barbarous sultan, so long as he is supported by military force, so that he can only with difficulty be deposed and that attempt to depose him would cause unendurable strife, must of necessity be left in possession, and obedience must be rendered to him" (quoted in Peter Mansfield, The Arabs), and a Christian Chronicler reported from Damascus that it was understood that power must be asserted by a certain measure of harshness and violence. If a ruler was mild, just, and peace loving, this emboldened the people against him.

In the meantime the "Mad Mullah" of Iran has been replaced by President Hashemi Rafsanjani, equally fundamentalist, but pleading for understanding rather than advocating hostility. Mr. Moorhead Kennedy, former hostage in Iran, quotes him as "calling upon the West to grow up, to stop being afraid of what we are unwilling to understand, to accord to other rights that we claim for ourselves and our allies, and to have the courage to make common cause even with those whose means appear unfamiliar, bizarre, or even (possibly) dangerous." (L/A Times, March 15, 1993)

Clearly there has been no resolution along the fault line between ancient Rome and Persia with Mesopotamia as the coveted buffer. And there have so far not been any great statesmen to seek peace where there have been centuries of war. That history is by no means at an end.

And what about the third fault line, the boundary between the western and the eastern Roman Empire, between Latin and Orthodox Christendom, and for 500 more recent years between Western and Central Europe and the Ottoman Empire?

When, in the course of the seventh century, Slavs settled in these ancient borderlands, filling a vacuum originally caused by the invasion of the Huns, the Slovenes and the Croats in the West were converted to Latin Christendom, while Serbs to the East accepted the Orthodox rite. To be more precise: "By the end of the 10th century the inhabitants of present-day Serbia and eastern Bosnia had for the most part accepted eastern Christianity, while western Bosnia and Croatia leaned toward Roman Catholicism." (William Langer) The fault line was reestablished and reaffirmed. Whenever the empires of East or West were weak, the borderlands grew strong—as the Serbian state did under Stephen Dushan in the 14th century, and the Venetian Republic in the 15th century—until they were defeated and absorbed by the greater powers. The Serbian armies were annihilated in the never forgotten Battle of Kossovo in 1389, and the Venetian Republic brought to an inglorious end by Napoleon in 1797.

The Vienna Congress of 1815 made Austria-Hungary heir to the lands of the former Venetian Republic, including Croatia with Dalmatia, leaving Bosnia and Serbia within the much weakened Ottoman Empire. After the upheaval of the French Revolution and the Napoleonic wars there was a period of settlement and nationalist dreams deferred. Serbia gained a degree of autonomy from the Sultan, sufficient for bitter rivalries and even civil wars among competing factions and their leaders; an insurrection in Bosnia and Herzegovina in 1876 led to a declaration of war against Turkey by Serbia and Montenegro. Their armies under the command of the Russian General Chernaiev were defeated by the Ottoman forces. Fear of unilateral Russian intervention led to a meeting of the Concert of Europe in Congress at Berlin, in 1878. There Serbian independence was recognized, but the coveted provinces of Bosnia and Herzegovina put under Austrian occupation and administration. The old fault line was reaffirmed.

It then became the major goal of Serbian policy to gain Bosnia and Herzegovina, and, in addition, access to the Adriatic. Gavrilo Princip, the assassin of the Austrian successor to the throne, was both a Bosnian revolutionary and a member of the Black Hand, an organization dedicated to the fulfilment of Serbian aspirations. The allies promised Serbia both Bosnia and Herzegovina and a wide access to the Adriatic in 1915. This was accomplished with the formation of the kingdom of the Serbs, Croats, and Slovennes in December, 1918, a union endured rather than accepted by the Croats in the West. The assassin of King Alexander, in 1934, was an agent of Croat revolutionaries headquartered in Hungary.

During World War II Croatia was put first under Italian and later under German control. The Ustachi, militant Croat nationalists, were given free rein to massacre thousands of Serbs. In opposition, the Croat Communist leader, Josip Broz Tito, succeeded in uniting the antifascist forces of the country, and ultimately of all of Yugoslavia with a plan under which the separate parts of Yugoslavia would be united in a federation of autonomous republics. This union now no longer exists—and the old fault line is now also the line of battle.

Misha Glenny, correspondent of the BBC World Service, describes his impression of the Krajina, scene of recent fighting, in these words:

"The Vojna Krajina can claim to be one of the most active and disruptive historical fault lines in Europe. Apart from forming the border between the empires of Islam and Christendom for three centuries, it is also the line of fissure between Rome and Constantinople, the Roman Catholic and Orthodox faiths. * * * it is no coincidence that the war between Tito's partisans and the Croat fascists, the Ustachas, one of the most bestial struggles within the myriad conflicts of the Second World War, erupted largely along this strip of southeastern Europe." (The Fall of Yugosalvia)

The bestial struggle is obviously continuing day by day; it is being waged by the Serbian Bosnians against the Croats whose terrible atrocities during World War II have neither been forgotten nor forgiven. And it is now being waged against the Bosnian Muslims in the name of religion, a revival of the Crusades which pitted Christians against Muslims. It sounds like a rather hollow form of fundamentalism, aimed at reawakening old and long forgotten hatreds, but has resulted in the razing of Mosques to the ground in conquered Muslim villages, and, as we know, in the organized mass rape of Muslim women.

We may well ask: Is there no statesman, no person of genius and vision, as there were in Western Europe after 1945, who can reconcile the opposing parties? Is there no way to identify common interests and common values rather than old prejudices and hatreds? And is there no way to make the respect for human rights the basic law of the entire human family?

You see that a discussion of history can easily become an essay in current affairs. History is after all continuing in us and with us. We are all part of it—and there is no end to it.

Thank you for inviting this now old historian to talk history once more. May God bless you all.