# SENATE—*Thursday, May 13, 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 BEN NIGHTHORSE CAMPBELL, a Senator from the State of Colorado.

## PRAYER

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

Let us pray:

"God is love." (I John 4:8) Eternal God, our Heavenly Father, the Bible is filled with examples of Your infinite love, despite which we find it difficult to believe. It is so easy to condemn ourselves when we fail or sin, so difficult to believe that, whatever else You are, You are love. Forgive us for thinking of You exclusively in a judgmental way. Help us to realize You love us when we are not deserving of that love, that there is nothing more certain in life than that each of us is loved by God.

Teach us, dear Lord, that there is nothing we can do to make You love us more than You do, and there is nothing we can do to make You love us less than You do—that Your love is eternal, infinite, and it is Your nature to love. God who is love give us grace to accept Your love so generously offered unconditionally.

We pray in His name who was love incarnate. Amen.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, DC, May 13, 1993.*

*To the Senate:*

Under the provisions of rule I, section 3 of the Standing Rules of the Senate, I hereby appoint the Honorable BEN NIGHTHORSE CAMPBELL, a Senator from the State of Colorado, to perform the duties of the Chair.

ROBERT C. BYRD,
*President pro tempore.*

Mr. CAMPBELL 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 10:30 a.m., with Senators permitted to speak for not to exceed 5 minutes each.

In the Chair's capacity as a Senator from the State of Colorado, the Chair suggests the absence of a quorum.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. METZENBAUM. 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.

## NAFTA

Mr. METZENBAUM. Mr. President, I rise to address the proposed North American Free-Trade Agreement, commonly referred to as NAFTA, among the United States, Mexico, and Canada. I believe this agreement will have staggering consequences for our workers, our industrial base, and our environment.

Although we may not be asked to pass judgment on this proposed agreement for some time, we cannot simply wait for this issue to come to us. NAFTA represents the most important issue facing this country in the years to come.

The agreement would eliminate virtually all trade restrictions and tariffs between these three countries over the next 15 years. The proponents claim that eliminating trade barriers with Mexico will improve United States competitiveness and permit United States manufacturers to gain easier access to Mexico's consumer markets. They acknowledge that we may lose tens of thousands of jobs, but they claim that those losses will be more than offset by new jobs resulting from expanded trade with Mexico.

Let me say those workers who lose their jobs are not going to be interested in the statistical figures. A worker in Ohio or Michigan or Pennsylvania, or any other State in the Union who loses his or her job, is not going to be gratified if some other worker gains a job in Arizona or in Texas or in Washington State, for that matter. That is not the issue. The issue is real American people who have spent their lives working for a company who suddenly learn one day that the company is moving its entire operation down to Mexico.

NAFTA's critics paint a different kind of picture. They predict that NAFTA will eliminate hundreds of thousands of American jobs, leaving our industrial landscape littered with abandoned factories. Our standard of living will drop, significantly reducing the wages of most of those lucky enough to keep their jobs, and further widening the gap between the rich and the poor of this country. And NAFTA's critics say we will face new pressures to scale back longstanding labor and environmental protections that American workers have counted on for decades.

Employers will come to their workers and say, "Look, you will have to work for a lesser amount, you will have to agree to certain changes, downgrading, because otherwise we are going to have to move the plant to Mexico."

Other arguments will be made: "We cannot comply with these environmental laws to clean up the air and water here in the United States because down in Mexico we can operate without having all of those constraints placed upon us."

There is much at stake in this legislation, and the Members of this body cannot afford to sit idly by. We owe it to the American people to be involved now, to represent their interests, and to work with the Clinton administration to address NAFTA's problems.

While I generally support the liberalization of trade restrictions, it goes without saying that any such effort must be in the best interests of the American people. I am frank to say I am not certain that any supplemental agreement can overcome the challenge of having $2 labor compete with $15 or $16 an hour labor. I am not convinced that the environmental conditions that exist in Mexico are suddenly going to be changed by a side agreement.

Let us look at the facts.

Mexican manufacturing workers earn $2.17 an hour, less than one-seventh of the $15.45 earned by American manufacturing workers. As a consequence, the elimination of current trade restrictions would entice many United States firms to shift production to Mexico over the next few years. There is no secret about it. Many have already done so. Even George Bush's Secretary of Labor projected the elimination of 150,000 jobs if NAFTA were adopted. That impact would likely be worsened by foreign manufacturers

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

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using Mexico as an export platform to make further inroads into United States markets.

But even if it were only 150,000 jobs—a figure which I very strongly question—what about those 150,000 workers? Are we not to be concerned about them? Their family livelihood, their opportunity to pay the mortgage on their home, their opportunity to send their children to college, their opportunity to pay the necessary household expenses—are these not concerns even if it were only 150,000 jobs? The fact is, in my opinion, it will be far, far greater than 150,000 jobs lost.

Recent experience suggests we could lose between half a million and a million jobs if NAFTA is adopted as drafted. Consider what is already happening with the United States-Mexico Maquiladora Program. Under the program, American manufacturers ship components to Mexico for assembly and then import the finished products back to United States markets. The Maquiladora Program provides for this to occur, in the main, right across the border from the United States. The Maquiladora Program, which has been in effect since 1965, has enticed many of the Fortune 500 to move production facilities south of the border.

I went down to the Maquiladora area, and I walked around and looked around and drove around. I want to tell you, it was upsetting. One of the things I saw was General Dynamics—one of America's largest defense contractors, receiving many billions of dollars for defense contracts—operating a plant in the Maquiladora area.

I thought it looked like my own home community of Cleveland. There were Eaton Manufacturing, Parker Hanifin, and other Cleveland companies.

There they were, with operations that had formerly been in Cleveland, no longer there, now in Mexico. I know what has happened in Cleveland. I know I can go out to the General Motors facility that used to have thousands of employees. They are not working now. There is nobody working in that plant. But I know that General Motors has 30 plants in Mexico.

As a result of the Maquiladora program and the existing wage differential, we have literally lost hundreds of thousands manufacturing jobs to Mexico in the past decade alone. And the automobile industry, to which I have just referred, is a good example. The big three have established an estimated 70 plants in Mexico, churning out 250,000 cars and over 1 million engines annually for export. The great American road may belong to Buick, but the Buick Century two-door is produced entirely in Mexico, as are the Mercury Tracer, the Dodge Ram Charger two-door and the Chrysler LeBaron sedan.

In Matamoros, which is just across the border, American-owned companies employ Mexican workers who live in horrifying squalor. Their homes are one-room cardboard shacks, patched together wooden shanties without electricity or running water.

I spoke with some of the people who live in those shanties, and I am not going to tell you they are all unhappy. Many are actually living better than they were living before they were able to work in the Maquiladora plant. But the conditions in which they live are just unbelievable. Their children breathe air thick with pollutants, and bathe in unfiltered streams filled with toxic runoff from nearby plants. There is no water or electricity in their homes.

It is incredible to think that we are expecting American labor to compete on an equal basis. You can pass all the environmental laws you want, and that is not going to change things overnight in Mexico. You can pass all the labor laws you want, and that is not going to change things overnight in Mexico. It is an impossible situation.

Let us not kid ourselves. It is difficult to believe that corporate America, which professes to have a social conscience in this country, is exploiting Mexican workers in such a shameless, degrading fashion just over the border. But I tell you, I have been there. I have seen it, and I urge you, Mr. President, I urge every Member of this Senate, to go down and see what is happending in Mexico and see if you think American workers are going to get a bad deal if we enact the free-trade agreement. Ask whether or not you think that is fair competition for the American worker.

For obvious reasons, many American employers are reluctant to admit that their growth in Mexico has cost United States jobs, but one cannot overlook the connection between General Motors' announced plan to close 21 United States and eliminate some 74,000 American jobs and the fact that the same company is the largest private employer in Mexico today. It has 30 plants and a growing work force. Who do they think is going to buy those cars? Where is the American worker going to get the money if American firms move down to Mexico to hire workers for substandard wages?

If NAFTA is adopted and existing trade restrictions are dropped, American manufacturers will no longer have to supply Mexican Maquiladoras with American-made components. Instead, many more U.S. manufacturers will relocate plants south of the border. Thousands of high-paying U.S. manufacturing jobs will be eliminated in industries such as electronics, apparel, glassware, textiles and automobiles, striking at the core of America's industrial base.

I conducted a hearing on this subject last year in Cleveland. We used to have about 21 textile mills in Cleveland. Now we have only one. Its owner testified before my committee and indicated the difficulty he will have in remaining in business if NAFTA is adopted.

Other labor-intensive industries, such as food production firms, sugar producers, truckers, and fruit and vegetable growers will be devastated, if not wiped out entirely. For American workers, the slogan says it all: "After NAFTA, the shafta."

NAFTA's proponents claim that Mexican consumers will have the purchasing power to create enough United States jobs to offset these losses. Frankly, I am not convinced. Currently, Mexico has a 20-percent unemployment rate, a 40-percent poverty rate and a gross domestic product 120th of ours. Mexican workers with an average annual income of $2,490 can barely afford food and shelter, and certainly are in no position to buy our American products.

"But wait," NAFTA supporters say, "just be patient. If we adopt the agreement, Mexico's economy will expand and Mexican consumers will be able to buy more United States goods."

I do not buy that. First, even as Mexico's trade with the United States increased dramatically over the last decade, its workers' wages dropped over 40 percent and its per capita gross domestic product fell 15 percent. Listen to that: Even as their trade with this country expanded dramatically during the last 10 years, workers' wages dropped 40 percent and its per capita gross domestic product fell 15 percent.

Beyond that, even if Mexican demand for United States products did increase substantially, United States firms would meet that demand from their Mexican plants rather than their United States plants.

NAFTA supporters point to increasing United States exports to Mexico as proof of the benefits of free trade. But look closely at these exports. Heavy machinery sales account for much of the current trade surplus with Mexico, but that very equipment is being used to build Mexican factories which will make products to be sold in the United States. They cannot produce in Mexico the heavy capital goods that the American manufacturer uses for production.

So this heavy equipment is being made in this country, shipped down into Mexico for the purpose of building factories, which will then export goods back into the United States. So the surplus that we find from those particular sales is a very unreal surplus and one that we would be better off if we did not have. It is these Mexican-based factories, for example, that created a $3 billion deficit with Mexico in 1991 in the trade of automobiles.

If we adopt NAFTA as drafted, our heavy industries might benefit briefly from Mexico's industrialization. I would accept that. Ultimately, though,

any short-term benefits will be dwarfed in the long run as our industrial base is systematically dismantled and moved south of the border.

So the ominous forecast of U.S. job losses are, indeed, a reality. What will the impact of these job losses be? Many of NAFTA's displaced workers will not find new jobs. Most of those who do find new jobs will take substantial pay cuts. Many will lose their cars, their possessions, and their homes as well. And we will look back and say, "Wasn't it a terrible thing? We shouldn't have done that."

As a Member of the U.S. Senate, I have supported legislation which, in retrospect, I do not think was very good; I do not think it helped the American economy. I do not think deregulating the telephone industry truly helped the American economy. I do not think deregulation of the airline industry helped the American economy. I do not want to be in a position of finding another situation where I support something that I think is going to be good for the American economy, but which I find does not work.

The arguments were made then that there will be more competition and more competition will be better for American industry, for the American economy, for the American worker. It has not turned out that way.

My opinion is that NAFTA will not be good for the American worker and the American economy. As a matter of fact, many communities that lose jobs will be unable to reconcile the shrinking tax revenues with increasing demand for welfare and other social services. Some will actually face economic ruin.

This is how Mayor Dixon of Dayton, OH, described this problem at a hearing I held in Cleveland last October. Said Mayor Dixon:

> As a long-time Dayton elected official and son of an automobile factory worker, I have seen the aftereffects of job losses. I have seen our tax base dwindle and valuable economic development dollars shrivel up; I have seen supporting jobs and businesses be affected by the fallout; I have seen the standard of living decrease; I have seen families fall apart and move away; I have seen Dayton's population drop significantly; and I have seen people's dreams dashed. I don't want to see any of that again. I am not convinced that this version of the NAFTA agreement will protect American jobs or American communities to the extent that it should.

He concluded by saying, "We already have 10 million unemployed Americans. We do not need any more." I could not agree more.

Even those American workers who keep their jobs may be adversely affected by NAFTA. In a report to Congress on the impact of NAFTA, the United States Office of Technology Assessment concluded that unless relations among Government, industry, and labor are fundamentally changed here and in Mexico, NAFTA "could drive down wages and living standards in the United States without accelerating development in Mexico."

First, with an open border, America's blue collar workers will see significant downward pressure on their wages.

Second, while Mexico has many labor protections on the books, as a general matter it does not enforce them.

As a matter of fact, when I was in the Maquiladora area, I was astounded to learn that the main labor union they have down there, which is really not as powerful as American unions, had had some delays before they could get into negotiations with an employer. When they finally got into the negotiations, somehow, some way, the head of the labor union was incarcerated and during the labor negotiations he was in the slammer.

Incredible. I heard no outrage from the Government of this country. The workers down there were not in much of a position to cry out, and the Government of Mexico certainly was not going to cry out because they were doing the incarcerating.

What an unbelievable situation, and we think there is going to be protection for the Mexican worker by reason of the strength of the Mexican labor unions? Who are you kidding?

The principal effect of Mexico's lax enforcement will be to entice firms to relocate there. But even those employers who choose not to relocate will use the threat of relocation as leverage to scale back their labor and environmental protections.

Let me point something out, Mr. President. When I was down in Mexico, I talked with some of the employers, and I visited some of the plants. The plants were not bad plants; they were good plants; they were impressive; they were clean; the machinery looked like it was working fine; the workers appeared to be doing their jobs well. But as I was walking through, I saw some bottles and some packages with labels that indicated that they contained toxic materials, and that they should not be used under certain circumstances and certain restrictions.

We had a dinner meeting that evening with representatives of the Mexican employers in that area, and at the conclusion of the dinner, there was not much question that we were not going to come to agreement on the issue of NAFTA. I said to them, "Do me one favor. Before I leave here I would like you to promise me one thing—that you will put Spanish-language labels on all of those packages and bottles and materials that I saw sitting around your plants, which contain toxic materials. There ought to be precautionary means to protect the worker, but your workers cannot read the English on them, and they do not know that there is poisonous material that they are dealing with daily. Promise me that you will see to it as the employer organization that there will be changes made."

Mr. President, I have not been back there since October. But I would be willing to make a pretty good-sized wager that nothing ever happened, that their promise did not actually come true, and those workers are still being exposed to toxic materials.

One way or another, if NAFTA is adopted, American workers are effectively going to be punished for living in a country with collective bargaining rights, a minimum wage, child labor safeguards, health and safety rules, civil rights laws, and other basic work protections so fundamental to a progressive democratic society. I think it is a real problem and I think it is insoluble if we pass NAFTA as drafted.

So where do we go from here? President Clinton has promised that he will not support NAFTA unless side agreements are negotiated which address labor as well as environmental problems. We have yet to see what these agreements will look like. But I must say that I am skeptical as to whether they can really eliminate the agreement's many deficiencies. I am concerned—and I believe the American people are concerned—that unless these side agreements are very, very tough this whole exercise may amount to little more than shuffling deck chairs on the *Titanic*.

Mr. President, our country was built on the free enterprise system, and I strongly believe in that system. I am a product of that system. But believing in free enterprise does not mean we have to accept the exploitation of cheap foreign labor at the expense of American workers, and that is just what NAFTA as currently drafted would mean. Congress cannot ratify a free trade agreement that leaves American workers out in the cold.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, I ask unanimous consent to speak for 10 minutes in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from North Dakota is recognized.

## INTERNATIONAL TRADE

Mr. DORGAN. Mr. President, the debate about international trade in this city very quickly becomes a discussion between those who are labeled protectionist and those who are chanting about free trade. It becomes very quickly an almost thoughtless discussion about slogans.

The question of trade policy is really rooted in the question of what does it do to our job base in America. What does it do to economic growth in this country? How does it affect our economy and our workers? During espe-

cially the past decade we have been treated to a discussion, by first the Reagan administration and then the Bush administration, about free trade.

Whenever they propose trade policies, they describe them as "free" trade policies, a "free" trade pact. We had one with Canada. They are proposing NAFTA now, which is a "free" trade pact with Mexico. The word "free" attached to trade is a unique device, I suppose, to sell the notion that it is a good pact. "Free" connotes free gift or free lunch, free trade, freedom; free is a pretty good word, I suppose.

The problem is that free trade is not what it sounds like. Here is an example in United States-Canada trade: Our negotiators went to Canada and negotiated a free trade agreement and, in my judgment, at least with respect to the agricultural side of it, deceived the American people and deceived the Congress about much of the agreement. And we are now stuck with a terrible agreement that undercuts the American farmer, undercuts American interests, and creates, in my judgment, unfair trade for which there has not at this point yet been a remedy. I do not view that as a step forward. I view it as a step backward.

Before the obvious and major problems with the Canadian Free-Trade Agreement are resolved, the Bush administration went down to negotiate another so-called "free" trade agreement, this one with Mexico.

It is my hope that President Clinton will not offer that agreement as negotiated with Mexico to this body for a vote on implementation legislation, because I do not think President Clinton inherited a good agreement.

In my judgment, the previous administration erred in this agreement. They reached an agreement that, in my judgment, undercuts our need for economic growth and undercuts our desire for new employment and new jobs in our country.

This issue really, as I said, comes down to jobs. What do we do in this country to move ourselves ahead? Oh, we can worry forever about everybody else in the world, but we better take care of things here at home. Our economy is languishing. We see statistical economic growth without jobs. Well, as I have said on this floor many times, a recovery without jobs is like a meal without food. What we need is a recovery with jobs.

The major question about the Mexican Free-Trade Agreement is: What will it do to the employment base in this country? There is a body of evidence produced by economists—who are prone to produce whatever conclusion the procurer of the study would like—that says the Mexican Free-Trade Agreement will produce new jobs, more jobs; it will be an expansion of American jobs. There is another body of evidence that says it would be a disaster for our country.

Common sense would cause you to ask if you have a country south of our border that has a wage base of one-tenth of ours, if you are manufacturing something and it is easy to go down there, and you do not have any tariffs coming back, why would you not manufacture in Mexico what you now manufacture in the United States?

The whole purpose of the free-trade agreement is to eliminate tariffs. If you eliminate tariffs coming back, you are eliminating a barrier, and what you are saying is that we are going to make it easy for somebody to move a plant to Mexico and sell its products back into the United States. That is a plain fact. That is not a disputable contention. That is what is happening with NAFTA.

It is interesting. There is a Hufbauer-Schott study which was regarded as making the definitive case for NAFTA. They say that in the first 5 years, 316,000 jobs will be gained in this country and 145,000 jobs lost, for a net increase, they trumpet, of 170,000 new jobs in America.

There are two things you need to know about this study. First, in order to arrive at that conclusion, they had to assume that the United States trade surplus with Mexico would double. Nobody really believes that is going to happen. Second, they had to assume that although foreign investment in Mexico would grow substantially, none of it would come from the United States. That, of course, is absurd.

This whole approach is to grow Mexico in order to become a better market for the United States. So the theory goes, if you grow Mexico as a market, the United States will be able to serve that market and will have more jobs, producing things to serve the Mexican market.

Question: Where does the investment come from to grow Mexico? How do you grow the Mexican economy? What kind of new investment pours into Mexico to grow Mexico? Well, we see that about two-thirds of the current new investment in Mexico comes from the United States.

Would it not be logical to assume that if you are going to grow Mexico in the future, two-thirds of the new investment would come from the United States? What is one of the largest problems we face in the U.S. economy? An investment deficit. We are spending money we do not have. Therefore, we do not create the savings pool which equals investment. We have an investment deficit in this country. What are we talking about? Growing Mexico with predominantly United States investments so that Mexico, in the future, can become a market for the United States producer.

I have seen salesmen on all stripes, of all kinds. I answer my phone every night, and these direct callers pitch everything from chimney sweeps to magazines. I will tell you what, the toughest sales job in the world, in my judgment, is going to be to have to try to sell this nonsense to the American people. The American people understand the mechanics of a trade agreement that says: Let us make it easier for a corporation to move their manufacturing plant to Mexico and produce at a much lower wage and ship the product back into the United States. The American people understand that means lost jobs for the United States.

I am not concerned just about jobs, although that is a major concern. I am concerned about the details. Let me just give you a hint about the trouble in some of the details.

If you are a producer of dry, edible beans, such as lentil, kidney, and so on—and we have a lot in my State—you want to know what is going to go on with respect to the potential to ship beans to Mexico, because we had a Mexican market for United States dry, edible beans. Well, the negotiators went to Mexico and reached an agreement as part of NAFTA, and it says we are going to allow you, in the next 5 years, to ship fewer beans to Mexico than you have shipped over the previous 5 years. In other words, we are setting a quota that is lower than you have historically shipped to Mexico in dry, edible beans.

In addition to that, if you ship over this lower quota that we are imposing on you, we will impose a tariff of nearly 130 percent. Somebody might scratch their head and say that cannot be right. But it is right. Just take the small dry, edible bean details in this agreement and see what happens.

French-fried potatoes. Go to the agreement and look at what happens to french-fried potatoes. Travel through the United States-Mexican Free-Trade Agreement through the eye of a french-fried potato. Fewer will go from America to Mexico because of the agreement, and more french-fried potatoes to the United States, because somehow our negotiators decided they wanted to lose on french fries just as they wanted to lose on beans.

I can stand here and talk about the details for a while, but you get my point. We had a hearing, and I asked the trade people about beans. I asked, can you tell me why negotiators would do that in beans? "I am not going to defend every detail on this agreement," I was told. The fact is that this agreement is a set of details. If they are not defensible, then why would we consider moving an agreement like this through this Congress?

Agriculture is parochial, I understand that. But the agricultural portion of this agreement is fundamentally unsound. The most important consideration, in my judgment, for this agreement is: Will it advance this country's economic interests? Will it gain us new jobs or cost us jobs we al-

ready have? The conclusion, in my judgment, in 100 different ways, is that this agreement is not good for this country's economy. Our responsibility is not to be protectionists in the classic sense of wanting to keep things out of our country. I do not believe in that philosophy. Our responsibility is to represent the economic interests of our country and to try to advance those interests through trade agreements that make sense for us, that expand trade in all directions. And this trade agreement simply does not meet that test, Mr. President.

Mr. President, I and other colleagues will visit about NAFTA at some length in the U.S. Senate. This is an important issue. I regret that I do not necessarily agree with folks in this administration on the issue. I hope we can reach some agreements, as we move along, to develop a more sensible trade policy than we have seen in the last 12 years in this country, one that represents and protects the fundamental economic interests of this country for a new opportunity and hope and jobs in our future.

Mr. President, I yield the floor.

## NAFTA

Mr. RIEGLE. Madam President, I want to speak now on the proposed free-trade agreement with Mexico, as other colleagues earlier this morning have. I want to begin by commending those who spoke about their concerns and reservations, coming to the floor and highlighting the grave danger that this proposal creates for our country and particularly for the job base in this country.

We have a terrible problem in America today. We do not have enough jobs for our people and there is a large backwards slide going on. People are losing higher paid jobs and, after a period of unemployment, when they finally get a replacement job, they most often get jobs at a lower income level and lower skill level than they were performing before.

A lot of this is due to trade imbalances and trade practices with various countries around the world. The most extreme example, of course, is with Japan. Japan has a huge—now seemingly permanent—trade surplus with the United States; a surplus in their favor, deficit on our side of the ledger, that is draining tens of millions of dollars out of our economy every year.

That problem does not seem to get any better. In fact it got worse last year. It looks like it is going to get even worse this year.

President Clinton, to his credit, and his trade negotiators have taken a much harder line with respect to trade abuse by Japan—abusive trade practices both in terms of coming into the United States market and in terms of practices they use to erect barriers to keep American products out of their market.

So that is one example on one end of the spectrum that has been very damaging to our country economically and to our job base. We have seen American jobs leaving America, going to other countries—Japan being one, Communist China being another, and certainly countries that are more in a Third World category.

That is the great danger that is posed by the proposed free-trade agreement with Mexico. Mexico has a Third World economy, in terms of its wage structure, its environmental protections, and the way its legal system functions—which is very poorly and in many cases corruptly. So, to try to talk about integrating two economies that are so fundamentally different—an advanced American economy and a Third World economy in Mexico—poses huge questions that are virtually impossible to solve. And no real effort, I might say, has been made, in my view, to solve them by the package that was negotiated by the Bush administration.

The former Trade Ambassador, Carla Hills, and the administration gave away the store in terms of negotiating with the Mexicans. Every time the Mexicans got tough, our side caved in. You see it in flat glass, you see it in the schedules for rule of origin regarding automobiles, and you see it in a number of agricultural areas. So we are stuck at the moment with a very bad package.

President Clinton recognizes it as a defective package and has come back by saying that the only way it can be corrected, and would be something he would be willing to support, is if there were very substantial side agreements put in place, that were tough and enforceable, to deal with some of the defects in that package.

Frankly, there is a real question in my mind as to whether you can correct the fundamental deficiencies and dangers with these kind of side agreements, no matter how well they are written or how tough they are. But obviously, if they are done just as window dressing, if they are weak and flaccid, which some of my friends on the other side of the aisle are calling for, then clearly we are stuck with a bad package. And so I hope there is no temptation to move in that direction.

But let me talk a little bit about why the NAFTA, the free-trade agreement with Mexico, is so dangerous to our country.

The main problem is the wage differential. Workers in Mexico earn about one-tenth of the comparable wage of a worker in the United States. So there is an enormous incentive, if there is a free-trade arrangement, for companies to close down in America, move their operations down to Mexico, put people to work down there at a tiny fraction of the cost that it costs to pay an American worker earning an American wage under American rules and regulations than it does down in Mexico. And so many firms have already done that. In fact, in the automobile industry alone, Ford, Chrysler, and GM have already located about 70 plants in Mexico in large part to take advantage of these very low-wage levels.

We are seeing that pattern accelerate. I think it will speed up much more if there is a free-trade agreement in place, particularly one that is drafted as this one is, which puts its main emphasis on protecting property rights and investment values, as opposed to what it means for people, job holders in this country and, for that matter, even job holders in Mexico.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. RIEGLE. May I inquire how much time remains in the morning business period?

The PRESIDING OFFICER. Until 10:30.

Mr. RIEGLE. I ask unanimous consent to proceed for 5 additional minutes.

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

Mr. RIEGLE. There are a number of Senators who share these concerns. In fact, there were 25 Democrat Senators who sent a letter to the President in March covering several of these concerns. I ask unanimous consent to print that letter in the RECORD.

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

U.S. SENATE,
*Washington, DC, March 12, 1993.*

Hon. WILLIAM J. CLINTON,
*President of the United States, The White House, Washington, DC.*

DEAR PRESIDENT CLINTON: We are writing to express our serious concerns over portions of the North American Free-Trade Agreement (NAFTA) as negotiated. NAFTA, as it currently stands, fails to promote fair trade or serve American interests in the areas of fair labor standards, environmental protection, and worker health and safety standards. Further, any final agreement must ensure a level playing field for American interests in the agricultural and energy sectors.

NAFTA should only be finalized if it results in U.S. job growth, expands our national manufacturing base, and improves the standard of living for all Americans. Safeguards must be included in NAFTA to ensure the American economy develops along a high wage, high skill, high growth path.

We urge you to consult closely with Congress on both the supplemental agreements and implementing legislation. Only through close consultation between the Administration and Congress can NAFTA hope to achieve its stated goals of generating U.S. jobs and expanding economic growth. Further, the supplemental agreements should be concluded before any implementing legislation is referred to Congress for consideration. There must be sufficient time to examine the supplemental agreements carefully before Congress takes action on NAFTA.

NAFTA represents a fundamental restructuring of economic relations among Canada, Mexico, and the United States. Such a step should be taken only after full consideration and deliberation. We are concerned by reports that the Administration may be committed to meeting the January 1, 1994 target date for implementing this agreement. We consider it far more important to develop an accord which serves U.S. interests than to force the agreement by an arbitrary date. We do not believe the Administration and Congress should be confined by any artificial deadline on a matter of this consequence.

In closing, we state again our desire to work closely with you and your Administration on both the supplemental agreements and the implementing legislation.

Sincerely,

Don Riegle, Daniel K. Inouye, Paul D. Wellstone, John Glenn, Thomas A. Daschle, Byron L. Dorgan, Kent Conrad, Daniel K. Akaka, Herb Kohl, Russ Feingold, Howard M. Metzenbaum, Ben Nighthorse Campbell.

Wendell H. Ford, Jay Rockefeller, Richard Shelby, Tom Harkin, Barbara A. Mikulski, Harris Wofford, Ernest Hollings, Dianne Feinstein, Carol Moseley-Braun, Paul Sarbanes, Carl Levin, Jeff Bingaman.

Mr. RIEGLE. Mr. President, we have already entered a free-trade agreement with Canada, and Canada is tied into this new proposed package with Mexico. I want to point out that the gross domestic product per worker in Canada is about $21,400, which is almost precisely what it is in the United States. But down in Mexico, the GDP is a tiny fraction of that, only $3,350. And so that is another illustration of why, given these huge inequities between these economies, that it is really implausible to think that somehow we are going to start selling a whole lot of new American goods down in Mexico.

Frankly, they do not have the money to buy U.S. goods and they are not going to have it in the foreseeable future. In fact, if you look at what the real wage impacts and changes have been over the last few years in Mexico, Mexican wages have been dropping in real terms rather than rising. Further, if at some point a Mexican family working at a very low-wage level is able to save enough to buy a radio or buy a fan, to try to upgrade their standard of living, chances are they are not even going to buy it from the United States. They will probably buy it from Hong Kong, Singapore, or some other low-wage place.

So the notion that NAFTA is going to create a lot of jobs in the United States because Mexican workers are going to have a lot of money to spend is just nonsense. It is false on its face. There is no meaningful study that shows that to be a plausible concept.

We now have a study, as well, and I want to make a passing reference to it, done by Pat Choate, that says the jobs most targeted for being removed from America and sent to Mexico are in the manufacturing area; they are higher value-added jobs. It is a way for firms to close, go down to Mexico, take advantage of lower wages and lower environmental standards. The Choate study concludes 5.9 million jobs at risk. The study delineates the jobs State by State. I sent a letter to each Senator pointing out the number of jobs in each State so they can understand what the risk is in their own individual States by the kind of firms that have already been targeted.

In fact, the Mexican Government earlier invested in an investment fund designed to come to the United States, buy up manufacturing companies, shut them down, move them to Mexico, and increase the companies' value by lowering their production costs with low-cost Mexican labor. The idea was to sell those firms at a big profit in 4 or 5 years. We put the bright light on that and the Mexican Government pulled out of the fund, but the fund still exists.

Some say, "Well, even if American workers lose their jobs, we will give them retraining." The retraining concept, which is really a euphemism for unemployment, is proving not meaningful. What do we retrain people for? Right now in this country we have people who have gone through retraining programs in any number of different fields and cannot find jobs because there are not enough jobs out there at the present time.

The cold fact of the matter is we do not know what to retrain people for. Most of the big companies in America are closing down certain operations, shedding employees. the defense establishment is doing the same thing. We have a huge pool of unemployed workers with skills up and down the ladder who cannot be reabsorbed today.

So the notion that once an American worker loses their job they can be retained and they will be right back in the work force is just not borne out by the facts. It is misleading, it is disingenuous and the public sees through it.

I want to say I appreciate the leadership on this issue that Ross Perot has given. He has seen this from the point of view of a Texas businessman who sees the grave danger to the job base in this country. He has been willing to speak out about it. I appreciate the fact he has given leadership on this issue. We need more leadership out of the business community by people who understand what the real threat is and are not just looking at a way to make a quick buck by closing operations here and going down to Mexico to take advantage of cheap labor in that country.

Finally, there is another problem that has not gotten much attention. There is nothing in this agreement that prevents the Mexican Government from revaluing their currency after this agreement were to be put in place. There is absolutely nothing to prevent them from devaluing the peso and completely undercutting the alleged economics of this deal. We could be put in a situation where we are going to have an even greater acceleration of job loss to Mexico. There is really no way to fix that problem.

I would say that it is very important for people across this country in all the 50 States to pay very careful attention to what the risk is to the job base in this country, the risk to their job, the risk to the job prospects of their children coming down the track and needing to fit into the job market and the fact that even from the State of Texas, where there are some who argue for it, you have someone like Ross Perot who has come forward to point out the real dangers of this situation and why it can be a devastating blow to the job base in this country.

I yield the floor.

## NORTH AMERICAN FREE-TRADE AGREEMENT [NAFTA]

Mr. INOUYE. Mr. President, I wish to insert into the RECORD the following resolutions that have been passed by the Hawaii State Senate and all four members of the Hawaii State Association of Counties. These resolutions express the concern of the people of Hawaii that the North American Free-Trade Agreement [NAFTA] as presently constituted would be inimical to Hawaiian agriculture and that this situation needs to be remedied before the NAFTA can be deliberated by the Congress. Therefore, Mr. President, I ask unanimous consent that this statement and the following resolutions be printed in the RECORD.

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

S.C.R. No. 192

Whereas, the North American Free Trade Agreement (NAFTA), in its present form, has serious shortcomings that harm the United States (U.S.) economy by transferring U.S. production to Mexico and reducing domestic employment and wages; and

Whereas, there is specific concern in Hawaii about the negative impact on the sugar, pineapple, and the diversified agriculture industries; and

Whereas, although President Clinton and his administration recognize the necessity to correct these serious shortcomings, the Administration also believes that the benefits of greater trade in North America would be initially delayed if it were renegotiated to correct these flaws; and

Whereas, negotiations to correct the serious shortcomings of the NAFTA in its present form were initiated with Mexico and Canada on March 17, 1993, on side proposals addressing labor and environmental standards and import surge protections; and

Whereas, recognizing the threat posed to its sugar and diversified agriculture industries, Hawaii opposes NAFTA in its present form but recognizes the Administration's strong resolve to address those concerns through the parallel accords; and

Whereas, if these concerns are not addressed by the protocols on the environment,

labor, and import surges, Hawaii will have no choice but to oppose ratification of NAFTA: Now, therefore, be it

*Resolved by the Senate of the Seventeenth Legislature of the State of Hawaii, Regular Session of 1993, the House of Representatives concurring*, That the Legislature supports President Clinton's efforts to negotiate protocols agreements to NAFTA to remedy the serious shortcomings concerning environmental, labor, and import surge regulations: and be it further

*Resolved*, That the Legislature urges the Administration to not only recognize, but to correct the inequitable and flawed nature of the current agreement that grants unfair marketing and regulatory advantages to Mexican sugar and diversified agriculture producers, allowing them to undermine efficient U.S. industries: and be it further

*Resolved*, That Hawaii's Congressional Delegation work with the U.S. Trade Representatives to effectively address the spirit of this Concurrent Resolution; and be it further

*Resolved*, That certified copies of this Concurrent Resolution be transmitted to the President of the United States; the Governor of Hawaii; each member of Hawaii's Congressional Delegation; the Chairperson of the U.S. Senate Committee on Agriculture, Nutrition, and Forestry; and the Chairperson of the U.S. House of Representatives Committee on Agriculture.

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CITY COUNCIL, CITY AND COUNTY OF HONOLULU—RESOLUTION

Whereas, the "fast-track" authority, which enables the federal administration to negotiate and expedite trade agreements, received congressional approval based on assurances that American workers and industries would receive fair and equitable treatment under any trade agreement; and

Whereas, in the pending North American Free Trade Agreement with Mexico, the U.S. Trade Commission's study, conducted under the previous administration, of the potential effects of a trade agreement on a number of products conspicuously omits an analysis of the effects on U.S. sugar producers; and

Whereas, Hawaii is the nation's third largest sugar-producing state, is the state's largest agricultural industry, has the world's highest average raw sugar yields per acre, and continues to be a verdant backdrop that enhances our island lifestyles and making our islands a unique destination that attracts millions of tourists annually; and

Whereas, Hawaii's sugar industry creates, directly and indirectly, nearly 14,000 jobs—including more than 2,600 jobs on Oahu, pays its agricultural workers the highest wages and benefits received by farm workers in the world, and annually generates $380 million in revenues, primarily on the export sales of its sugar and diversified agricultural products; and

Whereas, the NAFTA agreement in its present form will jeopardize the no-cost provisions of the U.S. sugar program and will put more efficient U.S. sugar growers, including Hawaii's sugar growers, at unfair disadvantage with Mexico's less efficient producers; and

Whereas, the NAFTA agreement will stimulate Mexico, which has been a net importer of sugar, to become a surplus sugar producer, thereby, adding to the world surplus of sugar; and

Whereas, Mexico's current sugar quota of 7,258 metric tons per year will be raised indiscriminately to 25,000 tons within six years and 322,000 tons per year within years seven to fifteen, with the potential for unlimited exports of their surplus; and

Whereas, Mexico will be able to quickly achieve a large surplus of sugar for export in at least two ways without substantial increases in current production by:

(1) Converting its beverage industry, which currently uses 1,500,000 tons of sugar annually, to lower-priced corn syrup, imported from the U.S. or eventually produced in Mexico; and

(2) Reducing its national sugar consumption by merely raising its government-controlled retail prices, which are currently a little more than half the U.S. price;

and

Whereas, Mexico could create an exportable surplus of domestic sugar for shipment to the United States and fill its own needs by purchasing sugar at the world "dump" price; and

Whereas, Mexico will likely be able to ship to the United States surplus sugar in excess of 1,000,000 tons by year seven of the NAFTA, nearly equal to the entire U.S. sugar import quota from thirty-nine countries; and

Whereas, these and other concerns of U.S. sugar producers can be addressed and remedied through side, or protocol, agreements to the NAFTA: Now, therefore, Be it

*Resolved*, by the Council of the City and County of Honolulu, That this body urges President Clinton and his administration to negotiate side agreements with the provisions necessary to remedy the concerns of Hawaii's and the nation's sugar industries: and be it further

*Resolved*, That this body opposes the North American Free Trade Agreement in its present form and will steadfastly do so unless successful side agreements are reached: and be it finally

*Resolved*, That the Clerk is directed to transmit certified copies of this Resolution to the President of the United States; the United States Trade Representative; members of Hawaii's congressional delegation; Hawaii Sugar Planters' Association; and ILWU, Local 142.

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COUNTY OF HAWAII—RESOLUTION NO. 54792

Whereas, the North American Free Trade Agreement (NAFTA), a treaty that would open trade barriers among the United States, Canada and Mexico, will be considered by the United States Congress and lawmakers in Mexico and Canada; and

Whereas, one of the conditions in the tentative agreement will allow Mexico, the eighth largest sugar producer and the seventh largest sugar consumer, to ship any amount of sugar it wants to the United States in excess of its own needs after the first six years of the agreement; and

Whereas, the potential impacts of the treaty would be disastrous to the nation's sugar industry, including Hawaii's $325 million a year industry, since Mexico's low labor costs will allow the production of cheaper sugar than Hawaii's higher cost product; and

Whereas, other losers under NAFTA would be farmers who grow labor-intensive crops, such as pineapple, tomatoes and lettuce, which might be undercut in the marketplace by low-wage competitors south of the border; and

Whereas, workers in the agricultural industry as well as other industries will see jobs disappear as United States companies transfer operations to Mexico to take advantage of meager wages; and

Whereas, NAFTA would clearly disrupt jobs and livelihoods in the United States, and would threaten the diversity and independence of our nation's economic base. Now, therefore, be it

*Resolved*, by the council of the County of Hawaii that it hereby urges Hawaii's Congressional delegation to protect our nation's agricultural industry by opposing the North American Free Trade Agreement: and be it further

*Resolved*, That the Clerk of the County of Hawaii transmit copies of this resolution to the Honorable Daniel K. Akaka, United States Senator; the Honorable Daniel K. Inouye, United States Senator; the Honorable Neil Abercrombie, United States Representative; the Honorable Patsy T. Mink, United States Representative; the Hawaiian Sugar Planters' Association; the ILWU, Local 142; the Executive Committee of the Hawaii State Association of Counties; Mr. Paul J. Ohri, President, Western Interstate Region; and Mr. John H. Stroger, Jr., President, National Association of Counties.

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COUNTY COUNCIL OF MAINE—RESOLUTION NO. 92-82 INTRODUCED BY GORO HOKAMA COUNCILMEMBER

Whereas, the North American Free Trade Agreement (NAFTA), a treaty that would open trade barriers among the United States, Canada and Mexico, will be considered by the United States Congress and lawmakers in Mexico and Canada; and

Whereas, one of the conditions in the tentative agreement will allow Mexico, the eighth largest sugar producer and the seventh largest sugar consumer, to ship any amount of sugar it wants to the United States in excess of its own needs after the first six years of the agreement; and

Whereas, the potential impacts of the treaty would be disastrous to the nation's sugar industry, including Hawaii's $325 million a year industry, since Mexico's low labor costs will allow the production of cheaper sugar than Hawaii's higher cost product; and

Whereas, other losers under NAFTA would be farmers who grow labor-intensive crops, such as pineapple, tomatoes and lettuce, which might be undercut in the marketplace by low-wage competitors south of the border; and

Whereas, workers in the agricultural industry as well as other industries will see their jobs disappear as United States companies transfer operations to Mexico to take advantage of meager wages; and

Whereas, NAFTA would clearly disrupt jobs and livelihoods in the United States, and would threaten the diversity and independence of our nation's economic base; now, therefore, be it

*Resolved* by the Council of the County of Maui:

1. That it opposes the North American Free Trade Agreement;

2. That it urges Hawaii's Congressional delegation to protect our nation's agricultural industry by opposing the North American Free Trade Agreement; and

3. That certified copies of this resolution be transmitted to the Honorable Daniel K. Akaka, United States Senator; the Honorable Daniel K. Inouye, United States Senator; the Honorable Neil Abercrombie, United States Representative; the Honorable Patsy T. Mink, United States Representative; the Hawaiian Sugar Planters' Association; the ILWU, Local 142; the Executive Committee of Hawaii State Association of Counties; Paul J. Ohri, President, Western Interstate Region; and John H. Stroger, Jr., President, National Association of Counties.

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COUNTY COUNCIL OF KAUAI—RESOLUTION NO. 137-92

Whereas, the North American Free Trade Agreement (NAFTA), a treaty that would

open trade barriers among the United States, Canada and Mexico, will be considered by the United States Congress and lawmakers in Mexico and Canada; and

Whereas, one of the conditions in the tentative agreement will allow Mexico, the eighth largest sugar producer and the seventh largest sugar consumer, to ship any amount of sugar it wants to the United States in excess of its own needs after the first six years of the agreement; and

Whereas, the potential impacts of the treaty would be disastrous to the nation's sugar industry, including Hawaii's $325 million a year industry, since Mexico's low labor costs will allow the production of cheaper sugar than Hawaii's higher cost product; and

Whereas, other losers under NAFTA would be farmers who grow labor-intensive crops, such as pineapple, tomatoes and lettuce, which might be undercut in the marketplace by low-wage competitors south of the border; and

Whereas, workers in the agricultural industry as well as other industries will see their jobs disappear as United States companies transfer operations to Mexico to take advantage of meager wages; and

Whereas, NAFTA would clearly disrupt jobs and livelihoods in the United States, and would threaten the diversity and independence of our nation's economic base; now, therefore, be it

*Resolved* by the council of the County of Kauai, State of Hawaii, That it opposes the North American Free Trade Agreement, and it urges Hawaii's Congressional delegation to protect our nation's agricultural industry by opposing the North American Free Trade Agreement: and, be it further

*Resolved*, That certified copies of this resolution be transmitted to the Honorable Daniel K. Akaka, United States Senator; the Honorable Daniel K. Inouye, United States Senator; the Honorable Neil Abercrombie, United States Representative; the Honorable Patsy T. Mink, United States Representative; the Hawaiian Sugar Planters' Association; the ILWU, Local 142; the Executive Committee of the Hawaii State Association of Counties; Paul J. Ohri, President, Western Interstate Region; and John H. Stroger, Jr., President, National Association of Counties.

## CONCERNS ABOUT NAFTA

Mr. DASCHLE. Mr. President, a number of my colleagues have come forward today to voice their concerns about the North American Free-Trade Agreement or NAFTA. Some are concerned about the implications of creating a free-trade zone with a country whose capital is so polluted that doctors encourage mothers to move out of the city to protect their young children from illness. Others are worried about the disparity in worker standards between the United States and Mexico, and the impact this will have both on United States workers and United States companies that may seek to take advantage of looser standards by moving to Mexico.

I share many of the concerns that have been expressed by my colleagues. The concerns are numerous and merit careful consideration both by the administration, which is currently negotiating the remaining details of the agreement, and the Congress, which will be asked to approve the final agreement sometime this fall.

Without question, Mexico represents a substantial market for producers of American goods and commodities. According to the International Trade Commission, estimated gains from NAFTA in United States exports to Mexico range from 5.2 to 27.1 percent. Even without the NAFTA, however, Mexico has been pursuing market-oriented reforms, and it has become the United States's third largest trading partner after Canada and Japan.

We must not be hypnotized by overly optimistic reports of the potential gains from signing the NAFTA. I would remind my colleagues of the reassurances surrounding the signing of the United States-Canada Free-Trade Agreement. If you ask many farmers in my State of South Dakota what they think of that agreement now, you are likely to get a very negative response. For swine, wheat, and lumber interests, the dispute resolution mechanism in the agreement has failed to provide the protection from unfair practices that was anticipated when the agreement was signed. I understand that those same dispute resolution procedures are duplicated in the NAFTA.

We also know that Canada has been dealing unfairly with the United States in the area of disclosure of grain prices and subsidies. Despite recent attempts by United States negotiators to address these issues, the Canadians have remained intransigent. In fact, their current situation with respect to agricultural trade is so good that they declined to accept a trilateral agriculture title as part of the NAFTA. The latter agreement contains only bilateral titles between Mexico and the United States and Canada, respectively. I fear that approval of the NAFTA will lock in the existing unfair posture of the Canadians on agricultural trade and remove whatever leverage we may have left to rectify the situation.

Mr. President, if we are to be asked to commit the country to a trade agreement with such far-reaching ramifications as NAFTA, a number of significant questions remain to be addressed. I look forward to working with the administration and with my colleagues in the weeks and months ahead on these unresolved issues.

The ACTING PRESIDENT pro tempore. The Senator from Maine [Mr. COHEN].

## HEALTH CARE REFORM

Mr. COHEN. Mr. President, today's newspapers contain a number of items on the health care plan that the administration will be presenting to the Congress, hopefully, in June. I would like to just offer a few comments on the issue of health care reform.

First, the President is to be commended for having appointed Mrs. Clinton to lead the White House task force to put together a proposal for overhauling our health care system. She is enormously talented, qualified, and has been extremely diligent in this task.

A number of proposals have been floated in recent weeks to perhaps see what the reaction of the public might be to key components of the White House plan. Some of them may be just trial balloons, proposals to be floated and then discarded. Others may be, in fact, key ingredients of the program.

I might say that Mrs. Clinton has been most responsive to Republican Members who have asked to take part in the development of this plan. She has been to Capitol Hill on several occasions. A number of us have been to the White House for extended briefings and discussions with the President, the Vice President, and Mrs. Clinton.

So I commend the President, Mrs. Clinton, and the White House task force for really reaching out to Republicans to get our input.

Having said that, I would also point out that a number of us have been studying this measure for some time now. Senator CHAFEE has been appointed by Senator DOLE to head up a Republican task force. We have been meeting now for more than 2 years on a weekly basis. We just concluded another meeting this morning that lasted 1 hour and 15 minutes. We have devoted considerable time and, I think, talent to this particular issue.

We hope in the very near future to present a plan, not necessarily a Republican plan, but a plan that will be supported by a number of Republicans. And I must say at this particular point there is virtual unanimity within this group that we do not support mandating employer coverage of health insurance for all employees. We are particularly concerned about the impact this would have upon small businesses, people who are now operating very close to the margin, people who, having to take one more mandate, might be forced over the edge either to cut back on current programs or to cancel employment opportunities for people they might be considering hiring and cutting back on wages. To simply put another layer of mandates on the backs of people who are already heavily burdened, it seems to me, is not a wise thing to do.

We are hopeful that the President will not, in fact, mandate employer coverage, but that he will adopt a different approach, one that we think has greater merit and one that we will put before the American people very shortly.

I see my colleague, Senator CHAFEE, on the floor. He is really the leader of our effort to study this very complicated area of the law and social policy as well.

I now yield the floor, and I thank Senator GORTON for having yielded his

time so I might make a few brief comments. Hopefully, he will be just a bit more patient so Senator CHAFEE and perhaps Senator SPECTER may also contribute a few comments on this subject.

I thank the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Washington [Mr. GORTON].

## CANDLELIGHT VIGIL FOR FALLEN LAW ENFORCEMENT OFFICERS

Mr. GORTON. Mr. President, every year since 1963, we have paused to recognize and remember law enforcement officers who have died in the line of duty; 1991 was especially significant for that is when President Bush dedicated the National Law Enforcement Officers' Memorial. For years to come, that memorial will leave its visitors with a lasting image of the heroic and selfless work of the officers whose names are inscribed there—and the cause for which they gave their lives.

Tonight in Seattle and the Nation's Capital, law enforcement officials with their families and friends gather to hold a candlelight vigil to remember those who have fallen. I wish that I could be with them in Seattle, but instead I will express my support for these men and women on the floor of the U.S. Senate.

The men and women of law enforcement stand firmly beside the values and ideas that hold our communities together. Their work preserves and restores what is best about our society—their work enables families who live on troubled streets to remember that sometimes freedom has little to do with big governments and big philosophies, but everything to do with watching children play in your neighbor's yard instead of watching your back—or closing your store knowing that its contents will be there in the morning.

In a world full of violence, they are often our only source of security. The presence of a squad car slowly rolling by late at night, the silent coasting of a pair police officers on bicycles, and the boisterous thunder of a well-planned bust—these sights and sounds are crucial reminders that justice, law and order are just a phone call away. What may be to the enforcers of the law an everyday experience—to me—allows our communities, and our families, to live better lives.

The fortitude with which law officers meet the considerable frustrations of their job is inspiring. They must find the courage and strength to put their lives in the line of fire everyday—only to fight what is an endless battle. As long as evil exists in our world, their exhausting task will not end. And all too often, the men and women who fight so hard to take criminals off the streets, find themselves fighting a justice system that allows those same criminals to go free unpunished. Even more discouraging is the common second-guessing by public officials and the media of police actions which to the laymen may look severe, but are simply well-trained professionals doing their job of ensuring public safety.

Since the beginning of law enforcement in Washington State, 222 peace officers have been killed in the line of duty. The Department of Justice has estimated that one officer dies in the line of duty every 57 hours—these are grave statistics that clearly illustrate how dangerous the job is.

But those statistics, as statistics always do, mask the reality of human suffering. The statistics don't describe the courage it took for that officer to dive into dangerous situations, without concern for his or her personal well-being—but concern only for those whose lives he or she protected. Nor do they tell you that the officer had a family—a brother or a sister, a child, a husband or a wife—all of whom suffered an indescribable loss.

These heroes gave their lives fighting the tragedies of our time—they walked into homes ravaged by abuse, their feet pounded the pavement of streets that are safe only to drug traffic, and they threw themselves into deadly situations to protect the property—and lives—of our families, friends, and neighbors.

As we remember those who have given their lives for the safety and well-being of our communities, we must also remember those who are out on the streets at this very moment continuing the fight against crime. We can support these men and women, and we can honor the memory of those we have lost, by strengthening the very laws they uphold. We must stand true to our pledge to be tough on crime—and we must never turn our backs on those who protect us.

I have sent a flag which was flown over the U.S. Capitol. It flew next to the Statue of Freedom which rests on top of the Capitol—protecting our country from tyranny and destruction. It is so appropriate that this flag will now fly in dedication to those who died protecting our communities from the kind of tyranny and destruction that lies closest to our homes and our hearts—the tyranny that criminals impose when we are forced to lock ourselves in our homes, when women are afraid to take a walk after sunset, and when mothers tell their children not to talk to strangers—and the kind of destruction that devastates homes and shatters young lives. Today, these are the forms of tyranny and destruction that haunt and ravage our communities—and it is our Nation's law officers who possess the courage and resolution to challenge and conquer it.

Today, we remember and pay tribute to the heroes who have died in the line of duty. Candles have been lit in their honor across the country, and their fire will burn an image in our minds that will stand for years to come as a powerful reminder of the selfless contribution they made to our society. Their memory will never be forgotten. Their courage must guide our future.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island [Mr. CHAFEE].

## HEALTH CARE REFORM COSTS

Mr. CHAFEE. Mr. President, many of us in this Congress and especially the Senate are wrestling with the problems of health care reform. We have all discovered it is an extremely difficult subject.

As we all know, Mrs. Clinton and her task force are also working on this. I commend Mrs. Clinton for what she is doing, because this is a problem that deserves the careful attention of all of us. Mrs. Clinton has certainly thrown herself into this problem with vigor and intensity, devoting tremendous amounts of time to it.

I think we all recognize that if we are going to cover everyone in our society who is currently not covered, it is going to take increased costs.

We hear different estimates of what those costs might be. Sometimes the suggestion is between $60 billion or perhaps $90 billion a year. Some of these costs, or potential costs, are going to be offset by changes that we will make in the system.

For example, there will be a greater accent in any program on managed care. We will have administrative improvements to reduce the high costs that are now associated with the administration of these complicated health care programs. Certainly there will be medical liability reform. There will be group purchasing, small-group purchasing, insurance market reform, a whole series of steps that will be taken. But, regardless of these, I think we all recognize there will be a requirement for net new additional dollars.

Now, how to raise it? Today there is an indication on the front page of the Washington Post that the administration is suggesting one of two approaches: One being a payroll tax of some percentage, 7 percent possibly; another being what is known amongst those who study this subject as an employer mandate. In other words, the employer would be required to cover $x$ percentage of the insurance premium levied upon the individual employee for coverage.

Now it seems to me we ought to recognize that an employer mandate, saying that an employer must cover 80 percent, perhaps, or whatever it is, of the premium is no different from a tax. An employer mandate is indeed a tax, regardless of how it is termed.

Speaking on behalf of the Republican Senators who spent a lot of time on

this subject, we have deep reservations that this is the way to go. We believe that the effect of an employer mandate is going to be extremely severe on small businesses. And, in fairness to Mrs. Clinton and her group, in our conversations with her, she is aware of this.

But I think it is safe to say that the approach of the Republicans will not be for the employer mandate. This has all kinds of ramifications, especially, as I mentioned before, on our small businesses. It will have an extremely serious effect upon them.

So, regardless of whether it is termed a payroll tax, as one approach—and, indeed, if you follow the payroll tax, you end up with a single-payer system. But setting that aside, the employer mandate, we believe, is not the correct way to go.

We look forward to continuing our deliberations on this and presenting a plan. And then we look forward to working with the administration, with what Mrs. Clinton and her group produces, because we recognize they have worked long and hard on this subject, have some very good ideas, and it is worthwhile that we consider what they do. And, hopefully, they will consider what we do likewise.

I wish to thank my distinguished friends who have worked with me on this. Senator SPECTER has been a leader in this whole area of health care reform, presenting legislation. Senator COHEN, who previously spoke, has also been deeply involved, as have many other Senators. But these two are certainly among the leaders of the effort.

Mr. SPECTER addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania [Mr. SPECTER].

Mr. SPECTER. I thank the Chair.

## HEALTH CARE MANDATES ON BUSINESS

Mr. SPECTER. Mr. President, at the outset, I compliment my friend and colleague, the distinguished Senator from Rhode Island [Mr. CHAFEE] for his leadership on the Task Force on Health Care, having accepted that appointment from Senator DOLE and having worked laboriously for months, years, going back to 1991, where a proposal was submitted late in the year as a result of the work. The work has continued virtually every Thursday morning.

We met this morning, and the first topic on our agenda, by prearrangement, was the subject of whether we would have mandates on companies or mandates on individuals. Our group had pretty much decided sometime ago that we were going to go with the mandate on individuals because of the problems on ordering companies to undertake another burden.

Our conversation started with the lead story in the Washington Post today with the headline "Under Clinton Health Plan, All Employers Would Pay."

Mr. President, I ask unanimous consent that, at the conclusion of my remarks, the full text of this story be printed in the RECORD.

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

(See exhibit 1.)

Mr. SPECTER. Mr. President, I join my colleague Senator CHAFEE, and our colleague Senator WILLIAM COHEN, who spoke earlier, on our offer to help President Clinton and First Lady Hillary Clinton and the administration in an effort to have a health plan which would cover the 37 million Americans who are now not covered, and also to reduce health care costs for everyone and to work in a constructive way on preventive care and the whole range of very serious health care problems which confront the United States.

The threshold issue is: How are we going to pay for this system?

It is my view—and I have expressed this extensively in legislation which I have introduced in Congresses going all the way back to 1985 when I introduced my first bill on low birth weight babies. It is my view that there can be tremendous savings on low birth weight babies, on terminal health care costs, on preventive measures, on more nurse assistants, and on a whole range of matters.

But I am very fearful of what was announced in the Washington Post today in terms of a mandate on business. I am fearful about it not only for small business and the groups which have been in town in the course of the past few days, the National Federation of Independent Businesses, but also for big businesses, as well.

I have had conversations with businesses in my State and in other States, like Bethlehem Steel and other major corporations. This goes not only for the big businesses, but for the small businesses as well, on telling them that they are going to have to pay a certain amount of money for health care benefits. Many businesses are already paying vast sums. As a part of our national health reform we need to cut back on what everyone is paying. I think this can be done.

The bill which the Chafee task force introduced in 1991 had some very remarkable savings on group insurance and ways to cut down costs.

No one knows for sure exactly what is going to happen and what the costs will be and precisely how we are going to bear those costs. But after a tremendous amount of analysis and deliberation in Senator CHAFEE's task force, our group has come to the judgment that it ought to be an individual responsibility. Individuals may have to have some help from the Federal Government where individuals cannot afford to pay for it, where they are at the poverty line or below.

But to say to American business there is going to be another requirement on you to pay more money for health care is going to drive many businesses out of business. This is not only for small business, this is for medium-sized business, and even the largest companies can only take so much of a burden. I mentioned Bethlehem Steel. The steel companies in America have had tremendous, tremendous problems.

I believe this is an issue which the American people ought to focus on right now. This is the first, most formal statement which is in the Washington Post this morning. I think it worthwhile—there is no other Senator on the floor and nobody is seeking recognition—to read just three of the paragraphs to show the scope of the problem of this announcement.

The lead paragraph says the following:

> After considering a broad range of taxes to finance health care coverage for the 37 million uninsured, President Clinton's health advisers have decided that most of the burden should fall to employers, a senior White House official said yesterday.

And then that senior White House official is designated to be Mr. Ira Magaziner, who headed the First Lady's task force.

Further into the story this statement appears.

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

Mr. SPECTER. Mr. President, in the absence of anyone on the floor, I ask unanimous consent to speak for an additional 5 minutes.

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

Mr. SPECTER. I thank the Chair.

The following statement occurs:

> But the administration has not yet decided whether its plan will require employers to pay a percentage of their total payroll (7 percent is the most frequently mentioned figure) into some type of centralized system, or to pay a percentage of employees' health insurance premiums, as many companies do now.

Then, where the story continues on page A13, the following paragraph occurs:

> To assuage fears that businesses' costs might rise rapidly if a mandate were imposed, the government would have to limit the annual growth of the employers' contribution and "to make that a guarantee" to the business community, Magaziner said.

When he uses the term "to make that a guarantee," that is absolutely nebulous and unenforceable. Mr. Magaziner cannot make a guarantee. This Senator, the presiding Senator nor the President can make a guarantee. We know the history of what happens when costs are imposed. Those costs inevitably go up. It is a rare, if ever, occurrence that costs go down.

I believe this announcement today, in this report, that "All employers would pay," is a clarion call to America to take a close look at this issue. There are going to be a good many differences between what the Chafee task force will recommend and what the Clinton task force is likely to recommend. But I suggest that this is a fundamental mandate, a requirement that businesses pay these costs.

We enacted a program on voter registration extension earlier this week, the so-called motor-voter. The Senator supported this program after we worked out some of the problems and issues of fraud. Regrettably, we divided along party lines, which is unfortunate. This is an illustration of a mandate where we are telling local government what they should be doing and how much they should be paying.

It is fine to set standards, it is fine to establish objectives, and it is fine to decide what our goals should be. But any time we mandate a program, that we say a program ought to be put into effect, we ought to be in a position to figure out a way to pay for it. Simply to shift the burden to businesses, I suggest, is going to be extremely counterproductive.

When those of us on the Chafee task force met this morning, Senator CHAFEE, Senator COHEN and I decided it would be useful to come to the floor. I would like to see the Senate engaged in taking up health care this morning. That is not a new call by this Senator, as the distinguished Presiding Officer knows. I brought this issue to the floor in July 1992, and I tried to bring it to the floor earlier this year. I made a statement on January 21, the first legislative day, after complimenting the President on his inaugural speech the day before, saying I wished he had said a little more about health care.

I wish he had a plan at that time. I brought the health care issue to the floor earlier on the Environmental Protection Act. I know it was a difficult matter at that time. I have done so because I am concerned that unless there is action early this year, we are not going to have a health care plan in 1993. I think if we do not initiate a plan on health care, the program will be set back.

There are issues to be considered as we move along with formulating a health care plan. This issue on employer mandate is something which I urge the American people to consider and, hopefully, to reject.

EXHIBIT 1

[From the Washington Post, May 13, 1993]

UNDER CLINTON HEALTH PLAN, ALL EMPLOYERS WOULD PAY

(By Dana Priest)

After considering a broad range of taxes to finance health care coverage for the 37 million uninsured, President Clinton's health advisers have decided that most of that burden should fall to employers, a senior White House official said yesterday.

"To our way of thinking, even though that's a difficult decision, we think it's the only equitable decision," Ira Magaziner told a manufacturers' group.

The administration plans to propose that all employers pay part of their employees' health coverage, he said. Currently about 71 percent of all workers and their families receive some coverage from their employers. Consequently, the administration has decided it would be less disruptive to build on that system rather than replace it, Magaziner told the National Association of Manufacturers at a breakfast meeting.

But the administration has not yet decided whether its plan will require employers to pay a percentage of their total payroll (7 percent is the most frequently mentioned figure) into some type of centralized system, or to pay a percentage of employees' health insurance premiums, as many companies do now.

White House officials have previously said that employees will be required to pay the remainder of the premium costs themselves, with government subsidies available to low-income workers.

Officials with the president's health care task force have estimated it would cost $30 billion to $90 billion a year to cover the 37 million uninsured. But 85 percent of that group is made up of working people and their families, according to the Employee Benefits Research Institute. If most of those uninsured could be covered through employers, then the federal government's cost of insuring the rest would be far lower than if it assumed the costs of bringing all of the uninsured into the system.

The president's health care task force has considered a wide array of financing options over the last three months. Magaziner said yesterday the White House believes that using a value-added tax to finance coverage for the uninsured is "a non-starter."

Other tax schemes, such as new "sin taxes" on alcohol and tobacco or taxes on health providers, were still under consideration as ways to pay for coverage of the uninsured.

In order to cushion the financial shock to companies that do not now pay for employees' health insurance, the administration plans to phase in the so-called employer mandate, Magaziner said, "so that the percentage of payroll that has to be paid goes up very slowly."

"You can't just say to a company that's paying nothing, 'You know, next year you've got to pay 8 percent of your payroll for health care,' or something like that . . . because that would be too much for them," he said.

To assuage fears that businesses' costs might rise rapidly if a mandate were imposed, the government would have to limit the annual growth of the employers' contribution and "*to make that a guarantee*" to the business community, Magaziner said.

Requiring all employers to pay for part of their workers' health coverage also "creates greater equity" among companies, said Magaziner. Currently firms that pay for their employees' coverage end up subsidizing—by covering their workers' employed but uninsured dependents—the health care of workers in firms that do not offer coverage. Also, when people without insurance receive medical care and cannot pay for it out of pocket, hospitals and other health providers compensate for the loss by shifting the cost to paying consumers, who typically have employer-subsidized insurance.

The National Association of Manufacturers (NAM) calculates that such health "cost shifting" meant companies that provide health coverage paid an additional $11.5 billion in 1991.

Eliminating cost shifting makes the employer mandate an attractive feature of the national health overhaul for many employers, including those philosophically opposed to government mandates on business. Employer mandates have won qualified support from such groups as NAM, the U.S. Chamber of Commerce and the Association of Private Pension and Welfare Plans.

"The dialogue has moved much further" between business and the White House over reform, said Sharon Canner, NAM's assistant vice president for industrial relations.

However, the powerful National Federation of Independent Businesses—which represent small businesses, many of which provide no insurance—still opposes an employer mandate and is expected to mount a fierce campaign against it once health reform legislation is introduced.

"There's a strong whirlwind we know we're going to enter into," Magaziner told the business group yesterday, forecasting the opposition the administration expects. "This is a nightmare, politically."

Reflecting on the larger debate over whether government regulation or market competition will successfully drive down the cost of health care, he said, "in this town, most people don't believe in competition, that's my observation."

Mr. SPECTER. In the absence of anyone on the floor, so there is no one else seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. MOSELEY-BRAUN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRESSLER. 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 South Dakota is recognized.

Mr. PRESSLER. I thank the Chair.

(The remarks of Mr. PRESSLER pertaining to the introduction of S. 947 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

## VISIT TO THE SENATE BY MARY ROBINSON, THE PRESIDENT OF IRELAND

Mr. MITCHELL. Madam President, I am pleased, on behalf of all of the Members of the Senate, to welcome to the Senate Chamber the President of Ireland, the first female President of that nation, Mary Robinson.

[Applause.]

Mr. MITCHELL. Madam President, I have just come with President Robinson from a meeting which she had with a group of Senators and officials of the Irish Government. I want to say for the record that, on behalf of all of our colleagues, it was an extremely interesting and informative meeting, one which I believe will further the already strong bonds of friendship between our two peoples.

On behalf of all of the Members of the Senate, I welcome President Robinson. We admire her personally. We admire the people of the great nation she represents, and we look forward to many continuing years of friendship, trade, and warm relations between our two countries.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Chair advises the Senator that the regular order of business is to start at 10:30.

Mr. GRAMM. Madam President, I ask unanimous consent that the regular order of business be postponed 10 minutes so that I might speak as in morning business.

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

## THE PRESIDENT'S PROPOSED DEFICIT REDUCTION TRUST FUND

Mr. GRAMM. Madam President, we are all aware that the Federal City is abuzz this morning that the President, yesterday, at a fundraiser in New York City, proposed a new idea, at least for the administration, and that is the idea of setting up a deficit reduction trust fund.

I want to try to explain—at least given my ability to determine what the President is talking about—how it would work. I would like to outline a problem with it, and I announce to my colleagues that I am going to give us an opportunity to vote on it, probably today.

First of all, the President is trying desperately to sell the American people on the idea that we ought to raise taxes. His problem comes from the fact that, during the campaign, the President said if he were elected, he was going to be a new kind of Democrat, and he was going to cut spending and terminate agencies, and then he was going to save $3 in spending cuts for every dollar in revenues.

And then Senator Bentsen and Congressman Panetta, in their confirmation hearings for the appointments to Secretary of the Treasury and OMB Director, said $2 in spending cuts for every dollar in taxes.

And then the President, in the State of the Union Address, said $1 of spending cuts for every dollar of taxes. And, as all of the Members of the Senate know, relative to current law, we adopted the President's budget. And when it all totals up, it has $3.23 in taxes for every dollar in spending cuts.

The President is having a very difficult time selling Members of Congress on raising taxes on the American people—a one-third increase in the marginal tax rate for small business and family farms, taxing Social Security, taxing American families with an energy tax that would cost about $500 a family. And so the President now has come up with a new idea. I would like to say that we are now in the longest running campaign in American history. The President has been in office for 4 months, and he is still campaigning and not governing.

Let me explain why this deficit reduction trust fund is fraudulent, and then I want to propose a way to make it real. Here is why it is fraudulent. This year, looking toward next year in the budget that we have just adopted, in round numbers we are going to spend about $1.6 trillion. We are going to take in in revenues about $1.3 trillion So we are going to have a deficit, in round numbers, of about $300 billion, spending more than we are taking in in revenues.

The President says that if we had $50 billion of new taxes in this budget—and I just pick that number to keep it round and easy to comprehend—he wants to take that $50 billion and put it into a trust fund rather than into general revenues. And then he wants to use that $50 billion to reduce the deficit.

Well, that is great, but if you do not count it as general revenues and you put it in a trust fund, what happens? Well, you are still spending $1.6 trillion, but in general revenues you are taking in only $1.25 trillion; so the deficit rises to $350 billion; the President takes the $50 billion in the trust fund and reduces the debt by $50 billion, and you are back to the $300 billion you were at to begin with.

This is similar—though not the same—to the proposal that George Bush made. President Bush's proposal, however, would have reduced the deficit. I will explain how that worked, and I will read you what Alice Rivlin, Deputy Director of OMB in the Clinton administration, said about the Bush proposal. I do not know what she is saying about the Clinton proposal. It is not in the paper. But I can imagine.

President Bush's proposal would have worked as follows. It was a checkoff. So if you have people who want to reduce the deficit, they can say: I want up to 10 percent of my taxes to go not to spending, but to reduce the deficit. When people file their tax return, we would have totaled it up and then required an across-the-board spending cut of a corresponding amount; then we would have used those revenues to reduce the outstanding debt.

Notice, under the Bush plan, you had an automatic cut in spending so that the revenues actually went for deficit reductions; whereas, in the Clinton plan, as the President made very clear in New York, it does not change any of his spending programs.

Under the Bush plan, if the American people checked off $50 billion and said, "We want this to go to deficit reduction out of our taxes," Congress would have been required to cut spending by $50 billion so that the $50 billion designated for deficit reduction would reduce the deficit.

President Clinton's plan does not affect spending and, therefore, it does not really affect the deficit. It is in reality an attempt to mislead the American people and to give a fig leaf to those who want to raise taxes in a bill that will come to the floor of the Senate and that will raise taxes, in that particular bill, about $8 for every dollar in spending cuts.

The President said, and I quote from today's Wall Street Journal, that he wanted to "guarantee the American people two things. No. 1 is no tax increases without spending cuts."

So I want to announce today that, when we vote on the President's tax package, I am going to offer an amendment that says that in any fiscal year where there is a tax increase, that tax increase will not become effective unless spending is cut in that year by at least an equal amount.

And might I say to my colleagues, under the Clinton administration budget, which we adopted, not until after the 1996 Presidential campaign is over and the votes are counted would any of the Clinton administration cuts go into effect, because not only did our President sell Congress on a budget that raised taxes $3.23 for every dollar of spending, but he also sold Congress on a budget where 80 percent of the spending cuts occur after the votes are counted in the 1996 Presidential campaign.

The second thing the President wanted is: "No. 2 is that tax increases will go to reduce the deficit by creating a legally separate deficit-reduction trust fund which will tell you where your money is going."

The only way that could possibly have any effect is if we make the spending totals in the President's budget binding, if we say we not only promise these spending cuts, but we are going to force Congress to live up to them.

It is interesting, Madam President, because in the Budget Committee I offered an amendment to do exactly that and that amendment was defeated on a straight party line vote. It was opposed by the administration. All my amendment tried to do was simply this: It said, in the 5 years of this budget where we claimed that we have savings, we want to make these totals spending caps so that we know that spending does not go over those totals. And this would have been enforced the same way we enforce the 1990 budget summit agreement, by having an across-the-board cut in that category of spending if Congress spent over that total. That effort was defeated.

It seems to me that one way that we could show that we support what the President is trying to do is to, today, on this bill, adopt an amendment that would provide instructions that we make those spending totals binding so that we know by law that we will not

let Congress, after they have raised all these taxes, then backslide on the commitment they have made to the American people by not cutting spending.

So I hope my colleagues will look at this amendment. I am going to try to get it drafted today and offer it on this bill, and we can find out who is with the President's sentiment. We all know, any rational person knows, that the proposal the President has made is not going to work. Taking money out of one pocket and putting it in another does not make one richer. It may wear out your pocket, but that is the only impact of it.

But it seems to me that the President has touched on a very real problem. One of the reasons the Congress is here is to help the president, and we can do that by taking action, perhaps today, maybe tomorrow, to make the spending totals in the President's budget binding. I suspect, Madam President, the American people would be outraged if they knew that we do not have binding constraints that force us to live up to the budget that we passed. Now we have laws that put you in jail if you do not pay these taxes, but we do not have any laws that force us to live up to the spending cuts. So I want to give us that opportunity today.

Madam President, when President Bush proposed his checkoff proposal, which, I remind my colleagues, required across-the-board cuts and, therefore, in fact did reduce the deficit, something that President Clinton's proposal of yesterday would not do, Alice Rivlin, then a private citizen, now Deputy Budget Director in the Clinton administration, said:

> I do not understand how earmarking a portion of the individual taxpayer's taxes for debt reduction can make a difference when we are running a deficit. As long as the Government is spending more than it is taking in, I do not see that that has any real meaning. It is just a gimmick.

I would like to ask Alice Rivlin today, is the Clinton administration proposal a gimmick? If the Bush administration proposal, which, after all, required us to cut spending dollar for dollar, when people checked off and said they wanted their existing taxes used for deficit reduction, if Ms. Rivlin thought that was a gimmick, certainly she must believe that the Clinton proposal is a gimmick, and I would like to hear from her.

Thank you.

The PRESIDING OFFICER. The Senator's time has expired.

## IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt stood at $4,241,563,251,233.22 as of the close of business on Tuesday, May 11. Averaged out, every man, woman, and child in America owes a part of this massive debt, and that per capita share is $16,513.20.

## THE TAX INCREASE TRUST FUND IS A PUBLIC RELATIONS GIMMICK

Mr. DOLE. Mr. President, the American people are not going to buy President Clinton's wallet-busting tax bill. They cannot afford it. And they know that the President's tax increase trust fund is nothing more than a public relations gimmick.

The American people know there are only two ways to reduce the deficit: raise taxes, or cut spending.

And I might add that I am advised that in surveys taken a couple weeks ago, the American people were asked—at least some were asked—should we cut spending or should we cut taxes? And 84 percent said cut spending first.

I am afraid the President only sees one way and that is by raising taxes—not cutting taxes, but raising taxes.

So far, he is leading the league in tax increases. In fact, he has set an all-time record. But he is striking out again and again in the one category the people care most about—cutting Federal spending. That is what the people want from Washington: less spending, less government and less double-talk. So, I would say to President Clinton, "Mr. President, cut spending first, cut spending now, and cut out the gimmicks, starting with the phony tax increase trust fund."

Now, some folks will say, "Wait a minute, Senator Dole, didn't President Bush propose something similar last year?" Well, President Bush did call for a voluntary checkoff on your tax returns, where citizens could earmark up to 10 percent of their taxes to deficit reduction.

But there is one huge difference—while it may not have been the greatest idea in the world, the Bush plan did force real spending cuts.

In fact, an August 25, 1992, article in Newsday says it best:

> Economists agree on one point. Bush's proposal would not stimulate—and could in fact dampen—growth in the economy because of the significant spending cuts the plan would require.

The point is, it would have required spending cuts.

That was during the campaign. In fact, I guess that statement was made at the Republican convention in Houston.

Now, how did the Clinton campaign react, the same Clinton team that is now pushing the tax increase trust fund?

Listen to this from then-Democrat Party Chairman Ron Brown:

> It's a silly gimmick. What we need is a vision for getting the economy back on track instead of some checkoff scheme.

Let us remember, too, that the Democrat-controlled Senate itself rejected the so-called Bush gimmick by a 58 to 36 vote on September 26, 1992. During the debate, the distinguished chairman of the Appropriations Committee, Senator ROBERT BYRD, called the Bush checkoff, "A silver bullet—it sounds good. It's a gimmick." If taxpayers took the idea seriously, my friend went on to say, "There will be no spending left. * * * We would have to turn off the lights of the Capitol."

But there is more. Listen to this argument made by a prominent Democrat Senator just 8 months ago:

> We know how to manage, in an orderly fashion, the fiscal affairs of the largest government in the world, if we will simply rise to our responsibilities. We do not need some sort of ill-conceived, poorly thought out, flawed contraption to try to persuade us how we ought to deal with the problem of the deficit. No, this is simply another means by which some of our colleagues can go back to the Rotary Club back home, beat their chests, and claim they are doing something about the deficit, when in reality they are doing nothing of the sort.

I could not have made a better argument about the Clinton administration's phony public relations gimmick, but that is not Bob Dole talking. That is the Senate Budget Committee chairman, my friend, JIM SASSER, on President Bush's so-called deficit reduction gimmick.

With the beleaguered taxpayers already 113 days into the tax and spend Clinton administration, it looks like the campaign spin is going the other way now. Unfortunately, the only campaign the American people are interested in right now is a campaign to cut Federal spending—but so far they are not getting it.

As I indicated yesterday, this so-called trust fund is a gimmick that has been around here for years. I think Members on both sides have talked about it. It does not reduce the deficit. Nobody knows how it works. It does not do anything. They are still going to raise your taxes. It does not reduce your taxes. They are going to raise your taxes. It does not cut any spending.

If we are going to have any trust fund, if we can figure out how to make it work, which I doubt, there ought to be a spending cut trust fund. Cut spending and do not do all the new spending, $135 billion in new spending, for programs President Clinton is talking about. Why take away Social Security benefits to raise spending somewhere else? It does not make any sense to this Senator or to many of my colleagues, hopefully on both sides of the aisle.

If we are going to reduce the deficit you might make the argument, but we are not going to reduce the deficit.

So, I would just say this so-called trust fund idea, I agree with all my colleagues who were on the other side of the aisle making these great speeches last year when they were talking about President Bush's checkoff, which did force spending cuts.

This trust fund does not force anything. It does not force anything. It does not reduce the deficit one dime. I challenge the President to say how it reduces the deficit one dime.

Nobody said how it is going to work. Nobody said they thought about this for any length of time. It is all public relations because the President understands his program is very unpopular.

I do not care whether people are Democrats, Republicans, Independents—what they may be doing. Not many people write in saying please raise my taxes $3.23 for every dollar you cut spending. That is what we are doing under the so-called Clinton economic plan.

So it seems to me public relations will not reduce the deficit. Everybody can make all the speeches they want. We can have all the hype we want. We can have all these public relations gimmicks—like a trust fund—we want. It does not change the deficit one cent. Not one cent.

So it would seem to me we ought to get on to really going back and starting over. It is not too late to start over. When you make a mistake you ought to say we made a mistake, let us start over; let us go back and get some real spending cuts; let us listen to the American people who, by 84 to 14 percent said cut spending first when given the choice between cutting spending and cutting taxes. Not raising taxes. If it has been raising taxes it would have been 100 to 0.

So, it seems to me this little trial balloon that was floated yesterday—I cannot believe it was seriously floated, but it was mentioned several times by the President—I do not really believe he is serious. He knows it does not have any impact.

But, if so, we ought to have hearings on it and we ought to be told how it is going to work and how it is going to save America and how it is going to reduce the deficit and how it is going to restore the confidence the American people are losing because of all the taxes in the economic plan.

Let us talk about growth, let us talk about lowered taxes, let us talk about spending cuts, let us talk about creating jobs in the private sector—real jobs.

If we want to do some of those things, I think there will be a lot of support on both sides of the aisle.

## SMALL BUSINESS WEEK

Mr. PRESSLER. Mr. President, I rise today as the ranking member of the Senate Small Business Committee, to salute America's small business women and men during this, the Small Business Week 1993. There is much to celebrate.

Small business is the engine that powers the American economy. According to the Small Business Administration [SBA], from June 1991 to June 1992, small business created 173,000 jobs, while firms with more than 500 employees lost 235,000 jobs. Small businesses accounted for two out of three new jobs from 1982 to 1990. In my home State of South Dakota, over 97 percent of businesses are small businesses. Indeed, just last week, the Corporation for Enterprise Development—a Washington-based group, that ranks all States on a variety of economic conditions—placed South Dakota second in the Nation in terms of small business job growth.

As we celebrate Small Business Week, I want to extend my congratulations to Erskine Bowles, the new Administrator of the SBA. I have had the opportunity to get to know Mr. Bowles during the Small Business Committee's work in confirming his nomination. Erskine Bowles understands many of the problems faced by America's small entrepreneurs. He has owned his own business. In that business he helped other businesses obtain the financing they needed to grow and prosper. He began his own company in 1975 and in that year generated revenues of only $5,000. Over the last 18 years, he built a successful, 60-employee, regional investment banking firm specializing in financial transactions for small- and medium-sized businesses. This is a true small business success story. Mr. Bowles' experiences should serve him well as the administration's new voice for small business. I wish him all the best and look forward to working with him.

Mr. President, I also want to take this opportunity to pay tribute to the business women and men who make enormous contributions to South Dakota's and America's economies. I begin by congratulating Carol Rae, president of Magnum Diamond Corp., in Rapid City, SD. Carol has been named by SBA as this year's Small Business Person of the Year for South Dakota. In addition to that honor, Carol was named first runner-up SBA Small Business Person of the Year by President Clinton in a White House Rose Garden ceremony that I was privileged to attend. This is a remarkable honor for Carol, her company, and South Dakota.

Carol Rae personifies America's greatest strength—the vision to capitalize on the opportunity our Nation offers. This is accomplished by using what is best in you to create something of lasting value for the community. This is precisely what Carol Rae has accomplished at Magnum Diamond since 1989 when she was appointed president and chief executive officer. Magnum Diamond manufactures surgical equipment used by eye surgeons in the United States and around the world. From 7 employees in 1989, the firm has grown to 68 employees and become the leader in ophthalmic surgical instruments used in cataract and refractive eye surgery. The company is lauded by SBA: "Its state-of-the-art computerized machining equipment, laser engraver, and support equipment contribute significantly to product quality, and [the company continues] to pioneer technologies and marketing expertise in research and development of new products." I congratulate Carol Rae for her dedication, hard work, and shining example as SBA's South Dakota and first runner-up National Small Business Person of the Year.

I also am proud to make note of several other South Dakotans being honored by the SBA. They are Gerald J. Sherman, a member of the Oglala Sioux Tribe, Gene A. Murphy of Sioux Falls, a disabled veteran, Sioux Falls accountant Wesley C. Nelson, and Ken Karels, president of Norwest Bank of Milbank.

Gerald Sherman has been named Minority Small Business Advocate of the Year for both South Dakota and the region. He recently changed employment, leaving his post as Pine Ridge area director of the Business Opportunity Center to start a bank training program with Norwest Bank in Sioux Falls.

Gene Murphy has been named the Veterans Small Business Advocate. Wesley C. Nelson has been named as one of South Dakota's State advocates, and Ken Karels, has been named Financial Advocate of the Year.

I am delighted the SBA continues its tradition of designating a week to celebrate small business success stories such as these.

Mr. President, it is essential that we in Congress create an environment in which existing businesses are able to realize their potential and that more and more new businesses spring from creative minds into the marketplace. By relying on people—by enacting low-tax, incentive-based, investment-oriented policies—we can do just that.

As ranking member on the Senate Small Business Committee, I am doing all I can to help more entrepreneurs succeed. It is for this reason that I am introducing the Small Business Tax Fairness Act of 1993 during Small Business Week. My legislation would freeze tax rates for small businesses at current levels. It is designed to prevent them from having to pay proportionately more in taxes than America's large corporations as proposed in the administration's tax plan.

We must never forget that the reason any small business succeeds is not programs, but people, people with visions of a better and brighter future. We must foster that vision. With that goal in mind and in the spirit of Small Business Week, I again would like to congratulate Carol Rae and all the other small business women and men out there with the vision of the future and the tenacity to see their dreams be-

come reality. They truly embody the American spirit. I salute them.

## OPPOSE EMPLOYER MANDATE

Mr. PRESSLER. Mr. President, the Clinton administration continues to work on its health care reform proposal. Senator CHAFEE and other members of the Republican health task force are drafting a bill to be introduced in the near future. We all share the goal of securing universal health care for all Americans and containing health costs. However, we may have some differences on how to achieve these goals. These fundamental principles will be debated extensively in the coming months.

As I have stated previously on the Senate floor, I believe that health care cost containment can be achieved through malpractice reform, reduction of Federal regulation, simplification of administrative procedures, changes in the antitrust laws, elimination of waste and fraud, greater emphasis on preventive care and reform of the small insurance market.

I do not contend that additional revenues will not be required to obtain universal coverage. However, effective cost containment would minimize the additional revenue required to finance a health plan. First, we must take steps to contain medical costs.

Today the Washington Post reported that the President's health care advisers have endorsed the concept of a mandated employer payroll tax to finance their health plan. I do not support this financing mechanism.

An employer mandate would not solve the problem. I fear the cost of such a system would be far greater than the benefits achieved. Nearly 70 percent of insured Americans received their health insurance from their employer. Most employers are into neglecting the needs of their employees. The average employee of a small business in the United States earns $10 an hour. In my State of South Dakota this figure is $8.84. An additional payroll tax to finance a health plan could increase the employer's hourly wage cost $1.50 an hour. This would result in higher costs for goods and services and less job creation.

An employer mandate would have a negative effect on our economy. Even worse, this mandate could spark an economic crisis. Republicans believe health care reform can be achieved without making our economy a sacrificial lamb.

## FACES OF THE HEALTH CARE CRISIS IN MICHIGAN: THE IMPACT OF HIGH HEALTH CARE COSTS ON SMALL BUSINESSES

Mr. RIEGLE. Mr. President, as part of my continuing effort to focus on the critical need for health care reform, I would like to highlight today the impact of skyrocketing health insurance premiums on small businesses.

I want to tell you the story of Douglas Erwin, a small business owner from Novi, MI. Douglas owns a fruit and vegetable market that was previously owned by his father and has been in operation since 1963. Erwin Farms, the family orchard that supplies the market, has been in operation since 1922.

Like many small businesses across America, the Erwin family business struggles with the high cost of providing health insurance to its employees and family members. I first heard about the impact of high health insurance costs on the Erwin family when Douglas' father, J.W., testified before the Finance Subcommittee on Health for Families and the Uninsured, at a hearing I held in Michigan in 1989. Since that time, the cost of health insurance has continued to escalate. These costs are more of a problem for the Erwin family today than when they first told their story 4 years ago.

Douglas Erwin knows personally that having adequate health insurance coverage brings a certain peace of mind to families. Two of his sons have experienced devastating illnesses. He lost one son to cancer in 1986, when the boy was 9 years old. His other son, who is 11, was born prematurely with underdeveloped lungs requiring intensive treatment in his first year of life. Without health insurance, the Erwin family would have faced over 370,000 dollars' worth of medical bills. It is for this reason that the Erwin business provides health insurance coverage to as many employees as they can afford.

Douglas employs a total of 15 people. In addition to covering himself and his family, Douglas is only able to afford health care coverage for three full-time salaried employees and their families. Two other full-time salaried employees have coverage through their spouses. The remaining 10 part-time employees are left on their own. The business currently pays 100 percent of the premium cost for the employees they cover.

In 1988, the cost of providing health insurance for four full-time employees and their families was over $12,000 a year for the Erwin business. Douglas now pays over $20,000 a year for four full-time employees and their families. Mr. Erwin expects the premium costs to increase again this year to over $24,000. In other words, the cost of providing health insurance will have doubled in 5 years.

The high cost of health insurance significantly increases the cost of doing business for the Erwins. The $20,000 in health care premium costs is a significant expense, which directly affects the profit margin of the business. Last year, the net profit of the business was only $5,000. In 1988, when their health care costs were lower, the business cleared over $39,000 in net profits.

It is not only business profits that are affected by the rising costs of health insurance; other aspects of the business suffer as well. Mr. Erwin has had to cut back on store renovations and employee paid vacations. If the costs of health care premiums continue to escalate, he will be forced to cut back on benefits provided to employees, end coverage for dependents, or impose cost-sharing for the cost of premiums.

The Erwin family business is just one example of how the high costs of health insurance are crippling small businesses in America. Many small business owners want to provide health insurance coverage for their employees but cannot afford it. We need national health care reform to control the escalating costs of health insurance, to make it more affordable.

Without health care reform, our businesses in America, both large and small, will continue to struggle to stay competitive. The strength of our economy depends on containing the growth of health care costs in America. I will continue to do all that I can to control skyrocketing costs of health care through comprehensive reform of our health care system.

## THE 250TH ANNIVERSARY OF PELHAM, MA, HOME OF SHAYS' REBELLION

Mr. KENNEDY. Mr. President, it is a privilege to take this opportunity to pay tribute to the residents of Pelham in western Massachusetts on the celebration of their 250th anniversary.

Pelham was founded in 1733 and was originally named New Lisburn, after the town of Lisburn in what is now Northern Ireland. The name was changed to Pelham in 1743, in honor of Lord Henry Pelham, who was visiting the town at the time and who had just become Prime Minister of Great Britain under George II.

Pelham is well-known in American history as the home of Daniel Shays, who fought in the battle of Bunker Hill at the beginning of the Revolutionary War. After the war, he settled in Pelham where he served as a member of the Committee of Safety and was later elected to several town and county offices. In 1786 and 1787, he led the famous Shays' Rebellion, the farmers' revolt that alarmed the newly independent colonies and convinced them to revise the Articles of Confederation and create a constitution establishing a stronger National Government.

Pelham's town hall still stands on its original site. It is the oldest town hall in continuous use in the United States, and has been the location of at least one town meeting every year since 1743.

A former church in the town is now a significant museum containing historical memorabilia of the Pelham area.

Other major points of interest include Pelham's cemetery, where many of the earliest settlers of the town are buried, and the commons surrounding the town hall, which was used to train the local militia.

I commend the people of Pelham for their outstanding history. Pelham has had a great 250 years—and may the next 250 years be equally great.

## HONORING ELIZABETH GONZALEZ

Mr. D'AMATO. Mr. President, I rise today to pay tribute to Elizabeth Gonzalez. Ms. Gonzalez, 24, was tragically killed in a car accident on December 8, 1992. She was another tragic victim of a drunken driver.

At the time of her death, Elizabeth was the acting administrator of Touro Law School's Legal Education Access Program [LEAP]. As the administrator of this program, she coordinated all LEAP activities. She was an accomplished student, and an active member of the legal community. Her goal was to help those less fortunate than her.

Her desire to help those less fortunate was a result of the tough neighborhood in which she grew up. She was born in the east New York section of Brooklyn and came to be an outstanding leader in her law school community. She never forgot her roots and Puerto Rican heritage. Elizabeth always tried to set an example for others, and she gave the young people of her community hope for a better life.

I wanted everyone to know that Elizabeth Gonzalez was a fine young woman and a fine student. The world has lost a valuable human being, but her memory will live on in those whose lives she has touched.

## A SINGULARLY ACUTE INSIGHT INTO THE LOS ANGELES RIOTS

Mr. BYRD. Mr. President, I recently inserted into the RECORD a particularly keen analytic essay from the American Scholar, "Defining Deviancy Down," researched and written by our distinguished colleague and friend, the senior Senator from the State of New York, Senator DANIEL PATRICK MOYNIHAN.

In that salient piece of commentary, Senator MOYNIHAN warned of our all-to-facile contemporary tendency of becoming so accustomed to violent, lawless, and antisocial behavior that many people begin to accept such behavior as customary at best and, worse, cease to be shocked by violent, lawless, and antisocial acts such as murder, assault, rape, muggings, and the like. As Senator MOYNIHAN wrote, we are "getting used to a lot of behavior that is not good for us."

In the Washington Post May 5, columnist Richard Cohen similarly cites Senator MOYNIHAN, and carries the analysis several steps further, particularly with regard to a current willingness—no, inclination—to excuse even the most heinous, violent, antisocial, and lawless behavior and actions if, by so doing, such excusing endorses or validates a prior ideological commitment.

In this instance, columnist Cohen has in mind the convoluted intellectual prostitution that allowed men and women who should know better to excuse the infamous destruction and thuggery subsequent to the first "Rodney King Trial" as an expression of social and economic protest—a further exercise, if you will, in "freedom of speech," "dissent," or "protest."

Citing a recent Los Angeles Times survey of people convicted of crimes during the riots, Cohen concludes that the mobs of ethnically mixed participants were not social crusaders inscribing their political frustrations in dramatic gestures of political disobedience and enthusiastic dissent from the Simi Valley jury verdict. On the contrary, the L.A. Times survey reveals that 60 percent of the arrested rioters had prior criminal records and, in fact, were just doing what they were most inclined to do if not restrained by law-enforcement agencies—that is, breaking the law by any means expedient.

To quote Mr. Cohen directly:

> In short, the Times has confirmed that criminals commit crimes. It's true that there are all sorts of cultural and economic causes of crime, but it stands logic on its head to describe the riots as a rebellion. All that language does is provide a tortured justification for theft, arson and murder.

In my opinion, as he often does, Mr. Cohen has hit the proverbial nail on the head and, in so doing, has defined the compounded crime that followed in the wake of the L.A. "Rodney King" riots—the willingness—no, the eagerness—of a disturbing number from among America's cultural elite to encircle that literal holocaust of flame, theft, and thuggery with a halo of social and political respectability.

Let someone attempt to explain that piece of intellectual legerdemain to those who lost their lives during the L.A. riots, or to the dozens of hard-working men and women—white, black, Asian, and Hispanic—who literally watched their jobs and property go up in thermonuclear-sized clouds of stinking black smoke that hovered over southern California for days.

As Senator MOYNIHAN asserted, a society can bear only so much aberrant, antisocial, and deviant behavior before that society crumbles and collapses. Both Senator MOYNIHAN and Mr. Cohen have gone far in sounding a social alarm. Let us hope that intelligent, concerned people recognize the perceptions and wisdom of both Senator MOYNIHAN and Richard Cohen before our society crosses the point of no return.

Mr. President, I ask that Richard Cohen's column on the op-ed page of this morning's Washington Post, "Look Who Looted," be printed in the RECORD, in order that more of our colleagues might have access to some important observations on a disturbing episode in our contemporary history.

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

[From the Washington Post, May 5, 1993]

LOOK WHO LOOTED

(By Richard Cohen)

Right after the Newark riots of 1967 (26 killed), I went door to door asking about the stores that had been looted. Had the storekeepers sold on credit? Were they hated? I did that because I had read that in the Watts riots of 1965, the looters had exercised some discretion. They had trashed only the stores of hated shopkeepers. In Newark, that was not the case.

Now comes a Los Angeles Times survey of people convicted of crimes during the L.A. riots. Once again, we find the looters were without sociological or political purpose. They were after loot—and not, for the most part, food. The Times studied nearly 700 people convicted of riot-related felonies (90 percent of them looters) and found their number one target was electronics gear followed by liquor, clothing and auto parts. Food and baby goods made up only 9 percent of what was taken.

The riots were supposedly triggered by the near exoneration of the police officers who had beaten Rodney King. But for all the talk of the riots being an "insurrection" or a "rebellion," the police reported only one riot-related crime in which King was mentioned. His name was invoked by two men, one white the other Latino, who robbed a black merchant at gun-point. Their reference to King was hardly adulatory.

The statistical profile of the looters is hardly a surprise. It's similar to the one developed by the Kerner Commission following the 1967 riots in various cities. Your typical looter is a young male, poor, likely to be unemployed, a high school dropout and a short-term tenant. For all the reports of yuppies engaging in the sacking of L.A., not one was found. On the contrary, the typical rioter (60 percent) had a criminal record. No condo owners here.

In short, the Times has confirmed that criminals commit crime. It's true that there are all sorts of cultural and economic causes of crime, but it stands logic on its head to describe the riots as a rebellion. All that language does is provide a tortured justification for theft, arson and murder. It implies that a kind of grand equity is at work, as if the stealing of stereo equipment is the equivalent of the sacking of grain warehouses by starving peasants. Just in terms of the preferred beverage—liquor—this so-called rebellion is hard to distinguish from spring break at the beach.

One would think that after the riots of the 1960s, lessons would have been learned. The wounds inflicted in many communities have not healed. Yet the voice of moral outrage has been muffled, while riots are treated as some sort of economic upheaval and not as what they are—the collapse of law and order. Now, we even see attempts to coopt street gangs, to treat them with respect and try to channel them into established enterprises. This has been attempted before and has failed, but it bestows legitimacy on what are criminal organizations composed of punks and goons.

In a recent speech, Sen. Daniel Patrick Moynihan (D-N.Y.) waxed nostalgic about

the New York City of his youth. It was a safer, more efficient and altogether more livable city 50 years ago. Although New York in 1943 had 150,000 more people than it does now (and much poverty), it had relatively little violent crime—44 homicides by gun vs. 1,499 last year. The conclusion is inescapable: Something other than sheer economics plays a role in crime. The other factor—or at least a piece of it—is culture, a broad word, which can mean many things.

Inescapably, though, one aspect of our culture is the refusal to condemn criminal behavior. That lack of unambiguous reproof—or one so freighted with sociological caveats that it amounts to nothing at all—was present after the L.A. riots. It's not that anyone approved of the riots—those days, thank goodness, are gone—it was rather that in some cases the rioters were not the only ones blamed. So, too, was government and society—a lack of jobs, poor schools etc.

None of that can be overlooked. After all, people with jobs have something to lose and are therefore restrained in their behavior. But the statistics compiled by the L.A. Times strongly suggested that most of those who looted did so because they simply did what they felt like doing. It's hard to blame society for the looting of a liquor store. It's getting easier, though, to blame those who persist in blaming everything other than the criminal himself.

## WHY THE SENATE NEEDS HERBLOCK

Mr. MOYNIHAN. Mr. President, as we conclude our work in the Senate for the week, one or two bills enacted, two or three better than average speeches, there is no mistaking the listlessness that has somehow taken hold of this Chamber, so often given to robust debate and the fearless confrontation of daunting challenge. A certain miasma somehow suffuses and even enervates our deliberations. The dread term malaise even suggests itself. New Members sense this; the more senior among us are at once perplexed and subdued. Something is awry and calls for explication.

It is accordingly not a moment too soon to address the matter, lest the Commentariat, to use the recent and felicitous formulation of the Washington Post editorial page, should seize on the matter and worry the public even more than we are worried. Happily there is an answer. Much as in homeopathic medicine, a cure will so often be found at the site of the malady, so we may turn to that very page and illuminate, if not indeed disperse altogether the gathering gloom. A box at the top of the upper right side declares: "Herblock Is Recuperating From Surgery." Voila! No wonder we are adrift! No wonder we lack direction.

But no matter. He will return presently, and with him our spirits will rise, even as do, on occasion, our tempers. And so, Mr. President, I ask unanimous accord, as I cannot doubt will be conferred, that we all wish him a speedy recovery and a prompt return to his incomparable and indispensible surveyance of the Nation's business.

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

## THRIFT DEPOSITOR PROTECTION ACT OF 1993

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 714, which the clerk will now report.

The assistant legislative clerk read as follows:

A bill (S. 714) to provide funding for the resolution of failed savings associations, and for other purposes.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Madam President, today we are considering what I hope will be the last installment payment in a sad series of events that followed the collapse of our Nation's savings and loan industry.

To date we have approved $170 billion in taxpayers' money to bail the thrift industry out of that which was an avoidable disaster. There is a lot of anger and resentment here in the Congress and across the country because we have thrown away so much money. The history of the savings and local bailout is one we would all like to forget, but we must not and we cannot. We cannot turn our backs on the depositors in those savings and loans.

The collapse of the savings and loan industry which necessitated the bailout had its genesis in the mindless deregulation of the early 1980's. Deregulation let thrifts, which until then were largely community based and depositor owned, become gamblers and land speculators.

Financial operators took over, and they raked in Government-insured deposits by the barrelful. They turned around and loaned those billions of dollars out for the purchase of raw land and to developers with absolutely no creditworthiness.

From that point, it was all downhill. By 1985, the situation was literally grim. So many thrifts were broke that the Federal savings and loan insurance fund was out of money.

What did the regulators do? The regulators ducked rather than confront the problem. First, regulators kept the thrifts open by allowing them to turn up even larger debts that the taxpayer would have to pay. The cover story was that the thrifts were being allowed to work themselves out of the problem. That was phony. Thrifts did not and they could not work themselves out of these problems. They had made bad loans, and they were not going to get them repaid.

Then regulators tried selling the failed thrifts by offering large tax breaks in the now infamous 1988 deals. The Federal Savings and Loan Insurance Corporation transferred failed thrifts to private acquirers literally, literally in the middle of the night and in end-of-the-year deals. Billions of dollars in Federal subsidies, guarantees, and tax breaks were given to the country's sharpest financial manipulators, and the American people only learned about it much too late after the fact.

When the dust settled, we learned of one 1988 deal that was so sweet that it turned a failed savings and loan into 1989's most profitable savings and loan. It took a failed savings and loan, by reason of the deal that the RTC made, and turned it into 1989's most profitable savings and loan.

The acquired S&L failed.

How much of his money did he put up? Not very much. He put up only $1,000 of his own money and got Blue Bonnet Savings Bank and over $3 billion of Federal subsidies.

If somebody had told you that could be done, you would say it is impossible; no Government could possibly be a party to that. Even in normal times, he could not have acquired a thrift because he personally had entered a corporate guilty plea of fraud for a company that he owned and controlled.

But he was smart. He was clever. He hired a former Vice Presidential aide, who saw to it that the deal was approved.

The next year the RTC was born, replacing the failed, Savings and Loan Insurance Corporation [FSLIC]. The RTC was charged with closing down the remaining thrifts and suing those responsible. The RTC's record of recovering money from the crooks who caused this scandal is pitiful. The RTC's record of selling the assets of failed thrifts is marked with scandal, mismanagement, and inefficiency.

This $100 billion crisis was not caused by the Clinton administration. They had no part of it. They certainly were not in office. They cannot be responsible for it. But under the way our Government operates now, the Clinton administration bears the burden of finishing the cleanup. I believe the administration has made a good start and is doing everything possible to get control of it.

Hopefully the money we are about to approve, and the changes we are about to make, will close this shameful chapter in the country's history.

Despite this sorry legacy, I have a great measure of confidence as we look to the future. Most importantly, this bill will go a long way toward making improvements in an agency that has been wasting taxpayer dollars not by the thousands, not by the tens of thousands, not by the hundreds of thousands, not by the millions, but by the billions.

This bill now contains important and long-needed improvements in the way

the RTC will be run. Not only that, it contains improvements in the way that its successor agency, the FDIC, will operate. Finally, we have a bill that begins to look forward. It did not come about easily. There were an untold number of hours put into remodeling, reworking, bringing this bill to the point that it is at. Those hours were spent by the staff and the members of the Banking Committee. They came forward with a product.

Then some members of the Banking Committee had some concerns about it. I had some concerns about it. There were a number of improvements made. And then, after that, there were further discussions made by myself and my staff. And with other members of the committee, the chairman, the staff, and the Treasury Department, substantial other amendments were agreed to and adopted.

I think the bill is a major step in moving forward. We are at long last beginning to take charge of the situation, learning from past mistakes and putting problems behind us.

Today, we are rounding a corner. We have the help of an administration that has been willing to take a hard look at the problem and agree to reforms that will correct them.

We worked hard with the Acting CEO of the RTC Roger Altman. Mr. Altman is meeting his responsibility to the public admirably. Although I am not in total agreement with him, he worked forthrightly to meet our concerns and was willing to push for the inclusion of many of our ideas in the managers' amendment. There has been much progress in bringing the bill to the floor.

Thanks as well and in large measure also to Chairman RIEGLE, we have before us a bill that recognizes most of the RTC's major weaknesses and inefficiencies and does something to fix them. Consequently, I hope that this bill will begin restoring public confidence that the Government can protect the average taxpayer's interests.

While I am enthusiastic about the progress this legislation represents, I believe that there remain areas for improvement. This Senator intends to offer an amendment to extend the period of time in which the Government may bring suit against those who caused taxpayer losses. I will introduce such an amendment later. A virtually identical amendment passed the Senate twice last year—78–10 and 68–12. Both of the managers of today's bill voted for it. The current Secretary of the Treasury voted for it. The former CEO of the RTC, Albert Casey, supported it. The former Secretary of the Treasury, Nicholas Brady, supported it. I hope that each Senator who voted for it—and, as I pointed out, there were 78 who voted for it at one point; and 68 to 12, there were 20 absences at that point, so the number was a bit less—will see fit to vote for it. And I believe that the companion measure in the House will move in this very same direction.

With an extension of the statute of limitations added to the bill, I am confident that we will have taken measures to further protect the taxpayers.

I am frank to say that I and my staff spent countless hours working with members of the Banking Committee, their staffs and the Banking Committee staff in order to incorporate many new RTC policies in the managers' amendment. I think they are useful and important changes. They reflect a vigor and excitement about the way Government can work for the public and the taxpayer. I hope they will be followed by many more involving other agencies.

There are few agencies that have been as expensive to the taxpayers of this country as has been the RTC and its predecessor agency, FSLIC. The American taxpayer had very little to do with it and could not do much about it. The blame very definitely fell upon the doorstep of those who preceded this administration. There was an indifference, a lack of caring and, in some instances, a kind of cooperation to help some special people make money out of the debacle that had occurred in the savings and loan industry.

Mr. President, let me describe some of the improvements now in the manager's amendment.

We will no longer have an RTC that is run by its own contractors for their private profit, rather than for the taxpayers who are footing the bill.

This bill creates—for the first time—a chief contracting officer at the RTC who would set uniform standards for contracting and contracting enforcement. The bill makes the chief contracting officer a senior official and makes him or her a voting member of the RTC's executive committee. The RTC has over 25,000 active contracts, and is in large part, an agency that operates through contractors, rather than its own staff. Hopefully with the chief contracting officer provision enacted into law, we will have seen the last of subterfuges such as Operation Western Storm, where a $24 million contract with a single company was broken down into 92 separate parts in order to get around competitive bidding requirements.

Another provision calls for certification by the Chair of the RTC's oversight board before more than $10 million of newly available funds can be used.

One of these certification's requirements is that the RTC improve management information systems to provide complete and current information on a cost-effective basis. What that means in substance is that the public, or those who are interested in doing business with the RTC, will be able to find out the facts. Right now it is an unbelievable situation. It has been. Changes are being made as we meet here today. But in the past, somebody who wanted to do business with the RTC might have been a man from Mars as far as the RTC was concerned. They were indifferent. They could not care less. They were not willing to sit down and talk. You could not buy a property from the RTC, you could not find out how it was going to be sold. The door was slammed in your face. It was an incredible situation that a Government would deal with the people of this Nation so crassly, while at the same time expending billions of dollars of the taxpayer's money.

Hopefully, this new management information system will end situations in which the RTC—listen to this—"misplaced"—that is their word—"misplaced $8 billion in savings and loan assets in its western region."

Another provision creates the position of chief financial officer. The CFO will report directly to the Chairman of the Corporation. Employees of the RTC, and of its many contractors will, for the first time, be protected if they expose waste of public funds and gross mismanagement. No longer will those who protect the public by revealing $25-a-hour copying charges have to risk their jobs by serving the public and the taxpayer.

The RTC was paying people $25 an hour just to do copying. Somebody raised the issue and that individual's job was placed in jeopardy.

The bill would also shift the burden of proof in disciplinary proceedings in favor of RTC employees who expose waste and fraud and abuse.

The managers' amendment looks forward to the time the FDIC will assume the RTC's present responsibility for shutting down failed thrifts. The amendment calls for an independent FDIC inspector general, appointed by the President and confirmed by the Senate. The new inspector general will no longer—no longer be beholden to the FDIC's Chair, who picked him or her—a Chair whose actions the inspector general will have to review and criticize.

It was an absurd situation that has been prevailing, that the chairman of the Commission would be choosing the inspector general. The inspector general then would be looking for the wrongdoing of the RTC. The fact is, he would be judging the person who gave him his job. It just did not make sense.

These measures, a senior contracting official, a chief financial officer, whistle blower protections for employees and contractors, an up-to-date management system, and an independent inspector general as well as others stem from the work of six Senators on the Banking Committee, including its four new members. It stems also from the fact that a member of my staff, Brian McTigue, has spent an unbelievable

amount of hours working with the staff of the Banking Committee to bring about these changes. And the six Senators on the Banking Committee are to be applauded. Those are the ones who took the lead in inserting this language in the managers' amendment.

We have been in consultation with them but they were on the committee. This Senator is not on the committee. And they deserve the commendation of the American people.

Senator JOHN KERRY; Senator PATTY MURRAY, a new Senator; Senator BOXER, a new member; Senator BRYAN; Senator MOSELEY-BRAUN, also a new member; and Senator CAMPBELL, also a new member—four new members asserted themselves. There has been a feeling around here that Senators who are new should sort of sit in their seats and not really be involved. These four new Senators, and Senator BRYAN and Senator KERRY, did assert themselves and they worked with Senator RIEGLE and his staff, and they brought about these changes. They worked with a member of my staff. They all worked together and I am proud of the fact they brought about a bill that is far, far better than anything that has been brought to this floor in the past concerning this agency. The public will be well served because of their interest and the efforts of all of the others involved.

There is another provision in the managers' amendment that I want to bring to the Senate's attention. It has to do with the professional liability section of the RTC's legal division. The provision will reconstitute the professional liability section under one supervising attorney, the assistant general counsel for professional liability, who will be in charge of all RTC personnel including investigators and outside contractors engaged in the effort to sue those who cause failures at thrifts. The assistant general counsel for professional liability will become a statutory position, appointed by the Corporation. He or she will report to the general counsel and the chief executive officer of the RTC.

This provision in the managers' amendment is necessary to restore the professional liability section to its original operating structure. Early last year the professional liability section was reorganized. In effect, it was torn apart. It was not reorganized for the betterment of the people, it was torn apart by a callous administration, indifferent to the taxpayers' interests. A better description might be that the professional liability section was not reorganized, it was disorganized. A consequence, the professional liability section is in such disarray and discord that it is failing to sue the insiders, whose greed contributed billions to the cost of the bailout, leaving the taxpayers at risk.

The reorganization cut the authority of the assistant general counsel for professional liability who had built the unit from scratch. His budget was taken away and then his control over professional liability section lawyers in the field was drastically cut. Anything to keep him from doing the job that he was trying to do. He was then made so uncomfortable that he left.

Since then, four of the section's remaining six managing lawyers have left. In fact in the ensuing year, one-half—one-half of all professional liability section lawyers have gone, including the most senior and the most experienced. More would have gone, but the ensuing publicity cautioned the RTC to rescind its plans to let them go.

Fifty percent of the remaining professional liability section attorneys have less than 12 months of experience with professional liability cases, although the learning curve for professional liability section cases is 18 months, according to the FDIC.

This has left the RTC with a professional liability section that lacks the professional proficiency and independence to protect the taxpayers' interests. The professional liability section lacks the expertise to bring tough cases against the well-heeled and well-organized defendants responsible for major thrift losses.

Let me say this to you, Mr. President, this is an area where there have been so many doubters that have gone out the door, either willfully or unintentionally—but the fact is, this agency has been ripped off, and the American taxpayer has been forced to pick up the bill. We wound up with an agency, instead of doing the job it should have done and could have done, really trying to frustrate those lawyers who were in the agency who wanted to do a good job. And they were disorganized; they were reorganized; they were not supported or helped. It was a definite effort on the part of the previous people in charge to see to it that they did not do a good job. And we are talking about billions of dollars. We are talking about the failure to bring lawsuits in time. We are talking about not having the files organized. We are talking about not knowing what is going on. We are talking about immature people not being able to do the job. But the taxpayer has been stuck with the bill. Let me give an example.

The RTC has typically shied away from suing accounting firms that discovered risky and imprudent lending by insider board member officers who did not, then, inform outside thrift board members of the situation. What they are saying is they do not want to sue the insiders on the board who failed to inform the outsiders; the insiders being the people who work at the corporation, who work at the savings and loan and the outsiders being members of the community who were not really as familiar with what was going on. And the insiders had a responsibility to tell what was going on to the outsiders. But they did not do it.

Typically, the accounting firm's motivation for not disclosing these practices was to avoid jeopardizing its own lucrative contract with the thrift's inside director management. The accounting firm knew there were problems, knew action should be taken, but they did not want to rub the fur the wrong way. So they did not go to the leadership of the savings and loan, to the outside board members, and say: Look, are you aware these things are going on? And, for that, they were irresponsible and in many instances should have been held legally responsible for damages.

This Senator obtained one professional liability section lawyer's memo which describes the RTC's reticence to sue big accounting firms because it feared their "scorched Earth policies towards RTC legislation." Of course, such fear eliminates the potential to achieve significant money recoveries from accounts who are paid handsomely, and to this day are being paid handsomely by the thrift, to not exercise their professional duties.

The assistant general counsel for professional liability now has little control over professional liability section attorneys outside of Washington. Components of the RTC, which are not even part of the legal division, such as the division of assets, sales, have control—even veto power—over key actions of professional liability lawyers outside Washington. This is an agency that I importuned to try to do more on the inside, try to hire lawyers on the outside at a more reasonable figure. But no. The agency was not willing to do it.

I personally called major law firms of this country and said, "Would you handle these claims that arise out of the failure of these savings and loans? Would you handle these claims on a contingent-fee basis?" And with one exception they said they would have a conflict of interest, and one other exception said, "Yes, we will do it but not charge for it."

I asked if they would do it on a contingent-fee basis. I wrote to Mr. Seidman and said, "These are the firms willing to do it." Mr. Seidman paid no attention. He was not worried about saving the taxpayers dollars. He was indifferent.

The fact is they went out and hired lawyers and finally hired one firm on a contingent-fee basis, paying them $300 an hour as a going-in rate, and if they were successful, which was easy to do because it was the Milliken case, and they said if they raised over $200 million from the settlement, which anybody knew was going to be done and could be done, they would be paid not $300 an hour but $600 an hour—$600 an hour.

There are instances, and we have specific examples, where the professional

liability section was paying law firms very, very substantial amounts of money, if my recollection serves me right, an amount like $127,000 for doing what? Just for the time spent in preparing the bill.

If I sound a bit irritated or upset about this it is because it is a subject that has upset me for over a period of many years when I see taxpayers' dollars flow out the door; when I see when we came to the floor and tried to get a few dollars for the WIC Program, or some program for feeding children or for immunization and we could not find the money, but we were perfectly willing to let billions of dollars go out the door.

The previous administration was unwilling to face up to its responsibility, and no matter how much we importuned them, no matter how much we begged them, no matter how much we entreated with them, they were not willing to meet their responsibility. I am hopeful that there will be a new day, and I am optimistic there will be under the new leadership of Mr. Altman over at the RTC.

Bringing professional liability lawsuits has also been difficult because the RTC's investigators who developed the cases are not part of the professional liability section. They are not even part of the legal division. They are part of the division of institution operations and sales, whatever that is. Consequently, if an investigator is asked by a lawyer to look at something, the investigator can ignore it with impunity. There was little a lawyer could do to stop it.

The administration supports this effort to reorganize, and I commend them for it. The administration wants, as do we in the Senate, to return professional integrity to the professional liability section, and I think we are moving very dramatically, very drastically in that direction by reason of that which is before us today.

Another important provision in the managers' amendment requires the Secretary of Treasury to make periodic certifications that the RTC has taken steps to control its legal costs. That is not a new subject with me, as I have already stated.

Finally, we have an administration that will address this matter head on. The RTC's legal spending has been a history of extravagant subsidy to the legal profession as well as for the accounting profession. Annual fees for outside legal costs have run to $600 million—$600 million. We are talking about an immunization program of $300 million and having some controversy about that. At a time when we cannot find an additional $100 million to expand the WIC Program or the nutrition program, the RTC is paying lawyers unbelievable amounts per hour, no negotiation, sending out all the cases, getting the biggest law firms in the country to handle the work and running up bills that are absolutely astronomical. It has been a shame and a disgrace.

I am pleased to report the managers' amendment would put the brakes on this. Before the RTC could draw more than $10 billion from the Treasury, the Secretary of the Treasury will have to certify that new controls on legal fees are in place. These controls would require that the RTC use staff lawyers before using high-priced outside law firms. RTC attorneys, some of them in high management positions, have informed my staff that this is the single best way to control legal costs without reducing the quality of the work.

When the circumstances require that the RTC hire outside lawyers with particular skills in areas like bankruptcy or environmental law, the RTC would be required to use negotiated contingent fee and competitively bid fee agreements, whichever would reduce the cost without reducing the quality of the legal work.

Mr. President, I congratulate the chairman and the ranking Republican member on the committee and the administration for the managers' amendment. The provisions of the amendment, along with the commitment and energies of the Clinton administration, give us the opportunity to put an end to the expensive and disruptive savings and loan bailout. While I will be offering an amendment to the managers' amendment having to do with the question of statute of limitations, I am pleased that we are finally going to get control of the bailout and save some taxpayers dollars in a more business-like manner.

Mr. President, I yield the floor.

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, I want to just acknowledge the comments of the Senator from Ohio and respond to them briefly.

First of all, I want to thank him for his leadership on this issue, not just now but over a long period of time. I had many recollections about past moments in this problem area as he was speaking. I want to just cite one, and I am sure he will recall it quite readily. That is, he made a reference to the 1988 deals, as they are called, that were being made under tax law provisions that were about to expire at the end of the year of 1988.

The Senator from Ohio and I had a great concern about what was going on. In fact, we talked about it at the time and decided upon a strategy where we would call the then Secretary of the Treasury Nicholas Brady and specifically ask him to step into that process and, if things were the way they seemed, to put a stop to it so we did not end up spending a lot of money by use of the Tax Code simply because it was up against the end of calendar 1988 rather than allow those issues to carry on into the new year and be handled in a more direct and efficient and cost-effective way.

I remember at the time—the Senator can correct me if his recollection is different—that we both made calls to the Secretary of the Treasury who, at that particular time, because it was near the end of the year and the Senate was in recess, happened to be out of the country and we had to reach him some other place to speak to him by phone to present to him, each of us independently, this request that he use his power as Secretary of the Treasury to come in and monitor that situation and put a stop to these deals if, in fact, they looked as if they were going to turn out to be a raid on the Treasury by means of an abuse of the Tax Code.

As I remember it, he said initially that he wanted to reflect on that, and I think he took a period of maybe 24 hours or so to consider whether or not he wanted to exercise any power in that area and then called back later to indicate that he decided not to do so.

That was just one of many events I can remember over a period of time where a Senator from Ohio and the Senator from Michigan and myself were working to try to sort of rein in what we thought were tactics and practices we thought were either wrong or abusive or much too expensive for the nature of the problem that they were aimed at.

I might also say, the Senator at different times has come over to the committee and sat in on hearings that we have had. We have always welcomed him. At times, he has asked questions in those committee hearings.

You probably will recall, as well, we had a series of hearings last year on the issues of whether lawyers in the professional liability section were being undercut or pressured or in some way being prevented from carrying out their responsibilities as they saw them with respect to individual cases.

We not only called them in. They testified in public session. We tracked down each and every one of those cases individually, in terms of those individuals. We are prepared to continue to track down any other case that we hear about of that kind. So that has been another area the Senator has mentioned today which has been a matter of keen interest to me as well.

I think it is important to note, going back to the early part of the Senator's statement, we have put into this legislation now every safeguard we can think of to put in there, that we have been able to develop in terms of the professional staff of the committee, what I have been able to draw from my experience of service on the committee, what the Senator from Ohio has recommended—and he has made a number of recommendations—what the new

members of the committee have brought in terms of their ideas, and other prior members of the committee.

With the new administration, which is in a position to take a fresh look with fresh people in place, and to put in place the kind of control mechanisms that were not there before, I think we are in the strongest position we have ever been in to certify to ourselves and to the public that we are doing this job as well as it possibly can be done given the inherent difficulties of getting it done.

Now obviously, it is going to depend upon the skill of the people who carry these responsibilities. But I say, based on the testimony of the Secretary of the Treasury, former Senator Bentsen, and also the team that he has assembled—he takes this very seriously. He understands the importance of getting it done and getting it done properly—I see a kind of discipline being applied.

So I think the legislative package we have here is a very good one. Frankly, it takes a new administration, willing to accept a lot of these additional strengthening steps, in order to be able to get it done and get it enacted, and we now have that.

I wish to again thank the Senator from New York for his leadership. We have done this in the committee on a bipartisan basis, taking into account the suggestions of the Senator from Ohio and others, to produce a bill which we bring forward on a bipartisan basis.

So I think this is a positive step, and I wish to thank the Senator from Ohio for his contribution not only in this instance but also, going back over time, in this very area.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I appreciate the comments of my friend, the chairman of the committee. We, indeed, have been on the subject together for a long time. I remember very well, in the middle of the Christmas season, he was one place—I am not sure where—and I think I was down in Florida. I think the Secretary of the Treasury was somewhere in the Islands, a perfectly proper place; he was vacationing. But the Senator and I felt it important enough to try to bring a halt to those deals going forward. We were not very persuasive. We did not win the battle.

As the Senator well knows, and the people of America do not know, even on December 31 they kept signing those deals, not alone on that night but right up to the very last minute until the New Year arrived. They had people who did not know what they were doing; they were just trying to bash them out. And the smart lawyers on the opposite side of the table were the sharpest lawyers in the country. They knew what they were doing. The Government was underrepresented. And I am not even blaming some of the people, because they were acting under orders. But those who were giving them the orders have reason to apologize profusely to the American people.

I am frank to say it was a great disappointment to me, and I would guess to the chairman as well, that Secretary Brady at that point did not shut down the operation. We could have saved the American people not millions but billions of dollars.

But the chairman of the committee has been unbelievably receptive to my coming over to his committee, speaking with his committee, sitting with his committee, and permitting me to ask questions. I do appreciate that. I think the Senator has done a good job in putting this work product together.

As I indicated, I will have one amendment which we already know about, and we will be talking further about other subjects before the day is over.

I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. RIEGLE. Mr. President, If I may say to the Senator, it would be very helpful if we could go ahead and put the amendment down now and start on it within a matter of 5 minutes or so. That is really the lead amendment. It is the amendment on which everything else hangs.

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

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

AMENDMENT NO. 356

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM], for himself, and Mr. WOFFORD, proposes an amendment numbered 356.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, insert the following:

**SEC. . CIVIL STATUTE OF LIMITATIONS FOR TORT ACTIONS BROUGHT BY THE RTC.**

(a) RESOLUTION TRUST CORPORATION.—Section 11(d)(14) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(14)) is amended—

(1) in subparagraph (A)(ii), by inserting "except as provided in subparagraph (B)," before "in the case of";

(2) By redesignating subparagraph (B) as subparagraph (C);

(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) TORT ACTIONS BROUGHT BY THE RESOLUTION TRUST CORPORATION.—The applicable statute of limitations with regard to any action in tort brought by the Resolution Trust Corporation in its capacity as conservator or receiver of a failed savings association shall be the longer of—

"(i) the 5-year period beginning on the date of the claim accrues; or

"(ii) the period applicable under State law."; and

(4) in subparagraph (C), as redesignated—

(A) by striking "subparagraph (A)" and inserting "subparagraphs (A) and (B)"; and

(B) by striking "such subparagraph" and inserting "such subparagraphs".

(b) EFFECTIVE DATE; TERMINATION; FDIC AS SUCCESSOR.—

(1) EFFECTIVE DATE.—The amendments made by subsection (a) shall be construed to have the same effective date as section 212 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

(2) TERMINATION.—The amendments made by subsection (a) shall remain in effect only until the termination of the Resolution Trust Corporation.

(3) FDIC AS SUCCESSOR TO THE RTC.—The Federal Deposit Insurance Corporation, as successor to the Resolution Trust Corporation, shall have the right to pursue any tort action that was properly brought by the Resolution Trust Corporation prior to the termination of the Resolution Trust Corporation.

Mr. METZENBAUM. Mr. President, this amendment would extend the time in which the RTC can sue savings and loan officials and others associated with failed savings and loans, whose negligence or worse resulted in losses to the taxpayers. The amendment extends the statute of limitations from 3 to 5 years.

The amendment is well known to this Senate; it was passed twice before. This amendment is well known to this Senate; it was passed twice before. This amendment was passed twice before, identical language, with bipartisan support. The votes were 78 to 10 and 68 to 12. Both managers of the current bill voted in favor, as did then-Senator Bentsen, who is now the Secretary of the Treasury.

At the time, it was known as the Wirth amendment. Its cosponsors included the chairman of the Banking Committee, Senator RIEGLE, and myself. It was supported by the former Secretary of the Treasury, Nicholas Brady, and the former chief executive officer of the RTC, Albert Casey. Unfortunately, because the other body never passed a bill, it was not adopted.

Under the managers' amendment, the RTC will take over failed thrifts until September 30 of this year. Starting on October 1 of this year, the FDIC will take over failed thrifts.

The Wirth amendment made it clear that the statute of limitations would be 5 years for actions against thrifts that the RTC took over.

This amendment is essential if we are to protect the taxpayers from having to pay for the losses that savings and loans caused by the negligence, gross

negligence, branch of fiduciary duty, or fraud of the officers, directors, or accountants, auditors, and lawyers, who ignored their professional responsibilities.

This amendment attempts to assure that those whose actions caused financial damage to a failed thrift compensate the taxpayers for their actions. The taxpayers of this country have a right to expect that individuals who enriched themselves be made to pay back their ill-gotten gains—and there is much, very much to get back.

The RTC currently has lawsuits alleging $8 billion in damages against thrifts. But the GAO testified last year that RTC attorneys believed that there was wrongdoing in about 80 percent of the thrift failures. Yet the RTC has brought lawsuits in only about 20 percent of thrift failures. And there is ample evidence that the RTC has not brought all the meritorious lawsuits that they could have brought.

First, former staff of the RTC professional liability investigation units have informed my staff that that is the case. Some have provided their memos on the subject.

Second, the RTC professional liability section simply was not equipped to file all meritorious lawsuits. The unprecedented wave of thrift insolvencies—over 1,000—created a tremendous burden on the RTC to investigate the causes of each failure. It would have been a severe challenge for any established agency, but the RTC was a new temporary agency. Beginning in August 1989, the RTC took over savings and loans at the rate of more than one each working day.

Third, the unit the RTC designated to investigate and sue those responsible for the debacle never established stable operations.

The RTC was created in August 1989 and the RTC's professional liability section was not fully operational until 1991. Then, beginning in December 1991, the professional liability section was torn apart and effectively dismantled in a disastrous reorganization.

As a result of that reorganization, RTC offices and professional liability section units all over the country were closed, attorneys were let go or transferred, documents were moved, and cases reassigned. The assistant general counsel for professional liability had much of his authority over the professional liability section removed. Professional liability lawyers in the field were supervised by nonlegal managers of other units such as the Division of Asset Sales. So you have somebody in charge of asset sales controlling the actions of lawyers far removed from him or her in some cases.

In the year since the reorganization, 52 percent of the professional liability lawyers left or were dismissed, according to GAO.

I am aware of the fact, Mr. President, that I have addressed myself to some of this same material in the opening remarks that I made concerning this legislation, but I feel it important to repeat it, because the debacle that has occurred with respect to the professional liability section is of such a nature and it is so relevant to the whole section of extending the statute of limitations, that I am presuming upon my colleagues in the Senate to make these remarks even though some of them have been previously stated.

Five of the seven top managing attorneys are gone. They have left the agency. Some are now working on the other side. Fifty percent of the remaining lawyers have less than 12 months of experience. The GAO reviewed a sample of 17 professional liability attorneys dismissed in the reorganization. The GAO found that no thought was given to the deleterious impact that dismissal would have on their cases.

Under these circumstances, it is no surprise that the RTC has a difficult time bringing lawsuits within the current 3-year statute of limitations. When the RTC does sue, according to the GAO, 70 percent of all RTC lawsuits are filed less than a week before the statute of limitations expires and many are filed on the last day.

Last year, in 1992, just as the reorganization hit, the statute of limitations expired on 308 thrifts. In many cases the RTC filed no lawsuit. This year the statute of limitations will expire on another 213 thrifts. In 1994, the statute will expire on another 141. It is inconceivable to this Senator that the RTC, with all of its organization problems, will be able to keep up with this caseload.

In fact, the RTC has filed lawsuits involving fewer thrifts than those in which the Justice Department has filed criminal actions—171 savings and loans for Justice and 157 savings and loans for the RTC. This is true despite the fact that the RTC's 3-year statute of limitations is much shorter than the 10-year statute of limitations facing the Justice Department in criminal cases.

There is more evidence that the RTC cannot file all meritorious lawsuits within the 3-year statute of limitations. Two weeks ago, a Federal judge threw out a suit by the RTC against the officers and directors of a failed thrift in New Orleans—American Savings & Loan—because the RTC filed it 3 months too late.

It is clear to me that the reorganization of the RTC professional liability section last year was a material cause of the RTC's late filing in the New Orleans case.

My staff spoke to a former professional liability attorney who was knowledgeable about the situation. The RTC's office that was responsible for the case, Baton Rouge, was thrown into complete turmoil by the reorganization at about the time that the suit should have been filed, May 11, 1992. The attorney said the situation was so bad that the RTC had to fly in teams of professional liability attorneys from its Dallas and Washington offices to New Orleans. They sat in hotel rooms for several days going over reams of paper, case-by-case, trying to find out where the Baton Rouge cases were. This meeting took place just as the American Savings & Loan Association's statute of limitations was expiring.

Mr. President, there is no question that we need this amendment. So let me turn to the objections that have been raised.

The first objection is that an extension of the statute of limitations is not necessary because the RTC can bring all meritorious cases within the current 3-year period. There is overwhelming evidence that they cannot.

The second objection is that an extension of the statute of limitations cannot be applied retroactively. In fact, a Federal court has already upheld retroactive application of the 3-year statute of limitations we are dealing with here, which was enacted as part of FIRREA. The court held that the Congress intended it to be applied retrospectively. The name of that case is *Federal Deposit Insurance Corporation* v. *Howse*, 736 F. Supp. 1437, coming out of the southern district of Texas in 1990.

The last objection I hear is that extending the statute of limitations retroactively is unfair. The argument goes like this. The 3-year statute of limitations has already expired against many officers and directors, and it would be unfair to reopen the possibility that they might be sued after they thought they had put this behind them.

My response is that the individuals who were responsible for the loss of billions of dollars were not very fair either. Suing an officer, director, or professional for negligence, gross negligence, breach of fiduciary duty, or fraud is not a matter of unfairness.

But, I am asked, what about the outside directors who were not involved and not responsible for the losses? It is not fair to go back and extend the statute of limitations against them. Why should they be sued is the question. My response is that extending the statute of limitations against them is not unfair but suing them in many cases would be very unfair to the taxpayers of this country.

Let me point out that just because we passed the amendment and extend the statute of limitations does not mean that all directors are going to be sued. There is no suggestion of that at all. There are many outside directors that should not be sued and I would be willing to argue very strongly to that effect.

We are only talking about outside directors or inside directors who should be sued and have not been sued.

I can think of cases where outside directors have done an extremely great job of seeing to it that their pockets were enhanced very materially in substantial financial amounts.

There are indeed many outside directors who probably should not be sued, but that will be a matter of judgment for the agency to decide, for the lawyers to decide. There is nothing about this amendment that says everybody who is an outside director is going to be sued. I would not think that was proper and I would not think the RTC would do that.

This amendment does not mandate that anyone, or any type of officer or director, be sued. The amendment merely extends the time in which the RTC has to learn about, evaluate, and bring a claim if it so wishes. The RTC now has, and will continue to have under this amendment, the complete discretion as to who should be sued. I have confidence that the RTC's CEO, Roger Altman, and the Chair of the Oversight Board, Secretary Bentsen, will not sue individuals who had no responsibility for the losses of a failed savings and loan. They simply will not, and should not, allow that to happen.

The bottom line is that directors who performed a public service by serving on the board of a thrift, and performed that duty well, are not affected by this amendment. This amendment gives the RTC the opportunity to bring meritorious cases which might otherwise not be filed due to the RTC's enormous caseload.

If we give the RTC more time to do its job, more time to reflect on the merits of a case, I think we will be doing a public service to the taxpayers. Better and more cost-effective cases will be brought and the cost of the savings and loan bailout reduced.

I urge my colleagues to support this amendment.

Again, I point out it is the identical amendment that passed this body by a vote of 78 to 10 last year.

I yield the floor.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. D'AMATO. Mr. President, I have supported this legislation in the past, but I have to tell you I do have reservations regarding the manner in which we are proceeding. Let me tell you why.

My distinguished colleague, Senator METZENBAUM, should be commended for his vigilance regarding the RTC. Indeed, a good deal of the legislative language that has been proposed and adopted in the managers' amendment is a result of the long hours that the Senator and his staff labored in order to bring to our attention shortcomings of the RTC.

Nevertheless, I have a problem with the offered amendment. I have a problem with the proposition that we should sue those who have not been sued. The Senator said that there are some who should be sued but have not been sued.

I suggest to you that there is a corollary to that, and it is disturbing to me: What about the people who should not have been sued, but regularly have been sued, and will now face lawsuits in the future.

To suggest the Secretary of the Treasury or Mr. Altman are going to be able to deal with this is preposterous. They are good and decent people. But the fact of the matter is that this litigation is farmed out. They are not going to be in the position to intercede. They would be accused of improper conduct if they did try to intercede.

The lawsuits that I am concerned about are being brought for the wrong reasons. These suits are brought against the people who have money, people who have deep pockets, particularly members of boards of directors. These suits are brought with little or no regard for whether the directors did anything that even remotely approached negligence. These people become targets for lawsuits simply because they have some money.

Now what takes place? To defend these lawsuits, it often takes hundreds of thousands of dollars. Often we find that these lawsuits are brought because of the likelihood that some kind of a settlement will result. The lawsuit is directed at a person who really should not be sued. And it is marginal at best in some cases. It is marginal. That is wrong.

The question is: How can we best provide the Government, as the representative of our people, with the means to seek out wrongdoers? And I mean wrongdoers.

Now, if we cannot, within a 3-year period of time, determine which people have made mistakes, that is pretty sad. But let us focus our Government's energies on those people whose conduct was the most egregious—cases of fraud, or cover-ups.

I think that is the way to proceed. I think we should focus on cases of fraud, or where there is outrageous misconduct, not this broad area of negligence. That is too broad.

What is gross negligence? I ask my colleague. How do you differentiate negligence from gross negligence?

Some might say, "You have a case of gross negligence. We should pursue that." I would say that could be a rather subjective question.

I support the idea of continuing or attempting to get restitution from people who have acted deliberately, and whose actions have harmed the taxpayers. These people should be taken to the cleaners. They should lose their ill-gotten gains, that have cost us all millions and millions of dollars. It is one thing to continue to keep the corporate lawsuits against these people; it is another thing to throw out a net that will drag thousands of people into terrible litigation, simply because they have some money.

Now, look, there has been plenty of anecdotes. But, for every thief and crook there are 10 decent people who find themselves involved in litigation simply because they have some assets. Now that is wrong. How are we going to handle this?

Now, I'd like to point out that the Secretary of the Treasury and the CEO of the RTC have not called for this legislation. In a letter dated May 4, 1993, to the chairman of the House Banking Committee, Chairman GONZALEZ, Mr. Altman wrote that the RTC did not need this legislation.

Mr. President, I ask unanimous consent that the letter dated May 4, 1993, written by Mr. Altman, the interim CEO at RTC be printed in the RECORD.

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

RESOLUTION TRUST CORPORATION,
*Washington, DC, May 4, 1993.*

Hon. HENRY B. GONZALEZ,
*Chairman, Committee on Banking, Finance and Urban Affairs, House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: Thank you for this opportunity to comment on the issue of extending the limitations period applicable to tort claims brought by the Resolution Trust Corporation in its capacity as conservator or receiver of a failed insured depository institution.

As you know, over a year ago the RTC generally supported legislative efforts to extend this limitations period because its Professional Liability Section (PLS) was facing a peak number of institutions which were closed in 1989 and for which the federal limitations period would be expiring during 1992 and the first quarter of 1993. The limitations period expired during this time for 410 of the 752 thrifts under RTC control for PLS purposes. The RTC, however, survived this critical period of time without missing a deadline. In fact, as of March 31, 1993, the RTC had 220 pending offensive lawsuits involving RTC claims filed in 174 institutions. As of the same date, 120 settlement agreements have been executed, and 11 cases went to final judgment through trial.

In addition, beginning last autumn, the RTC has been increasing PLS staff to meet the demands of its workload. The Secretary of the Treasury, in his capacity as Chairman of the Thrift Depositor Protection Oversight Board, has further committed to review and recommend improvements in the organization and staffing of PLS as part of his nine-point plan for the RTC, recently announced during his semi-annual testimony before Congress. Consequently, the RTC has no need at this time either to revisit "closed" claims arising in institutions in which the limitations period has expired or to extend the limitations period prospectively as the RTC will continue to meet all upcoming deadlines.

Please let me know if you need any further information.

Sincerely,

ROGER C. ALTMAN,
*Interim CEO.*

Mr. D'AMATO. I would like to refer to just part of it.

Mr. Altman says:

* * * The RTC has been increasing PLS staff to meet the demands of its workload. The Secretary of the Treasury, in his capacity as Chairman of the Thrift Depositor Protection Oversight Board, has further committed to review and recommend improvements in the organization and staffing of PLS as part of his nine-point plan for the RTC, recently announced during his semi-annual testimony before Congress. Consequently, the RTC has no need at this time either to revisit "closed" claims arising in institutions in which the limitations period has expired or to extend the limitations period prospectively as the RTC will continue to meet all upcoming deadlines.

I mean the letter is very clear. Mr. Altman does not support, and is not asking, for this extension.

I would ask the author of this legislation if we could limit it to the egregious instances—to fraud. Let us limit the net. Let us only go after real wrongdoers.

So I pose that as a question to my distinguished colleague from Ohio. I would be glad to support legislation that more carefully defined who the wrongdoers are, instead of using a standard that is too broad. Negligence can encompass just about anything and anybody. Standards that are too broad make possible the kinds of lawsuits that I have previously described. I know my colleague is not in favor of that.

I think we can do the business of the people, go after the wrongdoers, go after the people who covered up situations, and not unintentionally encumber thousands of good, decent people.

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

Mr. METZENBAUM. Mr. President, I am happy to respond to my friend from New York. I think it would be a mistake to make that distinction. The Senate did not make that distinction in the past when it voted 78 to 10 in favor of this amendment and I think it would be a mistake to make that distinction now. The reason I say that is this. There is nothing, in passing the amendment, that provides any compulsion or requires any act upon the part of those who are running the RTC to bring litigation. If there is a situation where a member of the board was, really, inactive, not much involved, conceivably he or she should have been. But I think it is a definitional problem as to whether or not the individual should be sued. In some cases you might have it is hard to determine what is gross negligence.

What is negligence? I ask my colleague from New York if he would be good enough to explain to me, in layman's language, how he would define gross negligence as distinguished from pure negligence?

Mr. D'AMATO. I might say I raised that issue and said we are not going to be able to do that. The standard of negligence is so broad that you will be inviting, and this legislation will invite, the kinds of litigation that is simply not fair to good and decent people.

This standard invites litigation. It invites suits against people, not because they are wrongdoers but because they were on the board of directors and have some money. So you go after the money.

The fact is, while I know that is not the intention of the Senator from Ohio—to go after innocent people—the language in his amendment is so broad that that is exactly what will take place. And that is why I suggest a standard that is not ambiguous, a standard such as fraud. With a standard such as intentional misconduct, the intentional coverup by the accounting firms that my friend made mention of will be covered.

I understand what the Senator wants to accomplish and I want to support it. I have supported it. But I think it is too broad. That is why I have suggested we use another standard: fraud. That is intentional conduct. Is that not the kind of thing the Senator is after?

Mr. METZENBAUM. No. I think we must go beyond that. Fraud includes a willful intent to defraud and the conduct that follows therefrom. But there are many instances in which a board member could very well have known of things that were going on—no party to fraud at all—but was indifferent to his or her responsibilities on that board. As a consequence, the American taxpayer has been called upon to pay the difference. We are doing that here in this bill today—I forget the number—$34 billion, if my recollection serves me right.

What I am saying is if they are not guilty of anything, if they did not do anything wrong, then the administration running the RTC will not have to sue them. Nobody says they have to bring all these lawsuits.

But if there is a case which should be brought, then giving them the additional burden of proving willful fraud is, in this Senator's mind, far too much. If you accept the position of responsibility on the board you ought to be paying attention to what is going on, not just let the managers of the savings and loan just do anything they want.

Mr. D'AMATO. No, I am not suggesting that. No. 1, they, those people who act in a fiduciary capacity, are subject to lawsuits for negligence and gross negligence, for 3 years. What we are saying is if for an additional 2 years they should not have this same burden.

What this Senator is suggesting is that after 3 years, let us go after the egregious cases. Hold them to a standard of fraud. Do not keep tens of thousands of honest, decent people on the hook. Do not keep this net so wide open after 3 years. That is what I am suggesting.

Mr. METZENBAUM. May I respond?

Mr. D'AMATO. Certainly. The 3 years is still there. They are under the standard for 3 years. What I am suggesting, though, is if you really want to go after the wrongdoers, let us do it. But let us go after wrongdoers and not someone who sits on the board. The fact is that suits are brought across the country and directors are being sued, not because they did anything wrong, but because they have money. That is simply wrong.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. I want to say to my colleague he is well intentioned and I understand his point. But this is not a decision that should be made by Members of the U.S. Senate as to whether somebody should or should not be sued. We are in no position to do that. We do not know all the facts.

All we are doing here is giving those who run the RTC that right to make the decision as to whether to sue or not to sue. I believe that is where the decision should be made, where all the facts are known, and that we here on the U.S. Senate floor should not be deciding whether somebody should or should not be sued. All we are saying is there is a right to sue if there was negligence, gross negligence, fraud, or willful abuse.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. D'AMATO. Mr. President, let me try to summarize my position, where I am coming from. We have a statute of limitations and it says it can take 3 years to bring cases where somebody has been negligent. I am not suggesting we pat negligent people on the back and say, "Wonderful." But you have had 3 years to sue them. This amendment says we are going to extend it to 5 years.

If we are really interested in going after the wrongdoers, then let us do that. Where there are egregious cases, where people have been fraudulent, have taken money, have made deals to enrich themselves at the expense of the failed institution and, ultimately at the expense of the taxpayers, then let us go after them. This Senator wants to do that.

But let us not continue in those cases that are doubtful, and often have little validity, but because of the cost of defending such suits you have settlements. Suits are brought for millions and millions of dollars. And they are settled for $50,000, $100,000, $200,000 because the people being sued just simply do not have the time, the energy, or the money to defend themselves.

That is wrong. It is legal coercion. It is absolutely wrong. And the Senator makes a point—we here on the Senate floor are not in a position to determine who should and should not be sued.

I want to tell you something else. Mr. Altman is not going to be in a posi-

tion either. So when John Q. Citizen is being sued simply because he was on the board of a failed institution, and there was no wrongdoing or negligence on his part, and he is a respected member of the community and he is sued simply because he has some money and because they can bring him in. What is going to happen? Nobody here is going to be able to do anything for him or say, "What is going on? It is wrong. This is not what we intended." Because you will be accused of interference.

Mr. Altman—or anybody at the Treasury—is not going to be able to do anything because he will be accused of interference. So is civil suit version of prosecutorial misconduct and abuse going to continue? We are going to permit thousands of people to be sued for no reason.

I am for recapturing every penny of taxpayer money that we can. What I am saying is that our system is now running out of control. I am saying that the CEO of the RTC, Mr. Altman, says, "We don't need nor do we want the limitations to be extended."

Here we are extending it and there will be implications. People who serve on boards of directors and approve loans will worry about the possibility of lawsuits. This is going to have an impact on the availability of credit. This is not the kind of thing we should be doing willy-nilly.

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. RIEGLE. Mr. President, we have had a good debate. I support the amendment offered by the Senator from Ohio. I note when we had Mr. Casey, when he was running the RTC, come before the committee on August 5 of last year, he came in to testify in behalf of this amendment. When he was asked a question as to whether it was important or not, he responded very affirmatively that, in fact, it was necessary—I will not cite it for the RECORD, but I have it here—and he, in addition to that, sent us a letter on March 23 of last year affirming his support in behalf of the extension of the statute.

I also asked former Secretary Brady in that same hearing. He also indicated his support for the extension.

The Senate has voted twice on this. I understand the point the Senator from New York makes, and there is some validity to the point he makes. I would say, on the other hand, that anybody who is serving in a fiduciary capacity on a board of directors has a special obligation. It is not just to show up and receive the director's fees. If you are not going to be diligent and involved, you should not be on a board of directors.

There is a responsibility that carries with it, especially in the instance of a federally insured institution and where, if it goes belly up, there is going to be an exposure that may land on taxpayers; that imposes I think, in a sense, even an additional burden that is going to be on somebody who serves on a board of directors of a federally insured institution. If they do not have the time, the expertise, the interest, or the way to really track what is going on, then it is better they not be there because they are there for a purpose. They are there to exercise oversight and a fiduciary obligation that is real.

So if that is not done, that is a default on that responsibility and it is proper, in the case of a large loss that otherwise will fall to the taxpayers, to assign responsibility where there is a finding that there is negligence.

If somebody has been negligent in that assignment then, in fact, there is a responsibility. The question is, who should pay for it? If they have been negligent and a loss has been incurred, should the loss come out of their pocket or out of the taxpayers' pocket? It seems to me that in a situation like this, when somebody has accepted an affirmative obligation to serve on a board and has a duty to perform and does not do it and there is a liability created, why should the taxpayer up and down the streets of America have to step in and foot that bill when, in fact, that director who was paid a fee for their service basically did not do the job?

I do not think this new team is going to be frivolous in pursuing these negligent suits. I think they will set a real standard of trying to make a determination of where they are or are not warranted. But I think, when you have had a breakdown in fiduciary obligation and a big loss occurs where the Government and the citizens then have to eat the loss, I think it is appropriate to come back on the directors who did not do their jobs properly when they should have been doing it.

As I say—and I will just conclude with this—the Senate has voted on this now twice before. Very substantial majorities voted for it. It is exactly the same language that was offered previously, which I think is appropriate.

I think we ought to go forward with it, notwithstanding the fact there are points that could be made on the other side.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I know that the chairman and others want to get on with the vote on this amendment. I do not have any amendments to offer to this.

I have great respect, of course, for my colleague from Ohio, who cares deeply about this issue and has talked about it at great length in previous years. I certainly am not opposed to extending the statute of limitations, but I think we ought to narrow it down a little bit or, in the alternative, just eliminate the statute of limitations, in perpetuity, for these cases.

I think eliminating the statute of limitations is a very unwise way to go, but at some point that is the effect if we pass enough piecemeal extensions.

The statute of limitations is not just a procedural vehicle. There are substantive implications of profound significance to people who are virtually innocent and yet become a target of a lawsuit because they have deep pockets.

I am very uneasy about this amendment's approach because I can see it being used on a whole host of issues. Its use on this bill is particularly understandable because people are upset about the savings and loan mess, and rightfully so.

I think we have to be careful because we are setting precedent with regard to a provision that is very important and that can really create serious problems for this country. I suspect there will be similar amendments offered on other proposals.

I caution our colleagues about going down this pike too far and paying a real price in terms of people's willingness to step forward and serve on bank boards.

So clearly, on fraud, there is no question but that the statute of limitations ought to be extended. In fact, I can make a case that you ought not to have any statute of limitations on fraud. But I think you have to be careful when you get beyond fraud, because you risk having negative, deleterious effects.

Mr. D'AMATO. Will the Senator yield for a question?

Mr. DODD. I will be glad to yield.

Mr. D'AMATO. Is it not true that a director who served on a failed institution, for example, and his last year of service was 1985, and the RTC takes over this failed institution in 1990, under this provision they can still go after him for his alleged negligence in 1985?

Mr. DODD. No question about it.

Mr. D'AMATO. And they can go right through to 1995, for something he may have done 10 years back?

Mr. DODD. What he may have done is not show up for a board meeting.

Mr. D'AMATO. Correct. Or what he may have done was just being on that board.

Mr. DODD. Just being on the board alone, having no culpability whatsoever.

I ask my colleague, how many people will still be willing to step forward to serve on boards of these institutions under such circumstances? We have to get good, competent citizens who will serve on these boards, but today, given the problems of liability coverage, people are walking away from it. They are not going to get good people. You would be a bit of a fool to serve on one of these boards.

Mr. D'AMATO. If you had any assets.

Mr. DODD. Mr. President, you would be a bit of a fool to serve, because I suspect we will extend the statute of limitations again, and again and again. We have to start thinking clearly and divorce the particular problem that really angers us from the principle of law. We have to understand what a chilling effect you create with people who have not engaged in fraudulent behavior. Those people we ought to pursue as long as we possibly can. But for people who just happened to be around, but who get hit with a lawsuit—you tell me how many good, competent people are going to step forward and serve in these institutions if we extend the statute of limitations in such cases. You would have to be out of your mind to do it.

So we ought to be careful how we go about extending the statute of limitations, despite the understandable desire to go after people to cover the cost of this cleanup.

I have no amendment to offer because I think we will get creamed here today if I offer an amendment. But I warn my colleagues, as we are going down this road, that this is dangerous stuff.

I do not know what will happen in conference or other places, but I urge us to proceed with some caution and some care, or alternately, to offer the amendment to just eliminate the statute of limitations altogether instead of revisiting this issue from time to time.

Mr. President, I yield the floor.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. 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. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, we have had a fair debate, and I think my colleague from Connecticut has very aptly put his finger on the issue, very cogently. This is an easy vote. Vote yes, and we are going to get all the people responsible for all the billions of dollars that have been lost.

It is not going to result in that. But it will hold thousands of people as potential hostages, thousands of people who had committed no wrong, who were not negligent, who served on boards, who did good jobs. That is wrong. It is just simply not right. And so to have them swept up and to continue on and on and on ad infinitum with the possibility of exposing them to litigation because they may be successful is just not right. It is not right.

I urge upon my colleagues and the good Senator from Ohio to consider even after this vote—I have no doubt he is going to prevail because there are people who are going to be afraid to vote against it. Oh, you are afraid to recover money?

No, that is not what we are saying. We are saying really—and I have supported this. I have looked at this. I looked at it carefully—fraud, go after them. If you have some standard of conduct that is absolutely indefensible, go after them, but not this wide-open net that leaves people subject not to 3 years, not 5 years but in some cases 10 and 15 years simply because they were on a board and because the institution failed and because they may be successful in their chosen profession and so consequently they are sued. That is what is going to happen.

We say we do not want these suits to take place. They are going to take place. They will continue. They have been taking place. It is simply not right.

I hope my colleague from Ohio, who has been a champion in terms of trying to do what is right for the American people in getting them their money and recovering these dollars, would look at this thing closely, and, hopefully, we could improve upon it. I certainly understand his intentions. I have no quarrel with them. They are well founded. He does not want people who cost the taxpayers money, who have the ability, who should be called to account for it, to slip through. I support him. That is why I voted for this initiative.

I hope that at some point in time we can improve upon this legislation.

I yield the floor.

Mr. RIEGLE. Mr. President, I think we are ready to vote on this. I see no one else seeking recognition. So I ask we proceed to the vote.

Mrs. BOXER. Mr. President, I strongly favor the amendment offered by the Senator from Ohio [Mr. METZENBAUM] that would extend the statute of limitations to 5 years for lawsuits against savings and loan operators and others who are accused of negligence or fraud or breach of fiduciary duty. There are very convincing reasons to extend the statute.

First, the evidence of wrongdoing—behavior that should be punished—is overwhelming. The General Accounting Office has found that 80 percent of thrift failures were caused at least in part by wrongdoing. But in only 20 percent of these cases has some type of legal action been taken.

The arm of the RTC that is charged with bringing the suits—the Professional Liability Section—didn't become operational until 1991, and yet it was dismantled and reorganized in December of that year. More than half of the lawyers in that section have left or been dismissed since then. Half of the remaining lawyers have less than 12 months' experience on the job.

Second, the turbulence surrounding the RTC's Professional Liability Section has resulted in 70 percent of all the section's lawsuits being filed with less than 1 week left in the statute of limitations period. What this has meant is that rather than narrowly target wrongdoers the RTC has had to, sometimes, cast a much wider net than desirable in order not to lose potential cases. An extension of liability would mean that better indictments would be made.

Third, it is clear that our efforts at prosecution and restitution have been puny and unsuccessful. The New York Times Sunday magazine recently printed an article detailing our success—or lack of it—regarding savings and loan criminals. Some of the findings: Persons convicted of bank fraud receive an average of only 2.4 years in prison as compared with 7.8 years for bank robbers; out of $846.7 million in fines and restitution ordered between October 1988 and June 1992 the Government has collected only 4.5 percent; in cases where the defendant agreed to pay restitution the courts should have received $133.8 million—these payments were promised in return for leniency—but only $577,540 has been collected.

In conclusion, Mr. President, this matter has been visited by the Senate before. Twice in the last Congress this body voted—78 to 10 and 68 to 12—in favor of the extension of the statute of limitations. Also, the courts have upheld the validity of extending the statute of limitations. I strongly encourage my colleagues to support the amendment by the Senator from Ohio and help bring wrongdoers before the law.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to amendment No. 356 offered by the Senator from Ohio. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Colorado [Mr. CAMPBELL], the Senator from Texas [Mr. KRUEGER], the Senator from Michigan [Mr. LEVIN], and the Senator from West Virginia [Mr. ROCKEFELLER] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from New Hampshire [Mr. SMITH] is absent due to a death in the family.

The PRESIDING OFFICER (Mr. BRYAN). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 63, nays 32, as follows:

[Rollcall Vote No. 119 Leg.]

YEAS—63

| | | |
|---|---|---|
| Akaka | Bradley | Chafee |
| Baucus | Breaux | Coats |
| Biden | Brown | Cohen |
| Bingaman | Bryan | Conrad |
| Boren | Burns | Daschle |
| Boxer | Byrd | DeConcini |

| | | |
|---|---|---|
| Dorgan | Jeffords | Nickles |
| Exon | Kennedy | Nunn |
| Faircloth | Kerry | Pell |
| Feingold | Kohl | Reid |
| Feinstein | Lautenberg | Riegle |
| Ford | Leahy | Robb |
| Glenn | Lieberman | Roth |
| Gorton | Mathews | Sarbanes |
| Graham | McCain | Sasser |
| Grassley | Metzenbaum | Shelby |
| Gregg | Mikulski | Simon |
| Harkin | Mitchell | Simpson |
| Hatfield | Moseley-Braun | Specter |
| Hollings | Moynihan | Wellstone |
| Inouye | Murray | Wofford |

NAYS—32

| | | |
|---|---|---|
| Bennett | Durenberger | Mack |
| Bond | Gramm | McConnell |
| Bumpers | Hatch | Murkowski |
| Cochran | Heflin | Packwood |
| Coverdell | Helms | Pressler |
| Craig | Johnston | Pryor |
| D'Amato | Kassebaum | Stevens |
| Danforth | Kempthorne | Thurmond |
| Dodd | Kerrey | Wallop |
| Dole | Lott | Warner |
| Domenici | Lugar | |

NOT VOTING—5

| | | |
|---|---|---|
| Campbell | Levin | Smith |
| Krueger | Rockefeller | |

So the amendment (No. 356) was agreed to.

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

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEVIN. Mr. President, through human error I missed the vote on the Metzenbaum amendment to extend the statute of limitations.

Had I been present, I would have voted for the Metzenbaum amendment in favor of extending the statute of limitations.

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

The PRESIDING OFFICER (Mr. KERREY). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COHEN. 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. COHEN. Mr. President, I took the floor earlier this week to announce to my colleagues that I was introducing freestanding legislation that would deal with a problem that I think has reached scandalous proportions in this country.

Mr. President, the anger, cynicism and disillusionment of the public about the performance of Government has calcified into a rage which shows little sign of abating. What fuels this rage is the public's sense that while they are having to cut back and trim expenses, the Government rolls merrily along, wasting money at a furious clip, and, in so doing, sending the message that we really aren't serious about changing the way Washington does business.

As one example of this, I offer the way in which the Government manages the vast office space which it owns or leases. Any private landlord who operated the way the Government is operating would long ago have gone bankrupt. Like all Senators, I talk to many real estate agents and property managers in my State, and I know that times are extremely tight in that field and the margin between survival and failure can be thin indeed.

Into this atmosphere lumbers the GSA as the Government's landlord, building buildings we don't need, leasing space we can't afford, and making decisions which anyone in the private sector with a speck of common sense wouldn't make.

Imagine that you come home and find two light bulbs out, a slight leak in the upstairs faucet, and the bedroom in need of a paint job. The sensible move is to make these modest repairs. The GSA approach would be to build a new home from scratch—and to pay top dollar.

Mr. President, the legislation I offer today draws attention to significant waste caused because the Federal Government does not effectively manage its office space. In the aggregate the Federal Government currently owns over 400,000 buildings that were purchased with hundreds of billions of taxpayer dollars. This number includes almost 438,000 buildings under the control of the Department of Defense and nearly 100,000 buildings under the control of civilian agencies, ranging from the Capitol and the White House to storage sheds and public restrooms at national parks.

The General Services Administration [GSA], the Government's so-called business manager, controls over 260 million square feet of office space in more than 7,500 leased and Government-owned buildings. The annual rents paid by Federal agencies to the GSA for both leased and Government-owned space adds up to about $4 billion. The Government is also the largest single tenant in the country and this year GSA will pay about $2 billion in rent to private landlords. The amount GSA pays is increasing by about $200 million a year.

The current Federal property program is senseless and the General Accounting Office [GAO], which has written scores of reports outlining its deficiencies, agrees. A senior GAO auditor has said that, public buildings policy is in disarray, and the American taxpayer is certainly not getting value for the burgeoning dollars being spent. When the Government is the only one building in areas where there is already a significant glut in commercial real estate, the criticism of the Federal property management program is understandable.

In a nation where we have 400 million square feet of unoccupied commercially available office space, the Government has $11.4 billion of construction in the works which, when completed at the end of this decade, will add another 23 million square feet in office space.

The Federal Government has yet to discover that new construction may not make sense when existing commercial real estate can be purchased for a fraction of what new construction will cost. The questions become clear. Why exacerbate the already high vacancy rates by building new buildings and forcing agencies to move out of their current space? Why spend hundreds of millions of dollars for new construction in Chicago, Philadelphia, or Atlanta, where the vacancy rates in those cities are 22, 17 and 30 percent respectively? Or why build additional office space for use by Federal agencies, when the base closure process will make millions of square feet of Federally-owned space available? The answer to these questions is equally clear. We must reform the Federal property management program to ensure that it is operating in the most cost-effective manner.

GSA maintains that new construction is necessary because the existing structures do not meet the needs of the agencies that will become tenants in the new buildings. GSA often claims that available space is not large enough to consolidate a large number of agencies under a single roof, does not meet the communication needs of agencies, does not meet modern fire codes, or simply does not conform to GSA standards. However, the truth of the matter is that the impulse to consolidate Federal agencies under one roof is not necessarily desirable or cost-effective, and a large proportion of available office space has been constructed or modernized within the last 10 years and, consequently, complies with fire codes and safety requirements. I would suggest that the GSA and other Federal agencies, such as the Departments of Defense and Veterans' Affairs, who have large construction and leasing programs, be flexible when determining requirements in order to take advantage of the existing real estate market.

Last October, Congress appropriated $626 million to begin 35 new Federal construction projects. At the same time the Resolution Trust Corporation [RTC] and the Federal Deposit Insurance Corporation [FDIC] had about 9,000 office buildings for sale. Recently, GSA announced the construction of a $20 million Federal office building in Louisiana to house 400 Federal workers and consolidate the offices of 14 agencies under one roof. This was done despite the fact that a building which could have been acquired in lieu of new construction was sold by the RTC for $2.5 million. In fact, GSA has never acquired a single one of the office buildings offered for sale by the RTC or FDIC. Instead the Federal Government continues to spend, spend, and spend for new construction.

In Dallas, despite the fact that a number of FDIC and RTC properties

are on the market, not to mention all of the inexpensive commercial real estate available in this market, the Federal Reserve Bank just spent over $100 million to complete the construction of its new office building. In Philadelphia, the Postal Service is spending over $250 million to construct a 1-million square foot building which GSA has agreed to lease for 20 years at a cost totaling $490 million. The construction cost amounts to at least $250 a square foot. Over the life of the lease, GSA will pay about $490 a square foot, while prime commercial real estate in the Philadelphia area is currently selling for between $100 and $125 a square foot. As Peter Linneman, Director of the University of Pennsylvania's Wharton School Real Estate Center states, "It's blatantly stupid to build in this market. Only the Government would consider it. You couldn't find another party in the world who wants to build (in Philadelphia) right now."

Mr. President, foolish arrangements are not limited to the Government's construction projects, but also apply to leasing arrangements. In Atlanta, where there is already a 30-percent commercial vacancy rate, the Federal Government has agreed to lease a new 1.9 million square foot building from a private developer. The arrangement requires the Government to vacate more than 1.2 million square feet currently being rented by Federal agencies in six buildings, and the result is a 73-percent increase in annual rent from $15 to $26 million. In this period of belt-tightening and pay freezes for Federal workers, this is a particularly galling lapse of judgment. An Arthur Andersen study concluded that if GSA proceeds with its plans, Atlanta's downtown vacancy rate would increase to 47 percent. The study further stated that by abandoning its plans to move to a new Federal center, the Government could save $166 million over 30 years by moving into modern existing space, or $505 million if Federal agencies did not move at all.

For a number of years, GSA has pushed to consolidate Federal agencies under one roof. GSA claims consolidation is necessary to realize economies of scale and improve communication and technological capabilities. And, as you can see from the Louisiana, Philadelphia, and Atlanta cases, GSA continues to push for consolidation. However, given the current real estate market and advances in telecommunications, the consolidation requirement is no longer valid. We must ask ourselves, does it matter to the regional office of IRS if it is in the same location as the Department of Veterans' Affairs regional office? The answer is clearly no. Both agencies operate independently of one another, and I can't remember the last time a national crisis arose because the local offices of the Federal Transit Administration and the Drug Enforcement Administration were housed in separate buildings. Yet the argument is used again and again to justify these large dollar construction projects that agencies do not need and the American taxpayer can ill-afford. In Philadelphia, the new building being constructed by the Postal Service was justified by GSA claiming it required 1 million square feet in a single building, despite the fact that hundreds of millions of dollars could be saved by leasing some of the 2 million square feet of modern office space which is currently sitting vacant.

Mr. President, while some of the blame clearly rests on the shoulders of the GSA and other Federal agencies, part of the problem rests with the budget requirements. For example, I am very concerned that the current OMB scorekeeping rules encourage leasing which is, in most cases, the most expensive alternative as compared to lease/purchase agreements or purchasing existing buildings. For example, GSA was leasing three floors of the four-story Atrium Building in Herndon, VA, from a private developer that subsequently went bankrupt. Riggs National Bank of Washington, DC, foreclosed and shortly thereafter offered GSA a lease-purchase agreement for the entire building including the vacant fourth floor, that would, including maintenance expenses, be cheaper than the current lease terms. However, because OMB would have required that GSA be scored in both budget authority and outlays for the entire cost of the lease/purchase, and GSA was unable to program additional funds to cover the requirements, the agency was unable to take advantage of the offer which was clearly more cost-effective.

The scorekeeping rules and the cost of acquiring buildings has pushed the Government toward leasing and away from ownership. In 1969, the Federal Government owned 90 percent of the buildings it occupied. Today, just 56 percent of Federal office space is in Government-owned buildings. Consequently, more and more Federal dollars go down the drain in rent with nothing to show for it. Individuals and businesses alike understand the importance of building equity. Unfortunately, the trend suggests that the Government does not.

What is more disturbing about the Federal Government's repeated failure to choose the least-costly options is the fact that GSA's property program was designed to be self-sustaining. In 1972, Congress established the Federal building fund as a revolving fund to cover GSA's cost of rent, repairs, renovations and to pay for the construction of new Federal buildings. The fund receives revenue from rent that agencies pay to GSA. Over the years, the fund's revenues have not been able to keep pace with the cost of basic repairs resulting in billions of dollars in deferred maintenance and no available funds for construction projects. Consequently, Congress has authorized the fund to borrow extensively from the Federal Financing Bank and subsidized the fund with direct appropriations.

Mr. President, the Federal Government's property management program is in need of reform that will permit it to function more like a business and less like a Federal construction program that benefits few, is paid for by all, and hurts the already struggling commercial real estate market. If the Government has a legitimate need for additional office space then why doesn't it take advantage of all the modern overbuilt office space that exists and acquire, lease, or lease-purchase, existing buildings which are much cheaper than new construction.

It is my hope that the legislation I propose today will jump start the reform of Federal property management. My legislation directs the Office of Management and Budget to examine Federal property management policies and make the changes necessary to improve coordination between Federal agencies, promote cost-effective property acquisition strategies and realize cost savings. Clearly, changes are needed to more effectively manage the Nation's real estate portfolio.

Mr. President, my legislation also urges OMB to encourage all Federal agencies to modify building requirements, such as GSA's consolidation goals, in such a way as to permit the kind of flexibility that will allow the Government to achieve the greatest cost-effectiveness. Requirements should promote flexibility so that agencies may realistically consider the purchase, lease, lease/purchase of existing buildings at market rates, including those owned by the RTC and FDIC, rather than requiring new construction. New construction should only be considered as a last resort and only when it is most cost-effective option.

My legislation further directs OMB to review its scorekeeping rules and determine what changes are necessary to permit the Government to consider a variety of options and choose those which are most cost-efficient. The current scorekeeping rules, in some cases, encourage the Government to be penny wise and pound foolish.

Mr. President, the public will not be fooled if Congress professes outrage about agency mismanagement and the waste generated by one Federal program or another but fails to pass meaningful solutions. Likewise, the administration will not fool anyone if it invites citizens to call a series of toll free 800 numbers to report waste and mismanagement but nothing happens. Inaction will only continue to fuel public discontent and confirm the public's view that we aren't serious about changing the way Washington does business.

My legislation may deal with only a single program but it is one step down the road of rethinking how Government works. If passed and implemented, this legislation should result in significant savings. It will also provide a small dose of the medicine that must be administered if we in Washington ever hope to cure the chronic distrust, anger and cynicism felt by the American people about their Government.

So, Mr. President, the amendment that I am offering today would direct the Office of Management and Budget to review the budget scorekeeping rules which may not yield the most cost-effective results, make recommendations to encourage the lease or purchase of existing real estate and, in essence, overhaul the way in which we manage Federal property.

While it makes absolutely no sense to do what we are doing, Federal officials have not worked to change the way the system operates for fear of awakening a political giant. The public should applaud one courageous Senator, LAUCH FAIRCLOTH, who has come out publicly against a building in his State. But instead of praise, Senator FAIRCLOTH was the subject of editorial scorn. Virtually every paper in his State has criticized him for publicly opposing the construction of a new building, which is unnecessary, unneeded, and costly. Unfortunately like those in every other State who have an insatiable appetite for Federal dollars, the critics of Senator FAIRCLOTH simply want to take advantage of the Government's largess.

Mr. President, the reason we are in the trouble that we are in today is because we continue to milk the Federal Government for every possible benefit we can and then cry on the other hand that we are squandering millions, billions and trillions of Federal dollars. We cannot have it both ways.

We need more people like Senator FAIRCLOTH to stand up and say, "This will benefit my State. I realize that. A lot of people want it. But it is the wrong thing to do."

It is the wrong thing to do because if we continue on our present course we will tax ourselves into a recession and continue to borrow until we bankrupt our children and grandchildren. This has to stop.

So I offer this amendment as a first step in rethinking the way the Government spends money. I hope it will enjoy the support of my colleagues.

I ask unanimous consent that the Senator from New York [Mr. D'AMATO] be added as a cosponsor.

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

Mr. COHEN. I yield the floor.

Mr. METZENBAUM addressed the Chair.

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

Mr. METZENBAUM. Mr. President, I rise in support of this amendment which seeks to improve the way the Federal Government manages property and houses its Federal workers.

As the chairman of a new Senate Environment Committee Task Force created specifically to review the leasing and construction practices of the General Services Administration, I know first hand that this area is ripe for reform. This amendment, offered by my colleague from Maine, starts us down the road toward making better, more cost-effective decisions involving Government office space.

This is definitely the road we need to travel. Taxpayers are not being well served by the current policies governing the leasing and building of office space for Federal workers. The General Services Administration spends well over $4 billion annually to provide and maintain Government office space. Yet as many press reports have noted recently, GSA is a terribly poor manager and its public buildings function is in disarray.

I think GSA is way off track sometimes.

For a variety of reasons, GSA has failed to take advantage of the downturn in the commercial real estate market. Instead of buying existing buildings at inexpensive prices or entering long-term leases at good rates, GSA has embarked on many costly new construction projects. GSA is constructing, or entering into long-term leases for buildings constructed expressly for the Federal Government, in areas with commercial vacancy rates as high as 30 percent. And as my colleague from Maine has noted, GSA has failed to take advantage of a single building offered for sale by the RTC or the FDIC.

Mr. President, I have been at this issue for quite awhile now. I know that GSA is not solely to blame for the awful public buildings program we have.

Part of the problem rests with the Office of Management and Budget. It is OMB's rigid budget scorekeeping rules that discourage GSA from purchasing existing properties, even when such properties are downright bargains. OMB's rules require that the budget authority and outlays for an entire obligation, paid over a period of years, be scored in the first year the contract is signed. This stops GSA dead in its tracks when good deals for existing buildings come up.

Another problem is the Federal buildings fund. This revolving fund was created in 1972 to cover GSA's maintenance and repair costs for the Federal office space it owns and leases and to help pay for new construction. It is funded by the rent other agencies pay to GSA. The fund always comes up short and GSA is forced to obtain separate appropriations to finance much of its new construction. Obviously, there is little money in the fund to buy existing buildings when they do become available.

The amendment before us starts us down the road toward fixing these problems. It directs OMB to conduct a comprehensive review of Federal property management policies and procedures in order to make recommendations to maximize efficiency and help save tax dollars.

As part of the review, the Director of OMB must consider its budget scorekeeping rules to permit more flexibility in the Federal property management policy arena. In other words, OMB should encourage GSA to purchase or lease existing buildings in lieu of new construction when it is more cost-effective to do so. Second, the amendment would ask OMB to determine why the Federal buildings fund is not self-sustaining.

These are important matters. OMB should be looking at ways to make the Government's real estate program operate in a more business-like and cost-effective manner.

Indeed, I and my colleagues on the Public Buildings Task Force, Senators BOXER and SIMPSON, have already written to Vice President GORE urging him to help reinvent Government by looking at these and other issues.

Mr. President, I think the amendment before us gets at only the tip of the iceberg as far as GSA is concerned. It is a good amendment and I support it. There are many, many other issues which need to be addressed to make GSA operate in a more cost-effective and business-like manner.

First off, we must improve congressional oversight of the activities of GSA. There have been many gaps in the process by which we review GSA's public buildings projects. Last year, we had a problem when the Senate Appropriations Committee funded several projects which had not been duly authorized by the Senate Environment and Public Works Committee.

And after much ado in the House, it was added as a part of the appropriations bill. It wound up, as the Senator from Maine has pointed out, as becoming law. And at the 11th hour signing off by the members of the Environment and Public Works Committee, it came into our law. It was not the way to do it, and I am not sure we made the right decision.

We also need to change the way GSA measures office space. GSA does it differently from the private sector and this hampers effective oversight.

We also have to look at GSA's planning process. It takes far too long from the time GSA determines an agency's space needs until GSA obtains approval of a project prospectus from the Senate and House Public Works committees. Project cost estimates are made 2 or 3 years before the committees see them

and do not reflect current market conditions.

Any attempts at agency reform must also include a review of conflicting policies which impact GSA's location decisions and affect the cost of housing Federal workers. Does GSA need to secure space in the cities or the suburbs? And we simply must address the pernicious revolving door syndrome at GSA which undermines morale and hinders effective leadership of the agency.

It is unbelievable but in the past 16 years, the GSA Administrator's slot has changed hands 14 times and the Public Commissioner position has been filled by 13 different individuals. GSA needs continuity of leadership.

These are but some of the areas the task force, under the purview of the Senate Environment and Public Works Committee, will explore and work on in the months ahead. It is my hope that others who are interested in reform and saving tax dollars will join in the effort to fix the way the Federal Government leases and builds office space for its workers.

Having said that, I urge my colleagues to support this amendment.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I commend Senator COHEN, the Senator from Maine, for a thoughtful amendment. He has pointed out a number of areas where we have just shoveled hundreds of millions, billions of dollars, into a hole. Not only that, when we have deliberately taken people out of good office space that we are getting our best dollar value out of, to put them into either something that we construct or into a more modern facility, sometimes costing us two and three times as much, exacerbating the vacancy rates that we have, it just makes no sense.

In New York City, we have a 17-percent vacancy rate. For us to be constructing, willy-nilly, additional space is wrong and it is wrong to do that in any area, whether it be in Atlanta, Philadelphia, or whether it be the big hole in the ground that we have across the street from the Commerce Department.

How many hundreds and hundreds and hundreds of millions of dollars will that cost us? Maybe we ought to examine some of these projects and try to save the taxpayers' money.

We are talking about increasing taxes to reduce the deficit. I have to tell you, we have it wrong. We have to cut the spending, and then you do not increase the deficit. Cut the spending.

I just want to say, because we want to move this process along, I commend the Senator from Maine. I look forward to working with him because this is a very important area. I can tell you right now, in the city of Washington, we have departments who have plans; they have submitted them. They are pushing to spend hundreds of millions of dollars in new office construction, and there is no reason to do it. Absolutely. Except it gives aggrandizement to some administrator because he or she now has this beautiful place, Taj Mahal. And the taxpayers are suffering as a result of it, and commercial real estate values go down as well when you have these huge vacancy rates, and we ignore the opportunity to save money.

I hope this is the beginning of an effort for us to redirect our priorities. I urge we accept this amendment. We have no objection on this side.

Mr. SPECTER. Mr. President, I would like to comment on the amendment offered today by Senator COHEN and respond to the project he mentioned regarding the General Service Administration's proposal for construction of a new Federal center in Philadelphia.

First, allow me to briefly describe this project for my colleagues. The General Services Administration [GSA] and the U.S. Postal Service [USPS] have proposed the construction of an 11-story Federal office building at 30th and Walnut Streets in Philadelphia. The owner of the building will be the U.S. Postal Service. The General Services Administration will be the tenant. The building will comprise some 1 million square feet of space for approximately 5,600 Federal employees of regional agencies.

The Philadelphia Federal Center is designed to make the Government's operations in Philadelphia more effective and save Federal tax dollars. Current Government leases in Philadelphia are located in older, substandard buildings which cannot be made to meet the current standards without major renovations such as retrofitting sprinkler systems, new elevators, or handicapped accessibility. It is estimated that the cost to construct a new building is significantly less than the cost of these major renovations. In addition, this new building will allow several agencies in Philadelphia to consolidate in one location which will offer the Government state-of-the-art office facilities for increased efficiency of public services.

It is unclear to this Senator where my colleague from Maine obtained his data regarding costs associated with the Philadelphia Federal center. Senator COHEN stated that this project will cost over $250 million. In fact, the most recent construction costs are considerably lower, estimated at $190 million. Further, my colleague states that space in Philadelphia can be purchased between $100 and $125 a square foot. In fact, that space in Philadelphia would be inadequate for long-term occupancy due to inefficient building systems and efficiency standards. Further, a great majority of available space are not large blocks of space which will provide efficiencies and cost savings to the Federal Government.

Mr. President, the amendment offered by Senator COHEN is a good amendment. Certainly, increased review of projects proposed by the General Services Administration is prudent to ensure that scarce Federal tax dollars are used most effectively. I would point out, however, that the proposed Federal center in Philadelphia has been thoroughly reviewed by the Office of Management and Budget, as well as the General Services Administration, the U.S. Postal Service, the House Committee on Public Works, the Senate Appropriations Committee, and the Senate Committee on Environment and Public Works.

The Office of Management and Budget reviewed the merits of the project along with the scoring of its costs prior to the approval of the project's prospectus in September 1992. When a Government agency proposes to enter into a contract for the purchase, lease-purchase, or lease of a capital asset the matter must be approved by the Office of Management and Budget. The Office of Management and Budget's review and scoring of the project resulted in its approval of the construction by the Postal Service under a lease agreement with the General Services Administration.

As approved by OMB, the lease agreement for the Federal center guarantees the Government and the taxpayers extremely favorable rates locked in for 60 years, the first 40 years without an escalation in rates. The project is expected to save money through more efficient operations and decreased rent expenses.

The Federal Government, through the General Services Administration and Office of Management and Budget, has the duty to pursue the most effective use of Federal tax dollars. The amendment by Senator COHEN attempts to ensure that the Federal Government will pursue only the most effective operations at the most efficient costs to the taxpayer. Mr. President, I am simply pleased to point out that the project, as proposed by the General Services Administration in Philadelphia and reviewed by the Office of Management and Budget, meets this criteria.

Mr. RIEGLE. Mr. President, I am also in support of this amendment. I am prepared to accept the amendment and upon doing so, I want to move to the amendment of the Senator from Minnesota.

At this time, I urge we accept the amendment offered by the Senator from Maine.

Mr. COHEN. May I ask also that Senator DOMENICI be added as a cosponsor, if he is not already on, and Senator LAUTENBERG.

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

Has the amendment by the Senator from Maine been offered?

AMENDMENT NO. 355

(Purpose: To improve the cost-effectiveness of Federal property management)

Mr. COHEN. Mr. President, I have sent the amendment to the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. COHEN], for himself, Mr. DOMENICI, Mr. D'AMATO, and Mr. LAUTENBERG, proposes an amendment numbered 355.

Mr. COHEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, add the following:

SEC. ___. COST EFFECTIVENESS OF FEDERAL PROPERTY MANAGEMENT.

(a) FINDINGS.—The Congress finds that—

(1) the Federal Government owns over 400,000 buildings that cost the taxpayers hundreds of billions of dollars;

(2) the Federal Government is the largest single tenant and builder of office space in the United States;

(3) the Federal Government currently has $11,400,000,000 of construction in the works which, when completed, will add approximately 23,000,000 square feet of office space;

(4) the Federal Government is constructing, or entering into long-term leases for buildings constructed expressly for the Federal Government, in areas with building vacancy rates as high as 30 percent;

(5) significant budget savings can be achieved if, before considering new construction, Federal agencies aggressively explore the possibilities of purchasing or leasing suitable office buildings available in the market or acquiring suitable real estate under the control of the Federal Deposit Insurance Corporation or Resolution Trust Corporation;

(6) the physical space requirements of Federal agencies and the Judiciary are too often overstated and inflexible and, therefore, do not permit the acquisition or lease of existing properties which may be suitable and cost-effective;

(7) current scorekeeping rules may be discouraging agencies from entering into the most responsible arrangements for securing office space (for example, in some cases, a lease/purchase agreement may be most cost-effective but current scorekeeping rules require that the budget authority and outlays for the entire obligation, paid over a period of years, be scored in the year the contract is signed); and

(8) the Federal Buildings Fund, established in 1972 as a revolving fund to cover the General Services Administration's cost of rent, repairs, renovations, and to pay for the construction of new Federal buildings, and funded by the rent agencies pay to the General Services Administration, has failed to be self-sustaining and has required billions in appropriations to finance new construction.

(b) COMPREHENSIVE REVIEW OF FEDERAL PROPERTY MANAGEMENT.—

(1) IN GENERAL.—The Director of the Office of Management and Budget shall conduct a comprehensive review of Federal property management policies and procedures and make recommendations to promote better coordination between Government agencies, maximize efficiency, and encourage flexibility to make decisions which are in the best interest of the Federal Government.

(2) INCLUDED IN REVIEW.—The review required by this subsection shall include—

(A) recommendations requiring the General Services Administration, the Department of Defense, the Postal Service and all other Federal agencies and the Judiciary, when appropriate, to develop or modify existing building requirements in such a way as to allow for—

(i) the purchase, lease, lease/purchase of existing buildings at market rates; and

(ii) the purchase of Resolution Trust Corporation-owned and Federal Deposit Insurance Corporation-owned real estate rather than new construction of buildings;

(B) in conjunction with the Director of the Congressional Budget Office, developing recommendations to revise scorekeeping rules for Federal property leasing, lease/purchase, construction, and acquisition to encourage flexibility and decisions which are in the best interest of the Federal Government; and

(C) recommendations on whether the Federal Buildings Fund should be maintained, alternatives for meeting the Fund's objectives, and changes to the Fund that will enable it to meet its objectives and become self-sustaining.

(c) REPORT.—Not later than two months after the date of enactment of this Act, the Director of the Office of Management and Budget shall report the recommendations developed pursuant to this section to—

(1) the Senate Committees on Governmental Affairs, Appropriations, and Environment and Public Works; and

(2) the House of Representatives Committees on Government Operations, Appropriations, and Public Works and Transportation.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 355) was agreed to.

Mr. D'AMATO. Mr. President, I move to reconsider the vote.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 357

(Purpose: To require the General Accounting Office to verify the certifications made by the Secretary of the Treasury and the Chairperson of the Federal Deposit Insurance Corporation and making additional certifications)

Mr. WELLSTONE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE], for himself and Mrs. MURRAY, proposes an amendment numbered 357.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of section 3, strike the quotation marks and final period and insert the following:

"(M) INDEPENDENT REPORT BY THE GENERAL ACCOUNTING OFFICE.—No funds appropriated in subparagraph (E) or made available under subparagraph (H) shall be paid pursuant to a certification under clause (i) or (ii) of subparagraph (K) by the Secretary of the Treasury to the Savings Association Insurance Fund for 60 days after such certifications are made. During such 60 day period, the Comptroller General of the United States shall transmit a report to the Congress that—

"(i) states whether such certifications have been verified; and

"(ii) states whether—

"(I) further increases in the deposit insurance premiums paid by Savings Association Insurance Fund members could create a substantial risk that losses due to additional failures caused by the increases would exceed the increased premium income;

"(II) Savings Association Insurance Fund members, in the aggregate, are unable to pay additional semi-annual assessments under section 7(b) during such year at the assessment rate which would be required in order to meet the repayment schedule required under section 14(c) for any amount borrowed under section 14(a) to cover losses incurred by the Fund during such year; and

"(III) an increase in the assessment rate for Savings Association Insurance Fund members to meet any such repayment schedule could reasonably be expected to result in greater losses to the Government (through an increase in the number of institutions in default).".

Mr. WELLSTONE. Mr. President, I ask unanimous consent that Senator MURRAY, from the State of Washington, be included as an original cosponsor.

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

Mr. WELLSTONE. Mr. President, my amendment would require the General Accounting Office, [GAO] to report to Congress prior to the Treasury releasing taxpayer funds to the Savings and Loan Insurance Fund [SAIF] on the ability of the savings and loan industry to pay or to borrow money to capitalize its insurance fund.

In addition, this amendment requires the GAO to report independently that the FDIC and the RTC are implementing the reform measures.

What this amendment does is to make sure—is to make sure—that taxpayers are the wallet of last resort. What this amendment does, I repeat, is to make sure that taxpayers will be the wallet of last resort. Not the wallet of first resort.

It is one thing to pay off this debacle. It is quite another thing when we talk about capitalizing the insurance fund. And what we want to make sure of is that before we dish out any more funds, we are absolutely sure that the S&L's have carried their own responsibility to recapitalize their depleted deposit insurance fund.

My amendment, I believe, provides an extra layer of accountability to the stamp of approval by the Treasury to use taxpayer dollars.

My amendment looks to the GAO, because that is our separate accounting arm. I am convinced if we, in fact, es-

tablish this additional layer of accountability, we will have an opportunity to take a close look, by way of oversight—and I know my colleagues will be very much a part of that—to make sure that before any taxpayers' money goes into that insurance fund, we know with certainty that the S&L industry itself was not capable of being able to raise their own money or borrow money for that fund.

We must be extremely careful that the public perceives our actions as providing maximum safeguards against any raids on the Treasury. And, considering the fact that billions of dollars, taxpayers' dollars, have been shelled out already, it strikes me that the more accountability we build into this process by way of any certification, the better off we will be in terms of good public policy and the better off we will be in terms of keeping our trust with the people in this country.

Deposit insurance has become one of the most expensive Government programs in the United States of America, and it deserves the strongest possible congressional oversight. I believe this amendment contributes to that oversight.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I want to commend the Senator for his amendment. I think it is thoughtful, and it is certainly one that we can support.

I have one concern, though, and that is what happens if there is an emergency situation in which the SAIF needs funds immediately? Is there any waiver for an emergency situation? Would the Senator be willing to deal with that?

AMENDMENT NO. 357, AS MODIFIED

Mr. WELLSTONE. Mr. President, I send an amendment to the desk which would insert the language, "unless the Secretary determines and notifies the Congress that an emergency exists", which I believe would speak to the concern of the Senator from New York.

The PRESIDING OFFICER. Is the Senator asking to modify the amendment he earlier sent up?

Mr. WELLSTONE. That is correct.

The PRESIDING OFFICER. The Senator has that right, and the amendment is so modified.

The amendment, with its modification, is as follows:

At the end of section 3, strike the quotation marks and final period and insert the following:

"(M) INDEPENDENT REPORT BY THE GENERAL ACCOUNTING OFFICE.—No funds appropriated in subparagraph (E) or made available under subparagraph (H) shall be paid pursuant to a certification under clause (i) or (ii) of subparagraph (K) by the Secretary of the Treasury to the Savings Association Insurance Fund for 60 days after such certifications are made. During such 60 day period, unless the Secretary determines and notifies the Congress that an emergency exists, the Comptroller General of the United States shall transmit a report to the Congress that—

"(i) states whether such certifications have been verified; and

"(ii) states whether—

"(I) further increases in the deposit insurance premiums paid by Savings Association Insurance Fund members could create a substantial risk that losses due to additional failures caused by the increases would exceed the increased premium income;

"(II) Savings Association Insurance Fund members, in the aggregate, are unable to pay additional semi-annual assessments under section 7(b) during such year at the assessment rate which would be required in order to meet the repayment schedule required under section 14(c) for any amount borrowed under section 14(a) to cover losses incurred by the Fund during such year; and

"(III) an increase in the assessment rate for Savings Association Insurance Fund members to meet any such repayment schedule could reasonably be expected to result in greater losses to the Government (through an increase in the number of institutions in default).".

Mr. D'AMATO. Mr. President, with that modification, this Senator sees no objection and again congratulates the Senator from Minnesota for his excellent and thoughtful amendment.

Mr. WELLSTONE. I thank the Senator from New York.

Mr. RIEGLE. Mr. President, I also want to indicate my support for the amendment of the Senator from Minnesota. I want to thank him for not only his initiative but also for the constructive way in which he has worked with the committee. I think, by presenting it in this form and with the modification just sent to the desk, this is a very helpful addition to the bill.

As I say, I am in support of it. If there is no further debate and if it is in order, I urge we adopt the amendment at this point.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment, as modified.

The amendment (No. 357), as modified, was agreed to.

Mr. D'AMATO. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WELLSTONE. I thank the Senator from Michigan and the Senator from New York.

Mr. RIEGLE. Mr. President, let me just indicate now that Senator DORGAN, I know, has a matter that he wants to present. He had a timing conflict where he is in the middle of a press event where people have traveled in from, I believe, his home State. Upon the completion of that, which should be very soon, I think his intention is to come to the floor and present his amendment. We are prepared to have him do that.

I should say that, we are down to a very few other outstanding amendments that may be left. There is an amendment to be offered by Senator GRAHAM, of Florida, which we are prepared to accept, and we can also take that up at this time.

So let me also make the general suggestion to him, in light of the fact that we now have moved through all the other pending amendments, that we are prepared now either for the Dorgan or Graham amendments and would like to proceed with those at the earliest possible time.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 358

Mr. GRAHAM. Mr. President, I send an amendment to the desk on behalf of myself and Senator HARKIN.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM], for himself and Mr. HARKIN, proposes an amendment numbered 358.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, insert the following:

**SECTION 1. SENSE OF THE SENATE RELATING TO PARTICIPATION OF DISABLED AMERICANS IN CONTRACTING FOR DELIVERY OF SERVICES TO FINANCIAL INSTITUTION REGULATORY AGENCIES.**

(a) FINDINGS.—The Senate finds the following:

(1) Congress, in adopting the Americans with Disabilities Act of 1990, 42 U.S.C. section 12101, (the ADA) specifically found that:

"(a) some 43,000,000 Americans have one or more physical or mental disabilities, and this number is increasing;

(b) discrimination against individuals with disabilities persists in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and access to public services;

(c) individuals with disabilities continually encounter various forms of discrimination, including outright intentional exclusion, the discriminatory effects of architectural, transportation, and communication barriers, overprotective rules and policies, failure to make modifications to existing facilities and practices, exclusionary qualification standards and criteria, segregation, and relegation to lesser services, programs, activities, benefits, jobs, or other opportunities;

(d) census data, national polls, and other studies have documented that people with disabilities, as a group, occupy an inferior status in our society, and are severely disadvantaged socially, vocationally, economically, and educationally;

(e) individuals with disabilities are a discrete and insular minority who have been faced with restrictions and limitations, subjected to a history of purposeful unequal treatment, and relegated to a position of political powerlessness in our society, based on characteristics that are beyond the control of such individuals and resulting from stereotypic assumptions not truly indicative of the individual ability of such individuals to participate in, and contribute to, society;

(f) the Nation's proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for such individuals; and

(g) the continuing existence of unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity to compete on an equal basis and to pursue those opportunities for which our free society is justifiably famous, and costs the United States billions of dollars in unnecessary expenses resulting from dependency and nonproductivity."

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the chief executive officer of the Resolution Trust Corporation, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Federal Housing Finance Board shall take all necessary steps within each such agency to ensure that individuals with disabilities and entities owned by individuals with disabilities, including financial institutions, investment banking firms, underwriters, asset managers, accountants, and providers of legal services, are availed of all opportunities to compete in a manner which, at a minimum, does not discriminate on the basis of their disability for contracts entered into by the agency to manage the institutions and their assets for which the agency is responsible or to perform such other functions authorized under any law applicable to such agency.

Mr. GRAHAM. Mr. President, this is in the nature of a sense-of-the-Senate resolution relative to the participation of disabled Americans in contracting for delivery of services to financial institution regulatory agencies.

There has been, unfortunately, instances in which disabled persons, particularly the blind, have been denied the opportunity to render professional services to the financial institution regulatory agencies. It is the purpose of this amendment to bring this issue to the attention of the Senate and to the regulatory agencies and call upon them to operate in all ways in such a manner as to not discriminate on the basis of disability for contracts entered into by those agencies.

This amendment is not intended to deal with the issue of whether minorities should be part of the group that has special preference in contract set-asides and others, but at least to establish the principle that the disabled should not be discriminated and denied the opportunity, because of their disability, to render services to these financial institution regulatory agencies.

Mr. President, I urge adoption of the sense-of-the-Senate resolution.

The PRESIDING OFFICER. Is there further debate?

Mr. RIEGLE. Mr. President, there is not any further debate. I can represent that this matter has been cleared on the Republican side, with Senator D'AMATO and his staff. It has been cleared on this side. I think it is a useful addition to the bill.

I thank the Senator from Florida. The Senator from Florida was previously a member of our committee, and we miss him very much. But I can see that he has not lost his interest in matters before the committee. They are matters of interest of longstanding. So we are pleased to accept the amendment. When time is appropriate, I will urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate? If not, without objection, the amendment is agreed to.

So the amendment (No. 358) was agreed to.

Mr. GRAHAM. I thank the Chair. I thank the chairman.

Mr. President, I move to reconsider the vote.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER (Mrs. MURRAY). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 359

(Purpose: To establish a task force for the investigation and prosecution of crimes in or against federally insured savings associations and to provide for the appointment by the Attorney General of a Special Counsel for Thrift Fraud)

Mr. DORGAN. Madam President, I call up amendment No. 359, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for himself, Mr. FEINGOLD, Mr. BAUCUS, Mr. CONRAD, and Mr. MATHEWS, proposes an amendment numbered 359.

Mr. DORGAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, insert the following new section:

**SEC. 6. TASK FORCE ON THRIFT FRAUD.**

Section 2539 of the Crime Control Act of 1990 (28 U.S.C. 509 note) is amended by adding at the end the following new subsection:

"(d) TASK FORCE ON SAVINGS ASSOCIATION FRAUD.—

"(1) ESTABLISHMENT.—The Attorney General shall establish within the Department of Justice, in accordance with subsection (a), the Thrift Fraud Task Force to coordinate and assist in the investigation and prosecution of crimes in or against federally insured savings associations (as defined in section 3 of the Federal Deposit Insurance Act).

"(2) SPECIAL COUNSEL FOR THRIFT FRAUD.—The Thrift Fraud Task Force shall be headed by a Special Counsel for Thrift Fraud, appointed by the Attorney General.

"(3) DUTIES.—The Thrift Fraud Task Force, under the direction of the Special Counsel for Thrift Fraud, shall—

"(A) assist, consult with, and advise all Federal agencies engaged in the investigation and prosecution of criminal fraud cases involving federally insured savings associations;

"(B) establish a system of information on the adequacy of Federal agency staffing for such cases;

"(C) determine the adequacy of such staffing; and

"(D) develop and assist in the implementation of measures for improving, if necessary, the effectiveness of the Federal investigative and prosecutorial efforts in such cases.

"(4) AGENCY COOPERATION.—Each member of the senior interagency group established under subsection (c), and all other relevant Federal agencies, shall provide such information, assistance, and cooperation to the Thrift Fraud Task Force as the Special Counsel for Thrift Fraud may request.".

Mr. DORGAN. Madam President, today we are debating in this Chamber additional billions of dollars for the bailout of the S&L industry. That bailout is required because in the 1980's there was a carnival of greed in the S&L industry by a number of people who systematically defrauded the S&L's, their depositors, and the American people.

Now, who is stuck paying the bill for this massive fraud? The American people, unfortunately, through these S&L bailouts. The 1980's will be recognized in history books as a decade of almost unprecedented speculation and greed, some on Wall Street, some from junk bonds, some from hostile takeovers, but much in the S&L industry as well.

We all understand the responsibility to address the bailout. The deposits in the savings and loans that failed were insured, and the Federal Government must make good on that. But the question is, what about those who defrauded these institutions? What will happen to those people? The American public wants to know, as we ante up U.S. tax dollars to bail out the S&L's, what is happening to those who helped cause the problem in the first instance?

About 64 percent of the RTC-controlled thrifts have suspected criminal misconduct that was referred to the Justice Department. The GAO has indicated that about two-thirds of all S&L's failed, in part, because of fraudulent actions.

My amendment addresses this in the following way: My amendment requires the Attorney General to establish within the U.S. Justice Department a special task force on S&L criminal fraud. The reason I offer the amendment is that I want the American people to understand that even as these

bailouts take place, we have taken all of the spotlights and put them on the same spot to vigorously investigate and prosecute criminal fraud that occurred in the S&L industry.

The American taxpayers deserve to know that those who committed S&L crimes have had their assets seized, have been aggressively prosecuted, and have been required to pay restitution or spend time in jail. That is what the American people deserve to know.

Now, is that happening? The answer is no.

Is there some work being done in prosecuting those who defrauded the S&L industry? Yes, some, but not nearly enough. There is a task force in the Justice Department on financial institutions. But there is not a task force, and never has been a task force, in which all of the efforts and resources were marshaled to go after those who committed the greatest financial scandal in the history of this country.

Now, we have a new Attorney General, Madam President. She is a breath of fresh air in this Government. I think the world of Janet Reno. But she inherited a mess. The two previous administrations had people in the Attorney General's office who did not have any interest in creating a task force to make sure that we prosecuted those guilty of S&L wrongdoing and to ensure that we recovered assets that were acquired illegally.

We ought to decide today that we must move forward and require an S&L criminal task force fraud be established to give the American people the assurance that we are going to deal with this issue in a forthright way.

I want to show my colleagues a chart that ought to make the blood of every American boil when they look at it. This is the amount of fines and restitution ordered and collected in failed S&L fraud cases. This is a very small portion of it, but here is what has been ordered for restitution, and fines, and here is what has been collected: $220 million, as of July 1992, are the fines and restitutions that have been ordered; $6 million was collected. Would it make the average American angry to understand that over 95 percent of what has been ordered paid in fines and restitution from these wrongdoers has not even been collected? Of course, it would. They expect and demand better, even now as we move to further bail out this industry.

This record is not a good record. Some point out that there is already a task force on financial institutions fraud at the Justice Department using the FBI, Secret Service, and other agencies to investigate these cases. But frankly, most of the activity is in non-S&L areas; most is in the banking area.

This is the biggest financial scandal in the history of this country. I think we need to make sure, and give the American people the assurance that those who committed this fraud are going to have to pay for it.

I understand the Justice Department has reservations about my amendment. I offered it over on the House side and it passed. The only reason it is not now in law is it was in the crime bill, and that died in this Chamber last year. So I offered it again in this Chamber.

I have talked with the chairman of the committee about this subject. I have told him that, at his request, I will withdraw the amendment and reoffer it to the crime bill this year.

This ought to be law. I know the bureaucrats do not like it. They want things their way. But I think the American people ought to insist that the vigorous prosecution of S&L fraud cases move forward. I offered this amendment on behalf of Senators FEINGOLD, MATHEWS, BAUCUS, and CONRAD. I will not pursue a vote on this today and will withdraw the amendment, with the understanding among us that this will be offered to the crime bill, which the chairman has suggested to me.

I tell my colleagues, as I finish my statement, that—I understand the chairman's need to try to move this bill today—I think it also fits in the crime bill, which is where I would expect to ask my colleagues to vote on it again this year in the U.S. Senate.

Madam President, I am happy to yield to my colleague from Michigan.

Mr. RIEGLE. Madam President, let me say, first of all, that I appreciate the initiative of the Senator from North Dakota. I appreciate it not just here on this issue, but as he points out, he has been very active on this issue in his previous service in the House of Representatives, on more than just this aspect, but other related aspects. I think he has made a very important contribution in trying to corner this problem and solve it in a very direct way.

I think the points Senator DORGAN makes today are very important points. Going back to the original passage of the FIRREA legislation in 1989, we did, at that time, not only authorize specific requirements of investigative pursuit by the Justice Department, but we provided more money in the way of a direct allocation of funds than even they asked for. My memory is they asked for $50 million, and I think we provided $75 million. In any event, I know we provided more than they asked for. We do have a letter from the Justice Department today. I will not read it all. I ask unanimous consent that it be printed in the RECORD at the end of my remarks.

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

(See exhibit 1.)

Mr. RIEGLE. They argue that they are getting this job done now. I say, in response to the Senator's comments, that I think more needs to be done, and I think a more aggressive effort is required. I think the Justice Department needs to focus on this in a more intense way than it has.

I am supportive of what the Senator wants to do. I appreciate his willingness to put this matter on the crime bill. I think it is a more appropriate vehicle. One of the reasons it is, is that it helps us in terms of not getting into a jurisdictional dispute at a later point with respect to not just here, but to the other body as well; so that if we can get something like this in the crime bill, then it will be within the proper scope of the committee where the bill will originate and not get into a dual jurisdiction issue on the other body, as it would if put here.

I also appreciate his understanding of the need to move this legislation now in as clean a fashion as we can, because this issue has been outstanding now for well over a year. The RTC, today, does not have the funds it needs to close failed thrifts, and losses are mounting. So that anything that impedes the effort to get that done promptly, obviously, will cost us more money. That is a different problem, but it is nevertheless a real problem.

So I appreciate the understanding and the work of the Senator from North Dakota. I am supportive of what he is endeavoring to do here, and I intend to be supportive of his approach when he offers it on the crime bill.

EXHIBIT 1

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
*Washington, DC, May 12, 1993.*

Hon. BYRON L. DORGAN,
*U.S. Senate, Washington, DC.*

DEAR SENATOR DORGAN: This is in reply to your letter to the Attorney General dated April 1, 1993, in which you advised her that you are considering offering an amendment to the Resolution Trust Corporation funding bill, S. 714, which would call "for the establishment of a savings and loan criminal fraud prosecution task force within the Justice Department." We understand that the amendment you are considering would also establish a new "Special Counsel for Thrift Fraud" within the Department. We appreciate your efforts on this issue and your seeking to consult with the Department before offering your amendment. In our view, however, new legislation is unnecessary and could interfere with the Attorney General's ability to organize and administer the Department in the most effective and efficient manner.

Our principal concern with the proposal is that the Congress created what is essentially a task force—and did create a new Special Counsel—within the Department of Justice when it enacted the Financial Institutions Reform, Recovery and Enforcement Act of 1989 and the Crime Control Act (CCA) of 1990. A key aspect of the CCA was to codify the position of Special Counsel for Financial Institution Fraud, which was initially established by the Department to provide central leadership and direction for the financial institution fraud (FIF) enforcement effort. The CCA requires the Special Counsel to supervise and coordinate FIF matters within the

Department and to ensure adequate resources are available. This, in turn, requires a continuing effort by every other component of the enforcement team which forms the nucleus of a task force—most notably, the Senior Interagency Group, the United States Attorneys, the Criminal, Civil and Tax Divisions of the Department of Justice, the Executive Office for United States Attorneys, the Federal Bureau of Investigation and other involved federal law enforcement agencies, the Interagency Bank Fraud Enforcement Working Group, and the depository institution regulatory agencies.

This team has endeavored to develop an effective program which will bring to justice those who victimized federally insured financial institutions. Its enforcement goals are to (1) concentrate investigations on cases which are the most detrimental to the banking industry, a group we call "major cases," (2) prosecute those cases when it is appropriate, and (3) recover as much as we can of the funds which were obtained through fraud. The progress in prosecuting major FIF cases around the country, as reflected in the substantial numbers of convictions obtained in major cases, is a testament to the efforts of prosecutors and investigators alike. More important here, though, is that the achievements of the program are in no small measure attributable to the enforcement structure now in place.

For all of these reasons, new legislation establishing a task force or a new special counsel is not needed. Moreover, the establishment of such a task force or special counsel by statute could needlessly interfere with the ability of the Attorney General to manage the Department. We believe, instead, that the Attorney General should retain as much discretion as possible to ensure that she is able to respond with flexibility to new problems as they arise.

We appreciate your interest in the Department's efforts to investigate and prosecute financial institution fraud cases. Please do not hesitate to contact me if you require additional information on this or any other matter.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the presentation of this report.

Sincerely,

M. FAITH BURTON,
*Acting Assistant Attorney General.*

Mr. MATHEWS. Mr. President, I am pleased to join Senators DORGAN and FEINGOLD in this amendment, and I rise today to speak of two things: First an apology we owe the American people, and, second, a promise we must make to protect the future savings of the American people.

Earlier this week, this body consumed considerable time in the passage of a bill that basically said we are not going to let a lobbyist buy us dinner anymore, or join them in a special performance at the Kennedy Center.

If, by doing this, the public now has greater confidence in us, then perhaps we spent our time wisely. Perception is important in Government.

Today, however, we must deal with reality—not perception.

We must tell the citizens of this country that one of the big reasons we could not afford a $17 billion stimulus package is that we are being called upon to add another $35 billion to the $105 billion already appropriated to bail out the failed thrift industry.

We're going to ask the American taxpayer to cough up another $35 billion to insure that the savings, which the American public had entrusted to our Federal financial institutions, are there for their retirement.

Madam President, it is possible that this will be the most painful vote I will have to cast during my tenure in the Senate.

It pains me that we must put another $35 billion into the savings and loan debacle.

At this point, we have no choice but to go ahead and finish cleaning up the mess.

After all, we have promised insured depositors at these institutions that their money was backed by the full faith and credit guarantee of the Federal Government.

What is more, the RTC estimates that delay in providing these funds adds to the cost of resolving existing conservationships by $3 million a day.

As the Congress votes to appropriate these funds, however, I believe we must offer an apology to the American people for this boondoggle perpetuated during the 1980's.

I sometimes hear the 1980's referred to as the decade of greed and in the case of the savings and loan crisis, that would certainly be an appropriate label.

A laissez-faire attitude of the past 12 years allowed directors of S&L's to make loans that never should have been made, pursuing deals to make a quick personal buck, regardless of the implications for the long-term financial health of the institutions they were supposed to be managing.

At the same time, the Government agencies that should have exercised oversight of these institutions turned a blind eye to the ongoing abuse and mismanagement.

So today, we must offer two things to the American people:

First, an apology for this disaster.

Second, a promise that we will work diligently to ensure that this never happens again.

We do not need to overreact and drown financial institutions in burdensome, unnecessary paper and regulators, but we certainly need to be sure that Government adequately plays its important regulatory role.

Since 1989, the Congress has provided the RTC with $105 billion to pay for losses incurred in resolving failed thrift institutions.

Today, we are voting to make available another $35 billion.

When we stop to consider what we could have done with these funds otherwise, this seems like nothing short of a tragedy.

We could finance the entire State government of my State of Tennessee for 14 years.

The sum of $140 billion is more than we will need to extend health care coverage to every American citizen.

The sum of $140 billion would have covered the entire budget of the Department of Education for over 4 years, 4 years of student loans, Pell grants, chapter 1 educational programs, teacher training, to name just a few of the worthy projects in that Department.

For less than the amount we have spent on the savings & loan disaster, we could have built all the wastewater treatment plants needed in this country.

Or, of course, we could have taken a good-sized chunk out of the deficit.

Madam President, I commend my colleague Senator DORGAN of North Dakota, and join him in supporting language that will establish a criminal fraud unit, a unit that will help us keep our promise that this will never happen again.

Mr. DORGAN. Madam President, I heard this morning from the Justice Department as well. They are not supportive of this. My intention is not to hinder the Attorney General. This Attorney General is an outstanding public official who is going to create, I think, an outstanding record. My intention is not to hinder but to help this Attorney General.

Yet the bureaucracy tends to eat up initiatives that we ought to consider. The bureaucracy exists before we get here and remains long after we are gone. But Congress spends the money; we are the ones that ask our constituents for the money. I am saying, on behalf of my constituents, that they expect a much more vigorous job than has been done in past years to prosecute S&L fraud. That is my intention with this amendment. I very much appreciate the statement of the chairman, Senator RIEGLE, and I withdraw my amendment.

The PRESIDING OFFICER. The Senator has that right.

Without objection, it is so ordered.

The amendment (No. 359) was withdrawn.

Mr. RIEGLE. Madam President, I appreciate the work and leadership of the Senator from North Dakota, and I look forward to this issue coming back around at a later time on that other legislation.

Let me now indicate that the Senator from California has an issue she wants to discuss; so let me yield now so that we might proceed with that.

(Mr. DORGAN assumed the chair.)

Mrs. BOXER. Mr. President, I thank the chairman for yielding me this time. I compliment him on his leadership, as we go through this bill. I also would like to say to my colleague from North Dakota, Mr. DORGAN, how much I appreciate his leadership on this entire issue of going after those who deserve to be punished for their actions. I, too, will support him as he moves his amendment to the crime bill.

I want to take a moment to enter into a colloquy with the distinguished chairman and manager of this bill regarding an issue I believe critical to the continued health of our banking and thrift institutions. The issue concerns extensions of credit by member banks to any of their executive officers, directors, and principal shareholders, individuals who are known as insiders.

As one of the guardians of taxpayer dollars, and given the role played by insider lending in bank and thrift failures over the past few years, I believe that our current rules regarding insider lending must be strengthened. As long as taxpayer dollars, Mr. President, provide protection for private sector business decisions we are obligated to minimize the possibility of abuse.

Mr. RIEGLE. If the Senator will yield, I respond by saying that I, too, recognize the problems posed by insider lending. As the distinguished Senator from California knows, I have asked the GAO to report back to the Banking Committee with its analysis of the role insider lending has played in recent bank failures. The GAO has reached some preliminary conclusions, and I am hopeful, in terms of the indications we have from them, that the study will be finalized before the August recess.

Mrs. BOXER. Mr. President, I have drafted legislation to address the insider lending problem, and I intend to introduce that bill. I considered offering my bill as an amendment to the pending legislation, but I have chosen to await the GAO study commissioned by the chairman and Chairman Gonzalez, which should provide critical data, further illuminating the depth of insider lending problems.

Mr. President, I would like to ask two questions of the chairman: First, will he schedule a hearing on the problem of insider lending once the GAO report he requested is released? Second, after the conclusion of that hearing on insider lending, it is my understanding that the chairman would be willing to work with me on appropriate legislation.

Mr. RIEGLE. The answer to both questions is yes. I want to say that I appreciate and commend the Senator for her leadership in this area and, for that matter, many others as well. I agree with my colleague that this is an important issue that does merit a hearing, and I will schedule a hearing at a mutually convenient time after the GAO report is released.

I very much look forward to working with the Senator and with others in developing appropriate legislation, as we determine it is needed here.

Mrs. BOXER. Mr. President, I thank the chairman for his leadership on this issue. Without that GAO study, we would not know the extent of the problem that is caused by insider lending. So I do look forward to that report and to working with my chairman and other Senators on this very crucial issue.

I yield back my time.

Mr. RIEGLE. Very good. I thank the Senator.

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

Mrs. MURRAY. Mr. President, this is a story of responsibility, accountability, and honesty.

It seems to me that the policies of the past decade were all too often designed with the idea that Government is bad. In the early 1980's, when I was teaching preschool, I heard the call of the Reagan-Bush era: "Let's not get involved. Let's let the thrift industry and the Nation's savings and loans do whatever they want. This was the anthem of the 1980's—don't worry, be happy."

Then, when things fell apart, no one was happy. The abuse was obvious. S&L's collapsed in many parts of the country, and the Bush administration had to set up the Resolution Trust Corporation to clean up the mess. Again, everyone thought: "Let's let the RTC do its job. Let's not burden the RTC with too much oversight. Let's not get involved."

But, Mr. President, we are here today because it is our job to be involved.

There is a compact between American savers and their Government, and everyone understands its terms and its importance: We put our hard-earned money in accounts which are covered by Federal deposit insurance, and the Government guarantees it up to $100,000. This compact is the foundation of our savings system. It is the foundation of our economic stability.

We are here today because something went wrong when the Government reneged on its responsibility. It appalls me that the RTC needs billions of dollars to continue this bailout because the Government let down its guard and essentially gave away its duties to someone else. We cannot just hand out money to the RTC blindly. The RTC has proven that it is sorely in need of oversight.

Like it or not, our job as legislators is to see that the Government's money—the people's money—is being spent wisely and without waste.

That is why I support the changes to the RTC funding bill, which Chairman RIEGLE has placed in the managers' amendment. These changes are a beginning in restoring accountability, responsibility, and honesty, to this S&L crisis. I applaud the chairman for his leadership on this issue.

I must also praise my colleagues who sit at the end of the dais of the Banking Committee with me—especially Senator BARBARA BOXER and Senator CAROL MOSELEY-BRAUN. They have taken a fresh look at this extremely difficult issue. For months, we have worked with Senator JOHN KERRY and Chairman RIEGLE to implement what we see are much needed reforms to the RTC before we could agree to additional funding.

Accountability. Responsibility. Honesty. The story of the RTC is more home economics than rocket science.

Well, what about accountability? Mr. President, as you know, our Government has spent $86 billion since the summer of 1989, paying off more than 22 million depositors, who had accounts in failed S&L's. Of this $86 billion, approximately $74 billion has been paid to depositors to actually cover their insured deposits. This leaves about $12 billion—nearly $3 billion per year—for administration and overhead. Three billion dollars for overhead? How many Head Start programs could have been funded for that amount? How many children could have been immunized? The RTC has spent in overhead the equivalent of President Clinton's entire stimulus package which was filibustered in this body.

And, what about responsibility? To date, only $1 billion has been recovered in restitution from those involved in this debacle. Since October 1, 1988, 1,358 people have been charged with S&L criminal violations, but only 685 of them have been sent to prison. Someone has let the crooks get away with highway robbery.

And, what about honesty? As I campaigned last year on the streets of Tacoma and up and down the hills of Seattle, I heard a constant refrain: The Government does not speak the language that American people speak. Fundamental change is needed in the way things are done in Washington, DC. What this means to me is that people want the Government from the top down to level with them. Change and honesty means that there must be accountability written into this bill.

Mr. President, it would be easy for me to vote for no additional funding. When I read my mail from my friends and neighbors in Washington, I feel like voting no. Everyone in the State of Washington knows that this problem is centered largely in Texas. Failed thrifts in the State of Washington held assets of $329 million. But the citizens of Washington have contributed nearly $2 billion in their tax dollars to the cleanup. I will not allow any more money from the State of Washington to be sent south and go down the drain.

It would be easy for me to vote no. I am angry about the bailout. I am angry about a Government that did not do its job. I hate the fact that, as a taxpayer, my family and my neighbors have to pay for this mess. But I also realize that there are a lot of little old ladies who put their life savings into a thrift they thought was being managed responsibly, and they are depending on their money being there when they go to pick it up.

It would be easy for me to vote no, because I think about what might have been. When I see what that money could have been spent on, in the State of Washington, I get angry. When I visit a 6th-grade classroom and see 35 growing kids crowded into a room because we cannot afford more teachers, I get angry. When I see our emergency rooms packed with families without health care, I get angry. When I see nobody fishing in Puget Sound, as I did when I was a kid, because there is no money to clean it up, I get angry. The way this Government has prioritized its money in the past has made no sense. And it is time for a change.

I have listened to the people of Washington tell me horror stories about their experiences with the Resolution Trust Corporation. They tell stories of serious underpayment, low prepayment offers, mismanagement, favoring big money interests over small investors. No accountability, no responsibility, and no honesty.

I understand that this is yet another mess inherited by President Clinton. I understand that we need to fund the RTC, but I will tell you that my money and my constituents' money had darn well better be spend wisely. That means no more big bonuses for executives, no more lining the pockets of contractors, no more gilding the lily. Every single penny of our money should go as quickly and efficiently as possible to those depositors who lost their money in this savings and loan mess.

That is why we must pare down the amount we authorize to the bare minimum and put as many strings on this money as possible. There is an old saying which I am going to apply to the RTC: "In God We Trust, all others pay cash."

I get hundreds of letters a week from the citizens of Washington, who tell me to cut spending first. Well, here we go, Mr. President, let us cut some spending. Let us get involved. Let us put accountability into this disaster. Let us support the chairman's amendment, let us get the cleanup finished, and let us put this RTC out of business.

Mr. RIEGLE. Mr. President, if I may, I just want to respond briefly to the Senator from Washington and thank her for her very important leadership on the committee and on this issue and for the statement she has just made and the frustration that she cites. Believe me, it is widely shared by all of us in this institution.

I would say this: She cited one number that I just will take a moment to elaborate on in terms of where the losses had occurred and where the money has gone to cover those losses.

In the work that we have done in the Banking Committee, it has been determined that in all the S&L losses in the country's failures of institutions, over half of all the losses occurred in institutions in just one State, which she mentioned, namely, the State of Texas. More importantly, that occurred in State-chartered institutions in that State which had a different range of activities authorized by State law that were different from and more far ranging than what was granted in a Federal savings and loan charter. And yet through, I think, a misapplication of our laws, we were allowing the Federal deposit insurance guarantee to apply not just to federally chartered institutions but to State-chartered institutions, and where those charters were much too broad, that is where the losses piled up.

So over half the total losses occurred in just one State, namely, Texas, through its State-chartered institutions; and, secondly, the next 20 percent, the next largest share, also occurred in the State-chartered institutions in the State of California.

So if you add up the State-chartered institutions in just those two States that is 70 percent of the problem. When the Senator cited that minuscule amount of assets represented by S&L failure in her home State, that is equally true in my home State of Michigan.

So it can fairly be said that this problem, for the most part, occurred in a very limited number of places. It was not a 50-State problem.

Now, it can also be said that, because of broker deposits and other things, sometimes savers were having their money shipped around the country and they may very well have ended up in a Texas institution or an institution in some other State. So that when that failed and their insured deposits were returned to them, that does not necessarily mean that that saver lived in Texas or California or some other place. But I think it helps illustrate the lopsided nature of where this problem came from.

The Senator is quite right in noting that standing behind the Federal deposit guarantee, there has been a disproportionate amount of that money go to a very limited number of places.

But I wanted again to thank the Senator for her constructive work in the fashioning of this bill. This bill is a better bill, in my view, with the safeguards in this, as a result of her participation and that of other Members whose names she cited, and that has been a very worthwhile contribution.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

AMENDMENT NO. 360

(Purpose: To strengthen internal controls at the Resolution Trust Corporation by imposing certain requirements on the execution of certain contracts)

Mr. LIEBERMAN. Mr. President, I have an amendment which I send to desk at this time.

The PRESIDING OFFICER. The clerk will report the amendment.

Mr. CHAFEE. Mr. President, I wonder if the Senator from Connecticut will yield for a brief question?

Mr. LIEBERMAN. I yield to the Senator

Mr. CHAFEE. I do not know how long the Senator is going to take. I just wanted to engage in a brief colloquy with the manager of the bill that would take maybe 5 minutes. It is not an amendment. I am not going to have an amendment.

Mr. LIEBERMAN. If the Senator will yield, this should take less than 5 minutes.

Mr. CHAFEE. I thank the Senator.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Connecticut [Mr. LIEBERMAN], for himself and Mr. WOFFORD, proposes an amendment numbered 360.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the end of the bill, insert the following new section:

SEC. . RTC CONTRACTING.

(a) No person shall execute, on behalf of the Corporation, any contract, or modification to a contract, for goods or services exceeding $100,000 in value unless the person executing the contract or modification states in writing that—

(1) the contract or modification is for a fixed price, the person has received a written cost estimate for the contract or modification, or a cost estimate cannot be obtained as a practical matter with an explanation of why such a cost estimate cannot be obtained as a practical matter;

(2) the person has received the written statement described in paragraph (b);

(3) the person is satisfied that the contract or modification to be executed has been approved by a person legally authorized to do so pursuant to a written delegation of authority.

(b) A person who authorizes a contract, or a modification to a contract, for goods or services exceeding $100,000, shall state, in writing, that he or she has been delegated the authority, pursuant to a written delegation of authority, to authorize that contract or modification.

(c) The failure of any person executing a contract, or a modification of a contract, on behalf of the Corporation, or authorizing such a contract or modification of a contract, to comply with the requirements of this section shall not void, or be grounds to void or rescind, any otherwise properly executed contract.

Mr. LIEBERMAN. Mr. President, it seems that almost since RTC's inception we have heard warnings from the General Accounting Office about the potential for waste through RTC's contracting activities. Over the past few years, unfortunately, we have had vivid examples of that waste and abuse.

First, we had what RTC called Operation Western Storm, which could have just as well and probably more accu-

rately been called Operation Wasteful Storm.

That episode was a $24 million contract that was let through a noncompetitive procurement. The inspector general concluded that there was at least $1.7 million in waste and $1.2 million in questionable costs in Western Storm.

When the Committee on Governmental Affairs, on which I am privileged to serve, held a hearing to examine Operation Western Storm, it became apparent that there were a number of contracting deficiencies that contributed to that waste of money.

First, the contracting department was never consulted about the contract. Even more astounding, despite the fact that RTC's delegations of authority clearly required noncompetitive procurements valued at over $50,000 to be submitted to the RTC board of directors for approval, RTC's officers never formally notified—they never even formally notified, let alone got approval from—the board of directors that a $24 million noncompetitive procurement had taken place.

At the committee hearing on Operation Western Storm, the senior executives of RTC testified that they would never do it again. And yet, just a short while later, in May of 1992, a vice president in RTC's headquarters signed a task order—a contract—with Price Waterhouse that would ultimately run to nearly $30 million and result, Mr. President, in copying charges—copying charges—of 67 cents per page.

Not only did that vice president of RTC lack written authority to execute any contracts, he also only had the authority to approve expenditures up to $1 million. So, even if the Price Waterhouse contract had only cost $4 million to $5 million, which is what RTC subsequently said it estimated at the time, the vice president in question had no written authority to approve that contract.

And we, the taxpayers, ended up paying 67 cents a copy, which anybody who has ever gone into a copy store knows is outrageous.

In fact, as a result of that hearing, Price Waterhouse ultimately gave $4 million back to the Government. But that, in my opinion, was even not enough.

How did these outrages come about? In both cases, the RTC officers who signed the contracts believed that they had received an oral authorization to approve them. In both cases, these purported oral authorizations came from senior vice presidents at the RTC. And we have seen here in these two episodes that costly results to the taxpayer of such shortcuts.

Mr. President, senior managers need to be accountable for the decisions that they make. As a practical matter, however, they are only accountable when they are forced to put their spending decisions down in writing. It is difficult to hold an officer accountable for an oral approval or an action taken based on an oral delegation of authority. With oral approvals, accountability falls with the frailty of human memory.

The amendment I offer today will address these problems by making the contracting officer the last line of defense against unauthorized expenditures which too often have been wasteful expenditures. Before executing a contract or a modification to a contract for goods or services exceeding $100,000—so it will not involve every contract RTC enters into, but only to the larger ones—the contracting officer is required to state in writing that:

First, the contract is for a fixed amount, is supported by a written cost estimate, or that a written cost estimate cannot be obtained as a practical matter with an explanation of why a written cost estimate cannot be made. Cost estimates are fundamental to good management, and the occasions in which cost estimates are not made in advance of signing should be extremely limited.

Second, the contracting officer has received a written statement from the person who authorized the contract or modification that the person had the authority to do so pursuant to a written delegation of authority.

Third, the contracting officer is satisfied, based on the cost estimate, the statement of the approving person, and RTC's written delegations of authority, that the person who approved the contract or modification had the authority to do so pursuant to a written delegation of authority.

The amendment separately requires the person who authorizes a contract or modification to certify that he or she had the authority to do so pursuant to a written delegation of authority.

Mr. President, I want to make a few points clear. This amendment will have no effect on contractors. This amendment specifically states that RTC's failure to comply with the terms of this amendment shall not void or be grounds for voiding or rescinding a contract. On the other hand, the whole harmless provision of this amendment is not intended at all to change or alter RTC's rights to seek to void or rescind unauthorized contracts. The whole harmless provision only holds contractors harmless against RTC's failure to meet the procedural requirements prescribed by this amendment.

Second, the provisions in this amendment apply to substance not form. We saw in Operation Western Storm where RTC managers divided the single $24 million contract into 93 separate contracts in an attempt to avoid Board of Directors approval. In that case, the inspector general found that they should all have been treated as a single contract. The same is true here. RTC cannot avoid the requirements of this section by dividing a single procurement into several contracts of less than $100,000.

Third, this amendment is meant to apply to all procurements of goods or services exceeding $100,000 regardless of the form of the procurement. In other words, this amendment covers contracts, task orders, amendments or modifications to contracts, amendment or modifications to task orders, or any new procurement vehicle RTC might develop in the future.

Mr. President, in my opinion, this amendment is an important complement to the contracting safeguards that the managers of the bill have put into their amendment. Their amendment contains a provision that requires all contracts to be executed by warranted contracting officers, and declaring all contracts not executed by warranted contracting officers to be void. That is an important control.

But we need to be concerned about more than whether contracts are executed by contracting officers. We also need to make sure, before contracts are executed, that the contract and modifications are properly authorized. That is also an extremely significant element of management control.

Mr. President, RTC is not subject to Federal procurement laws or regulations. But that doesn't mean that we should completely abdicate our responsibility to ensure that RTC follows some basic procedures to protect the taxpayers. The procedures that would be imposed if this amendment is adopted and that will be imposed by the managers' amendment are, together, still much less than what would be required under standard Federal procurement laws and regulations of almost every other Federal Government agency when they enter into contracts.

I am pleased that this amendment is acceptable to the managers. I thank both managers, and their staffs, for their cooperation in working on this amendment, which I think will place a very few, simple, commonsense contracting requirements on the RTC to protect the dollars—so many dollars—we give it.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, I thank the Senator from Connecticut for his work on this. We are prepared to accept the amendment. The other side of the aisle feels the same. I think it is a positive addition to the bill, and I urge its adoption.

Mr. D'AMATO. Mr. President, I want to thank my colleague from Connecticut, Senator LIEBERMAN, for offering an amendment to S. 714 that is intended to address the problems that have been identified in the RTC's contracting program. This amendment will complement the provisions that I added to

the managers' amendment, and will result in an improved and more cost-efficient contracting process at the RTC.

However, I have a question for Senator LIEBERMAN regarding this amendment. That question is: Will the last subsection of this amendment, subsection (c), abrogate the RTC's common law right to abrogate contracts that are entered into, or modified by, an unauthorized person at the RTC? Further, will the provision of subsection (c) affect any other right of the RTC under any other provision of law?

Mr. LIEBERMAN. I would like to thank my colleague, Senator D'AMATO, for raising this issue. As I stated in my introductory statement, the hold harmless provision, which is subsection (c) of my amendment, does not affect any common law rights of the RTC, or its rights under any other provision of law. This subsection would prohibit either party to an RTC contract, or a modification of an RTC contract, exceeding $100,000 in value, from voiding or rescinding that contract or modification due to failure to comply with the procedural requirements of this amendment. The procedural requirements that I speak of are those contained in subsections (a) and (b) of the amendment I have offered. Subsections (a) and (b) require the provision of certain written statements, respectively, from the individuals at the RTC who execute the contract or modification, and who authorize the contract or modification. Subsection (c) applies only to the provisions of the amendment of which subsection (c) is a part.

I also would like to take this opportunity to compliment the distinguished Republican manager of the bill, Senator D'AMATO, on the provisions he added to the managers' amendment regarding the execution of contracts on behalf of the RTC. Those provisions are extremely well thought out, and will make a real difference in preventing future contracting scandals at the RTC.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 360) was agreed to.

Mr. D'AMATO. Mr. President, I move to reconsider the vote.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIEGLE. Mr. President, I am about to send a technical amendment to the desk. I will have that in one moment. That has been cleared on both sides. We will be able to send that through, and then Senator CHAFEE awaits to raise a matter of interest that he has prepared.

AMENDMENT NO. 361

Mr. RIEGLE. Mr. President, I send the technical amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. RIEGLE] proposes an amendment numbered 361.

Mr. RIEGLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 8, line 10, strike "the balance of the Fund meets" and insert, "after deducting losses anticipated during that fiscal year, the Fund is expected to meet."

Mr. RIEGLE. Mr. President, I assert again this has been cleared on both sides. I ask for the approval of the technical amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 361) was agreed to.

Mr. D'AMATO. Mr. President, I move to reconsider the vote.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 361) was agreed to.

Mr. D'AMATO. Mr. President, I move to reconsider the vote.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIEGLE. Mr. President, if I may say, Senator CHAFEE is about to proceed. I want to make just a general announcement for Members before he begins. At this point we have resolved all outstanding issues I am aware of as manager of the bill. There are no further amendments awaiting action. So we are in a position now where, with respect to the substance of this bill, we can in due course, and I hope sooner rather than later, proceed to final passage.

There are two items that are outside the scope of this bill that still remain for us to deal with. One is an issue that Senator CHAFEE wishes to now raise and engage in some discussion on regarding banking regulation changes, which he can describe. That does not relate directly, of course, to the legislation that is before us now and which we are attempting to finish.

When Senator CHAFEE finishes that discussion, the only other outstanding item that I am aware of is that Senator GRAMM, of Texas, has indicated a desire to offer a nongermane item relating to the budget, Federal budget deficit, and has declared an intention to want to offer that today on this bill, although it is not part of this bill, in order to bring the issue forward and, presumably, get a record vote on it.

But I give that sort of update because we have concluded action on the bill as such at this point. The bill is ready to move to final passage pending the disposition of these two other items I have just mentioned, which are really not directly germane to the bill as such.

So, with that status report having been given, I am hopeful that before too much more time elapses today we can resolve these other two items and move to final passage and send this bill to conference.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Rhode Island.

## LEGISLATION TO BE PROPOSED

Mr. CHAFEE. Mr. President, I thank the distinguished chairman of the Banking Committee and the ranking member for giving me a few minutes here. My concern is as follows. There is no question but what the small businesses in the United States of America are suffering from a tremendous credit crunch. They are not able to borrow money.

Why is that? One of the reasons is that the regulators have come down very hard, either pursuant to regulations or pursuant to statutes, on these banks. The bigger banks can handle the regulations, but the smaller banks are tangled up, with a great deal of their manpower involved with trying to obey this host of regulations and statutes, and regulations pursuant to statutes, that have arisen over the past several years.

I am not unique in this concern. I know this concern is shared by the chairman of the committee and by the ranking member likewise. What I am proposing—and I would like a reaction, if I might, from the managers of the bill—is as follows.

It seems to me it is time to do something, if we can, about the statutes that are underlying the regulatory requirements that are imposed. Is this just me talking? No. I quote from Alan Greenspan, who testified last month before the House Small Business Committee on recently enacted Federal banking laws and the accompanying regulations. This is what he had to say.

A substantial tightening of bank lending terms and standards has occurred and has affected small business.

He says that in relation to Federal law.

The Vice Chairman of the Board of Governors of the Federal Reserve, Mr. David Mullins, made the following comments at a hearing before the Senate Committee on Small Business:

The Financial Institutions Reform Recovery and Enforcement Act of 1989 and the Federal Deposit Insurance Corporation Improvement Act of 1991 produced, directly or indirectly, a substantial increase in the regulatory burden on the banking industry.

President Clinton has recognized this and said, on March 10:

Under the current banking system, the paperwork is daunting and discourages banks from making smaller loans.

Pursuant to the orders of the President, the regulatory side of this is being addressed. That is, where the institutions under this jurisdiction—the Treasury Department and so forth—can make a change, because they are just changing regulations rather than a

statute, they are doing what they can. But, as Chairman Greenspan said last month:

These regulatory actions will be, I hope, quite helpful. But legislation is required.

That is why I am here today. What I am proposing—and I would like a reaction if I might; this is not going to be a drawn out affair—I have chosen as a cutoff for a small bank, a capitalization of $400 million in assets. This covers 10,000 of the 11,500 banks in America.

In other words, if we take a point of $400 million in assets, we are covering 90 percent of the banks, not 90 percent of the assets, but 90 percent of the banks in our country. These banks totaled, together, 20 percent of the Nation's banking assets.

This is what I would propose: First, under my legislation—which I am going to introduce today, and which is cosponsored by Senators BUMPERS, LIEBERMAN, WALLOP, KEMPTHORNE, and PRESSLER—it does the following:

First, it would freeze all new banking regulations until the appropriate agency conducts a regulatory impact analysis and concludes that the benefits of the new regulations outweigh the cost to small banks of implementing and complying with them. That is the first one.

Second, it would allow banking regulators to suspend regulations that it determines are unnecessary or have the effect of prohibiting small banks from lending to creditworthy small businesses. I know I am giving this rather rapidly.

Third, and this is one I think the managers are familiar with, currently the loan process for small businesses requires that if collateral in excess of $100,000 is being submitted, that a licensed or certified real estate appraisal is required. What I would do is boost that to $250,000 before the bank would have to go out and get a licensed or certified appraisal. It is my understanding that the U.S. Department of Treasury supports that.

Before I go on to the other two final ones, perhaps I could get a reaction, and I know this comes fast, if I could get some kind of a reaction from the managers on this and perhaps a commitment that they take a further look at it. What I would, of course, most of all like, is if we could have a hearing on these some time to address this particular problem of small banks being relieved of some of these regulations, because there is no question but the vast majority of small businesses get their money, their loans from small banks.

We had devastating testimony before the Small Business Committee on how these small banks are tangled up in these regulatory problems. One small banker told us that 50 percent of his personnel's time was devoted to these regulatory problems. That seems high to me, but that is what he said.

So there you are. I wonder if either of the managers might give me a reaction to these. Why do we not start with the easiest one first, which is the third one, raising the threshold from $100,000 to $250,000—and that is not written in concrete. If somebody has a better idea, I would be glad to hear it, before you require a licensed or certified appraisal.

Mr. RIEGLE. If the Senator will yield, and if I may, I need to send one more technical amendment to the desk. Does the Senator mind if I do that?

Mr. CHAFEE. No.

## THRIFT DEPOSITOR PROTECTION ACT OF 1993

The Senate continued with the consideration of the bill.

AMENDMENT NO. 362 TO AMENDMENT NO. 355

Mr. RIEGLE. Mr. President, I send a technical amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. RIEGLE] proposes an amendment numbered 362 to amendment 355.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 5, line 6, of amendment No. 355 after "Affairs," insert "Budget,".

Mr. RIEGLE. Mr. President, this is a further refinement of the technical amendment offered in behalf of Senator D'AMATO and myself. I ask unanimous consent that it be adopted as sent to the desk.

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

The amendment (No. 362) was agreed to.

## LEGISLATION TO BE PROPOSED

Mr. RIEGLE. Mr. President, let me briefly respond to the Senator from Rhode Island. I think everyone here is sensitive to the issue of trying to encourage small banks to make prudent loans, particularly loans to business entities that could otherwise be creating jobs and need credit out there and so forth. We have heard plenty of argument that there is a credit crunch occurring. It is uneven, and you hear different stories about it.

Any part of it that can be relieved because of an excessive regulatory burden that is not justified and necessary clearly ought to be done. The new administration, as you know, has cited and has come forward with a whole series of administrative steps that they feel they want to take and are in the process of taking to try to ease this problem where they think it exists.

They also decided, speaking about the administration, not to come forward with legislative changes at this time, notwithstanding the suggestion the Senator makes, and he cites Alan Greenspan as saying that certain legislative changes may, in fact, be required.

I am not aware, as I stand here, that we have received from Alan Greenspan specific legislative recommendations, but he is certainly welcome to send them up to us. Insofar as I know, he has not done that at this point, and if he does, we will obviously take a very careful look at them.

I will just say, with respect to one item that the Senator mentioned about the cost of regulation, we do not want any more cost of regulation than is absolutely needed. But I cannot resist making the point that we are having this discussion as we are finishing providing $34 billion to bring to a total of $121 billion the cost of having to come in and sweep up the wreckage of the S&L collapse.

So we know that if there is not sufficient regulation in place and good supervision, you could lose an awful lot of money in federally insured institutions. The Senator does not want that to happen, obviously, and I do not say that to suggest that he does, but simply to say that the amount of regulation that you need to have in place to forestall financial catastrophes of that kind are real. They are as real as the fact that we are about to pass this funding of $34 billion today to finish cleaning up a problem where banking regulation was not adequate, was not sufficient, did not work and it cost taxpayers a ton of money.

So I think we have to always strike that balance. We want to make sure, on the one hand, that we have a regulatory structure in place that is adequate to do the job and protect against catastrophic loss and, on the same token, not overdo it so you end up creating an undue burden. There is a need to strike that balance.

I will conclude by saying I think on the issue of the degree to where appraisals should or should not be required and under what circumstances, that is a fair question. It has been looked at and addressed by the administration in its new approach to changes in the regulations, whether they could do it by administrative discretion.

I am open to what the Senator is saying. I will read his bill he is introducing with the cosponsors he mentioned. I will have the staff review it as well. I will seek comments from other interested parties, like Alan Greenspan or anybody else who is out there who wants to make comments on it. These are matters of interest to me, and we will look at them carefully when we have the bill in hand.

Mr. CHAFEE. I thank the Senator.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I hope that we could hold some more hearings on the areas of concern expressed by the Senator from Rhode Island, and that is the lack of capital, the inability of small business to borrow. We are not talking about small businesses that are not run well.

I risk mentioning—I will not mention the name, but I will tell you the most successful boat hardware entrepreneur on Long Island, a company that has been profitable, every single year has earned a profit in the last 20 years, cannot get the normal credit line that they have to have to continue to do their business. They employ 100 people and have three outlets. But what the banks require them to do is now put up property as collateral for a business loan, and then you get into the business of the appraisals, as Senator CHAFEE has raised.

I have to tell you, when you get down to the smaller loans, the cost of those appraisals absolutely is usurious if you take a look at the amount of the loan, $100,000 loan, and somebody has to pay $2,500, $3,000 for an appraisal. That is ridiculous. It is nonsense.

I think as it relates to the specifics now on the appraisals, we have to do something. I think as it relates to the suspension of regulations that impede credit and do not provide any substantive benefit as it relates to the adequacy of capital or the operation of a bank, that we should give to the President of the United States the ability to suspend these. I have introduced legislation to that extent.

So I want to commend the Senator for this approach. We cannot just simply say that because of the debacle that took place we will permit the institutions to be chained to rules and regulations that do not make sense and that have gone beyond what is realistic and now imprison those institutions and also, more important, keep the economic recovery from taking place.

If there is a reason we have not created the jobs in this country that people feel we should be able to, it is because the engine of economic growth has been stifled, and it has been stifled in good measure because they cannot get good capital, and that is small business.

So I encourage the Senator from Rhode Island to continue in his efforts, and I look forward—and I know that the chairman is acutely aware. We are working on legislation in a very cooperative manner, and I wish to commend the chairman of the committee and his staff for attempting to provide a vehicle by which we can open the artery. I share this with the Senator from Rhode Island. The fact is that I think if we can provide for the securitization of small loans as we have for credit cards, as we have for automobiles, as we have for mortgages, home mortgages, why we can open up a pool of tens of billions of dollars because the banks will then be able to sell these loans that they make.

I must say that we have made some progress. The administration has been very helpful, and the regulators, albeit slowly and cautiously, as they should be, because they do not want to risk capital standards, or jeopardize them, the soundness and safety of banks, are beginning to move to a point where hopefully we can pass legislation which will make it much easier for the small banks to make these loans and not have to carry the 8 percent reserve against them. And that is a problem, particularly since they do not make very much. The cost of these loans, as the Senator from Rhode Island said, is a very high one. So whatever we can do to reduce that—I know we are going to have a series of hearings relating to the securitization issue and some of the others, and I hope we would be able to entertain, if not the specific legislation, certainly aspects of the legislation which the Senator from Rhode Island is raising today.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, here is really what I would like. My legislation is not entirely unique. There are some aspects of it that are different but others have legislation similar dealing with loans to small business, trying to do something about this credit crunch. Perhaps my legislation is unique in that I deal solely with small banks, those with $400 million. As I pointed out, that is only 20 percent of the assets of the United States even though it is 10,000 out of the 11,500 banks in the country.

So what I hope is that we would be able to have a hearing on this. I am not trying to get a commitment in blood from the chairman, but if he would be receptive to the idea of a hearing on doing something about the small business credit crunch, I would be very grateful.

And then I had one more point I was going to raise.

Mr. RIEGLE. Let me say to the Senator, this is an issue of keen interest. As Senator D'AMATO has said, we are working now on a proposal to securitize small business loans and to be able to take them out of banks and sell them out in the secondary market. So that is a main line of effort and initiative right now with respect to the credit crunch.

I do think we will examine that issue. I cannot, as I stand here now, commit to a specific hearing time because we have a parade of nominees coming through plus other issues that are already lined up in the cattle chute that we have to deal with, but we will, of course, be looking at these issues and when we take them up, whether we do it in the context of securitization of small business loans, issues related to that such as the Senator is raising, I am interested in looking at it as well. So that might well be the time to do it.

I might say, too, that I have talked with Eugene Ludwig, the new Comptroller of the Currency, and as they are working to implement these new administrative changes that the President announced at the White House a month or so ago on bank practices, there is a very aggressive effort being done out in the field to actually see that those regulatory adjustments are made.

So there is underway an effort now to try to address a large part of this problem in that fashion. I do think it is only fair we give that process a chance to work, see how it is working, examine how it is working. I only cite that because it is also moving at the same problems the Senator is raising questions about, and that is something of course that is now underway.

Mr. CHAFEE. I appreciate that. I must say some of the most telling testimony I have heard around this Senate in quite a while came before the Senate Small Business Committee. It was the president of the American Bankers Association. You immediately think the president of the American Bankers Association is president of Citicorp or something like this. Not at all. The president of the ABA is a banker from a very small bank in Arkansas, very small bank. He was describing the problems that a young man had who had character, who came for a loan, and he wanted to buy a truck. You are talking something like an $18,000 loan. And he described the effort they had to go through to try to give this young man the loan without it affecting the balance sheet in some adverse way. I just conclude with the following thought.

Mr. RIEGLE. Will the Senator yield on that point because that may well be a valid illustration. I do not know the banker personally to which the Senator refers, but I would like to make an invitation to him now by means of this colloquy that if in fact he could not make a loan of $18,000 to somebody he thought ought to have it because of regulatory burden, I would like him to bring the facts to me. I am not saying that that is not accurate, but if he is in a position where he is that hamstrung and that is not an exaggeration, I wish to know the details of it.

I thank the Senator for yielding.

Mr. CHAFEE. In conclusion, I just want to ask that Senators be thinking about this fourth point of the recommendations that I had. It does the following. It applies obviously to small banks, under $400 million. A small bank which receives an outstanding rating under the Community Reinvest-

ment Act, of which only 10 percent attain this, would be granted a safe harbor from Community Reinvestment Act protests should that small bank want to, for instance, engage in an expansion of some type. And furthermore, under this the regulators would be directed to significantly reduce the paperwork requirements under CRA for banks that obtain the highest CRA rating.

That is one side of the equation. That is what the chairman of the committee so aptly called the carrot.

On the other side, there would be a stick. The bill calls for stiff penalties on small banks with the worst CRA rating, specifically that is substantial noncompliance. In our legislation, we have a fine of up to $20,000 on small banks which receive that worse rating, so what we are trying to do is say if you get the best rating under CRA you ought to get something for it because that is an encouragement to try to seek this rating. On the other hand, if you get the worse rating, there is a penalty. So I urge the floor managers if they would give that some consideration, too.

Mr. RIEGLE. Let me just say to the Senator that the reward and penalty concept is sort of a new concept as put the way he has put it. It is an interesting idea. I think you would have to be sure you were balancing the scale of the reward with the scale of the penalty at both ends because we are trying to reward good conduct in one case and modify bad conduct in the other case. But as I say, I will take a look at the bill that the Senator is submitting today with his cosponsors. I will ask the staff to do so as well. Let us discuss these matters.

Mr. CHAFEE. I thank the chairman very much.

I know the Senator from Massachusetts is waiting. This is a problem of which I know the Senator from Michigan is very much aware and of which the Senator from New York is very much aware. It is true that we are dealing with a mammoth measure which resulted from lack of proper regulation, but we all recognize the pendulum can swing too far the other way, likewise. So if we can free up some of this credit, it would be a marvelous thing for job creation in our country because as every one of us knows we are all preaching the gospel that jobs are created by small businesses and if small business can have access to more credit from their most likely credit giver, namely the small banks, the whole country would be a lot better off.

I thank the Chair.

## THRIFT DEPOSITOR PROTECTION ACT OF 1993

The Senate continued with the consideration of the bill.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I rise to support the effort of the managers of the bill to proceed forward with the Resolution Trust refunding.

As the chairman of the committee knows, for the last 2 years, I have opposed the efforts to fund the Resolution Trust Corporation. I recognized the responsibility that we have with respect to depositors. But many of us were deeply concerned about the level of mismanagement at RTC, the problems that existed within the RTC itself. And regrettably, for better or worse, simply calling it the way it was, in the past administration our efforts to reform the RTC, our efforts to really create an accountable system, frankly, fell on deaf ears.

This will be the first time that I am going to be voting for this then since the RTC's creation. The reason is very simple.

The chairman and the ranking member—I want to thank them for this—have made extraordinary efforts to reach out to both the administration and members of the committee to help to fashion a piece of legislation that represents our best effort to try to create the reforms and accountability we need, while simultaneously creating a structure that gives the RTC the flexibility it needs to be able to move large assets and be able to deal with large amounts of money that are necessary. It is a tough balance. The real proof will be in the efforts of Secretary Bentsen and the new leadership of the RTC to follow through on the structure that we institute here today.

I thank the chairman, particularly, for having been as openminded and as willing to work to encompass the views of many different people. He has a tough job, and it is a thankless job. There is no bright ends in spending these sums of money for past failings. I think he has walked us through this process with great skill and with a commitment to reforming this mess, while at the same time recognizing the larger responsibilities of keeping the system afloat. I think he deserves great credit for that.

I also thank my colleagues on the committee who joined together to create, I think, a consensus about some of the changes that we needed to implement; particularly Senators BRYAN, NIGHTHORSE CAMPBELL, MURRAY, MOSELEY-BRAUN, and BOXER who all brought to this a lot of creative energy and commitment to guaranteeing, as Senator MURRAY said a while ago on the floor, that we were not going to be voting this sum of money in an unaccountable fashion to our taxpayers.

We all know that the RTC has been, regrettably, something of a sinkhole of waste, mismanagement, and abuse, and it has never had adequate controls over its operation, with the result that it really was an invitation to the very waste, fraud, and abuse the taxpayers of this country are becoming so, rightfully, cynical about and exhausted with. Private law firms, accounting firms, and real estate contractors and others—who, I might add, are often the first people to come and bang on the Government for irresponsibility—were the first people to line up at the trough and not hesitate to rip it off and take advantage of whatever loopholes for problems existed. There are serious questions about the individual as well as corporate conscience with respect to those kinds of actions.

Second, I have had an objection in the past because the RTC, alone, among Government organizations, has been exempted from pay-as-you-go funding. We just had a major fight on the floor over a stimulus package, as it was called, which was really a jobs bill, to help get our dragging economy moving again. And I kept hearing colleague after colleague come to the floor and say, "We do not do this; it is not pay as you go." Yet, for several years at the behest of—I say this kindly—their President, because it was the President of their party, they were ready and willing to ante up billions of dollars—$90 billion at a time—in order to not pay as you go, but to create this incredible money machine which has been so abused.

Every dollar thus far spent on the RTC has added to the Federal deficit. Not a penny that we spent on it to date has been offset by other spending cuts, or by the taxes to pay for it. I think that the Clinton administration deserves credit for—for the first time in 12 years—giving us real numbers and a real approach that offset, by both revenue raised and cuts made, the money that we will now be expending for the RTC. Unlike an attitude that was willing to fake it consistently, by pretending we were not raising taxes on the American people, while we raised their debt and amount of money they had to pay in the long run, we are at this time being realistic that there is a need for money to try to pay for what we are undertaking to do.

There are, in the managers' amendment, a series of reforms, and I am extremely pleased that those reforms seem now to have met with a broad acceptance. I might add, just for the record, that Congress did try when we created the RTC—when we passed FIRREA, we did place into law some basic requirements at that time for the RTC. I do not think that the public should believe there was a total irresponsibility on the part of Congress.

Congress set out some requirements for the RTC. But the management of the RTC avoided those responsibilities. We did require the RTC to conduct its operations so as to maximize the recovery on assets it acquired; but, according to GAO, it never did that. So it was

not that we did not require something of it. They did not meet the standard.

Second, we required them to minimize the impact on local markets, and this is a standard that the RTC largely accomplished to date by just failing to market; you do not impact the market if you do not sell things. What they basically did was leave the taxpayers stuck holding the costs on the real estate, and they have become the biggest manager of real property in the United States.

Third, the RTC was previously required to and was supposed to make efficient use of its funds. Again, the GAO found there were numerous failures there, and they did not do it.

Finally, the RTC was supposed to minimize the losses incurred in resolving cases, and according to the GAO, the RTC did not do that. One important reason is that, last year, the RTC destroyed its own ability to sue those whose wrongdoing contributed to the savings and loan losses. We can ask a lot of questions about why that happened. There is not anybody who did not know there was not a requirement for those losses to be minimized and for the recoupment to be maximized.

Notwithstanding that requirement, for reasons which I think some people ought to still explain, half of the staff devoted to such lawsuits were fired or left the RTC. The RTC's handling of the professional liability section of those cases has been positively atrocious, adding to the costs of the bailout and adding to the anger of citizens in this country.

I am not going to fall into the trap of suggesting that every suit they bring is perfect. I think we need to watch very, very closely that there is not abuse in the process, so that innocent people who happen to have deep pockets are not suddenly dragged into the recoupment process simply because they are there. I think it is up to us to pay close attention to make sure that it is the egregious who do not escape and not the innocent that are dragged into a net. I feel strongly about that.

I want to flag quickly one issue before I review how we arrived here and the steps we have taken to clean up the RTC.

These are taxpayers' dollars that represent the taxpayers' dollars of all Americans, not just the wealthy. And if the taxpayers of this country are going to ante up to bail out the depositors and keep a system whole, then the system deserves to benefit. And that means that the folks in our country who have the toughest time getting started, the toughest time getting a job, who are the most negatively impacted by the downturn of the economy today, ought to benefit through the taxes that they, as well as other people, are putting into this legislation. I think that is a vital principle and I am grateful that the leadership, that the managers, want that.

I now wish to spend some time reviewing what has taken place at RTC to date, and what must be fixed in order to protect the taxpayers.

BACKGROUND

In August 1989 we passed the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 [FIRREA], in response to the massive thrift losses arising out of the savings and loan crisis. We did not want a taxpayer bailout of the savings and loans. We did feel an obligation to repay depositors who had put their funds in federally insured institutions. Accordingly, at the request of the Bush administration, we created the Resolution Trust Corporation [RTC] to handle failed thrift institutions. At the time, we placed into law some basic requirements for the RTC, which unfortunately, the RTC has failed to meet.

First, we required the RTC to conduct its operations so as to maximize recovery on assets it acquires. According to the GAO, it hasn't done so, as a result of mismanagement, inadequate financial and information systems, and through fraud and abuse.

Second, we required the RTC to minimize the impact of its activities on local markets. This standard the RTC has largely accomplished to date by failing to sell—or even to market—most of the real estate it holds. The result has been that local markets haven't been affected—but the taxpayers are still stuck with the holding costs on the real estate.

Third, the RTC is supposed to make efficient use of its funds. Again, the GAO has found numerous failures here.

Fourth, the RTC is supposed to minimize losses incurred in resolving cases. According, to the GAO, RTC did not do this. One important reason is because the RTC last year destroyed its ability to sue those whose wrongdoing contributed to savings and loans losses, by firing half of the staff devoted to bringing such lawsuits. The RTC's handling of its professional liability section or PLS cases has been atrocious, and has added to the costs of the bailout.

Finally, the RTC is supposed to maximize the preservation of affordable housing. There is an RTC affordable housing program, but it has not done as much as it should have.

As the General Accounting Office has documented, the RTC in fact wasted billions of dollars through various forms of waste, mismanagement, and abuse over the past 3½ years.

The RTC's most serious problems have included contracting and management deficiencies, inadequate information and accounting systems, inadequate oversight of billions in loan servicing, inadequate recoveries on asset sales, and poor accounting and recordkeeping.

Even today, no one knows how much these bad practices have cost the taxpayers. As the GAO has concluded, the RTC's recordkeeping has been so bad that it remains impossible to analyze just how much money it has lost.

The Bush administration liked to argue that the one thing it did have was business competence. You have to wonder about that when it comes to its handling of the RTC.

As the GAO has found, at one point, nearly one third of all the entries in the RTC's real estate management data base was entered incorrectly. Apparently, the problem was sufficiently intractable that RTC wound up junking the computer system entirely and relying for a time on collecting the data by hand.

No wonder that much of the time, according to the GAO, RTC has literally not known what property it holds. Assessments of property value have been inaccurate and incomplete, and sometimes based on incorrect data.

There are other very significant issues about the way RTC has handled itself pertaining to its hiring of law firms and accounting firms as private contractors. For the past 3½ years, lawyers, accountants, and real estate speculators have been getting rich off the taxpayers in connection with the bailout.

Recently, I asked the RTC and the RTC inspector general to detail the degree to which the $95 billion we already appropriated has gone to waste, fraud, and abuse.

No one could tell me.

When I asked them to assess how much RTC spending had been lost due to waste, fraud, abuse, mismanagement, and lack of controls the response I received was, and I quote:

> An estimate of the total cost [of waste, fraud and abuse] is impossible to determine at this point. * * * Rather than look at past mistakes we want to concentrate on improving operations in the future.

I do not understand how we can improve operations in the future if we do not know what went wrong in the past. While we don't know how much it has cost us, we do know that there have been egregious abuses at RTC.

I will give you just one example.

Last September, the inspector general at the RTC found that the Manhattan law firm of Cravath, Swaine, & Moore had overbilled the RTC by $270,000 for legal services. Included were bills RTC paid to lawyers for having worked 26 hours each per day. The lawyers accomplished this amazing feat working out of a luxury hotel in Manhattan. Since their law offices were also in Manhattan, it is not clear why they were staying in the luxury hotel, and billing the RTC for it, but the RTC paid the bill anyway, luxury suites, meals and all.

During the lawyer's stay at the Manhattan hotel, they also managed to fax some 45,924 pages at the rate of $1 per page, all of which they billed to the RTC and the taxpayers.

The IG concluded more than 7 months ago that these and other practices by Cravath amounted to a rip-off of RTC. They told RTC it should demand a refund.

I asked RTC the simple question, did you ask for a refund yet?

The answer? As of January 22, 1993—the first day of the new administration—negotiations with Cravath hadn't started.

My friends, the Cravath case is not unique in connection with the thrift cleanup. As near as I can tell, it is commonplace. Over the past 4 years, the RTC has been the largest purchaser of legal services in the United States, using the services of some 1,986 outside law firms. The apparently endlessly deep pockets of the taxpayers have been dunned some $3 billion in total fees to private contractors of RTC—as much as we spend annually on the women, infants, and child nutrition program—WIC—to ensure the health of American families.

The RTC inspector general's office has yet to audit many of those contracts. So as of today, we don't know just how bad the abuse has been. But the RTC inspector general's office has told me that they expect to find a lot, including:

Charges to the RTC for legal services that were never performed.

Law firms charging the RTC hourly rates that differ from those RTC agreed to, and RTC paying it.

Duplicate or multiple payments to law firms by RTC for the same work.

An unreasonable number of hours charged for an attorney, such as more than 24 hours in a day, just like Cravath did.

Wolfpacking of attorneys, that is, using a platoon of unnecessary lawyers per case. This used to be called featherbedding.

Using inexperienced attorneys to bill huge numbers of hours on overresearching RTC legal matters.

Using lawyers to carry out clerical functions, like photocopying, and billing the photocopying work out at lawyer's hourly rates.

Charging RTC ridiculous markups, amounting to 300 or 400 percent for expenses, such as photocopying, telephone, fax, et cetera, et cetera, et cetera.

Let me emphasize. After 3½ years of RTC's operation:

No one knows how bad these problems have been.

No one is in a position to tell us.

No one appears able to tell the taxpayers how much they have been ripped off by RTC mismanagement and the privateers who have been banqueting off the S&L debacle.

I asked RTC in March to tell me what the range of hourly rates was for private lawyers hired by RTC. The answer?

"We don't know. We would have to go back manually and check the records, and we have never done that."

The RTC could not provide me with the maximum rate charged by the RTC by the lawyers it hired; the RTC couldn't provide me with the minimum rate charged the RTC by the lawyers. The RTC couldn't provide me with the average rate charged the RTC by private lawyers. The RTC said the only way it could find out is by manually reviewing the records, and it had never bothered to do it.

RTC MANAGEMENT REFORMS

Given these kind of problems, many of us on the Banking Committee have felt that we could not agree to provide further funding to the RTC without simultaneously putting into place a package of management reforms. We joined the committee in voting to report the Resolution Trust Corporation [RTC] legislation out of committee and to the Senate floor, with very substantial reservations about the past operations, management, and performance of the RTC, and with the conviction that the RTC has failed to uphold its commitment to the taxpayers of resolving the thrift crisis at the lowest possible cost.

We voted to report the RTC refunding out of committee with the understanding that the administration and the committee would work to develop a stronger legislative package to ensure substantially better performance and accountability by the RTC, and by the FDIC as the RTC's successor in handling thrift resolutions. We believe these reforms will continue to helping the administration bring about substantial improvements over current RTC and FDIC practicesm and thereby better protect the taxpayers from further abuses during the duration of the thrift cleanup. The reforms also are designed to ensure that as the cleanup proceeds, we will be in a position to exercise adequate oversight over the RTC, and ensure real accountability for what happens from here on out.

1. FINANCIAL CONTROLS

Since the RTC's creation, it has been plagued by weaknesses in its receivership internal controls, flaws in its methodology for estimating recoveries from the sale of receivership assets, and significant exposure to losses from both real estate and delinquent real estate-backed loans for both resolved and unresolved institutions. These problems were so severe that in 1990, the GAO was unable to express an opinion on the RTC's financial statements. By 1991, these were partially remedied, and the GAO was able to give the RTC an unqualified opinion on the RTC's balance sheet and cash flow.

The GAO today remains unable to assure the RTC that its internal controls have worked as intended to prevent or detect errors. At the end of 1992, GAO concluded that:

* * * lack of accountability and poor internal controls over cash management in RTC receiverships could increase the cost of resolutions and the amount to be paid by taxpayers and negatively affect future financial statement opinions.

The GAO said that improving financial management and accountability at RTC must be a priority.

In 1990, after the passage of FIRREA, Congress passed the Chief Financial Officers Act of 1990, the most important financial management legislation since the Budget and Accounting Procedures Act of 1950. In essence, this law set into place a new leadership structure for Federal financial management, to control policy setting, implementation, and operations of Government agencies as a means of correcting existing financial management weaknesses. The law requires audited financial statements and management reporting, and makes changes in audits and reporting requirements for Government corporations. Most important, it makes Federal financial management in every agency responsible to a deputy director for management within the Office of Management and Budget. This position is appointed by the President and confirmed by the Senate and serves as the Federal Government's chief financial officer.

Today, neither the RTC nor the FDIC is fully subject to this act. The failure of either to develop adequate financial management systems is well-documented. This bill requires both the RTC and FDIC to adhere to the provisions of the Chief Financial Officers Act. This would not eliminate the independence of the agencies; rather, it simply would help ensure that their financial systems function properly.

2. LACK OF CONTRACTING CONTROLS

When the RTC was created, Congress provided the RTC with the authority to establish its own procurement rules and procedures, in hopes that the RTC would find mechanisms that are more efficient than those ordinarily used in Government. In response, the RTC adopted contracting procedures. According to the GAO, the RTC then "consistently failed to follow * * * resulting in millions of dollars of increased costs" to the taxpayers. Two weeks ago, on March 18, 1993, the Comptroller General of the United States testified before a House subcommittee that:

* * * to prevent further contracting abuses, [the] RTC's top management needs to take immediate action to ensure that its staff comply with [the] RTC's contracting policies and procedures and that major contractors have adequate internal control systems.

As the General Accounting Office found in December 1992:

We have identified weaknesses that have added millions of dollars to the cost of the Government's cleanup efforts, but we have no way of estimating the extent that losses may be occurring. * * * RTC [has] made a series of strategic decisions in developing and implementing its contracting system that have increased RTC's vulnerability to mismanagement and waste.

With 95,000 separate contracts and inadequate oversight, the GAO literally found it could not estimate how much had been lost due to waste, fraud, abuse, and mismanagement.

Neither the Secretary of the Treasury, nor the RTC itself, nor the RTC's inspector general's office, has been able to provide any estimate of how much waste, fraud, abuse, and mismanagement at the RTC have cost the taxpayers.

On March 18, 1993, the Comptroller General testified that both the GAO and the RTC inspector general had found "numerous instances of excessive costs paid to contractors." He said that "RTC's failure to follow its own contracting procedures has resulted in millions of increased costs over the past 2 years."

On March 30, 1993, after the committee vote on the RTC refunding, Deputy Treasury Secretary Roger Altman, in his capacity as acting chairman of the RTC, ordered a 30-day freeze on the awarding of new contracts by the RTC, after RTC officials discovered that some contracts were still being awarded without following regular contracting procedures.

The historic approach of both the RTC and the FDIC has been to view each failed financial institution as an independent conservatorship or receivership, rather than as part of an overall RTC or FDIC set of assets with consistent sales and contracting requirements. Both agencies have tended to look at each failed institution as a separate problem to be dealt with separately, without any need for centralized decisionmaking. This approach was reasonable for the RTC's predecessor agencies, and the FDIC, when only a few financial institutions failed each year. It is not a responsible approach when an agency is responsible for managing hundreds of billions of dollars of assets at a time, without comprehensive, centralized data and information systems.

Given the number and scope of bank and thrift failures that both agencies now must deal with, that approach is no longer appropriate. Instead, the RTC, and the FDIC to the extent it is responsible for the SAIF, needs to develop systemic approaches to the major responsibilities involved in a resolution: the issuance of contracts and the disposition of assets.

The current system whereby contracts are issued at the regional level, and, in many cases, on an institution-by-institution basis, has not worked. The decisionmaking and oversight processes need to be consolidated in a central location, with overall responsibility for contracting residing in a single person.

Accordingly, this legislation provides for contracting reforms at the RTC and for the SAIF, requiring clear, uniform, centralized contracting policies, as well as enforcement procedures which include the ability to renegotiate contracts in cases of contractor neglect or abuse.

3. INADEQUATE RECOVERIES IN ASSET MARKETING

As the GAO has found, the RTC has focused on the goal of reducing asset inventory, rather than on maximizing recoveries that would reduce the cost of the resolutions, an approach sometimes described as "speed at any cost" An obvious example of this practice is the RTC's practice of handling most of its sales of assets by pooling them through bulk sales securitization auctions and limited partnership joint ventures. In addition to reducing the recoveries on assets, RTC's pooling practices have also effectively excluded the kinds of investors who might be in a position to purchase RTC assets—including small businesses, women, and minorities.

This legislation requires the RTC and the FDIC to market individual real estate assets for 60 days prior to pooling them, as a mechanism to expand opportunities to small business, women, and minorities, and to increase overall recoveries to the taxpayers.

4. INADEQUATE INFORMATION SYSTEMS

A critical and continuing problem for the RTC has been its poor information systems. According to GAO, "real estate system data as of January 1992 contained property records that were incomplete and inconsistent." The RTC's real estate management system has had no checks that prevent inaccurate information from being entered into the system. The RTC has no way of knowing who makes changes in the data, or why. As a result, the opportunities for mismanagement, or even fraud, remain significant.

The administration has committed to improve RTC's management information systems, so that RTC has cost efficient, but complete information on its assets. This legislation now mandates this commitment by statute, in order to ensure that the RTC, and the FDIC as administrator for the SAIF, are able properly to carry out the critical mission of managing and selling assets.

5. IMPORTANCE OF EFFECTIVE, INDEPENDENT INSPECTORS GENERAL

Independent inspectors general have been found essential to protect against abuses. The effectiveness of the RTC Inspector General's Office has been questioned by some, and the level of its recoveries on behalf of RTC have been smaller than ideal. Even so, possibly because its is statutorily independent of the RTC, and RTC Inspector General's Office has still uncovered substantial cases of waste, fraud, abuse, and mismanagement.

By contrast, the inspector general of the FDIC is not independent, but appointed by and subject to the head of the FDIC. Given that the RTC is to phase out its operations beginning on September 30, 1993, and that subsequent thrift resolutions are to be carried out by FDIC as administrator of the SAIF, it is critical that FDIC itself also have a statutorily independent inspector general.

Accordingly, this legislation makes the FDIC subject to the Inspector General Act. The inspector general should be fully independent of the agency whose activities he or she must monitor and investigate. As successor to the RTC, the FDIC inspector general should be in a position to provide a comparable level of protection to the U.S. taxpayer.

6. NEED TO PROVIDE REAL OPPORTUNITIES FOR MINORITIES AND WOMEN

Recent hearings before the General Oversight Subcommittee of the House Banking Committee found that the RTC has failed to meet its statutory responsibilities to provide opportunities for minorities and women. Recruitment efforts have been virtually nonexistent. In 1991, a total of less than 3 percent of all contracting went to minority-controlled or women-controlled firms. Last year, that number was up to 9.7 percent, according to the RTC, which is less than half of the 20 percent goal that RTC set for itself last year.

Rather than continuing to rely on the RTC to provide adequate opportunities for minority- and women-controlled firms itself, this legislation requires the RTC and the FDIC by statute to expand opportunities for minorities and women in the management and disposition of assets, contracting, and asset acquisition.

7. LIMITATIONS ON BONUSES TO HIGHLY PAID PERSONNEL

At a time when the American people are being asked to pay an additional $33 billion for thrift resolutions, it is especially inappropriate to have highly paid employees of the RTC receive large bonuses as they leave Government. Such bonuses serve no good government purpose, especially when they go to those who are leaving Government. They instead reinforce the public's attitude that those in Government are interested in lining their own pockets at the public's expense. At the conclusion of the last administration, the outgoing chief executive office of the RTC authorized bonuses as high as $25,000 for those remaining, at least temporarily, with the RTC, and bonuses as high as $10,000 to those who were immediately departing the agency for new jobs in the private sector.

Under this bill, the RTC and FDIC in connection with the SAIF is limited to bonuses similar to those provided in the rest of the Federal Government, and bonuses given to employees who leave within 60 days of receiving the bonuses must be returned to the Government.

8. PROFESSIONAL LIABILITY ISSUES

The RTC has the mandate to seek damages in court from thrift industry

officials whose negligence or civil fraud contributed to the savings and loan debacle.

Unfortunately, the professional liability section of the RTC was destroyed last year by outgoing RTC head Albert Casey, and as the GAO has documented, is now what GAO investigators have called dysfunctional, nonviable, and a disaster.

The PLS's relative independence has been abolished and many of its senior managing lawyers have been forced out. The commitment made to the public that those who contributed to the cost of the bailout should have to help pay for the bailout has not been met.

The managers' amendment creates powerful new protections for the PLS section, upgrades its status, and improves its operations. We had additionally sought an extension of the statute of limitations on professional liability lawsuits to 5 years—from 3—or the period provided in State law, whichever is longer, in order that those whose actions contributed to taxpayer losses are not shielded from prosecution by overly short statutes of limitations. This is not in the managers amendment, but I anticipate it being added to this bill during the remainder of the legislative process.

9. WHISTLE BLOWER PROTECTION

Current whistleblower protection laws only protect those employees who expose violations of law or regulation. An employee who merely exposes waste or mismanagement can face retaliation. Given the scope of the RTC's operations, and the continuing problems of waste, fraud, abuse, and mismanagement, there is a need to ensure that whistleblowers feel the freedom to come forward and expose these problems. Under this bill, RTC staff employees and outside RTC contractors are given protections for exposing waste, abuse, inefficiency, and mismanagement, not merely violations of law, and the burden of proof is shifted in whistleblower cases from the whistleblower to the Government agency in cases where retaliation is alleged.

Taken together, these reforms should substantially improve the RTC and help the taxpayers receive a better deal from the Government in connection with the bailout.

With these reforms legislated, it is now incumbent on us to watch very, very closely to make certain that they are put into place; that these are not viewed as a passing fancy of the U.S. Congress that are subsequently ignored.

I thank the President and I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, I want to begin by thanking the Senator from Massachusetts for his very kind personal comments, and even more than that, I want to thank him for his leadership on this issue over a great length of time. These are not new issues to him, but ones for which he has expressed a concern and made an effort to correct over some great length of time.

The reforms that are included in this bill today are in part reflecting his leadership. He has kindly mentioned the other members of the committee, and particularly the new members of the committee, that have also had a very strong interest in this area.

But the Senator from Massachusetts has been very directly involved in this effort for a great length of time, and that should be noted. It is something that I very much appreciate.

I think the bill that we have, as the Senator has said, makes this as strong as we know how to do it with respect to the written law. In the end, we have to rely on others to implement the law. That really is beyond our reach. We can write the law; we can give them the tools, as we did going back to the initial formation of the RTC. But we cannot execute their jobs for them. They must do that. They do it, obviously, with the knowledge that we will conduct oversight to try to monitor to see what they are doing, and when we see that things are off track, to come back and tighten the law or change the law or provide additional methods to get things to happen the way we intend for them to happen.

I think it is also fair to say that we do now have a new administration. And leaving aside the long history of where the problem came from, I think the fact that new people will be coming in and taking a fresh look and are under pressure to perform by even more stringent legal requirements gives us some encouragement in thinking that problems that have been out there will be dealt with and will be corrected. There ought not to be anybody defending the status quo, and if there are changes and improvements that are needed they, in fact, can be done.

I want to thank the Senator again.

AMENDMENT NO. 363

(Purpose: To require a report to the Congress concerning the collection of fines and restitution in cases involving savings association and bank fraud)

Mr. RIEGLE. Mr. President, I send to the desk an amendment on behalf of Senators SHELBY and BRYAN. I state the purpose of the amendment is to require a report to the Congress concerning the collections of fines and restitutions in cases involving savings and loan associations and bank fraud.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. RIEGLE], for Mr. SHELBY and Mr. BRYAN, proposes an amendment numbered 363.

Mr. RIEGLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . REPORT TO CONGRESS BY SPECIAL COUNSEL.

(a) REPORT.—Not later than 90 days after the date of enactment of this Act, the Special Counsel appointed under section 2537 of the Crime Control Act of 1990 (28 U.S.C. 509 note) shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report on the status of its efforts to monitor and improve the collection of fines and restitution in cases involving fraud and other criminal activity in and against the financial services industry.

(b) CONTENTS.—The report required under subsection (a) shall include—

(1) information on the amount of fines and restitution assessed in cases involving fraud and other criminal activity in and against the financial services industry, the amount of such fines and restitution collected, and an explanation of any difference in those amounts;

(2) an explanation of the procedures for collecting and monitoring restitution assessed in cases involving fraud and other criminal activity in and against the financial services industry and any suggested improvements to such procedures;

(3) an explanation of the availability under any provision of law of punitive measures if restitution and fines assessed in such cases are not paid;

(4) information concerning the efforts by the Department of Justice to comply with guidelines for fine and restitution collection and reporting procedures developed by the interagency group established by the Attorney General in accordance with section 2539 of the Crime Control Act of 1990;

(5) any recommendations for additional resources or legislation necessary to improve collection efforts; and

(6) information concerning the status of the National Fine Center of the Administrative Office of the United States Courts.

Mr. RIEGLE. Mr. President, this amendment has been cleared on both sides. It is acceptable to the committee. It is a worthwhile study for us to do.

I ask unanimous consent that the amendment be adopted.

Mr. BRYAN. Mr. President, I rise in support of the amendment offered by the Senator from Alabama [Mr. SHELBY].

The collection of restitution and fines from the criminals responsible for a significant amount of the losses incurred by the American taxpayer for the savings and loan bailout has concerned me for some time.

Last year, in testimony before the Senate Banking Committee, the General Accounting Office presented some shocking data. The GAO analyzed the Justice Department's prosecution efforts for the 100 largest criminal savings and loan referrals. In these 100 referrals, Justice's efforts resulted in fines and restitutions being ordered of $83.6 million. Of this amount, only $365,000 had actually been collected—less than half of 1 percent.

Confronted by this information, the Justice Department agreed to make an effort to improve the collection of restitution. Several months after the GAO report, Justice reported back that their analysis showed an increase in the collection rate to a little more than 5 percent—an improvement, but still far below what I am certain the American taxpayer would expect.

My efforts to determine exactly how much of the restitution ordered by the courts has been collected have been frustrating, to say the least. It is clear to me that the Justice Department has not taken a sufficient interest in the collection of restitution—once the fines are levied, Justice seems to lose interest. It is also clear to me that Justice has no idea how much of the restitution that has been ordered has actually been collected.

I understand that in some cases the collection of fines and restitution can be difficult, if not impossible. Sometimes, I am sure, the assets simply are not there, and there is no way to collect a fine. Nevertheless, the American taxpayer, who is footing the bill for the criminal behavior of many of those involved in the savings and loan crisis, deserve a full report on the actual collection of fines and restitution, in addition to a full reporting of the prosecutions and sentencing.

Mr. President, the amendment offered by Senator SHELBY simply requires the Department of Justice to provide to Congress a single report on its efforts to collect fines and restitution assessed against savings and loan criminals. I urge the Senate to adopt this amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment is agreed to.

So the amendment (No. 363) was agreed to.

Mr. D'AMATO. Mr. President, I move to reconsider the vote.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIEGLE. Mr. President, again, if I can indicate this is the last amendment. There was one item that was brought over by one other Senator just a minute ago that is really not germane to this bill, and we cannot handle it in this bill. He left it with the thought in mind that if we could, he would understand; and if it were impossible, he would also understand.

The proposed amendment deals with the effort of unfreezing Iraqi assets. It is not related to the RTC funding, and we are not in a position to be able to take any extraneous amendments of that kind. So I appreciate the Senator's understanding of that. But that is the manner in which that has to be handled.

Having said that, there are no other amendments pending, and there are no other Senators on the floor seeking recognition. I know of no other amendments to be offered. I am not aware of any more on my side of the aisle, and I had the same statement from the Senator from New York, with the exception of the matter of the Senator from Texas, who has an unrelated matter that I gather he wishes to raise under the fact that this bill is before the Senate.

But sticking, for the moment, strictly to the subject matter of the RTC funding bill, there are no outstanding matters left to be resolved, insofar as I know. And I will make that representation on behalf of my side of the aisle.

Mr. D'AMATO. Mr. President, I understand that Senator BURNS may be presenting us with a possibility of something that is germane that deals with the RTC. He is speaking to them now. If he gets it down here to us and is able to work that out, and if it is, as I understand, an amendment that is almost technical in nature, I am certain we will consider it.

But first of all, let me, if I might, Mr. President, commend the chairman. Senator RIEGLE has done an outstanding job—and his staff has done an outstanding job—in bringing us to this point. We are really saying that, as a practical matter, the business of dealing with the problems attendant to this bill—the RTC and proper safeguards to deal with its operation and deal with some of the deficiencies that have existed—are contained in, I think, a very thoughtful bill.

Again, I do not think many people fully appreciated the complexity of it, nor did they believe that we would come to this point so quickly. It would be a shame for us not to be able to wrap up this bill.

I am going to exhort my colleagues, and particularly Senator GRAMM, to come to the floor to offer his legislation and let the Senate work its will so that we can pass this bill and go on about our other business.

We have been down here now all day. I hope at least within the next 10 minutes we can take this up because, otherwise, we are really working a hardship on the chairman and on the staff and on others, and we want to get this process moving.

Absent that, I think there is probably nothing else that remains.

But, again, let me commend the staff for their diligence and for their work in this effort. I hope we could get this legislative proposal on the floor.

I am going to see if I cannot find out where Senator GRAMM is—Senator GRAMM of Texas, not Senator GRAHAM of Florida, who is now presiding—and see if we cannot wrap this up.

Mr. RIEGLE. Very good.

Let me just say to the Senator from New York how much I appreciate his hard work and cooperation on this bill, and that of his staff, and how much I enjoy and appreciate the good working relationship we have established.

I think colleagues on both sides of the aisle have worked very constructively on this piece of legislation. It reflects the hard work of many individual Senators and their staff members.

So we are now at the point where the bill is ready for final action, pending only two items: the possibility of an amendment that may be technical in nature coming from Senator BURNS of Montana. He is apparently talking with the RTC now. That may or may not be something that he comes to the floor on. It sounds like it is not a very complicated matter; I hope it is not.

Then the only other outstanding matter that will prevent us from going to final passage would be an amendment Senator GRAMM of Texas earlier indicated he wanted to bring forward relating to the Federal budget and, apparently, the deficit fund that the President has talked about.

That is a large, encompassing issue. It has nothing to do, per se, with the RTC funding bill, although he is certainly within his rights under the rules of the Senate to come in and offer it, even though it is not germane or directly related to the matter that the Senate is acting on here.

So I hope, in due course, Senator GRAMM of Texas can bring that to the floor and we can have a debate, resolve the issue one way or the other, finish work on this bill, and get this bill into conference.

Our failure to have money ready at the RTC to close failed thrifts that should be closed is costing taxpayers over $3 million a day just in wasted costs. So, having this delayed any further is something that really cannot be justified.

Again, I thank everybody for their work at this point. We are ready to finish this bill. Hopefully, within a short time, we will be able to do that.

I make a point of order that a quorum is not present.

The PRESIDING OFFICER (Mrs. BOXER). The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COHEN. 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. COHEN. Madam President, I rise today hopeful that the Congress is finally writing the last check to pay the enormous tab of the S&L bailout. But, as we in Congress gratefully close the Nation's checkbook, historians have already begun to open their notebooks and pen the sorry story of the S&L debacle.

The tale historians will tell of the Thrift bailout will in a way pay tribute to the American taxpayer, who has

shouldered the burden of ensuring that depositors in failed S&L's have received payment for their deposits. It will also raise understandable questions about the justness of requiring a majority of Americans to pay what is essentially a tab rung up by the failed S&L's in a handful of States.

Last week, the Northeast-Midwest congressional coalition released the third part in its study of the State-by-State cost of resolving failed savings and loans. It should come as no surprise that once again Texas has the dubious honor of leading the list of States that contributed the most to the cost of the taxpayer bailout. In fact, by Northeast-Midwest's estimation, Texas alone accounts for over 41 percent of the total price of the thrift resolution from 1986 to 1992; Texas alone ran up a $50.6 billion bill for its failed savings and loans over that same period.

Madam President, my friends from Texas no doubt will argue that it is the oil crash that bears the blame for the collapse in Texas' thrift industry, and I will concede that there is some merit to that argument. Nevertheless, problems in the oil industry cannot along account for the truly astronomical figures that I have just mentioned. The fact is that the Thrift regulators in Texas, who were supposed to watch over the Texas savings and loan industry, were not paying enough attention and ignored the telltale signs that signaled impending trouble. By the time they had been stirred from their slumber, Texas S&L's were running wild, and many were too far gone to be rounded up and brought back into the fold.

I do not suggest that Texas alone

Since the beginning of the taxpayer bailout of the S&L industry, the U.S. Congress has asked every man, woman, and child in Maine to pay over $300. As always, the people of Maine have met their obligation—although Maine has contributed only about $12 per person to the price of the bailout.

Madam President, I must say with all candor that I cannot imagine myself asking the Maine taxpayer to pay for a similar bailout in the future without first seeing significant changes to the principles of Federal deposit insurance. Federal deposit insurance is not a right but a privilege, and it is a privilege that should be revoked if a State proves itself to be unworthy of it. During the 1980's, Thrift regulators in a very few States napped peacefully as their S&L's gambled with depositors', and, unfortunately, taxpayers' money. Nevertheless, those regulators saw the deposits in their failed S&L's covered under the Federal guarantee. Because these regulators have paid no penalty for their inattention, I have no reason to believe that they have learned a lesson from their mistakes.

It is for this reason that I intend in the next few weeks to offer legislation to introduce some sort of accountability to the concept of Federal deposit insurance. While depositors in thrifts should continue to rest easy knowing that the Federal Government will protect their deposits up to the statutory limit, State regulators should not rest easy believing that their mismanagement and inadequate oversight will be compensated for by Federal magnanimity. My legislation will serve notice to individual States that they must rigorously monitor their State-chartered financial institutions or face the penalty for their failure.

Madam President, I noted earlier that scholars have already begun to write the history of the great S&L bailout of the 1980's and 1990's. When they finally turn to composing an epilog to that history, I hope that they will be able to add that Congress learned the harsh lessons of the bailout. To earn those kind words, Congress must work to ensure that State regulators have an incentive to carefully scrutinize their State-chartered Thrifts. The people of Maine should not again have to see their hard-earned tax dollars whisked away to pay for the regulatory failures of a small number of States.

I yield the floor.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Madam President, I rise today in support of S. 714, the Thrift Depositor Protection Act of 1993. I think this legislation is long overdue. We certainly have worked on it for a long time. Last year, the House failed to pass the RTC funding and, consequently, the RTC went without funds for a year, increasing the price tag for this fiasco by $3 million to $6 million per day. Although a GAO audit recently found excess reserves, the release of these funds only provides temporary relief. It does not finish the job.

I commend our chairman and our ranking member, and the rest of the committee, for getting on with the work and doing a job that needs badly to be done.

Clearly, the RTC needs further funding to complete its transactions. Insolvent thrifts have been left open while Congress ignored this festering problem. I am sure my colleagues in the Senate and in the House do not want to renege on the promise to insure deposits up to $100,000 if an institution fails. If the RTC does not have the money, it cannot pay off the depositors. If we are going to keep our promise on deposit insurance, we have to fund the RTC. It is as simple as that. There are a lot of people who have raised smoke screens in the past. We have heard a lot of disingenuous arguments on the floor that the money is going to the S&L crooks or incompetent institutions. That is just not the case. The money goes to the depositors. You have to make the payment when you shut down the insolvent institution.

There just seems to be a terrible case of institutional irresponsibility and willful ignorance of the consequences of our actions about the S&L fiasco. This collective amnesia extends further than the defeat of the S&L funding. That is only the most recent part. I heard, today, one more time, an effort to make partisan hay out of the S&L fiasco. Madam President, any time you have a $150 billion black hole, it takes a lot of teamwork. It takes a lot of people involved. It takes Congress; it takes the regulatory agencies, the executive branch; it takes State legislators; it takes lawyers, accountants, appraisers, all who were involved in it. I think it is time that we get beyond partisan finger pointing and blame gaming.

That is why, in the fall of 1990, the Senator from Connecticut [Mr. DODD] and I succeeded in passing authorization for an independent bipartisan nongovernmental commission to investigate the causes of the S&L disaster. We felt that these issues needed a full examination and a full hearing from a credible body. Those of us who sat in and listened to the hearings ad infinitum can probably give you a pretty good idea what happened. But, frankly, the American people want somebody else. They want an independent body to take a look at it.

Well, there were a lot of people who did not want to have the report. Senator DODD and I had to fight to get it through. We had foot dragging in the Treasury. They did not want the report coming out early. They did not want the report coming out before the elections. I think they made a gross mistake.

But after 2½ years of excuses and delays, the Savings and Loan Commission finally is close to issuing a report on what went wrong. This is more than just a historical interest, because it ought to lay out for us, and it ought to lay out to all policymakers, the missteps that we made in the past, so that we do not repeat this sad story. One time is enough on blunders of this magnitude—and I say blunders because there were many. This report is due to be released in mid-June, and I just urge my colleagues, as they consider this RTC legislation, to pass up the opportunity to get back in the blame game. This is not the campaign season. We do not need to be throwing partisan barbs at each other. There is plenty of blame to go around, and everybody will get their appropriate share.

The current atmosphere of finger-pointing and partisan demagoguery surrounding the S&L crisis obscures the important policy lessons that ought to be learned from this debacle. I believe we still need an objective, forward-thinking policy analysis of the role played by regulatory policies, supervisory practices, State and Federal legislation, and macroeconomic

changes in causing the problems that led to the unprecedented losses to the deposit insurance fund. Ignoring and pushing this problem under a rug for too long was a mistake. Ignoring the lessons that the fiasco provides us for future action would be an absolutely unforgivable blunder.

I am anxiously awaiting the results from the commission's investigation. We need the benefit of an objective assessment of the policy decisions that led to the S&L crisis so that we can avoid similar mistakes in the future. We must prosecute the crooks who looted the S&L's and left the taxpayers with the bill, but that is not enough. If we focus solely on prosecutions and talk about colorful instances of malfeasance, we blind ourselves to the full picture of just how this fiasco took place.

We need to put this behind us. Let us learn some useful policy lessons from the wreckage of the S&L industry. Let us keep our promise to the depositors and fund the RTC.

I want to express my personal thanks to the chairman and the ranking member for including in the managers' amendment my amendment to close the RTC early. This bill provides the final funding for the S&L cleanup. I believe we should also take this opportunity to shut down the RTC once and for all.

Everybody said they were afraid when we set it up that we were going to establish an agency that would get marble floors and engraved stationery, lettering on the door, and big titles. I think the time has come to fulfill our promise that it was to be a temporary agency.

The current law provides that the RTC shall terminate and be merged into the FDIC no later than December 31, 1996. My amendment simply changes the termination date of the RTC to no later than December 31, 1995.

The RTC was established in 1989 to tackle the enormous job of resolving the failed savings and loans, but this September, the RTC will pass on its job of resolving those failed thrifts to the FDIC and therefore will stop taking in new assets to sell. After September, the RTC will exist to sell its remaining assets, while the FDIC takes on the role of resolving failed institutions and selling those assets.

This means that, beginning this October, both the FDIC and the RTC will be selling assets from failed thrifts. My question is simple: Why are two Federal agencies, the FDIC and the RTC, doing exactly the same thing?

Originally, I wanted to close the RTC earlier, but I compromised to consolidate the sale of thrift assets within FDIC by the end of 1995. Whatever the RTC does not sell by then—and I gather they are making good progress—can simply be handled by FDIC, which already will have been selling assets from failed thrifts for 2 years.

From now to December 31, 1995, is more than sufficient time for RTC to sell most of its remaining assets and to plan and complete a consolidation of the agencies without disruption. The FDIC already has begun the transition process and is absorbing RTC employees.

Like the private sector, the Federal Government must downsize, cut outdated programs, and become more responsive to the American people. We have an opportunity to downsize the Federal Government and eliminate a Federal agency if nothing else. That should give us some satisfaction. The RTC has served its purpose, and it will be time to shut it down by the end of 1995. We do not need duplicative, overlapping Federal bureaucracy to handle failed S&L's. We should not leave in place a bureaucracy in search of a mission. And I am most grateful that the chairman and ranking member agree it is time to pull the plug on RTC. Let us finish the cleanup once and for all, provide the last of funding, get on with the job. We all lived with one RTC, we do not want to continue with two beyond 1995. There is simply no reason to keep it open beyond then.

I thank the Chair and the chairman and ranking member and strongly urge my colleagues in both the Senate and House to act quickly. Let us get this resolved and get it behind us.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Madam President, I acknowledge the remarks of the Senator from Missouri and say several things.

First of all, I very much appreciate the leadership he has given on our committee in crafting this legislation in this current instance and over a period of time. As he correctly notes, he and Senator DODD, of Connecticut, were teamed up on the issue of setting up the independent savings and loan commission to take a look as to exactly how this problem came about and what lessons to draw from it.

That commission has met at great length. I had the opportunity to go down to present our views to them and to engage in a very good, constructive give and take, and others have as well. I, like the Senator from Missouri, look forward to their final report and to the observations they will be making.

I want to further say that in this bill are suggestions made by the Senator from Missouri, including the one he cites about terminating the RTC a year earlier than the prior legislation had set forth.

Finally, I want to also thank him for his kind, personal remarks. I think on our committee we operate, as much as any committee in the Senate, on a bipartisan or a nonpartisan basis. This has been an issue that certainly had the potential for creating, and from time to time did, a great friction along partisan lines, for all of the obvious reasons that one might think. But I say I think we have managed to navigate through that, working together, and I think we brought a good work product here to the floor for our colleagues. I think it finishes the job and does it in a way where it imposes the tightest controls we know how to write into law. From there on it remains in the hands of those who have to carry out the law to get the job done and get it done right. I think the Senator for his participation and thank him for his comments.

AMENDMENT NO. 364

Mr. RIEGLE. Madam President, in behalf of Senator BURNS, I send an amendment to the desk which has been cleared on both sides and which I will propose to accept in just a moment.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Michigan [Mr. RIEGLE] for Mr. BURNS, proposes an amendment numbered 364.

Mr. RIEGLE. 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 new section:

**SEC. . REPORTING REQUIREMENTS.**

The Resolution Trust Corporation shall provide semiannual reports to the Senate Committee on Banking, Housing and Urban Affairs and the House Committee on Banking, Finance and Urban Affairs. Such reports shall—

(a) detail procedures for expediting the registration and contracting for selecting auctioneers for asset sales with anticipated gross proceeds of $1,500,000 or less;

(b) list by name and geographic area the number of auction contractors which have been registered and qualified to perform services for the RTC; and

(c) list by name, address of home office, location of assets disposed, and gross proceeds realized the number of auction contractors which have been awarded contracts.

Mr. RIEGLE. Madam President, this is an amendment having to do with reporting on the use of auctioneers. It has been examined by the staff on both sides, and it is acceptable to both sides.

I ask unanimous consent that the amendment be adopted.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Madam President, it has been cleared on this side, and I thank the chairman for accepting his amendment. I express appreciation for his kind words. It is a pleasure to work with the chairman and other members of the Banking Committee.

I urge my colleagues to support this amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, the amendment is agreed to.

So the amendment (No. 364) was agreed to.

Mr. RIEGLE. Madam President, I move to reconsider the vote.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIEGLE. Madam President, let me say, again, it was unclear whether the Burns amendment would be offered or not. It has been and is now incorporated into the bill. Again, let me say, with the exception of the amendment on a different subject matter by Senator GRAMM of Texas, insofar as I am aware, we have completed work on the RTC bill. So that bill awaits final passage as soon as we can take up and handle the proposition that is going to be advanced by the Senator from Texas. Looking at the clock, it is now 10 minutes to 4. I hope that as soon as we can, we can bring the Gramm amendment to the floor for a discussion and disposition, and then it is my hope that at an hour that may not be too late into the evening we will be able to move to final passage on the RTC bill.

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. GRAMM. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 365

(Purpose: To guarantee that the $1.00 in Federal spending cuts promised to American taxpayers in return for each $3.23 in new taxes will actually occur by making the discretionary spending totals proposed by the President and adopted by the Congress binding and enforceable)

Mr. GRAMM. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Texas [Mr. GRAMM], for himself, Mr. MACK, and Mr. BROWN, proposes an amendment numbered 365.

Mr. GRAMM. 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 new section:

**SEC.——. DEFICIT REDUCTION.**

(a) DEFINITION OF CATEGORY.—Section 250(c)4 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

"(4) the term category" means:

(A) For fiscal years 1993, 1994, 1995, 1996, 1997 and 1998 any of the following subsets of discretionary appropriations: defense, international, or domestic. Discretionary appropriations in each of the three categories shall be those so designated in the joint statement of managers accompanying the conference on the Omnibus Budget Reconciliation Act of 1990. New accounts or activities shall be categorized in consultation with the Committees on Appropriations and the Budget of the House of Representatives and the Senate.".

(b) BUDGET LEVELS BINDING.—Section 601(a)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding after subparagraph (e) the following new subparagraph:

"(F) For fiscal years 1994, 1995, 1996, 1997, and 1998 the applicable budget authority and outlay levels for the discretionary categories shall be the levels set forth in H. Con. Res. 64 as agreed to on April 1, 1993, in accordance with the definitions of categories set forth in section 250(c)(4) of the Balanced Budget and Emergency Deficit Control Act of 1995."

(c) APPLICATION OF PROCEDURES AND LIMIT.—Section 250 of The Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following new subsection:

"(d) APPLICATION OF PROCEDURES AND LIMITS PROVIDED IN THE 1990 ACT.—All procedures and limits applicable to the discretionary categories for fiscal years 1991, 1992 and 1993 provided in the Budget Enforcement Act of 1990 shall apply to the limits established by this section and sections 251, 253, and 254.".

Mr. GRAMM. Madam President, first of all, I want to thank my colleagues for their indulgence. What I have been trying to do this afternoon is to craft an amendment to seize what I believe is a great opportunity to do something good for America. The President yesterday floated a lead trial balloon and that trial balloon basically said that he wanted to somehow guarantee the American people that their taxes were not going to be spent.

The President's proposal was to create a trust fund into which those taxes would go.

Well, Madam President, as we all know, we have many trust funds. Those trust funds count as part of the overall revenue coming into the Federal Government. And so, merely by creating a trust fund, we do not affect spending, we do not affect revenues, and therefore we do not affect the deficit.

It is much like people taking money out of one pocket and putting it into another and acting as if somehow that affects their net wealth or how much money they have.

Let me try to express it another way. Next year, we are going to be spending on the President's budget about $1.5 trillion. We are going to be taking in revenue from all sources, including trust funds, about $1.2 trillion. So we are going to have a deficit of about $300 billion, and under the President's budget we are going to have the largest cumulative addition to the debt that we have ever had in any 4-year period in American history.

What the President has said is that somehow he can guarantee deficit reduction by, for example, saying that if we get $50 billion of new taxes next year, to keep the arithmetic simple, that those taxes will not count as revenues and they will go into a trust fund.

Well, Madam President, if that is the case, we still have $1.5 trillion of spending. Now, we have $1.15 trillion of revenues and we have $50 billion in this trust fund. So the $50 billion in the trust fund lowers the deficit by $50 billion, but since we are not counting it as revenue, the deficit goes up by $50 billion and we still have $300 billion of deficit spending.

So the President's proposal is basically a way of trying to convince people that we have done something that we actually have not done.

In fact, the President says—and I quote his own words from the Associated Press:

In the public mind out there in the country, people will see it as a guarantee that their money will go to reduce the deficit.

Well, Madam President, I do not think so. I do not think the American people are going to be deceived.

In fact, when a similar proposal—in fact, one that did cut spending—was proposed by President Bush, the tax checkoff—whereby taxpayers could allocate up to 10 percent of their taxes to deficit reduction and then Congress would have to cut spending across the board by a corresponding amount so that the deficit would actually go down—Alice Rivlin, who is now the Deputy Director of the Office of Management and Budget for President Clinton, said of the Bush proposal:

I don't understand how earmarking a portion of the individual taxpayer's taxes for debt reduction can make a difference when we are running a deficit. As long as the Government is spending more than it is taking in, I don't see that that has any real meaning. It is really just a gimmick.

Well, Madam President, first of all, there was big difference between the Bush proposal and the Clinton proposal. Because the Clinton proposal just simply says:

Let's say these revenues go to deficit reduction, but let's don't do anything about spending.

The Bush proposal said:

Let taxpayers designate up to 10 percent of their taxes for deficit reduction and then make Congress automatically put into place an equivalent across-the-board spending cut, so that the deficit actually declines by that amount.

But, Madam President, if the Deputy Director of OMB in the Clinton administration called the Bush proposal a gimmick, I am not certain what she is calling the Clinton proposal.

Now we come to what I think is a real opportunity to take the Clinton proposal, which is not substantive, which is meant basically to convince people that we have done something which we actually have not done, and turn it into a real reform.

It seems to me there are two ways of doing that. One way is to make spend-

ing totals we have in our budget binding on the Congress.

When the President's budget was considered in the Budget Committee, I offered an amendment to set out the spending totals in law and to put into place an automatic process that if Congress spent more than those totals you would have an automatic across-the-board cut in all the spending within that category to bring us back to the amount set by law, so that there would be an automatic enforcement process whereby those savings would be achieved.

When I offered that amendment in the Budget Committee, back during the days of the consideration of the Clinton budget over a month and a half ago, that amendment was rejected on a straight party line vote.

However, given the fact that the President is now trying to convince the American people that we are shooting with real bullets, that we really want to do something about the deficit, I wanted today to try that again.

So I have offered an amendment that simply does this: The President's budget has 5 years of an economic plan. During that 5 years, the President proposes raising taxes by about $275 billion. The President proposes raising taxes $3.23 for every $1 of spending cuts, as compared to current law.

But the problem is we do not have effective enforcement. In fact, the only enforcement we have—and I will not get into great detail, unless my colleagues want to debate it—is a point of order which can be raised if those totals are breached. But we have no enforcement mechanism whereby, if Congress exceeds the spending constraints, we have a later adjustment to ensure that savings are made. And then, in a very remarkable change in the rules, we do not let the Congressional Budget Office measure whether we are violating the spending limits, we let the Senate Budget Committee.

So what my amendment does, in very simple terms, is this: It alters the 1990 budget agreement and it alters the underlying law, Gramm-Rudman, to take the budget submitted by the President, which we adopted, the 5 years of binding spending constraints. And in each of those 5 years there are three numbers—defense, nondefense domestic, and international discretionary spending.

So for 5 years, we set out three numbers in law. And what we say is that these numbers are binding. We promised the American people in the budget we would not spend more than that. They are binding.

And if Congress spends more within that category—for example, let us say we raise spending for nondefense spending. Let us say we spend a billion above what we allow in the budget. In that case, if we did not take any other action by the end of the year, there would be an automatic across-the-board cut in discretionary spending to bring us back under the total.

I noticed that Congressman SCHUMER, whose original idea this was, said in addition that he wanted a tight budget enforcement mechanism to cap discretionary spending.

Well, what I have done is send an amendment to the desk that will alter permanent law, take the President's budget as we adopted it, and make the spending totals binding so that the American people, who are about to be taxed, can be absolutely certain that they are going to get the spending cuts that are promised.

The President says that people are skeptical and they need to be reassured. Let me remind my colleagues why people are so skeptical. People are skeptical because basically they have been misled. In the campaign the President said, I will cut $3 in spending for every $1 of new taxes that I ask rich people to pay. And then, when Congressman Panetta was before the Senate to be confirmed as OMB Director, he said $2 in spending cuts for every dollar of new taxes. And Senator Bentsen, who was before the Senate to be confirmed for Secretary of the Treasury, said the target was $2 in spending cuts for every dollar of taxes. And then the President came before a joint session of Congress and the American people and, in the State of the Union Address said, $1 spending cuts for every $1 of taxes.

Finally, when the Congressional Budget Office looked at the final budget we adopted, compared it to what would have happened had we done nothing, they concluded that taxes go up by $3.23 for every $1 of spending cuts.

So, if people are somehow disillusioned and distrustful of what we say versus what we do, I think it is obvious that they are disillusioned and distrustful for very good reason. There is a huge gulf between what we say and what we do.

Mr. MCCAIN. Will the Senator yield for a question?

Mr. GRAMM. I will be happy to yield.

Mr. MCCAIN. As I understand the amendment of my friend from Texas, as he, I think, very eloquently explained it, whenever Congress goes above the budget that is passed by the Congress of the United States, if they wish to spend additional moneys then their sequester would have to be enacted from existing programs.

My question to the Senator is this. I think most Americans believe if they, like every family, city, county, State in America, enact a budget they have to adhere to it. If they do not they better find some more revenues because they are required to have a balanced budget and not run a deficit or a debt. What has been the habit, I ask my friend from Texas, of Congress, that would make him feel this is so important? I ask that since I think most Americans are aware of the deficit but I do not think they are aware there is continuous additional spending over and above—for what are sometimes called emergencies, sometimes other things. Would he explain that a little bit?

Mr. GRAMM. First of all, there has been a consistent pattern where Congress adopts a 5-year budget, and we make all these promises as to what we are going to do in the sweet by-and-by in terms of controlling spending. It is normally the habit of Congress to ask people to pay new taxes in return for these promised spending cuts. But when it comes time to make the spending cuts, we do not do it.

A perfect example was in 1990, under the so-called budget summit agreement. The American people paid $165 billion in taxes and one of the things they got in return was a binding constraint on spending. One of the first actions of our new President was to try to designate a $16.3 billion spending bill as an emergency, so it would not count as spending, it would not count as deficit, it would not violate the spending cap. But it still spent the money and borrowed the money.

So what I am saying is this. We are getting ready to ask the American people to pay $275 billion in new taxes. We are getting ready to tax every American, directly or indirectly. One of the things that is being promised is that we are going to save money by not spending as much as we would have. The problem is, 80 percent of those spending cuts do not even go into effect until after the 1996 Presidential election. Unfortunately, many of the new taxes are retroactive to January 1.

So what my amendment simply says is let us make these spending limits mandatory, let us put them in permanent law, and let us set in place an automatic mechanism so if Congress and the President do not live up to the promise, that there is an automatic, across-the-board cut to keep us within the spending limits we set and that will force us to live up to the agreement.

It is the kind of enforcement mechanism that families have to live with every day, that businesses have to live with, but we have a huge deficit today because Government has not had to live with it.

All I am trying to do is this. If we are going to ask people to pay new taxes retroactive to January 1, and we are going to promise these big spending cuts in 1997 and 1998, do my colleagues not think we ought to have the strongest enforcement mechanism possible to try to see that those cuts are actually made? That is what I am trying to do.

Mr. MCCAIN. If the Senator will yield for another question about the so-called trust fund without the

amendment of the Senator from Texas. As I understand it, if there was $1.6 trillion in spending this year and there was, say, $1.3 trillion taken in, leaving us with roughly a $300 billion deficit—if those are roughly accurate numbers—contributing therefore to increase the already over $4 trillion debt, what would be the purpose of this trust fund? What possible accomplishment could it have? What difference would it be from taking the money and putting it in a mattress? What would be the effect on the accounting as the American people view the overall debt and the annual deficit?

Mr. GRAMM. The effect of the trust fund is to mislead people into believing that somehow it is a guarantee that Government will not simply increase spending by the amount of the revenue. But if we do not have some binding constraint, as the proponent of this very proposal in the House said—even though it is not included in the President's proposal—that he wanted an airtight budget enforcement mechanism to cap discretionary spending because the only guarantee that we will not spend the new tax revenues is a prohibition against such spending.

If you take money and put it in a mattress and you do not take it out, you cannot spend it because you do not have unlimited credit and you cannot print money. Government can borrow money and can print money indirectly through the Federal Reserve bank. So putting money into mattresses does not keep Government from spending it. It might keep Captain MCCAIN from spending it, but it does not bind Uncle Sam. And that is why the President's proposal, unless we do something to make it effective, simply misleads the American people.

As a new member of the Council of Economic Advisers said, and I love this language, "This is our way of telling people you don't have to worry. All your sacrifice will go into deficit reduction," Gene Sperling, an economic advisor to the President is quoted as saying that.

My view is if all the sacrifice is going to go into deficit reduction why do we not write it into law that all these spending cuts really have to be made and have an enforcement mechanism that says if we should backslide—as Congress has always done—that we have an automatic mechanism that triggers the spending reductions. That is my point.

Mr. MCCAIN. I would just ask one more question, then, and I thank my friend for his very eloquent explanation. I suggest that this amendment, for those who are truly serious about deficit reduction, absolutely cannot be opposed. I hope we could pass it on a voice vote.

I ask my friend from Texas this. Would he review—because we happen to lurch from day to day, hour to hour here, from issue to issue—given his involvement since 1980 on issues of the budget deficit, could he just review for the record the history we have had of the budget summit agreements, the commitments that were made, and the ultimate result? I think beginning with the famous Tip O'Neill-Ronald Reagan agreement—I believe it was 1982. Is that correct?

Mr. GRAMM. We have the real expert, Senator DOMENICI here, but let me give my recounting and then I will be happy to yield to Senator DOMENICI if he wants to add to it. Basically my experience has been in budgets, and my experience dates back to 1979. We adopt a 5-year budget. But my experience has been that the tax increases that are adopted almost always are forever; that the spending cuts that are adopted in return for the tax increases do not normally ever take effect. Even the spending control measures that are promised that first year are often not achieved.

And the spending control measures that are promised 3 years in the future, 4 years, 5 years away in return for all these taxes are never achieved.

Before I yield to our distinguished colleague from New Mexico, let me explain why this is so important.

In 1994, the President's proposal, as it was originally written, raises taxes by $27.4 billion. In that, we have income taxes, 73 percent of which is going to be borne by small businesses and family farms. We have a Btu tax that most outside experts say will cost the average American family about $500 a year. We have a tax on Social Security recipients who make over $25,000 a year. So the first year people are going to pay $27.4 billion of new taxes. Many of those taxes are retroactive to January 1.

What are we doing in the President's original budget to spending the first year? I know people come up to Senator DOMENICI, in the airport and they say: "Are you cutting spending first?" That happens to me everywhere I go. I have to look them in the face and say no.

Let me show you what the President's budget does. This first year it raises taxes by $27.4 billion and then, relative to what we would have spent, and spending is already growing at about 4.5 percent a year, in addition to that, it raises spending by another $5.1 billion. So the first year we raise taxes and we raise spending.

Now the second year, taxes are $40.4 billion—these big tax increases are now taking effect—and spending still increases relative to what we would have spent by about a billion dollars.

Not until 1996—and remember, defense is being slashed so this means new spending is more than offsetting the cuts in defense—not until 1996 do we supposedly start seeing any reduction in spending. And in 1997, after the Presidential elections are over, taxes still increase twice as much as the promised spending cuts.

We have several problems: One, we do not have any real binding constraint on spending. There is no guarantee that these promised spending cuts in discretionary spending will ever really be made. Second, none of them are really promised in any substance until after the 1996 campaign. So if we do not have an enforcement mechanism, we know those cuts will never be made.

Finally, people have been misled about how much in going to be cut in any case. So I think there are two measures—and I will yield the floor because I see my colleague from New Mexico wants to speak—there are two measures that can turn the President's proposal into an effective proposal. The first measure I have introduced today in this amendment. It takes the President's spending proposals, makes them binding, extends the 1990 budget summit mechanism whereby if we spend more, there will be automatic cuts to offset it so we insure that the cuts will be made. That is the first thing we need to do, and I hope we will adopt this amendment.

The second thing we need to do, which will be an amendment on the tax bill, would say if you do not have a dollar of spending cuts, you cannot have a dollar of taxes; that the taxes do not become effective until the spending cuts are made.

I, along with other of my colleagues, will offer such an amendment on the tax bill. I hope it will be adopted. We have an opportunity to turn this lead trial balloon of the President's, which has appropriately been called a phony proposal, into a real proposal by having binding constraints on spending and by not letting the taxes go into effect until the spending cuts are actually made we can take that first step today. We can take the President up on his offer. We can do something productive, and I hope my colleagues will do it.

I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, I was unaware when I came to the floor, I say to my friend from Texas, that he had this amendment pending, but it really does permit me to talk about what I intended to come to the floor and talk about in any event.

Might I say to everybody in this body, the minimum thing we ought to do is adopt the Gramm amendment. Frankly, it is not near enough to justify the taxes that are being imposed on the people, but it begins to say that one portion of the budget will not grow for the next 5 years because we put in place a process that will not let it grow. Otherwise, everybody should know that one of the big problems with all these taxes is that nobody can as-

sure the American people that we are not going to spend them all. And this trust fund does not do anything to help with that. Let me say, at least this amendment says the discretionary part of the budget is under control.

I might say to the American people, that really is just a tiny start because unless we figure out a way to control the mandatory expenditures, the health care part, all of these taxes are going to be eaten up by that.

Some of you may have watched Mr. Perot on television with a simple graph that shows the deficit coming down and then going through the roof. That is not changed by putting $275 billion of taxes in a trust fund and calling it entrusted money. The only thing that will fix that is to restrain spending.

Having said that, I want to take a couple of minutes, but I say to my friend, if anybody wants to vote quickly on this amendment, I will quit speaking. Does the chairman want to vote right now?

Mr. RIEGLE. Let me say to the Senator, if the Senator will yield, the answer is yes. I do not know whether the Senator from Tennessee wants to make a statement before we do. At the appropriate point, because this is extraneous to this matter, I will move to table the amendment. There may, in fact, be a point of order with respect to the budget resolution.

Mr. SASSER. If the Senator from New Mexico will yield for an observation.

The PRESIDING OFFICER. Does the Senator from New Mexico yield?

Mr. DOMENICI. I yield without losing my right to the floor.

Mr. SASSER. There are a couple of colleagues on the floor who are trying to catch an airplane.

Mr. DOMENICI. Yes.

Mr. SASSER. At the appropriate time, I do intend to make a budget point of order.

Mr. DOMENICI. Madam President, I wonder if there would be any objection by the ranking member and the chairman if we go ahead with this, if we can agree that after disposition of the pending amendment that I would have the floor again to complete 5 or 6 minutes of remarks.

Mr. RIEGLE. By all means.

Mr. DOMENICI. Is that all right with the Chairman?

Mr. RIEGLE. Yes, it is. Is that another way of saying it is the suggestion that we go ahead now and go to the budget point of order?

Mr. DOMENICI. Immediately, nothing in between. Is that all right?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico still has the floor.

Mr. SASSER. Will the Senator yield for just one question?

Mr. DOMENICI. I will be pleased to yield.

Mr. SASSER. I would certainly be agreeable to the Senator's request, and will accommodate some of our colleagues if we can do that. I ask that following the vote that myself and the Senator from California might have 10 minutes evenly divided.

Mr. DOMENICI. After I have used my time.

Mr. SASSER. Yes, after you have used your time.

Mr. RIEGLE. Will the Senator yield just 1 more moment so we have the parliamentary situation straight? I am very much of the mind to finish the RTC bill. So I am wondering in light of the fact that colleagues are leaving and if we dispose of the Gramm amendment, I also want to go ahead and vote on the RTC bill. I take it the request encompasses both items?

Mr. DOMENICI. Madam President, I was trying to accommodate Senator BURNS, I believe. I just as well take 4 minutes right now and you will not need me afterward. I cannot wait that long.

Senator BURNS, what is the latest you could vote here and still catch your flight to your daughter's graduation?

Mr. BURNS. I have a 5 o'clock flight, and I am going to go.

Mr. RIEGLE. Let us vote.

Mr. GRAMM. Will the Senator yield for 30 seconds?

The PRESIDING OFFICER. Will the Senator from New Mexico yield?

Mr. DOMENICI. I yield.

Mr. GRAMM. Madam President, the budget point of order which is going to be made is simply a technicality by amending the Budget Act. The issue is a very clear issue: Do you want to make President Clinton's budget binding so that all of the spending control measures, $1 in spending control for every $3.23 of taxes, hardly a good bargain, that they are really achieved? If you want to make the budget binding, you want to vote to waive this budget point of order.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Madam President, if it is agreeable with the Senator from New Mexico who is holding the floor—does the Senator yield the floor?

Mr. DOMENICI. I yield the floor, but we do not have any unanimous-consent agreement yet.

Mr. SASSER. Madam President, I ask unanimous consent that following the vote on the point of order, and I will inquire of the distinguished manager, will there be a vote on final passage?

Mr. RIEGLE. Yes, there will; and it ought to follow immediately so other Members are not inconvenienced as well.

Mr. SASSER. Madam President, if I may rephrase the unanimous-consent request, immediately following the vote on the point of order and following the vote on final passage, I ask unanimous consent that the distinguished Senator from New Mexico be recognized for a time not to exceed 6 minutes, and that myself and the distinguished Senator from California be recognized for a time not to exceed 10 minutes to be equally divided.

The PRESIDING OFFICER. Is there objection to the protocol laid out by the Senator from Tennessee?

Mr. DOMENICI. Madam President, why not drop me out of that unanimous consent and say I will follow the Senator. I am not sure I can get back in time, but I would have the floor after the Senator has finished his 10 minutes.

Mr. SASSER. Would the distinguished Senator be limited to 6 minutes on that?

Mr. DOMENICI. Is that what the Senator thinks we ought to use, only 6 minutes?

Mr. SASSER. Senators have had a lot of time on that side already.

Mr. DOMENICI. I will settle for 10 minutes on my side, if the Senator does not mind.

The PRESIDING OFFICER. As stated by the Senator from Tennessee, as amended by the Senator from New Mexico——

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Madam President, I wish to raise a point of order, and then we will go to final passage, as I understand it.

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

Mr. DOMENICI. The unanimous-consent request is agreed to; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. SASSER. Madam President, I raise a point of order.

The PRESIDING OFFICER. What is the Senator's point of order?

Mr. SASSER. That the pending Gramm amendment violates section 306 of the Congressional Budget Act of 1974.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Madam President, pursuant to section 904 of the Congressional Budget Act, I move to waive the appropriate provisions of the Congressional Budget Act relating to the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Texas [Mr. KRUEGER], and the Senator from West Virginia [Mr. ROCKEFELLER] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Kansas [Mrs. KASSEBAUM] is necessarily absent.

I further announce that the Senator from New Hampshire [Mr. SMITH] is absent due to a death in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 43, nays 53, as follows:

[Rollcall Vote No. 120 Leg.]

YEAS—43

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

NAYS—53

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

NOT VOTING—4

| | |
|---|---|
| Kassebaum | Rockefeller |
| Krueger | Smith |

The PRESIDING OFFICER. On this vote, the yeas are 43, the nays are 53. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The amendment offered by the Senator from Texas deals with a matter within the jurisdiction of the Senate Budget Committee and is being offered to a bill that was not reported from that committee in violation of section 306 of the Congressional Budget Act. The point of order is sustained. The amendment falls.

Mr. DOLE. Mr. President, we all know that the RTC is everyone's favorite punching bag. Over the years, I have taken a few swipes myself, expressing my disappointment, for example, that the RTC regional office in Kansas City had once used taxpayer funds to purchase original artwork.

KEEP A CLOSE EYE ON THE RTC

Today, I continue to receive complaints from constituents about irregular bidding procedures, or auctions that do not work as advertised, or RTC bureaucrats who make a habit of not returning phone calls. When I feel that a complaint has merit, I pass it along, and I expect the RTC to take remedial action. As long as the RTC is in business, I will be keeping a close eye on its activities.

But in the grand scheme of things, these problems are really minor blemishes on the RTC's overall performance. Congress gave the RTC one monster of a job—cleaning up the $200 billion savings and loan mess. And, if you step back for a second and try to take an objective view of what the RTC has accomplished, you would have to say it has made the best out of a very bad set of circumstances.

These circumstances have not changed. Today, there are roughly 83 thrifts in RTC conservatorship. At takeover, these thrifts had assets of nearly $74 billion. During the next 5 years, we can expect an additional 190 institutions to fail with assets totaling more than $115 billion. By any measure, the RTC still has its work cut out for it.

RTC FUNDING IS NOT PARTISAN

Now, this is the first RTC funding bill of the Clinton administration. When President Bush and Secretary of the Treasury Nick Brady came to the Hill seeking additional funding for the RTC, most of my colleagues on the other side of the aisle were ready to lend their support. They knew that RTC funding is an American issue, not a partisan issue. S&L's do not fail based on the number of Republican or Democrat depositors.

So when the political experts talk about gridlock, they are really talking about the gridlock of inaction, the gridlock that results when Congress fails to make the hard choices.

Certainly, no one likes voting money to bail out the S&L mess. It is not an easy vote, and it certainly does not make for great press releases. We can be sure that the Clinton administration will not be listing RTC funding as one of its top accomplishments during its next 100 days in office.

THE BOTTOM LINE

But the bottom line is that we must forge ahead and close one of the saddest chapters in our Nation's financial history. The longer we delay RTC funding in the short run, the greater the cost to the American taxpayers in the long run.

And let us be clear: We are not talking about bailing out S&L executives and stockholders. Every penny of this bill goes to protect depositors.

In my own State of Kansas, 23 institutions have been placed under RTC conservatorship. The RTC has protected nearly 542,000 accounts in these institutions, totaling more than $5 billion.

Those who will benefit from this bill are not the S&L high fliers, but the millions of people throughout the country who thought they were making a prudent decision when they chose to deposit their hard-earned savings in savings institutions.

To protect these deposits, this bill appropriates nearly $27 billion—$18 billion for the RTC and almost $9 billion for the savings association insurance fund. I am pleased that only $10 billion in funds will be made immediately available to the RTC. Access to the remaining funds is contingent on the Secretary of the Treasury's certification that the RTC has adopted certain management reforms, including stronger internal controls against waste and fraud.

Although these reforms will not prevent every glitch, they will help ensure that the American people get a bigger bang for their RTC buck.

Mr. President, many years ago, the U.S. Government made a commitment to the American people—that it would lend its full faith and credit to any deposit placed in an insured institution. If the Government is to remain true to this commitment today, we must act responsibly and pass this bill.

Mr. DURENBERGER. Mr. President, I rise today to support S. 714 which would grant a final round of funding to the Resolution Trust Corporation. The RTC was created in 1989 to bail out the failed Savings and Loans Associations which found themselves leveraged beyond their abilities to maintain their solvency. This situation developed because S&L's were too loosely regulated and were allowed to enter into highly risky investment portfolios.

In an endeavor to compete with commercial banking entities, savings and loans were allowed to invest in risky investments. These portfolios were expected to allow them to earn a higher rate of return and thus permit the S&L's to be more competitive in the financial marketplace.

Unfortunately, this plan was disastrous and the high risk investments failed to perform, plunging the S&L's who were involved in these transactions into a financial nightmare. Mismanagement and extreme risk-taking led this country's thrifts into a crisis which was so devastating that the Federal Government was forced to step in and take over.

And here we are today, $84½ billion later, $84½ billion taxpayer later. The extent of this crisis is staggering, and it is even more distasteful that we are relying on the U.S. taxpayer to foot the bill for these reckless business decisions.

I have heard from many Minnesotans regarding how disgusted they are with the handling of the bailout by the RTC. The shocking tales of abuse within the RTC are known throughout this country—attorneys charging the RTC for 26 hours of work in a single day; massive bonuses paid to executives at RTC; and

ridiculous charges billed to the RTC for things such as photocopies. The abuse in the RTC has been widely reported, and I join with those who voice their shock and dismay at the management of this entity.

While I would prefer to stop pouring taxpayer dollars into the RTC, I fully recognize our obligation to finish the job that we have begun. I expect that these will be the last dollars that will be appropriated to the RTC. It is my understanding that this final funding will provide sufficient funding for the RTC to completely resolve the thrift crisis which it was created to address.

I also support the funding of the savings association insurance fund [SAIF]—the branch of the FDIC which will insure the remaining thrifts after the expiration of the RTC. While it would certainly be preferable to have the SAIF funded by the thrifts themselves, I believe that it is necessary to provide some initial funding of the SAIF to ensure its viability. If this insurance fails, we will face another S&L crisis, only this time it will be on a larger scale and will cost the U.S. Government more in the long run.

A successful SAIF will help us react to future S&L insolvencies, although I expect that those will be few and far between. A sound insurance fund will bring back the confidence of the depositor, protect the industry as a whole, and promote a more competitive financial marketplace. This will only benefit the U.S. economy as a whole. We cannot afford another crisis in the thrift industry—and we certainly will not allow another one to happen.

I urge the support of my colleagues for S. 714 along with the managers' amendment which will reduce the price tag.

Mr. BRADLEY. Mr. President, it is with some regret that I oppose the latest attempt to refund the RTC. I understand the pressures faced by the administration in its efforts to resolve this issue. I understand that the RTC is operating 85 thrifts that it cannot close due to lack of money, and that further delay will result in additional losses. If this measure were a final resolution of the problems of the thrift industry, I might support the bill. Unfortunately, this is just another in a long line of open-ended funding measures that fails to achieve real reform.

We are now in the 7th year of the S&L bailout. Since 1986, we have closed, merged, or stabilized 654 thrifts at a cost of roughly $120 billion. CBO tells us that the American taxpayer will pay for roughly 70 percent of those bailout costs. That means a total price tag of roughly $85 billion to date. For New Jersey, that means it has cost taxpayers $3.8 billion. Before we raise that price, we should make sure it goes no higher than it needs to.

Back in 1989, when this body gave the RTC $50 billion, I was one of eight Senators to vote against the bill. At the time, I said that while I recognized the serious time constraints that the Banking Committee was under in drafting the legislation, I could not vote for a bill that left so many questions unanswered. Some of those questions include: What will the role of the S&L's be in the future? How will the RTC bureaucracy behave and impact the economy? Do regulators have sufficient powers and capacity to deal with future problems?

In 1989, I also cautioned that we have not heard the last request for funding to deal with the savings and loan crisis. In making that statement, I echoed the opinions of many banking experts who told me that the magnitude of the S&L problems was far greater than anything the administration was willing to acknowledge.

To make matters worse, Mr. President, the legislation which created the RTC also allowed it to be partially funded through bonds issued by an off-budget authority. By using this scheme as opposed to pure Treasury funding, we increased the interest expense of this bailout significantly.

Mr. President, this is the fourth request for funding in the RTC's roughly 4 years of existence. The $50 billion we originally provided is gone. Another $30 billion we provided in 1991 is gone. And $7 billion out of the last $25 billion we provided is gone. But let's not fool ourselves. This probably won't be the last request. The Congressional Budget Office has warned that it will take $50 billion for RTC and SAIF to cover insurance losses through 1998. This bill simply reauthorizes $18 billion for RTC and authorizes $8.5 billion for SAIF. At some point, we simply must give an honest accounting to the American people.

Nor have we received adequate assurance that the RTC has reformed its operations to insure the maximum recovery and lowest cost to the taxpayer. GAO has continued to warn about a "number of long-standing weaknesses in the RTC's assets disposition strategies, contract planning and oversight, information systems, and financial management efforts." Indeed, the GAO cannot even perform a full audit of RTC's financial statements due to control and methodology problems. This bill does not address those concerns. Instead it relies upon a weak certification process that basically cedes congressional responsibility for RTC oversight to Treasury. This is simply not an acceptable approach. We are not only passing the buck to the Treasury, but to the extent that the RTC continues to operate poorly and costs continue to escalate, we are passing the buck on to our constituents.

Finally, this bill suffers from the fatal flaw of failing to look to the long term. We are about to cede responsibility to SAIF without even being sure that the agency is adequately funded over the next 5 years. Will premiums have to be raised to insure a self-funding insurance mechanism? Will we be turning again to the American people to subsidize this industry? Even more fundamental questions about the role thrifts are to play in our financial system have yet to be answered. Had this body answered some of these larger questions asked in 1989, we may have avoided this waste of the taxpayers' money.

Mr. CONRAD. Mr. President, I once again intend to vote against providing additional funding for the savings and loan bailout. I will do so because the Resolution Trust Corporation [RTC] has colossally mismanaged the S&L cleanup so far.

The managers amendment incorporates numerous provisions designed to eliminate mismanagement and minimize the cost to taxpayers of the remainder of the bailout. And the administration has committed itself to cleaning up the disaster that the RTC has become. These are very positive developments that I wholeheartedly support, and I want to congratulate the administration, the chairman, and members of the committee for the thought and work that went into crafting many of the safeguards in the managers' amendment. But too many of the same people and operating procedures that have made RTC synonymous with mismanagement and waste remain in place for me to vote for this bill at this time.

Mr. President, taxpayers have now paid more than $87 billion to clean up failed S&L's. We are now being asked to provide an additional $34.3 billion. And the taxpayers will have to cover additional hundreds of billions of dollars in interest costs before the clean up is completed.

There is no question that the Government has an obligation to make sure that insured depositors do not lose their life savings as a result of bank and thrift failures. It is scandalous that loosened regulations and relaxed oversight in the early 1980's under the Reagan administration allowed unscrupulous thrift operators to gamble with insured deposits. However, the Government guaranteed that the hard-earned savings of working Americans would be protected by the deposit insurance system in the case of bank and thrift failures, and the Government must make good on this guarantee.

But the Government should not use any more of the taxpayers' money than is absolutely necessary to fullfil this obligation. Unfortunately, so far the story of the S&L clean up has been one of waste, mismanagement, excessive costs, and a failure to prosecute those responsible for the disaster.

According to the General Accounting Office, over three quarters of all thrift failures involved fraud or negligence.

Efforts to prosecute criminal actions and recover damages have been insufficient; the RTC has brought civil suits against the operators of fewer than 40 percent of institutions that it controls. For example, RTC's professional liabilities section has been plagued by insufficient resources and low morale, and has been unable to meet the statute of limitations in many instances. In fact, about 60 percent of all civil cases are filed within 1 week of the expiration of the statute of limitations, and the statute of limitations has expired, or will expire in the next year, for more than 300 institutions. That is why I am a strong supporter of the amendment offered by Senator METZENBAUM to extend the statute of limitations to 5 years in order to allow RTC to crack down on those whose negligence is now costing the taxpayers billions of dollars. And it is why I am also a cosponsor of Senator DORGAN's amendment to create a Savings and Loan Criminal Fraud Task Force in the Department of Justice.

RTC's performance in the disposal of assets it has acquired as a result of thrift failures has been a disaster. It still has no core management system to track and manage assets. It doesn't know what it own, where it is or what it's worth. In fact, in the case of Operation Western Storm, the RTC lost track of $7 billion of assets. Let me repeat that, Mr. President. The RTC lost track of $7 billion of assets—$7 billion of the taxpayers money and it didn't know what had happened to them. Even when it does know what assets it has, the RTC has no business plan to maximize its return from their sales. In fact, the RTC seems to have gone out of its way to minimize its returns. Time after time I have heard from my constitutents and others that they wanted to purchase property from the RTC, but their inquiries were either ignored or their offers were rejected. In most of these cases, the properties were subsequently sold for far less than was originally offered the RTC.

RTC has also mismanaged its outside contracting. In November 1991, during consideration of the FDIC Improvement Act, I offered an amendment expressing the sense of the Senate that the RTC and FDIC should select outside legal counsel through competitive bidding based on the ability to perform required tasks at the lowest possible cost to the taxpayer. I offered this amendment because I discovered that RTC and FDIC were routinely paying hundreds of thousands of dollars to law firms for excessive photocopying charges, inflated wages, duplicate billings, and other waste. Since then, I have learned that it was not only lawyers that were ripping off the RTC and the taxpayer, but other outside contractors as well. Just a few months ago, for example, we learned that the RTC was paying $35 an hour—or about 67 cents a page in labor costs alone—for the photocopying of millions of pages of documents. And the Los Angeles Times reports that an RTC employee unilaterally increased another contract from $200,000 to $1.4 million without the knowledge of the contracting division.

Mr. President, most of this is not news to anyone who has paid any attention to the S&L bailout. Despite repeated investigations by the GAO at the urging of Chairman RIEGLE, myself and other Senators; despite repeated expressions of outrage by the public, the media and the Congress; despite clear failures, the RTC in the last administration showed little or no concern and made hardly any improvements.

That is why I was very pleased to receive a letter recently from Roger Altman, the new acting CEO of the RTC, in which he admitted the problems of the RTC and committed himself to more efficient operations and more effective asset sales. This represents a dramatic change from the head-in-the-sand attitude and policies of the previous administration. I applaud Mr. Altman's action to freeze outside contracting until adequate policies and effective enforcement of those policies are in place. The establishment of a team to prepare a comprehensive business plan and asset sales strategy and the shift in emphasis from speedy disposal to maximum recovery in asset sales are clear steps in the right direction. And the strengthening of internal controls are long overdue. I strongly support these changes, and I sincerely hope that they will be effective.

Similarly, I applaud those who worked on the managers' amendment for their attention to the mismanagement that has plagued the RTC. The requirement that RTC put in place a program to strengthen internal controls, implement the recommendations of auditors, prepare a comprehensive business plan, improve the professional liability section, improve management information systems, strengthen contractor systems and oversight, and improve the management of legal services should guarantee attention to existing weaknesses, and, I hope, will lead to measurable improvement in RTC operations. I am pleased that the managers have included in their amendment a provision that I had requested that will ensure that the thrift industry pays as much as possible before taxpayers are asked to contribute to the fund. I support provisions requiring that the RTC attempt to sell real properties on an individual basis for 90 days before selling them as part of a package. This will allow small investors an opportunity to bid on houses and other real estate, and should result in higher returns to the RTC than are generally achieved when large blocs of properties are sold as a package. And I strongly support the whistleblower protections included in the bill. Finally, I support the limitations on outside contracting that will help prevent some of the abuses the amendment I offered to the FDIC Improvement Act in November 1991 would have addressed.

So, Mr. President, if I support so much of what the Clinton administration plans to do to change the RTC, and if I support so many aspects of this bill, why do I intend to vote against it?

The answer is quite simple. While these provisions and announced changes sound great, I fear that the legacy of egregious failure at the RTC is too much to overcome. Certainly, the Clinton administration's willingness to address the RTC's problems in this bill and through unilateral administrative actions is a welcome change, and I hope that this administration and this bill will finally turn the bailout around and put an end to the waste and mismanagement of taxpayer dollars. But I am afraid they may not. Until I can be sure that they will not be wasted, I cannot support giving tens of billions more taxpayer dollars to the S&L bailout.

REGARDING AMENDMENT NO. 363

Mr. SHELBY. Mr. President, earlier this afternoon, Senator RIEGLE offered an amendment to S. 714, the RTC funding bill, on my behalf. The amendment was adopted by unanimous consent. I would like to thank the distinguished chairman of the Banking Committee for his courtesy.

This amendment is intended to focus attention on the Federal Government's efforts to obtain restitution from those responsible for the savings and loan crisis. The legislation that we consider this afternoon will provide almost $27 billion in additional funding to resolve the savings and loan crisis.

In addition to the $105 billion already spent to resolve failed savings and loans, considerable resources were authorized to investigate and prosecute bank and thrift fraud. The Crime Control Act of 1990 authorized $162.5 million per year for fiscal years 1991 through 1993. What has this money bought us.

In its third quarter 1992 report to Congress, the Department of Justice reported that it had charged 3,270 defendants with major financial institution offenses since October 1, 1988. Over that same period of time, from October 1988 to July 1992, the courts ordered $846.7 million in fines and restitution in major bank and thrift fraud cases.

However, of that amount, only $38 million has been collected; $38 million is 4.5 percent of $846 million.

Mr. President, I find that percentage shockingly low.

Last year, the Consumer Affairs Subcommittee of the Banking Committee, chaired by our former colleague from Illinois, held a hearing on the Government's efforts to prosecute bank and thrift fraud.

At that hearing, the special counsel of the Financial Institutions Fraud Unit testified that the Justice Department was attempting to improve its efforts to collect the restitution and fines ordered of those convicted of bank and thrift fraud.

My amendment would afford the Justice Department the opportunity to tell Congress and the American people what they have done to improve their collection efforts. This amendment directs the Office of the Special Counsel to prepare and submit a report to the Senate and House Banking committees. This report would explain what the Justice Department is doing to ensure that the criminals that cost the American taxpayers more than $100 billion are doing everything they can to pay the American people back. Four and a half percent is abysmally low. I hope that the Department of Justice's report will not try to justify this figure but instead will explain what efforts have been undertaken to significantly increase this figure.

The American people are entitled to this information. Indeed, they have paid dearly for it. I am pleased that the Senate adopted this amendment.

Mr. RIEGLE. Mr. President, a number of Senators indicated an interest to me in proposing an amendment to the RTC funding bill to require public disclosure of the examination reports of a depository institution that has failed. This amendment has passed in the Senate before, but I have discouraged its introduction to the bill based on assurances from the administration that they will fully explore the degree to which enhanced disclosure and market discipline can be used as supervisory tools. Both the Comptroller of the Currency and the Treasury have indicated that they will take a careful look at these issues over the next 6 months and would share their conclusions and recommendations with us at that time. I look forward to their reports on these issues by November. I ask unanimous consent that a letter on this subject appear in the RECORD following my remarks.

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

COMPTROLLER OF THE CURRENCY,
ADMINISTRATOR OF NATIONAL BANKS,
*Washington, DC, May 12, 1993.*

Hon. DONALD W. RIEGLE, Jr.,
*Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: I understand that Senator Conrad is thinking about proposing an amendment during the Senate's consideration of the Thrift Depositor Protection Act to require public disclosure of the examination reports of a depository institution that has failed. For the reasons outlined below, including our interest in reviewing the area of disclosure of bank-related information more broadly, I would respectfully request that you not support such an amendment at this time.

More particularly, there are concerns within the agency that such an amendment could hamper current efforts to make credit more readily available. At a time when the federal banking agencies are revising regulatory requirements to encourage banks to lend, the public disclosure of examination reports could send the wrong signal. If there is a possibility that an examiner's work product could be published in the local newspaper some day, he or she would be extra diligent in reporting even the most insignificant missteps by the institution. This might distract from the real problems the institution should be addressing.

Additionally, there are concerns that public disclosure of bank examination reports could hinder our supervisory effort. Such disclosure could impair the frank and open dialogue that is necessary for a full exchange of information between bankers and examiners. In effect, this legislation could turn bank examinations into an adversarial process and reduce the effectiveness of the process. There are also concerns about the effectiveness of provisions to allow the agencies to delay disclosure if it impedes an ongoing civil or criminal investigation and about the privacy rights and access to credit of innocent borrowers who happen to be institution-affiliated parties.

At the same time, I respect the serious interest you and Senator Conrad have in focusing on the value of public information as part of the bank supervisory process. As I mentioned during my confirmation hearing, I too want to explore the degree to which enhanced disclosure and market discipline can be used as supervisory tools. I believe they may have real value, both in terms of relieving burden on institutions and improving supervision. Accordingly, I intend to have the OCC staff take a careful look at these issues over the next six months and will be pleased to share our conclusions with you and Senator Conrad and others at that time.

Sincerely,

EUGENE A. LUDWIG,
*Comptroller of the Currency.*

The PRESIDING OFFICER. The bill is open to further amendment. If there are no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading was read the third time.

The PRESIDING OFFICER. The question occurs on the bill, as amended.

Mr. RIEGLE. 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 read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislation clerk called the roll.

Mr. FORD. I announce that the Senator from Texas [Mr. KRUEGER] and the Senator from West Virginia [Mr. ROCKEFELLER] are necessarily absent.

I further announce that if present and voting, the Senator from West Virginia [Mr. ROCKEFELLER], would vote "nay".

Mr. SIMPSON. I announce that the Senator from Montana [Mr. BURNS] is necessarily absent.

I further announce that the Senator from New Hampshire [Mr. SMITH] is absent due a death in the family.

I further announce that, if present and voting, the Senator from Montana [Mr. BURNS] would vote "nay."

The PRESIDING OFFICER (Mrs. MURRAY). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 61, nays 35, as follows:

[Rollcall Vote No. 121 Leg.]

YEAS—61

| | | |
|---|---|---|
| Bennett | Glenn | Moseley-Braun |
| Biden | Gorton | Moynihan |
| Bingaman | Gramm | Murkowski |
| Bond | Grassley | Murray |
| Boren | Gregg | Packwood |
| Boxer | Hatch | Pell |
| Breaux | Hatfield | Pressler |
| Bryan | Heflin | Pryor |
| Bumpers | Inouye | Reid |
| Campbell | Jeffords | Riegle |
| Chafee | Johnston | Robb |
| Cohen | Kassebaum | Roth |
| D'Amato | Kennedy | Sarbanes |
| Danforth | Kerry | Sasser |
| Daschle | Leahy | Simon |
| Dodd | Levin | Simpson |
| Dole | Lieberman | Stevens |
| Domenici | Mathews | Thurmond |
| Durenberger | Metzenbaum | Warner |
| Feinstein | Mikulski | |
| Ford | Mitchell | |

NAYS—35

| | | |
|---|---|---|
| Akaka | Exon | Lugar |
| Baucus | Faircloth | Mack |
| Bradley | Feingold | McCain |
| Brown | Graham | McConnell |
| Byrd | Harkin | Nickles |
| Coats | Helms | Nunn |
| Cochran | Hollings | Shelby |
| Conrad | Kempthorne | Specter |
| Coverdell | Kerrey | Wallop |
| Craig | Kohl | Wellstone |
| DeConcini | Lautenberg | Wofford |
| Dorgan | Lott | |

NOT VOTING—4

| | |
|---|---|
| Burns | Rockefeller |
| Krueger | Smith |

So the bill (S. 714), as amended, was passed, as follows:

S. 714

*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 "Thrift Depositor Protection Act of 1993".

**SEC. 2. THRIFT RESOLUTION FUNDING PROVISIONS.**

Section 21A(i) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(i)) is amended—

(1) in paragraph (3), by striking "until April 1, 1992"; and

(2) by adding at the end the following new paragraphs:

"(4) RELEASE OF RTC FUNDS CONTINGENT ON CERTIFICATION BY THE CHAIRPERSON OF THE THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD.—Of the amount appropriated under paragraph (3), not more than $10,000,000,000 shall be paid after the date of enactment of the Thrift Depositor Protection Act of 1993 by the Secretary of the Treasury to the Corporation until the Chairperson of the Thrift Depositor Protection Oversight Board (hereafter in this subsection referred to as the 'Chairperson') has certified under paragraph (5) to the Congress that a program that

meets the criteria specified in paragraph (5) has been put into place to curb waste, fraud, and abuse at the Corporation.

"(5) CERTIFICATION.—The Chairperson shall certify to the Congress that—

"(A) the Corporation has formulated and is implementing, in a manner acceptable to the Chairperson, a program to—

"(i) strengthen internal controls against waste, fraud, and abuse;

"(ii) respond to problems identified by auditors;

"(iii) prepare a comprehensive business plan for the balance of the Corporation's mission;

"(iv) expand opportunities for minorities and women by, among other things, elevating the director of minority and women's programs to a vice presidential position and voting member of the executive committee and by reviewing and restructuring the use of basic ordering agreements to ensure that minorities and women are not inadvertently excluded;

"(v) improve the professional liability section of the Corporation by, among other things, appointing a senior attorney, at the assistant general counsel level or above, responsible for the professional liability section;

"(vi) improve management information systems to provide complete and current information on a cost-effective basis;

"(vii) strengthen contractor systems and contractor oversight, including contracting for legal services, by, among other things, appointing a senior officer whose responsibilities shall include setting uniform standards for contracting and enforcement and who shall be a voting member of the executive committee;

"(viii) provide for the appointment of a chief financial officer who does not have other operating responsibilities and who will report directly to the chief executive officer of the Corporation and who will comply with the provisions of sections 9105 and 9106 of title 31, United States Code;

"(ix) improve the management of legal services by—

"(I) utilizing staff counsel when such utilization would provide the same level of quality in legal services as the use of outside counsel at a lower estimated cost; and

"(II) employing outside counsel, in accordance with section 1216 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, subsection (t) of this Act, and regulations promulgated under those provisions, under a negotiated fee, contingent fee, or competitively bid fee agreement, if the use of outside counsel under such agreement or fee would provide the most cost-effective and appropriate resolution to the action; and

"(x) ensure that every regional office of the Corporation contains a client responsiveness unit responsible to the Corporation's ombudsman; and

"(B) the Thrift Depositor Oversight Board has provided for the appointment of an audit committee.

The certification shall be accompanied by a report that describes in detail the implementation of the program specified in the certification, including the specific measures that have been and are being undertaken to correct the problems identified.

"(6) TESTIMONY.—The Chairperson shall notify the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives 30 days prior to the expected expenditure of any funds requiring a certification under paragraph (4). The Chairperson shall, at the request of either committee, testify before such committee during the 30 days following the notification.

"(7) INABILITY TO CERTIFY.—If the Chairperson is unable to make a certification required by paragraph (4), the Chairperson shall notify the Congress and the Corporation of the reasons for the inability to provide the certification. Upon such notification, the Corporation shall—

"(A) begin to correct any deficiencies in the program described in paragraph (5), or explain why it is not possible to take such action; and

"(B) request that the Chairperson provide the certification.".

**SEC. 3. SAVINGS ASSOCIATION INSURANCE FUND PROVISIONS.**

Section 11(a)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(6)) is amended—

(1) by striking subparagraph (E) and inserting the following:

"(E) TREASURY PAYMENTS TO FUND.—

"(i) IN GENERAL.—To provide sufficient funding for the Savings Association Insurance Fund to carry out subparagraph (F), the Secretary of the Treasury shall pay to such Fund not later than September 30, 1998, out of moneys in the Treasury not otherwise appropriated, such amounts as the Secretary of the Treasury may find necessary, not to exceed $8,500,000,000.

"(ii) CERTIFICATION REQUIRED.—No funds shall be paid under clause (i) in any fiscal year unless the Chairperson of the Federal Deposit Insurance Corporation has first made a certification to the Congress in that year that further increases in the deposit insurance premiums paid by members of the Fund could create a substantial risk that losses due to additional failures caused by the increases would exceed the increased premium income or such increases would threaten the ability of the thrift industry to maintain or raise adequate capital and continue to provide financial services on a competitive basis.";

(2) in subparagraph (F)—

(A) by striking "The Secretary" and all that follows through the colon and inserting the following: "From amounts provided in subparagraph (E), the Secretary of the Treasury shall pay to the Savings Association Insurance Fund, for each fiscal year described in the following table, such amounts as the Corporation and the Secretary of the Treasury determine are necessary to pay insurance losses at failed institutions, unless, after deducting losses anticipated during that fiscal year, the Fund is expected to meet the minimum net worth referred to in such table in the applicable fiscal year:";

(3) by striking subparagraph (H) and inserting the following:

"(H) DISCRETIONARY RTC PAYMENTS TO THE SAIF.—

"(i) IN GENERAL.—Upon request by the Corporation and not later than 2 years after the date on which the Resolution Trust Corporation terminates pursuant to section 21A(m) of the Federal Home Loan Bank Act, the Secretary of the Treasury may pay to the Savings Association Insurance Fund to carry out subparagraph (F), or to the FSLIC Resolution Fund, any funds made available by section 21A(i) of the Federal Home Loan Bank Act to be paid to the Resolution Trust Corporation that the Secretary of the Treasury determines are not required to meet the obligations of the Resolution Trust Corporation.

"(ii) USE OF FUNDS BY SAIF.—Funds paid to the Savings Association Insurance Fund under clause (i) may only be used to resolve institutions that the Director of the Office of Thrift Supervision has identified, not later than October 1, 1993, as problem institutions.";

(4) in subparagraph (J)—

(A) by striking "and" at the end of clause (i);

(B) by striking the period at the end of clause (ii) and inserting "; and"; and

(C) by adding at the end the following new clause:

"(iii) the amount in clause (ii) shall be reduced by any funds provided in subparagraph (E).''; and

(5) by adding at the end the following:

"(K) RELEASE OF SAIF FUNDS CONTINGENT ON CERTIFICATION BY THE SECRETARY OF THE TREASURY AND THE CHAIRPERSON OF THE FEDERAL DEPOSIT INSURANCE CORPORATION.—

"(i) INITIAL CERTIFICATION.—No funds appropriated in subparagraph (E) or made available under subparagraph (H) shall be paid by the Secretary of the Treasury to the Savings Association Insurance Fund until—

"(I) the Secretary of the Treasury, in consultation with the Chairperson of the Federal Deposit Insurance Corporation has certified to the Congress that such additional funds are needed to meet obligations of such Fund to depositors, as set forth in subparagraph (F); and

"(II) the Chairperson of the Federal Deposit Insurance Corporation has certified to the Congress that—

"(aa) further increases in the deposit insurance premiums paid by members of the Fund could create a substantial risk that losses due to additional failures caused by the increases would exceed the increased premium income or such increases would threaten the ability of the thrift industry to maintain or raise adequate capital and continue to provide financial services on a competitive basis;

"(bb) such Fund is implementing a program to operate efficiently;

"(cc) such Fund is implementing a program to prevent waste, fraud, and abuse in its operations;

"(dd) the Corporation has provided for the appointment of a chief financial officer who does not have other operating responsibilities and who will report directly to the Chairperson of the Corporation, comply with the provisions of sections 9105 and 9106 of title 31, United States Code, and take appropriate steps to respond to any recommendations of the Comptroller General of the United States in the most recent audit of such Fund conducted under section 17(d), or certify that such action is not necessary or appropriate;

"(ee) the Corporation has provided for the appointment of a senior officer whose responsibilities shall include setting uniform standards for contracting and contracting enforcement in connection with the administration of the Fund;

"(ff) the Corporation is implementing the minority outreach provisions mandated by section 1216 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989;

"(gg) the Corporation has provided for the appointment of a senior attorney, at the assistant general counsel level or above, responsible for professional liability cases; and

"(hh) the Corporation is taking steps to improve the management of legal services by utilizing staff counsel when such utilization would provide the same level of quality in legal services as the use of outside counsel at a lower estimated cost, and, if the use of out-

side counsel would provide the most cost-effective and appropriate resolution to the action, employing such counsel, in accordance with section 1216 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, and regulations promulgated under those sections, under a negotiated fee, contingent fee, or competitively bid fee agreement.

"(ii) SECOND CERTIFICATION.—No funds in excess of $8,500,000,000 of the amount appropriated in subparagraph (E) or made available under subparagraph (H) shall be paid by the Secretary of the Treasury to the Savings Association Insurance Fund until—

"(I) the Secretary of the Treasury, in consultation with the Chairperson of the Federal Deposit Insurance Corporation has certified to the Congress that such additional funds are expected to be needed to meet obligations of such Fund to depositors, as set forth in subparagraph (F); and

"(II) the Chairperson of the Federal Deposit Insurance Corporation has certified to the Congress that—

"(aa) further increases in the deposit insurance premiums paid by members of the Fund could create a substantial risk that losses due to additional failures caused by the increases would exceed the increased premium income or such increases would threaten the ability of the thrift industry to maintain or raise adequate capital and continue to provide financial services on a competitive basis;

"(bb) such Fund is implementing a program to operate efficiently;

"(cc) such Fund is implementing a program to prevent waste, fraud, and abuse in its operations;

"(dd) the Corporation has provided for the appointment of a chief financial officer who does not have other operating responsibilities and who will report directly to the Chairperson of the Corporation, comply with the provisions of sections 9105 and 9106 of title 31, United States Code, and take appropriate steps to respond to any recommendations of the Comptroller General of the United States in the most recent audit of such Fund conducted under section 17(d), or certify that such action is not necessary or appropriate;

"(ee) the Corporation has provided for the appointment of a senior officer whose responsibilities shall include setting uniform standards for contracting and contracting enforcement in connection with the administration of the Fund;

"(ff) the Corporation is implementing the minority outreach provisions mandated by section 1216 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989;

"(gg) the Corporation has provided for the appointment of a senior attorney, at the assistant general counsel level or above, responsible for professional liability cases; and

"(hh) the Corporation is taking steps to improve the management of legal services by utilizing staff counsel when such utilization would provide the same level of quality in legal services as the use of outside counsel at a lower estimated cost, and, if the use of outside counsel would provide the most cost-effective and appropriate resolution to the action, employing such counsel, in accordance with section 1216 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, and regulations promulgated under those sections, under a negotiated fee, contingent fee, or competitively bid fee agreement.

The certifications required by this clause shall be made not later than 30 days before the date by which such additional funds are expected to be needed.

"(L) TESTIMONY.—The Secretary of the Treasury shall notify the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives 30 days prior to the expected payment of any funds requiring a certification under subparagraph (K). The Secretary of the Treasury and the Chairperson of the Corporation shall, at the request of either committee, testify before such committee during the 30 days following the notification.".

"(M) INDEPENDENT REPORT BY THE GENERAL ACCOUNTING OFFICE.—No funds appropriated in subparagraph (E) or made available under subparagraph (H) shall be paid pursuant to a certification under clause (i) or (ii) of subparagraph (K) by the Secretary of the Treasury to the Savings Association Insurance Fund for 60 days after such certifications are made, unless the Secretary determines, and notifies the Congress that an emergency exists. During such 60 day period, the Comptroller General of the United States shall transmit a report to the Congress that—

"(i) states whether such certifications have been verified; and

"(ii) states whether—

"(I) further increases in the deposit insurance premiums paid by Savings Association Insurance Fund members could create a substantial risk that losses due to additional failures caused by the increases would exceed the increased premium income;

"(II) Savings Association Insurance Fund members, in the aggregate, are unable to pay additional semiannual assessments under section 7(b) during such year at the assessment rate which would be required in order to meet the repayment schedule required under section 14(c) for any amount borrowed under section 14(a) to cover losses incurred by the Fund during such year; and

"(III) an increase in the assessment rate for Savings Association Insurance Fund members to meet any such repayment schedule could reasonably be expected to result in greater losses to the Government (through an increase in the number of institutions in default).".

**SEC. 4. APPEALS PROCEDURE.**

Section 21A(b)(4) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(4)) is amended by adding at the end the following new subparagraph:

"(C) APPEALS.—The Chairperson of the Thrift Depositor Protection Oversight Board shall certify to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives that the Corporation has formulated and is implementing, in a manner acceptable to the Chairperson, a program to provide an appeals process for business and commercial borrowers to appeal decisions by the Corporation (when acting as a conservator) to terminate or otherwise adversely affect credit or loan agreements, lines of credit, and similar arrangements with such borrowers who have not defaulted on their obligations.".

**SEC. 5. FINAL REPORT ON RTC AND SAIF FUNDING.**

(a) IN GENERAL.—The Secretary of the Treasury shall prepare and transmit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives final reports relating to the use of the funds provided by this Act to the Resolution Trust Corporation and the Savings Association Insurance Fund. Each such report shall contain a detailed description of the purposes for which the funds were used.

(b) TIME FOR SUBMISSION.—The reports described in subsection (a) shall be transmitted—

(1) not later than 45 days after the final expenditure of funds under this Act by the Resolution Trust Corporation; and

(2) not later than 45 days after the final expenditure of funds under this Act by the Savings Association Insurance Fund.

**SEC. 6. THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD AUDIT COMMITTEE ESTABLISHED.**

Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by adding at the end the following new subsection:

"(w) THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD AUDIT COMMITTEE ESTABLISHED.—

"(1) IN GENERAL.—There is hereby established the Thrift Depositor Protection Oversight Board Audit Committee (hereafter referred to in this section as the 'Committee'), the members of which shall be appointed by the Chairperson of the Thrift Depositor Protection Oversight Board.

"(2) FEDERAL ADVISORY COMMITTEE ACT NOT APPLICABLE.—The Committee shall not be deemed an 'advisory committee' within the meaning of section 3(2) of the Federal Advisory Committee Act (5 U.S.C. App.).".

**SEC. 7. INDIVIDUAL SALES OF REAL PROPERTY BY THE RESOLUTION TRUST CORPORATION.**

Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by adding at the end the following new subsection:

"(x) INDIVIDUAL SALES OF REAL PROPERTY.—

"(1) IN GENERAL.—For 90 days after acquiring title to any real property, whether held directly or indirectly by an institution described in subsection (b)(3)(A) for which the Corporation is acting as receiver, the Corporation may sell any such property only on an individual basis.

"(2) EXCEPTION FOR CERTAIN RESOLUTIONS.—Notwithstanding paragraph (1), the Corporation shall not be required to set aside real property for a 90-day period for individual sales if such property is sold simultaneously with a resolution in which a buyer purchases assets and assumes liabilities (or acts as agent of the Corporation for purposes of paying insured deposits) of an institution described in subsection (b)(3)(A) or in which assets are transferred to a new institution organized pursuant to the provisions of section 11(d)(2)(F) of the Federal Deposit Insurance Corporation Act (12 U.S.C. 1821(d)(2)(F)).".

**SEC. 8. INDIVIDUAL SALES OF REAL PROPERTY BY THE FEDERAL DEPOSIT INSURANCE CORPORATION.**

Section 11(d) of the Federal Deposit Insurance Corporation Act (12 U.S.C. 1821(d)) is amended by adding at the end the following new paragraph:

"(20) INDIVIDUAL SALES OF REAL PROPERTY.—

"(A) IN GENERAL.—For 90 days after acquiring title to any real property, whether held directly or indirectly by an institution for which the Corporation has been appointed receiver pursuant to subsection (c), the Corporation may sell any such property only on an individual basis.

"(B) EXCEPTION FOR CERTAIN RESOLUTIONS AND BRIDGE BANK PURCHASES.—Notwithstanding subparagraph (A), the Corporation shall not be required to set aside real property for a 90-day period for individual sales if such property is sold simultaneously with a resolution in which a buyer purchases assets and assumes liabilities (or acts as agent of the Corporation for purposes of paying insured deposits) of an institution for which the Corporation has been appointed receiver pursuant to subsection (c) or in which assets are transferred to—

"(i) a bridge bank organized in accordance with the provisions of subsection (n);

"(ii) a new national bank organized in accordance with the provisions of subsection (m); or

"(iii) a new institution organized pursuant to the provisions of paragraph (2)(F) of this subsection.".

**SEC. 9. LIMITATION ON CASH BONUSES.**

Section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act (12 U.S.C. 1833b) is amended—

(1) by inserting "(a) IN GENERAL.—" before "The Federal Deposit Insurance Corporation"; and

(2) by adding at the end the following subsection:

"(b) LIMITATIONS ON CASH BONUSES BY THE FEDERAL DEPOSIT INSURANCE CORPORATION.—Notwithstanding the provisions of subsection (a)—

"(1) no executive-level employee of the Federal Deposit Insurance Corporation who is on assignment to the Resolution Trust Corporation or whose work is allocable to the Savings Association Insurance Fund shall receive a cash bonus in excess of that which may be awarded to a Senior Executive Service employee pursuant to chapter 53 of title 5, United States Code; and

"(2) no employee of the Federal Deposit Insurance Corporation on assignment to the Resolution Trust Corporation or whose work is allocable to the Savings Association Insurance Fund shall receive any cash bonus if such employee has given notice of an intent to resign to take a position in the private sector before the payment of such cash bonus or accepts employment in the private sector not later than 60 days after receipt of such bonus.".

**SEC. 10. WHISTLE BLOWER PROTECTION.**

(a) AMENDMENTS TO THE FEDERAL HOME LOAN BANK ACT.—Section 21A(q) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(q)) is amended—

(1) in paragraph (1), by striking "regarding" and all that follows through the end of the sentence and inserting the following:

"regarding—

"(A) a possible violation of any law or regulation; or

"(B) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;

by the Corporation, the Oversight Board, or such person or any director, officer, or employee of the Corporation, the Oversight Board, or the person."; and

(2) by inserting after paragraph (4) the following:

"(5) BURDENS OF PROOF.—The legal burdens of proof that prevail under subchapter III of chapter 12 of title 5, United States Code, shall govern adjudication of protected activities under this subsection.".

(b) AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.—Section 33 of the Federal Deposit Insurance Act (12 U.S.C. 1831j) is amended—

(1) in subsection (a)(1), by striking "regarding" and all that follows through the end of the sentence and inserting the following:

"regarding—

"(A) a possible violation of any law or regulation; or

"(B) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;

by the depository institution or any director, officer, or employee of the institution."; and

(2) by adding at the end the following:

"(f) BURDENS OF PROOF.—The legal burdens of proof that prevail under subchapter III of chapter 12 of title 5, United States Code, shall govern adjudication of protected activities under this section.".

**SEC. 11. DEPUTY CHIEF EXECUTIVE OFFICER.**

Section 21A(b)(8) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(8)) is amended by adding at the end the following new subparagraphs:

"(E) DEPUTY CHIEF EXECUTIVE OFFICER.—There is established the office of deputy chief executive officer of the Corporation. The Chairperson of the Thrift Depositor Protection Oversight Board, with the recommendation of the chief executive officer, may appoint the deputy chief executive officer, who shall be an employee of the Federal Deposit Insurance Corporation in accordance with subparagraph (B)(i) of this paragraph. The deputy chief executive officer shall perform such duties as the chief executive officer may require.

"(F) ACTING CHIEF EXECUTIVE OFFICER.—

"(i) IN GENERAL.—Subject to subparagraph (C), the chief executive officer may designate the deputy chief executive officer to act as chief executive officer if the chief executive officer dies, resigns, or is sick or absent; or if the chief executive office fails to make such a designation or is unable to make such a designation due to death or disability, the Chairperson of the Thrift Depositor Protection Oversight Board may designate the deputy chief executive officer to act as chief executive officer if the chief executive officer dies, resigns, or is sick or absent.

"(ii) POWERS.—An acting chief executive officer designated under clause (i) shall possess the power to perform the duties vested in the chief executive officer pursuant to subparagraph (D).".

**SEC. 12. GENERAL COUNSEL OF THE RESOLUTION TRUST CORPORATION.**

Section 21A(b)(8) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(8)), as amended by section 11 of this Act, is amended by adding at the end the following new subparagraph:

"(G) GENERAL COUNSEL.—There is established the office of general counsel of the Corporation. The chief executive officer, with the concurrence of the Chairperson of the Thrift Depositor Protection Oversight Board, may appoint the general counsel, who shall be an employee of the Federal Deposit Insurance Corporation in accordance with subparagraph (B)(i). The general counsel shall perform such duties as the chief executive officer may require.".

**SEC. 13. INSPECTOR GENERAL OF FEDERAL DEPOSIT INSURANCE CORPORATION.**

(a) AMENDMENTS TO THE INSPECTOR GENERAL ACT OF 1978.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in section 11—

(A) in paragraph (1), by striking "the chief executive officer of the Resolution Trust Corporation;" and inserting "the chief executive officer of the Resolution Trust Corporation; and the Chairperson of the Federal Deposit Insurance Corporation;"; and

(B) in paragraph (2), by inserting "the Federal Deposit Insurance Corporation," after "Resolution Trust Corporation,";

(2) by inserting after section 8B the following new section:

**"SEC. 8C. SPECIAL PROVISIONS CONCERNING THE FEDERAL DEPOSIT INSURANCE CORPORATION.**

"(a) DELEGATION.—The Chairperson of the Federal Deposit Insurance Corporation may delegate the authority specified in the second sentence of section 3(a) to the Vice Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation, but may not delegate such authority to any other officer or employee of the Corporation.

"(b) PERSONNEL.—Notwithstanding paragraphs (7) and (8) of section 6(a), the Inspector General of the Federal Deposit Insurance Corporation may select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office of Inspector General and to obtain the temporary or intermittent services of experts or consultants or an organization of experts or consultants, subject to the applicable laws and regulations that govern such selections, appointments, and employment, and the obtaining of such services, within the Federal Deposit Insurance Corporation.";

(3) by redesignating sections 8C through 8F as sections 8D through 8G, respectively; and

(4) in section 8F(a)(2), as redesignated, by striking "the Federal Deposit Insurance Corporation,".

(b) POSITION AT LEVEL IV OF THE EXECUTIVE SCHEDULE.—Section 5315 of title 5, United States Code, is amended by inserting after "Inspector General, Small Business Administration," the following:

"Inspector General, Federal Deposit Insurance Corporation,".

(c) TRANSITION PERIOD.—The individual serving as the Inspector General of the Federal Deposit Insurance Corporation before the effective date of this section may continue to serve in such position until and unless the President appoints a successor under section 3(a) of the Inspector General Act of 1978, except as otherwise provided by law. For the purposes of the preceding sentence, the term "successor" may include the individual holding the position of Inspector General of the Federal Deposit Insurance Corporation on or after the date of enactment of this section.

**SEC. 14. AUTHORITY TO EXECUTE CONTRACTS.**

Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by adding at the end the following new subsection:

"(y) AUTHORITY TO EXECUTE CONTRACTS.—

"(1) AUTHORIZED PERSONS.—A person may execute a contract on behalf of the Corporation for the provision of goods or services only if—

"(A) that person—

"(i) is a warranted contracting officer appointed by the Corporation, or is a managing agent of a savings association under the conservatorship of the Corporation; and

"(ii) provides appropriate certification or other identification, as required by the Corporation in accordance with paragraph (2);

"(B) the notice described in paragraph (4) is included in the written contract; and

"(C) that person has appropriate authority to execute the contract on behalf of the Corporation in accordance with the notice published by the Corporation in accordance with paragraph (5).

"(2) PRESENTATION OF IDENTIFICATION.—Prior to executing any contract described in paragraph (1) with any person, a warranted contracting officer or managing agent shall present to that person—

"(A) a valid certificate of appointment (or such other identification as may be required by the Corporation) and signed by the appropriate officer of the Corporation; or

"(B) a copy of such certificate, authenticated by the Corporation.

"(3) TREATMENT OF UNAUTHORIZED CONTRACTS.—A contract described in paragraph (1) that fails to meet the requirements of this section—

"(A) shall be null and void; and

"(B) shall not be enforced against the Corporation or its agents by any court.

"(4) INCLUSION OF NOTICE IN CONTRACT TERMS.—Each written contract described in paragraph (1) shall contain a clear and conspicuous statement (in boldface type) in immediate proximity to the space reserved for the signatures of the contracting parties as follows:

**" 'Only warranted contracting officers appointed by the Resolution Trust Corporation or managing agents of associations under the conservatorship of the Resolution Trust Corporation have the authority to execute contracts on behalf of the Resolution Trust Corporation. Such persons have certain limits on their contracting authority. The nature and extent of their contracting authority levels are published in the Federal Register.**

**" 'A warranted contracting officer or a managing agent must present identification in the form of a signed certificate of appointment (or an authenticated copy of such certificate) or other identification, as required by the Corporation, prior to executing any contract on behalf of the Resolution Trust Corporation.**

**" 'ANY CONTRACT THAT IS NOT EXECUTED BY A WARRANTED CONTRACT OFFICER OR THE MANAGING AGENT OF A SAVINGS ASSOCIATION UNDER THE CONSERVATORSHIP OF THE RESOLUTION TRUST CORPORATION, ACTING IN CONFORMITY WITH HIS OR HER CONTRACTING AUTHORITY, SHALL BE NULL AND VOID, AND WILL NOT BE ENFORCEABLE BY ANY COURT.'.**

"(5) NOTICE OF REQUIREMENTS.—Not later than 30 days after the date of enactment of this Act, the Corporation shall publish notice in the Federal Register of—

"(A) the requirements for appointment by the Corporation as a warranted contracting officer; and

"(B) the nature and extent of the contracting authority to be exercised by any warranted contracting officer or managing agent.

"(6) EXCEPTION.—This section does not apply to—

"(A) any contract between the Corporation and any other person governing the purchase or assumption by that person of—

"(i) the ownership of a savings association under the conservatorship of the Corporation; or

"(ii) the assets or liabilities of a savings association under the conservatorship or receivership of the Corporation; or

"(B) any contract executed by the Inspector General of the Corporation (or any designee thereof) for the provision of goods or services to the Office of the Inspector General of the Corporation.

"(7) EXECUTION OF CONTRACTS.—For purposes of this subsection, the execution of a contract includes all modifications to such contract.

"(8) EFFECTIVE DATE.—The requirements of this subsection shall apply to all contracts described in paragraph (1) executed on or after the date which is 45 days after the date of enactment of this subsection.".

**SEC. 15. TERMINATION DATE OF THE CORPORATION.**

Section 21A(m)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(m)(1)) is amended by striking "December 31, 1996" and inserting "December 31, 1995".

**SEC. 16. ASSISTANT GENERAL COUNSEL FOR PROFESSIONAL LIABILITY.**

Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by adding at the end the following new subsection:

"(z) ASSISTANT GENERAL COUNSEL FOR PROFESSIONAL LIABILITY.—

"(1) APPOINTMENT.—The Corporation shall appoint, within the Division of Legal Services of the Corporation, an Assistant General Counsel for Professional Liability who shall report to the Associate General Counsel for Litigation and the chief executive officer of the Corporation.

"(2) DUTIES.—The Assistant General Counsel for Professional Liability appointed under paragraph (1) shall—

"(A) direct the investigation, evaluation, and prosecution of all professional liability cases involving the Corporation; and

"(B) supervise all legal, investigative, and other personnel and contractors involved in the litigation of such claims.

"(3) REPORTS TO THE CONGRESS.—The Assistant General Counsel for Professional Liability shall submit semiannual reports to the Congress not later than April 30 and October 31 of each year concerning the activities of the Assistant General Counsel.".

**SEC. 17. DEFINITION OF PROPERTY.**

(a) Section 9102(e) of the Department of Defense Appropriations Act, 1990 (16 U.S.C. 396f note) is amended by striking "real, personal," and inserting "real, personal (including intangible assets sold or offered by the Federal Deposit Insurance Corporation or the Resolution Trust Corporation, such as financial instruments, notes, loans, and bonds),".

(b) Section 12(b)(7)(vii) of Public Law 94-204 (43 U.S.C. 1611 note) is amended by striking "real, personal," and inserting "real, personal (including intangible assets sold or offered by the Federal Deposit Insurance Corporation or the Resolution Trust Corporation, such as financial instruments, notes, loans, and bonds),".

**SEC. 18. CIVIL STATUTE OF LIMITATIONS FOR TORT ACTIONS BROUGHT BY THE RTC.**

(a) RESOLUTION TRUST CORPORATION.—Section 11(d)(14) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(14)) is amended—

(1) in subparagraph (A)(ii), by inserting "except as provided in subparagraph (B)," before "in the case of";

(2) by redesignating subparagraph (B) as subparagraph (C);

(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) TORT ACTIONS BROUGHT BY THE RESOLUTION TRUST CORPORATION.—The applicable statute of limitations with regard to any action in tort brought by the Resolution Trust Corporation in its capacity as conservator or receiver of a failed savings association shall by the longer of—

"(i) the 5-year period beginning on the date the claim accrues; or

"(ii) the period applicable under State law."; and

(4) in subparagraph (C), as redesignated—

(A) by striking "subparagraph (A)" and inserting "subparagraphs (A) and (B)"; and

(B) by striking "such subparagraph" and inserting "such subparagraphs".

(b) EFFECTIVE DATE; TERMINATION; FDIC AS SUCCESSOR.—

(1) EFFECTIVE DATE.—The amendments made by subsection (a) shall be construed to have the same effective date as section 212 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

(2) TERMINATION.—The amendments made by subsection (a) shall remain in effect only until the termination of the Resolution Trust Corporation.

(3) FDIC AS SUCCESSOR TO THE RTC.—The Federal Deposit Insurance Corporation, as successor to the Resolution Trust Corporation, shall have the right to pursue any tort action that was properly brought by the Resolution Trust Corporation prior to the termination of the Resolution Trust Corporation.

**SEC. 19. COST EFFECTIVENESS OF FEDERAL PROPERTY MANAGEMENT.**

(a) FINDINGS.—The Congress finds that—

(1) the Federal Government owns over 400,000 buildings that cost the taxpayers hundreds of billions of dollars;

(2) the Federal Government is the largest single tenant and builder of office space in the United States;

(3) the Federal Government currently has $11,400,000,000 of construction in the works which, when completed, will add approximately 23,000,000 square feet of office space;

(4) the Federal Government is constructing, or entering into long-term leases for buildings constructed expressly for the Federal Government, in areas with building vacancy rates as high as 30 percent;

(5) significant budget savings can be achieved if, before considering new construction, Federal agencies aggressively explore the possibilities of purchasing or leasing suitable office buildings available in the market or acquiring suitable real estate under the control of the Federal Deposit Insurance Corporation or Resolution Trust Corporation;

(6) the physical space requirements of Federal agencies and the Judiciary are too often overstated and inflexible and, therefore, do not permit the acquisition or lease of existing properties which may be suitable and cost-effective;

(7) current scorekeeping rules may be discouraging agencies from entering into the most responsible arrangements for securing office space (for example, in some cases, a lease/purchase agreement may be most cost-effective but current scorekeeping rules require that the budget authority and outlays for the entire obligation, paid over a period of years, be scored in the year the contract is signed); and

(8) the Federal Buildings Fund, established in 1972 as a revolving fund to cover the General Services Administration's cost of rent, repairs, renovations, and to pay for the construction of new Federal buildings, and funded by the rent agencies pay to the General Services Administration, has failed to be self-sustaining and has required billions in appropriations to finance new construction.

(b) COMPREHENSIVE REVIEW OF FEDERAL PROPERTY MANAGEMENT.—

(1) IN GENERAL.—The Director of the Office of Management and Budget shall conduct a comprehensive review of Federal property management policies and procedures and make recommendations to promote better coordination between Government agencies, maximize efficiency, and encourage flexibility to make decisions which are in the best interest of the Federal Government.

(2) INCLUDED IN REVIEW.—The review required by this subsection shall include—

(A) recommendations requiring the General Services Administration, the Department of Defense, the Postal Service and all other Federal agencies and the Judiciary, when appropriate, to develop or modify existing building requirements in such a way as to allow for—

(i) the purchase, lease, lease/purchase of existing buildings at market rates; and

(ii) the purchase of Resolution Trust Corporation-owned and Federal Deposit Insurance Corporation-owned real estate rather than new construction of buildings;

(B) in conjunction with the Director of the Congressional Budget Office, developing recommendations to revise scorekeeping rules for Federal property leasing, lease/purchase, construction, and acquisition to encourage flexibility and decisions which are in the best interest of the Federal Government; and

(C) recommendations on whether the Federal Buildings Fund should be maintained, alternatives for meeting the Fund's objectives, and changes to the Fund that will enable it to meet its objectives and become self-sustaining.

(c) REPORT.—Not later than two months after the date of enactment of this Act, the Director of the Office of Management and Budget shall report the recommendations developed pursuant to this section to—

(1) the Senate Committees on Governmental Affairs, Budget, Appropriations, and Environment and Public Works; and

(2) the House of Representatives Committees on Government Operations, Appropriations, and Public Works and Transportation.

**SEC. 20. SENSE OF THE SENATE RELATING TO PARTICIPATION OF DISABLED AMERICANS IN CONTRACTING FOR DELIVERY OF SERVICES TO FINANCIAL INSTITUTION REGULATORY AGENCIES.**

(a) FINDINGS.—the Senate finds the following—

(1) Congress, in adopting the Americans with Disabilities Act of 1990, section 12101, of title 42, United States Code, (the ADA) specifically found that—

(A) some 43,000,000 Americans have one or more physical or mental disabilities, and this number is increasing;

(B) discrimination against individuals with disabilities persists in such critical areas as employment, housing, public accommodations, education, transportation, commmunication, recreation, institutionalization, health services, voting, and access to public services;

(C) individuals with disabilities continually encounter various forms of discrimination, including outright intentional exclusion, the discriminatory effects of architectural, transportation, and communication barriers, overprotective rules and policies, failure to make modifications to existing facilities and practices, exclusionary qualification standards and criteria, segregation, and relegation to lesser services, programs, activities, benefits, jobs, or other opportunities;

(D) census data, national polls, and other studies have documented that people with disabilities, as a group, occupy an inferior status in our society, and are severely disadvantaged socially, vocationally, economically, and educationally;

(E) individuals with disabilities are a discrete and insular minority who have been faced with restrictions and limitations, subjected to a history of purposeful unequal treatment, and relegated to a position of political powerlessness in our society, based on characteristics that are beyond the control of such individuals and resulting from stereotyphic assumptions not truly indicative of the individual ability of such individuals to participate in, and contribute to, society;

(F) the Nation's proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for such individuals; and

(G) the continuing existence of unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity to compete on an equal basis and to pursue those opportunities for which our free society is justifiably famous, and costs the United States billions of dollars in unnecessary expenses resulting from dependency and nonproductivity.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the chief executive officer of the Resolution Trust Corporation, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Federal Housing Finance Board shall take all necessary steps within each such agency to ensure that individuals with disabilities and entities owned by individuals with disabilities, including financial institutions, investment banking firms, underwriters, asset managers, accountants, and providers of legal services, are availed of all opportunities to compete in a manner which, at a minimum, does not discriminate on the basis of their disability for contracts entered into by the agency to manage the institutions and their assets for which the agency is responsible or to perform such other functions anthorized under any law applicable to such agency.

**SEC. 21. RTC CONTRACTING.**

(a) No person shall execute, on behalf of the Corporation, any contract, or modification to a contract, for goods or services exceeding $100,000 in value unless the person executing the contract or modification states in writing that—

(1) the contract or modification is for a fixed price, the person has received a written cost estimate for the contract or modification, or a cost estimate cannot be obtained as a practical matter with an explanation of why such a cost estimate cannot be obtained as a practical matter;

(2) the person has received the written statement described in paragraph (b);

(3) the person is satisfied that the contract or modification to be executed has been approved by a person legally authorized to do so pursuant to a written delegation of authority.

(b) A person who authorizes a contract, or a modification to a contract, for goods or services exceeding $100,000, shall state, in writing, that he or she has been delegated the authority, pursuant to a written delegation of authority, to authorize that contract or modification.

(c) The failure of any person executing a contract, or a modification of a contract, on behalf of the Corporation, or authorizing such a contract or modification of a contract, to comply with the requirements of this section shall not void, or be grounds to void or rescind, any otherwise properly executed contract.

**SEC. 22. REPORT TO CONGRESS BY SPECIAL COUNSEL.**

(a) REPORT.—Not later than 90 days after the date of enactment of this Act, the Special Counsel appointed under section 2537 of the Crime Control Act of 1990 (28 U.S.C. 509 note) shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report on the status of its efforts to monitor and improve the collection of fines and restitution in cases involving fraud and other criminal activity in and against the financial services industry.

(b) CONTENTS.—The report required under subsection (a) shall include—

(1) information on the amount of fines and restitution assessed in cases involving fraud and other criminal activity in and against the financial services industry, the amount of such fines and restitution collected, and an explanation of any difference in those amounts;

(2) an explanation of the procedures for collecting and monitoring restitution assessed in cases involving fraud and other criminal activity in and against the financial services industry and any suggested improvements to such procedures;

(3) an explanation of the availability under any provision of law of punitive measures if restitution and fines assessed in such cases are not paid;

(4) information concerning the efforts by the Department of Justice to comply with guidelines for fine and restitution collection and reporting procedures developed by the interagency group established by the Attorney General in accordance with section 2539 of the Crime Control Act of 1990;

(5) any recommendations for additional resources or legislation necessary to improve collection efforts; and

(6) information concerning the status of the National Fine Center of the Administrative Office of the United States Courts.

**SEC. 23. REPORTING REQUIREMENTS.**

The Resolution Trust Corporation shall provide semi-annual reports to the Senate Committee on Banking, Housing, and Urban Affairs and the House Committee on Banking, Finance and Urban Affairs. Such reports shall—

(1) detail procedures for expediting the registration and contracting for selecting auctioneers for asset sales with anticipated gross proceeds of $1,500,000 or less;

(2) list by name and geographic area the number of auction contractors which have been registered and qualified to perform services for the Resolution Trust Corporation; and

(3) list by name, address of home office, location of assets disposed, and gross proceeds realized, the number of auction contractors which have been awarded contracts.

Mr. RIEGLE. Madam President, I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIEGLE. Madam President, if I may be recognized briefly, I want to thank colleagues for their cooperation on this bill. Both sides worked together to resolve all issues.

I particularly want to thank Senator D'AMATO, the ranking member, for his efforts, and all the members of the Banking Committee on both sides, and Members for their energy and diligence. I appreciate the support of the leadership. I want to thank the staff on both sides, particularly the staff of the Senate Banking Committee on my side for all the hard work and the fact we

were able to move this through in pretty short order. I am appreciative all around.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. MITCHELL. Madam President, I commend the distinguished Senator from Michigan, the chairman of the Senate Banking Committee. I think it is evidence of his skill, determination, and leadership that he has been able to organize and enact important legislation that is very controversial, that has been the subject of great difficulty in the House and the Senate over the past few years, and to have it pass the Senate in what is, for the U.S. Senate, the blink of an eye. Passing a bill in 1 day in the Senate is rare, and I think it indicates and is an example of the tremendous skill and leadership ability and knowledge of the subject that the Senator from Michigan, the chairman of the Senate Banking Committee, has brought to this matter.

So, on behalf of all the Members of the Senate, I thank him very much for the great effort he made in this behalf. I commend also the distinguished ranking minority member, Senator D'AMATO, for his participation in the effort as well.

## NOMINATIONS ON THE EXECUTIVE CALENDAR

Mr. MITCHELL. Madam President, I have a brief statement to make on one of the members of our staff leaving the Senate.

Before I do that, I would like to comment briefly on the schedule for the next few days. There are now a total of 11 nominations which are on the Senate Calendar. A number of nominations were cleared earlier this week and I had been under the impression that four, or five, or six more would be approved by yesterday. We are now near the close of business today. I am advised that none of the nine will be able to be cleared because of objection by Republican Senators.

I regret that very much but I wish to state, so there will be ample notice to all concerned, and Senators have notice of what will occur, that on Tuesday morning I will have no choice but to move to proceed to these nominations one at a time and will request votes on the motions to proceed.

The motion to proceed to a nomination is a nondebatable motion and if the nominations are not cleared by that time, if these objections to our proceeding to them are still in effect, then we will simply have to vote on them one at a time—that is on the motion to proceed to the nomination.

Once we get to a nomination, then, of course, Senators have the right, as they do on all such matters, to talk for as long as they want. It is my hope we are not going to have any filibusters of these nominations but that is, of course, the right of any Senator. If that does occur, why we obviously will have to take steps to deal with it at that time.

So Senators should be aware that, beginning next Tuesday morning, first there will be no rollcall votes prior to Tuesday morning and that, beginning on next Tuesday morning I will make a motion to proceed to the nominations which remain on the calendar. We will just go through them one at a time in the hopes that we can get them done. I hope that does not become necessary. I regret it if we do reach that point. As I said, I had been under the impression that we were going to get as many as somewhere between four and half a dozen of these nominations cleared earlier this week, but we are now advised they will not be cleared and, therefore, I have no alternative but to proceed as I have outlined.

Therefore, Senators should be aware that rollcall votes are possible beginning on Tuesday morning. It is my intention to proceed to these on Tuesday morning.

## DEPARTURE OF CHARLES KINNEY

Mr. MITCHELL. Mr. President, I rise today with great regret to say goodbye and good luck to our chief floor counsel, Charles Kinney, who departs the Senate this week after 19 years of service.

Every one of my colleagues in the Senate, Democrats and Republicans alike, know how great is our reliance on the skills, the knowledge, the memories, the patience, and hard work of our Democratic and Republican floor staffs. Without their work, it is hard to see how the Senate could function at all.

Charles Kinney's service to me since I became majority leader for the last 4 years has been of immeasurable help.

It is not an overstatement to say that he and the other floor staff taught me the ropes, and it is no overstatement whatsoever to say that his place will not easily, or soon, be filled.

Charles' Senate career demonstrates something about the Senate that is too little known among the American people: the long service and hard work of many of our professional and support staff. They provide an institutional memory and a judgment for which no computer chip will ever be a substitute. They have a genuine commitment to the best interests of this institution itself and to the country. They are an extraordinary group of men and women, and Charles has been an outstanding member of that group.

Charles Kinney began working in the Democratic Cloakroom in March 1974, more than 19 years ago, when he was a senior at Georgetown University.

He completed his undergraduate degree, his law degree, and he passed the bar, all the while continuing to work here in the Senate.

Five years after joining the Cloakroom staff, Charles was appointed to be a member of the floor staff and counsel to the policy committee by my predecessor, the distinguished Senator from West Virginia, then the majority leader, Senator BYRD. During much of this time, Charles also served as chief Judiciary Committee advisor to Senator BYRD.

The range of his responsibilities reflects Charles' uncommon abilities and his meticulous care in giving advice to Senators. Both his talents and his care have earned him the confidence of every Senator.

When I became majority leader in 1989, Charles and his colleagues on the floor staff were one of the most important assets I inherited from my predecessor. I have valued that asset highly ever since. I could not have asked for a more competent, more effective, more loyal staff person.

Charles Kinney's work on the difficult and time-consuming judicial impeachment procedures we unfortunately have had to deal with, in the Senate, has been enormously helpful, as has been his advice and work on proposed rules modifications to help move the business of the Senate more expeditiously.

Charles will be sorely missed. I have come to rely on his judgment, and I very much rely on his good sense and his calm demeanor during the long days and many nights the Senate sometimes inflicts on itself. I know all my colleagues share those sentiments.

We wish Charles the very best in his future career. He will be badly missed in the Senate, but the compensating factor is, of course, that his wife, Joann, and his children will at least see more of him.

Madam President, I know I speak for all my colleagues when I say these words about Charles.

I now ask unanimous consent that a resolution unanimously adopted this week by the members of the Democratic Conference of the Senate commending Charles Kinney for his outstanding performance and extending their appreciation and gratitude for service be printed in the RECORD.

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

RESOLUTION COMMENDING CHARLES L. KINNEY

Whereas Charles L. Kinney has served the United States Senate for nineteen years;

Whereas, as Senior Floor Staff Member and Counsel to the Democratic Policy Committee, Charles L. Kinney has performed his duties with unfailing courtesy; good judgment; superior intelligence; and dedication to public service. Now, therefore, be it

*Resolved*, That the Members of the Democratic Conference of the United States Senate hereby commend Charles L. Kinney for his outstanding performance and extend their appreciation and gratitude for his exemplary service.

Mr. METZENBAUM addressed the Chair.

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

## HEARTFELT APPRECIATION TO CHARLES KINNEY

Mr. METZENBAUM. Madam President, I too rise to offer my heartfelt appreciation to Charles Kinney and to express my enduring gratitude for his years of public service here in the U.S. Senate.

Charles is leaving us after nearly two decades of selfless dedication to this institution, and he deserves a great deal of credit for every good work accomplished by this body during that period of time.

As a matter of fact, Charles came to this body shortly after I came to this body. I came here in January of 1974. He came here in March of 1974. He did better than I did. He stayed during that entire period. I went home for 3 years and then came back later in 1977. But we worked together on any number of occasions, and his cooperative attitude and his helpfulness have been of immeasurable assistance to this Senator. In his counsel to the majority leader and as senior leader of the talented staff on the floor, Charles has demonstrated keen intelligence, personal integrity, political instincts, and an incredible ability to make clear sense out of the confounding and complicated situations we often find ourselves in on this floor.

As this Senator on rare occasion has been the cause of some of those complications, I have a special, personal affection for Charles, as well as great professional respect for his abilities. Many times I have relied upon him to keep a cooler head while all the rest of us were losing ours.

He has an objectivity about him, a fairness about him that is rare in human beings. It is almost impossible to even begin to describe the contributions Charles has made to the Senate, to the legislative process, and to the American people during his tenure. Suffice it to say that those contributions cannot be overstated.

So as Charles says goodbye to all the time agreements and unanimous consent requests, and all the late nights and irregular hours, the uncertain schedules and unanswerable questions, the illegible amendments and irascible Senators, I want to wish him well.

Enjoy more time with your wife, Joann, and your two children, and look back on your days here with tremendous pride. You have contributed to this Nation's legislative progress, such as it may have been, during the last 19 years, and we all appreciate what you have done, not only for us, but for all the people of this country.

We wish you well. Godspeed.

Mr. MITCHELL. Madam President, I ask Senators to join me in thanking Charles. [Applause.]

Madam President, one thing we know is that after 19 years here, Charles is unlikely to run for public office himself. [Laughter.]

But we are grateful for what he has done, and we look forward to his good success in the future.

I now yield the floor.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

## WISHING CHARLES KINNEY WELL

Mr. FORD. Madam President, may I join with the majority leader in the words he spoke about my friend, Charles Kinney.

I have had the opportunity of working with him over the years. His tenure in the Senate Chamber is a little bit longer than mine, but we joined up in the same year. And so I join in wishing him well, and in hoping that his new position in life will give him a greater opportunity to do some things that he personally would like to do, particularly with his wife and children.

I find that to be a great loss in this Chamber, Madam President, because we work so long and so hard and take it home with us, and on weekends, and we miss some of the joys of life.

But hopefully his tenure here has made life a little better for his family's future, and I say to him that I will never be able to put into words what I feel he has meant to me personally and to this institution. I have always been amazed at his patience.

I yield the floor.

Mr. DODD addressed the Chair.

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

## A TREMENDOUS ASSET TO THIS INSTITUTION—CHARLES KINNEY

Mr. DODD. Madam President, while he is still in our midst, let me join my colleagues in paying tribute to Charles Kinney. He has been a tremendous asset to this institution. The majority leader and the Senator from Ohio, I think, captured the feelings of all of us here. Regardless of political persuasion or what side of an issue you were on, you could always rely on Charles giving you the best advice, the best counsel as to how to proceed, and without necessarily showing favorites at all.

It is unfortunate, in many ways, that the American public does not get to appreciate, as much as I wish they could, the work of those who never have the opportunity to speak on the floor of the U.S. Senate, or to appear in print, or on television, people who really do make this institution function as well as it does.

Charles Kinney certainly belongs in the ranks of those who have contributed significantly to this institution. His name does not appear in the CONGRESSIONAL RECORD in making statements. He does not hold press conferences. He is not sought out by the media for his views. But in no small measure, he has contributed to the legislative product of this institution during his years of service.

He has been inordinately patient with all of us, particularly in the wee hours of the morning on many a late night as we grappled with some of the thorniest pieces of legislation we have had.

So I join my colleagues in wishing him well and telling him, as one Member of the Senate, how deeply I appreciate his valiant service to our country. It is deeply appreciated by this Senator and, I know, by all of my colleagues on both sides of the aisle. We wish him well. If the word patience could be embodied in a person, patience would be called Charles Kinney.

Mr. WARNER addressed the Chair.

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

Mr. WARNER. Madam President, I do not wish to precede the remarks being made of our distinguished floor assistant. Is the Senator from Tennessee rising to add his remarks with regard to Charles Kinney?

Mr. SASSER. I say to my friend from Virginia, I am rising to say a word about the distinguished service of Mr. Charles Kinney, but I was under the impression we had a unanimous-consent agreement that we would return to discussion of the bill we have just voted on following the vote on final passage.

The PRESIDING OFFICER. The Senator from Tennessee is correct. Time was reserved for that.

Mr. WARNER. Madam President, I ask unanimous consent that the Senator from Virginia may proceed as if in morning business for 1½ minutes.

Mr. SASSER. I have no objection.

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

## CHARLES KINNEY

Mr. WARNER. Madam President, I thank my colleagues. I also add my words of praise to this distinguished individual, Charles Kinney, who has on many occasions saved me from a mistake.

(The remarks of Mr. WARNER pertaining to the introduction of S. 953 are located in today's record under "Statements on Introduced Bills and Joint Resolutions.")

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Rhode Island.

Mr. PELL. I ask unanimous consent I may proceed for 1 minute as if in morning business.

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

Mr. PELL. I thank the Chair.

## CHARLES KINNEY

Mr. PELL. Madam President, I wish to add my words of sorrow and regret that Charles Kinney is leaving us. He is very knowledgeable. When asked a question, he always seems to know the facts. He used to provide us with a guess as to whether we were getting out or not getting out or when, and he was always extremely courteous under great pressure. I know how much we will miss him. I bid him not farewell but good luck.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. SASSER. Madam President, does the Senator wish to address the Charles Kinney departure?

Mr. WELLSTONE. Yes.

Mr. SASSER. That is a worthwhile endeavor. I commend the distinguished Senator from Minnesota for doing that. We have been waiting for a while to address this bill. May I ask my distinguished friend from Minnesota how much time he requires?

Mr. WELLSTONE. I will take at the most 2 minutes.

Mr. SASSER. I thank my friend.

Mr. WELLSTONE. I appreciate it.

## THANKS TO CHARLES KINNEY

Mr. WELLSTONE. Madam President, I really thank the Senator from Tennessee because I heard people speaking on the floor, and I was in the office. I sprinted all the way back to try to get a chance to say something, and now that I am on the floor of the Senate I realize I actually never decided what I was going to say. So this is from the heart, Charles.

When I came to the Senate, which was just 2 years ago, it was not easy to master this process. I am nowhere near yet mastering this process in the way that I wish, but I have been learning every day. I think I am getting better and better at it, and I am trying to do well for people, as I think all Senators are.

Charles Kinney is brilliant, absolutely brilliant. But I personally do not think a person's brilliance should be at the top of the list. I think what should be at the top of the list is a person's brilliance and wonderful sensitivity to people. I came here. I was new to the Senate. I have only been here 2 years. And every single time, Madam President, I have asked Charles Kinney for advice, for assistance, for clarification, every time I have put questions to him, he has always been patient; he has been a fountain of wisdom; and he has been really a wonderful friend. We will miss him. I wish he was not leaving, except that I think he is going to go on and make enormous contributions to our Government. So it is a great gain for the country. I am sorry to see him leave and I wish him the very best.

Charles, I thank you very much.

Mr. SASSER addressed the Chair.

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

## COMMENDATION OF CHARLES KINNEY

Mr. SASSER. Madam President, I wish to add my voice to those who today commended the distinguished service of Charles Kinney to the Senate. He has been a source of information and a source of counsel for many of us here for a number of years as we fought the legislative battles on the floor. We wish him bon voyage and godspeed in his new career.

## THRIFT DEPOSITOR PROTECTION ACT OF 1993

GRAMM AMENDMENT NO. 365

Mr. SASSER. Madam President, I wish to address for a brief period the amendment offered earlier by the Senator from Texas [Mr. GRAMM]. That amendment was subject to a point of order under the Budget Act, and the Senate, in its wisdom, refused to waive that point of order, so the amendment went down.

But I should say, Madam President, I thought it was ironic this afternoon that our friend, the Senator from Texas, would be offering his so-called spending restraint amendment on the Resolution Trust Corporation financing bill. This so-called RTC bill, or bailout of the S&L's, is largely a bailout for the State of Texas; 50 percent of all the funds that will be expended in the so-called savings and loan bailout will be expended in the State of Texas, bailing out savings and loans that went under for a variety of reasons.

So it did not miss my attention that this spending restraint amendment to the Resolution Trust Corporation funding bill, with half of the money going to Texas, should be offered by the distinguished Senator from the State of Texas.

Now, Madam President, the amendment offered by the Senator from Texas was not accepted by the Senate, and it should not have been accepted by the Senate because it simply performed the same function as the caps that were included in the budget resolution which passed this Senate some weeks ago, which our friend from Texas voted against.

Now, the enforcement procedures that we are discussing here appear on page 26 of the budget resolution conference report, and that section "extends the system of discretionary spending limits set forth in section 601 of the Congressional Budget Act of 1974."

Now, that budget resolution also extends the pay-as-you-go system, and again I am quoting, "to prohibit the consideration of direct spending or receipts legislation that would decrease the pay-as-you-go surplus that the reconciliation bill, pursuant to section 7 of this resolution, will create under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985."

Now, what we are saying, Madam President, in very legalese terms, is that this amendment offered by the Senator from Texas would simply be surplusage. It is already in the budget resolution as it impacts on so-called spending restraints. And this is the same budget resolution that our friend from Texas voted against just a few weeks ago.

So I simply say this to reassure our colleagues who voted that this amendment should not be held to waive the budget resolution; that they were eminently correct in their vote, and that their vote in that regard in no way reflected a lack of concern about spending restraints under the budget resolution, because the spending restraints on pay as you go and the caps on the discretionary spending were already in our budget resolution.

So I simply wanted to speak to my colleagues in that regard.

I see the distinguished Senator from California on the floor, and I yield to her. How much time do I have remaining?

The PRESIDING OFFICER. Eight minutes are remaining.

The Senator from California [Mrs. BOXER] is recognized.

## GIVE PRESIDENT CLINTON A CHANCE

Mrs. BOXER. Madam President, I thank my friend, the distinguished chairman of the Budget Committee, my chairman, for his comments, because I very much wanted to speak before the vote on the Gramm amendment, but we were pressed for time at that moment.

I have to say that, as I watch the debate on this Senate floor day after day, it strikes me that whenever our President makes any proposal whatsoever—and it does not matter what it is—we have Senators from the other side of the aisle coming down here and just blasting whatever proposal he has made.

As a result of the President recommending a deficit reduction trust fund, the Senator from Texas came down with what I consider to be a hastily put together amendment which was against the rules, and the Senate in its wisdom said this is not the time or the place.

I think it is very important, Madam President, in the interest of fairness, to make the point that so many of our

friends on the other side of the aisle—and I do not include in that at all the Senator from New Mexico, who is going to address us shortly—but there are some who talk about the deficit day after day, who have suddenly found religion. And I ask you where they were year after year as the deficit grew on the watch of the Republican Presidents of the last 12 years; where were they? The deficit went up from $50 billion to $300 billion. The debt went from $1 trillion to $4 trillion. Where were they?

They basically said nothing, except "we will grow out of it." I remember it well. The Senator from Texas, who brought his amendment today, kept saying we will grow out of the deficit.

I ask unanimous consent to have printed in the RECORD an excerpt from an article that just came out in the National Journal.

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

EXCERPT

In a recent article in New Perspectives Quarterly, former budget director Stockman called the GOP's antitax war whoops "deceptive gibberish."

"There is no way out of the elephantine budget deficits which have plagued the nation since 1981 without major tax increases," he wrote. "Indeed, if Congressman [and House Minority Whip] Newt Gingrich [R-Ga.] and his playmates had the parental supervision they deserve, they would be sent to the nearest corner wherein to lodge their Pinocchiosized noses until this adult task of raising taxes is finished."

"The root problem goes back to the July 1981 frenzy of excessive and imprudent tax-cutting that shattered the nation's fiscal stability," Stockman said of the tax cuts that added up to an estimated $750 billion in lost revenue over five years. "The GOP has neither a coherent program nor the political courage to attack anything but the most microscopic spending marginalia."

Mrs. BOXER. I am going to read a quote not made by Senator BOXER or Senator SASSER, or Senator MITCHELL, but a quote from a Republican, David Stockman. He is the former Director of OMB under Ronald Reagan. This is his quote about the deficit:

The root problem goes back to the July 1981 frenzy of excessive and imprudent tax-cutting that shattered the nation's fiscal stability.

Stockman said of the tax cuts that added up to an estimated $750 billion in lost revenue over 5 years.

The GOP has neither a coherent program nor the political courage to attack anything but the most microscopic spending marginalia.

That is a new word.

The bottom line is that, if you look back to the 1980's, you see that it was Gramm-Latta that brought us down this road, and now we have the Senator from Texas coming here every day lecturing us on the deficit and lecturing this President, the first President to stand up and say the deficit is a problem.

And the deficit trust fund idea, I might say, is a reaction to criticism from just those Members who are throwing back the criticism at this President. They say: We do not trust the Democrats or the President to tax us and not spend that money elsewhere. We do not trust this President to cut spending and not spend it elsewhere.

So we have President Clinton get up and say: I am willing to put these dollars into a deficit reduction trust fund where all of the American people can see that their dollars will not be tapped for new spending. Yet, we have our Republican friends blasting him.

In closing I say this: If we had the Senator from Texas and the Republican leader say everyday for 5 days running that blue is the most wonderful color in the universe, and they said that day after day, and Bill Clinton, our President, got up and said blue is the most wonderful color in the universe, suddenly the Republicans who said that would say: We never said that; that is a terrible thing to say. Blue is a terrible color.

The point is that I think we are getting into a very childish time around here. This is one Nation. We are 4 years away from a Presidential campaign. Yet, our colleagues are going to New Hampshire and attacking our President.

Give this President a chance. He may not succeed. He may. But let us not, at every moment, tear apart every idea that comes forward, because that is not going to move our country forward. That is not going to lead to the change which the American people voted for. And when we listen to our colleagues speak about the deficit, I hope that the American people will think back to the fact that it was under their watch that we got into all this trouble.

Let us pull together as Americans, not as Democrats and Republicans. Let us pull together as Americans. Let us not tear apart an idea because maybe you did not think of it. A lot of people have great ideas, and they may not come from me or from the President, and they may not come from my chairman. We are willing to embrace these ideas. But let us not come to this floor and tear apart every idea simply because it may come from the Democrats or from our President.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from New Mexico controls 10 minutes.

## THE PRESIDENT'S PROPOSED DEFICIT REDUCTION TRUST FUND

Mr. DOMENICI. Madam President, I reserve this time not to speak about the Gramm amendment. I hope my silence with reference to Senator GRAMM is not taken to mean that I concur with what has been said. I believe the distinguished Senator is more than adequately prepared and equipped to respond on his own behalf. I choose to talk about something else.

I want to start my discussion by saying to the President of the United States that I think he makes a big mistake when he changes direction so frequently that the people have to begin to wonder what he is all about and what his proposals are all about.

Frankly, I believe he did himself an injustice and lowered his credibility with the people of this country when, yesterday, he came up with yet another gimmick regarding his fiscal policy and economic development plan. I note also, with interest, that those publicly defending the establishment of a trust fund and putting in that all of the taxes we are going to impose on our people as a deficit reduction trust fund—I note that not very many of the President's Cabinet entourage that know the budget are speaking out about it.

Maybe by my saying this, we will hear something tomorrow from Leon Panetta. Maybe we will see Dr. Alice Rivlin on some TV show defending it. I do not think so, because actually it is indefensible.

The best I can find out is at a speech a question was asked of Deputy Director Rivlin, and she said it is a display device, a display device.

I add it does not change any policy proposals. It does not change the taxes. They still go up. It does not change domestic spending. It still goes up. It does not change mandatory spending. That still goes up.

Who are we trying to fool?

I do not think the President ought to try to make a plan which the public is day by day saying we do not like, we now understand it. It is too many taxes, not enough cuts.

I do not think he does himself any good by saying, I am going to make it more credible by telling the American people that I am creating a trust fund with these taxes.

There is no effectiveness to this trust fund. If you are spending money and it is going out like a sieve, you have not controlled it. To say that you are holding their taxes in a trust fund is to say nothing other than we hope someday, somehow, but I do not have it yet, we will control the deficit and, yes, get the debt under control.

So I think that Alice Rivlin is right in saying that this is a display device, and if that is what the President wants it to be, why does he not just tell us that?

This is a display device, but I believe when you talk about this will make sure that the taxes I am asking you to pay will be used to go on the deficit is misleading. It is no different today than it will be 2 weeks from now if we pass this so-called trust. It is: What are the programs of the country? What are

the limitations on spending? How much are you really cutting?

And the truth of the matter is you are not cutting very much and you are taxing a very, very big proportion of America's income.

If you think the public is going to be any happier to get taxed, I say to my friend from Oklahoma, because their taxes are going in a trust fund to be used to put on the deficit, as compared with just going into the Treasury and being put on the same deficit, you should think again, for there are no suggestions that I am aware of to change the deficit or to change the debt.

Those plans are before us and gaining less and less acceptance because we are beginning to understand that they are almost all taxes. I guess if I were putting such a large tax on the American people, I might want to put it in a trust fund, too, just because it might make it sound a little less onerous and maybe you would pay your taxes a little easier. I doubt either.

Let me close by saying, in the last election, Ron Brown, now Secretary of Commerce, talked about a President Bush proposal to check off money, check off part of your taxes in exchange for Congress cutting a certain amount of money out of the budget, and he said it is a silly gimmick. What we need is a vision for getting the economy back on track.

I did not say that. But, frankly, I believe that applies to the situation on the so-called trust fund.

And I close by saying then-candidate Clinton, when speaking about his opponent, George Bush, who had an idea to take a checkoff of 10 percent of your income tax and with that you would cut the deficit by 10 percent in equal amount, and his words were—these are not mine—then-candidate Clinton said about President Bush, this is as a desperate candidate, he told the Economic Club of Detroit, that Bush's proposals were the fool's gold of across-the-board cut, et cetera.

This is fool's gold. This is a shell game. I do not think the American people ought to believe the deficit program of the President, the jobs program of the President, the tax program of the President is any different today or tomorrow or next month whether we put the taxes in trust or whether we give them to the Treasury of the United States to pay for an ever-growing deficit and debt.

I yield the floor.

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

Mr. NICKLES. Madam President, I ask unanimous consent to proceed as if in morning business for 4 minutes.

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

## INDUCTION OF RHODE ISLAND SENATOR JOHN CHAFEE INTO THE NATIONAL WRESTLING HALL OF FAME, OKLAHOMA STATE UNIVERSITY, STILLWATER, OK

Mr. NICKLES. Madam President, today I rise to pay tribute to one of our colleagues who is about to be honored in a very special way. But if we relied on him to tell us, we would never find out about it.

I am talking about the Senator from the State of Rhode Island, JOHN CHAFEE, who will be inducted into the National Wrestling Hall of Fame this weekend.

As a wrestling fan, I am very proud that one of our colleagues is receiving that honor. I am also proud that his induction will take place in my State and at my alma mater, Oklahoma State University in Stillwater, OK.

I have done a little research on Senator CHAFEE's wrestling career. It spanned a number of years and weights. He has wrestled at weights from 118 pounds to 165 pounds, first at Providence Country Day School, then at Yale and finally in the New England AAU's.

He started wrestling in the 8th grade, then as a 10th grader he reached the State finals in the 118 pound class. In 1940 he enrolled at Yale and in 1941 was captain of the undefeated freshman wrestling team. And he won all his matches that year.

One year later, he made the varsity and won his first two matches before he entered the Marines. He took part in the epic battle for Guadalcanal in the South Pacific, a terrible struggle which marked the turning point of the ground war against the Japanese. Four years later after taking part in the battle for Okinawa, CHAFEE left the Marines and went back to Yale where he wrestled 1 more year as a senior at 165 pounds. The following year he finished his wrestling career on a high note when, as a student at the Harvard Law School, he entered the New England AAU championships and won the 165 pound title.

This weekend, Senator CHAFEE will be inducted into the Wrestling Hall of Fame in the 1993 class of outstanding Americans. They are former wrestlers who have achieved national or international recognition in government, business, education, science or the arts and humanities.

Also in the class of 1993 are former Princeton wrestler Frank Carlucci, Secretary of Defense in the Reagan-Bush administration; Stephen Friedman, a Cornell wrestler who was a national AAU champ for the New York Athletic Club and is now CEO of the investment banking firm of Goldman Sachs; Robert Haman, president and CEO of Thrift Drug, who captained the wrestling team at Slippery Rock; Dr. Peter W. Likins, president of Lehigh University and former captain of the wrestling team at Stanford; and the 26th President of the United States, Theodore Roosevelt, who wrestled for fitness.

Wrestling is an individual sport: Two competitors and a mat. If you lose, there are no excuses. Senator CHAFEE credits wrestling with giving him the self-confidence to meet the challenges of two wars, serving three terms as Governor of Rhode Island, as Secretary of the Navy, and, since 1976, as Senator from Rhode Island.

Wrestling is a great sport in which Oklahoma high school, college, university and AAU teams have long excelled. We are proud to have the National Wrestling Hall of Fame in Stillwater. We are proud to welcome JOHN CHAFEE to the illustrious rolls of the Hall of Fame. And if anyone ever questions the benefits of the sport of wrestling, we have only to point to the record of one scrappy, tough competitor, the Senator from Rhode Island, JOHN CHAFEE.

I yield the floor.

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

Mr. WELLSTONE. Madam President, let me just add my praise to what the Senator from Oklahoma said about Senator CHAFEE. I think it is a great honor for him. As a former wrestler, I am proud of him. I cannot really add more to the statement that the Senator from Oklahoma made. This is one issue we agree on entirely.

Mr. NICKLES. I thank the Senator.

## THE PRESIDENT'S PROPOSED DEFICIT REDUCTION TRUST FUND

Mr. WELLSTONE. Madam President, I do not want to hold you or anyone else here much longer. I was on my way back to the office and I heard my good friend, Senator DOMENICI, speaking, and actually he is a good friend. There are some things we feel very strongly about and are in agreement.

I did not get a chance to hear all the specifics of what he had to say. But one more time since I think here on the floor of the Senate we ought to have a full discussion, and when people make their arguments, I think those who feel differently ought to respond. I just want to speak for the President for a moment—I think "speak in behalf of the President" would be a better way to say it.

We have had this decade of the eighties in which starting in 1981 we were told that if we slashed the revenue base of this country—the legislation was euphemistically called the Economic Recovery Act. Madam President, you were not here and I was not here either. It was euphemistically called the Economic Recovery Act. It was by all counts the most regressive piece of legislation passed since the twenties. What happened is it dramati-

cally shifted the tax burden to low- and moderate-income people, and the people on the top saw the marginal rates go way down.

As a result of that—well, before I get to the result, let me go to the claim. The claim was that if you cut the taxes for wealthy people and high-income people—the most productive citizens—they would invest in the economy, there would be higher levels of productivity, there would be more economic growth, there would be more jobs, the deficit would be reduced, and all the rest.

Well, Madam President, what happened in this last election was a referendum on the tenure of President Reagan and President Bush. And the legacy—and I would recommend for the Senator from New Mexico and all of us here a book that I think has won a lot of awards, by several journalists from the Philadelphia Inqu'rer, called "America: What Went Wrong."

If you look at the figures and the data in that book, it is absolutely devastating, because what you will see is a massive transfer of wealth and income all to the top. You will look at people who had gotten away with murder when it comes to who pays the taxes and who does not pay the taxes. You will see record debt; you will see retreat on the environment; you will see wages going down; you will see an economy producing jobs, but not jobs that people can count on; and all the rest.

Now President Clinton has not been in office that long and he is making an effort as President to begin to change the direction.

So the President says now there is going to be a trust fund, as I understand it, for deficit reduction. And people are coming out here on the floor of the Senate and pointing the finger and saying, "That is a farce," and saying that it will not happen.

Why do we not just judge that? The way it works in a representative democracy is people are going to have a chance to make that retroactive judgment. After 4 years, if progress has not been made on deficit reduction, if progress has not been made on investment in this economy, if progress has not been made in terms of economic growth and more decent jobs for people and decent health care for people and the kind of issues that you care about, Madam President, finally a commitment to children and finally a commitment to families and finally a commitment to community, then I suppose that people will say, "You did not do well by us," and they will vote accordingly.

I just find it interesting and a bit ironic that those that were here during the very decade-plus when we not only ran up all this record debt—they did not tax and spend, they borrowed and spent, shifted the tax burden down to the middle and low income, let the high income get away with murder, built up the debt, built up the interest on the debt, abandoned children in many, many ways—look at poverty of children in our country; look at what is happening in neighborhoods in our cities—abandoned rural America in many, many ways. And now, with President Clinton having been in office just a short period of time, they point the finger, shrill, draw the line, on the attack.

I know that is part of what it is all about, I guess. But I, for a moment, would just like to say to you, Madam President, and the people of this country, that I think there is a lot of accusations out here about whether or not this is real or not real.

I think the people in this country elected Bill Clinton President of the United States because they thought it would be real. I believe it will be real. I think that he is someone who cares fiercely about public policy and cares fiercely about people in this country, and intends to do well.

So I just find this to be kind of a lot of attack on the floor of the U.S. Senate, a lot of words. That is just what I have done, too, is utter words. But I am just responding to some of what people have said.

The proof will be in the pudding. And we will see, assuming we do not have filibuster after filibuster after filibuster after filibuster after filibuster, so the President does not get a chance to move forward with the programs and policies that he thinks will work for the people in this country.

I yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the minority leader.

## THE THRIFT DEPOSITOR PROTECTION ACT

Mr. DOLE. Madam President, I just wanted the RECORD to reflect that we have just passed a very important piece of legislation, the Thrift Depositor Protection Act of 1993.

I wanted the RECORD to reflect that a majority of Republicans supported that measure; 25 Republicans voted yea, 36 Democrats voted yea, 19 Democrats voted nay, 16 Republicans voted nay.

We talk about gridlock around this place here. But this is $26 billion that was taken care of in 2 days because of cooperation on both sides of the aisle. I think that is going to be the way most legislation will be handled.

This is very important legislation, something President Clinton wanted, something that Secretary Bentsen—our friend and our former colleague, and now Treasury Secretary—wanted us to do very quickly.

So I think, while we can all stand up and say we did not do this, we did not do that, I just wanted the RECORD to reflect that on this very important measure, which is important to a lot of people out there who want to get their money from S&L's, this was a step in the right direction.

For those who voted in the affirmative, in particular, we could say that, yes, we voted "aye" to protect the thrift depositors, and to protect them as we should.

So the RECORD ought to reflect that in this case we had broad bipartisan support, and that a majority of Republicans and a majority in Democrats voted in the affirmative.

## TRIBUTE TO CHARLES KINNEY

Mr. DOLE. Madam President, I am sorry I was not on the floor when the distinguished majority leader paid tribute to our longtime friend, Charles Kinney.

I have had, I do not know, countless, probably hundreds of meetings with Charles Kinney over the years. I can say that he has been objective, he is a man of integrity and honesty, and certainly someone that we appreciated working with on this side of the aisle.

As chief floor counsel, he has done an outstanding job for my colleagues on the other side of the aisle. But the RECORD should reflect that, as Republicans, we have appreciated his genuine spirit of cooperation.

As I said, he is a man of honesty and integrity. He has been around for some time—19 years. Now he is going out in a different phase of his life.

I can say, on behalf of all Republicans—everyone on this side—we want to extend him our very best wishes for success. And I know he will have success. He is very capable. He has great potential. We are proud to have worked with him, some of us, for the past 19 years.

We wish him our best and we congratulate him for a job well done.

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. MITCHELL. 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

## MESSAGES FROM THE HOUSE

At 10:10 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 194. An act to withdraw an reserve certain public lands and minerals within the

State of Colorado for military issues, and for other purposes;

H.R. 236. An act to establish the Snake River Birds of Prey National Conservation Area in the State of Idaho, and for other purposes;

H.R. 240. An act to provide of Bodie Bowl area of the State of California, and for other purposes;

H.R. 698. An act to protect Lechuguilla Cave and resources and values in and adjacent to Carlsbad Caverns National Parks;

H.R. 843. An act to withdraw certain lands located in the Coronado National Forest from the mining and mineral leasing laws of the United States, and for other purposes;

H.R. 1308. An act to protect the free exercise of religion; and

H.R. 1378. An act to amend title 10, United States Code, to revise the applicability of qualifications requirements for certain acquisition workforce positions in the Department of Defense, to make necessary technical corrections in that title and certain other defense-related laws, and to facilitate real property repairs at military installations and minor military construction during fiscal year 1993.

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At 12:37 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill in which it requests the concurrence of the Senate:

H.R. 1040. An act to amend title 10, United States Code, to revise and standardize the provisions of law relating to appointment, promotion, and separation of commissioned officers of the reserve components of the Armed Forces, to consolidate in a new subtitle the provisions of law relating to the Reserve components, and for other purposes.

The message further announced that pursuant to the provisions of sections 801(b) (6) and (8) of Public Law 100-696, the Speaker appoints the following Members to the U.S. Capitol Preservation Commission on the part of the House: Mr. FAZIO and Ms. HARMAN.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

S. 214. An act 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

S. 801. An act to authorize the conduct and development of NAP assessments for fiscal year 1994.

The enrolled bills were subsequently signed by the President pro tempore [Mr. BYRD].

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At 2:09 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that pursuant to the provisions of 22 U.S.C. 276d, the Speaker appoints as members of the United States delegation to attend the meeting of the Canada-United States Interparliamentary Group the following Members on the part of the House: Mr. JOHNSTON of Florida, Chairman, Mr. LAFALCE, Vice Chairman, Mr. OBERSTAR, Mr. GIBBONS, Mr. WILLIAMS, Mr. PETERSON of Minnesota, Mr. HASTINGS, and Mr. KOLBE.

## MEASURES REFERRED

The following bills, previously received from the House of Representatives for concurrence, were read, and referred as indicated:

H.R. 194. An act to withdraw and reserve certain public lands and minerals within the State of Colorado for military uses, and for other purposes; to the Committee on Energy and Natural Resources;

H.R. 240. An act to provide for the protection of the Bodie Bowl area of the State of California, and for other purposes; to the Committee on Energy and Natural Resources;

H.R. 698. An act to protect Lechuguilla Cave and other values in and adjacent to Carlsbad Caverns National Park; to the Committee on Energy and Natural Resources; and

H.R. 843. An act to withdraw certain lands located in the Coronado National Forest from the mining and mineral leasing laws of the United States, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 1040. An act to amend title 10, United States Code, to revise and standardize the provisions of law relating to appointment, promotion, and separation of commissioned officers of the reserve components of the Armed Forces, to consolidate in a new subtitle the provisions of law relating to the reserve components, and for other purposes; to the Committee on Armed Services.

The Committee on Environment and Public Works was discharged from further consideration of the following bill; which was referred to the Committee on Energy and Natural Resources:

S. 851. A bill to establish the Carl Garner Federal Lands Cleanup Day, and for other purposes.

## MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 1308. An act to protect the free exercise of religion.

## ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, May 13, 1993, he had presented to the President of the United States the following enrolled bills:

S. 214. An act 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 United States participation in that conflict.

S. 801. An act to authorize the conduct and development of NAP assessments for fiscal year 1994.

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LEAHY, from the Committee on Agriculture, Nutrition and Forestry:

James S. Gilliland, of Tennessee, to be general counsel of the Department of Agriculture.

Eugene Moos, of Washington, to be Under Secretary of Agriculture for International Affairs and Commodity Programs.

Eugene Moos, of Washington, to be a member of the Board of Directors of the Commodity Credit Corporation.

Ellen Weinberger Haas, of New York, to be an Assistant Secretary of Agriculture.

Ellen Weinberger Haas, of New York, to be a member of the Board of Directors of the Commodity Credit Corporation.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

## 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. PRESSLER (for himself, Mr. BENNETT, Mr. BURNS, and Mr. KEMPTHORNE):

S. 947. A bill to amend the Internal Revenue Code of 1986 to limit the tax rate for certain small businesses, and for other purposes; to the Committee on Finance.

By Mr. DASCHLE:

S. 948. A bill to amend the Internal Revenue Code of 1986 to provide special rules for certain gratuitous transfers of employer securities for the benefit of employees; to the Committee on Finance.

By Mr. MITCHELL:

S. 949. A bill to amend the Internal Revenue Code of 1986 to provide an excise tax exemption for transportation on certain ferries; to the Committee on Finance.

By Mr. CHAFEE (for himself, Mr. BUMPERS, Mr. LIEBERMAN, Mr. PRESSLER, Mr. KEMPTHORNE, and Mr. WALLOP):

S. 950. A bill to increase the credit available to small businesses by reducing the regulatory burden on small regulated financial institutions having total assets of less than $400,000,000; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. WELLSTONE:

S. 951. A bill to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate primary and general election campaigns, to prohibit participation in Federal elections by multicandidate political committees, to establish a $100 limit on individual contributions to candidates, and for other purposes; to the Committee on Rules and Administration.

By Mr. DANFORTH:

S. 952. To reliquidate certain entries of lithotripters that were imported by nonprofit private or public institutions established for research or educational purposes; to the Committee on Finance.

By Mr. WARNER:

S. 953. A bill to provide a right for a member of the Armed Services to be voluntarily separated from military service if the existing policy concerning military service by homosexuals is changed so that homosexuality is no longer incompatible with military service and if such member has religious, moral,

or personal morale objections to such change in policy, to provide separation benefits for certain such members, and for other purposes; to the Committee on Armed Services.

By Mr. KOHL (for himself, Mr. LEAHY, and Mr. FEINGOLD):

S. 954. A bill to prohibit the use of bovine somatotropin in intrastate, interstate, or international commerce until equivalent marketing practices for the use of bovine somatotropin are established with the marketing practices of other major milk or dairy products exporting nations; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DANFORTH:

S. 955. A bill to suspend temporarily the duty on sulfathiozole; to the Committee on Finance.

S. 956. A bill to suspend temporarily the duty on difenzoquat methyl sulfate; to the Committee on Finance.

S. 957. A bill to suspend temporarily the duty on oxalacetic acid diethyl ester sodium salt; to the Committee on Finance.

S. 958. A bill to extend the temporary suspension of duty on 0,0-dimethyl-S{(4-oxo-1,2,3-benzotriazin-3-(4H)-yl)methyl}phosphorodithioate; to the Committee on Finance.

S. 959. A bill to extend the temporary suspension of duty on 4-fluoro-3-phenoxy benzaldehyde; to the Committee on Finance.

S. 960. A bill to extend the temporary duty reduction on certain unwrought lead; to the Committee on Finance.

S. 961. A bill to extend the suspension of duty on certain small toys, toy jewelry, and novelty goods, and for other purposes; to the Committee on Finance.

S. 962. A bill to extend the suspension of duty on triallate; to the Committee on Finance.

By Mr. DANFORTH (for himself and Mr. BREAUX):

S. 963. A bill to reliquidate certain entries on which excessive countervailing duties were paid, and for other purposes; to the Committee on Finance.

By Mr. DANFORTH:

S. 964. A bill to suspend temporarily the duty on sulfamethazine; to the Committee on Finance.

By Mr. LAUTENBERG (for himself, Mr. MITCHELL, Mrs. BOXER, Mrs. FEINSTEIN, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Mr. SARBANES, Mr. SIMON, and Mr. WELLSTONE):

S. 965. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to provide relief to local taxpayers, municipalities, and small businesses regarding the cleanup of hazardous substances, and for other purposes; to the Committee on Environment and Public Works.

By Mr. LAUTENBERG (for himself and Mr. CHAFEE):

S. 966. A bill to reduce metals in packaging, and for other purposes; to the Committee on Environment and Public Works.

By Mr. SHELBY:

S. 967. A bill to amend the Internal Revenue Code of 1986 and the Social Security Act to repeal provisions relating to the State enforcement of child support obligations, to require the Internal Revenue Service to collect child support through wage withholding, and for other purposes; to the Committee on Finance.

By Mr. BRADLEY (for himself, Mr. LEAHY, Mr. SIMON, and Mr. HARKIN):

S. 968. A bill to establish additional exchange and training programs with the independent states of the former Soviet Union and the Baltic states; to the Committee on Foreign Relations.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PRESSLER (for himself, Mr. BENNETT, Mr. BURNS, and Mr. KEMPTHORNE):

S. 947. A bill to amend the Internal Revenue Code of 1986 to limit the tax rate for certain small businesses, and for other purposes; to the Committee on Finance.

SMALL BUSINESS TAX FAIRNESS ACT OF 1993

Mr. PRESSLER. Madam President, I rise today, as the ranking member of the Senate Small Business Committee, to introduce the Small Business Tax Fairness Act of 1993. Both Senators BENNETT and BURNS should be listed as original cosponsors. It is most appropriate that this legislation is being introduced during Small Business Week 1993.

The administration has proposed the single largest tax increase in the history of the United States. Under the plan, small businesses and family farms and ranches, which are organized as subchapter S corporations, partnerships, or sole proprietorships, are being asked to bear a significant portion of the burden of the administration's new taxes. Add new energy taxes to increased income taxes, and job expansion may come to a grinding halt. I am deeply concerned about the effect of a tax increase on America's small businesses and that is why I am introducing this legislation today.

My legislation would cap tax rates for sole proprietorships, limited partnerships, and subchapter S corporations at their current levels, sparing small businesses, and people who work for small businesses, from taxes that will take away their jobs and run them out of business.

Madam President, 8 out of 10 small businesses—15,000 in my home State of South Dakota and 21 million nationwide—pay taxes as individuals. Increasing taxes on these entrepreneurs takes money out of their businesses that could be used to expand their operations and hire additional employees.

We must keep in mind that small businesses are creating the jobs. From June 1991 to June 1992, small businesses created 173,000 jobs, while big business lost 235,000. Small businesses accounted for two out of every three new jobs from 1982 to 1990. The bottom line is simple: Hamper small business development and you hobble our country's economy.

America's small business owners and family farmers believe our budget deficit is a result of too much spending, not too little taxation. Since 1977, the Government received a relatively steady 19 percent of gross national product [GNP] in revenues. During the same period, Government spending increased from 21 to 24 percent of GNP.

The administration and its numbers people are telling us they are merely trying to tax the so-called wealthy. What they are not telling us is a great many of the so-called wealthy are really unincorporated small businesses and family farms. Of the approximately 3.1 million people who earned over $100,000 in 1990, conservative IRS estimates show at least one-third of these people actually were small businesses. According to U.S. Treasury Department figures, 67 percent of the revenue paid by the top 2 percent of taxpayers is paid by small businesses and family farms.

So, Madam President, a lot of the rhetoric that has been going around about taxing the rich is really about taxing small businesses, and we should remember that they are the very units that create jobs and also account for much of the new technology in our society.

Under the administration's tax plan, individuals with adjusted gross incomes of $115,000 and joint returns of $140,000 would be taxed at the 36 percent rate—the same as the highest corporate tax rate. However, the plan then would impose a 2.9-percent Medicare tax on salaries and self-employment income above $135,000. Finally, the proposal reaches its top effective rate of 42.5 percent for those with taxable income over $250,000 when the 10 percent so-called millionaires surtax is added. Thus, the unfairness between corporate and individual rates, as put forth in the administration's plan, begins at $135,000—not $250,000, as some have alleged.

Indeed, we had an amendment on the floor of this Senate and the opponents alleged that the tax kicked in at $250,000. It kicks in at $135,000 as my statistics prove.

It is important to point out—because I don't think enough people understand this point—that self-employed business owners pay tax on much more income than they take home as salary. These business owners must pay tax on what the business earns after deductions, not just their salary. For example, if a successful dress shop earns $500,000 and decides to expand inventory by purchasing $450,000 in additional clothing, the shopowner will pay tax on much more than just the take home profit of $50,000. Since the owner is only able to deduct the cost of the clothing when it is sold, she could end up paying tax on most of her $450,000 worth of inventory. As a result, the additional taxes the administration is proposing would hamper seriously her ability to expand the business and hire additional employees, even though she takes home a modest income.

And I might say, many new businesses are run by women and minorities. In fact, by the year 2000 there is an amazing percentage of small busi-

nesses that will be run by women and minorities. And so this tax is aimed at them.

Some people will tell you the solution to the unfairness in the rate of taxation for sole proprietorships, subchapter S corporations, and partnerships is simple. Get them to incorporate. If that is the answer, then people should dub the administration's economic proposal the "Lawyers' and Accountants' Jobs Creation Act of 1993," because that is the kind of jobs we would be encouraging.

Incorporating a business is neither simple nor inexpensive. It is complicated and costly. Incorporation requires legal and financial documents prepared by lawyers, accountants, and consultants. Businesses also face questions about establishing a board of directors, holding annual stockholder meetings, the effects of double taxation, and numerous other issues. All of this is in addition to the fact that we already have passed this year's cutoff date by which small businesses could revoke their subchapter S corporation status retroactive to January 1. Revocations made now will take effect on or after the date they were made, limiting any resulting benefit for the 1993 tax year.

Cash-flow often is small businesses' primary source of working capital and new investment financing for growth and job creation. Since the aftertax profits of a business are critical in supporting its ability to borrow—in other words, establishing and sustaining its line of credit at the bank—increasing taxes would have a disastrous impact on economic growth. Increasing the tax burden on small businesses is counterproductive to our efforts to reduce the deficit and stimulate our economy. Every extra dollar of income small businesses hand over to the Government is a dollar less that can be used to hire a new employee.

The administration's original tax plan included at least $3 of tax increases for every $1 of tax incentives. It now appears the investment tax credit, which was supposed to help offset the devastating effects of the proposed tax increase on small business, may be scrapped by the tax writing committees of Congress. While I found the investment tax credit an inadequate offset for the big jump in tax rates in the first place, the potential that it may be lost further reinforces the need for legislation like mine. It also appears the House Ways and Means Committee will use the savings from the investment tax credit to hold the increase in corporate tax rates to 1 percent. This again highlights the unfair treatment of unincorporated small businesses.

Madam President, I might say that small business does not have the same kind of voice here in Washington that big business does. There are some fine organizations representing it. But nobody is aware of what is happening to small business in this tax plan.

In addition to the investment tax credit, the administration's proposal regarding selective capital gains relief appears to be in trouble with the President's own party. All of this could result in an even bigger burden for small businesses. It means we could get the bad parts of the tax proposal with the allegedly good sections stripped away.

The proposed increase in income tax rates by the administration is shortsighted policy. Small businesses will see their income tax bills increase, and some could end up paying proportionately more in taxes than our Nation's major corporations. The Main Street clothing shop I talked about earlier could pay a higher percentage of taxes than IBM or General Motors. Madam President, this essentially is the point I made in a recent letter to the editor of the New York Times. I ask unanimous consent that my letter, which appeared April 18, 1993, be printed in the RECORD immediately following my remarks.

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

(See Exhibit 1.)

In summary, under the administration's plan, small businesses would end up paying more in taxes than big businesses. Furthermore, the Federal Government would be taking money away from small businesses that could be used to expand and hire more employees. The economics are simple. The results could be disastrous.

Madam President, I encourage our colleagues to join in cosponsoring this legislation. If we are serious about economic stimulus and deficit reduction, the Senate should be supporting small businesses—the engine driving our economy—rather than continuing to increase their taxes, regulatory burdens, and paperwork requirements.

Madam President, I have a chart here showing small business, the engine of job creation. Small businesses added 173,000 jobs during the same time that big business lost 235,000 jobs. This is between June 1991 and June 1992.

I might say that in addition to this, I have been very involved in S. 4, a new piece of technology legislation that is stalled in the Senate Commerce Committee. But most of the new technology in our society comes from small business innovation, not big business. It is what drives our country. If we talk about a stimulus package, this is it.

EXHIBIT 1

[From the New York Times, Apr. 18, 1993]

WHAT SMALL BUSINESS REALLY WANTS

TO THE EDITOR: The small-business men and women I know would give up all the "little apple seeds" of tax incentives the Administration is promising in exchange for the elimination of two of the rotten apples in his plan—the tax increase on individuals and the energy tax. ("Clinton Plan—Small Businesses Smile," March 28.)

President Clinton's quest to raise taxes on the so-called "wealthy" actually falls flat on the backs of small businesses and family farms. He is asking small businesses that are organized as Subchapter S corporations, sole-proprietorships and partnerships to pay higher marginal tax rates than I.B.M. or General Motors. Small businesses also are the least likely to be able to absorb the additional costs of the energy tax.

And yet, the President still is expecting small businesses to continue creating the majority of the new jobs in our country!

Senator LARRY PRESSLER,
*Washington.*

Mr. PRESSLER. Madam President, I am proud to introduce this legislation. I am proud that one of my cosponsors, Senator BENNETT of Utah, is present.

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. 947

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. MAXIMUM SMALL BUSINESS TAX RATE.**

(a) IN GENERAL.—Section 1 of the Internal Revenue Code of 1986 (relating to tax imposed) is amended by adding at the end the following new subsection:

"(i) MAXIMUM SMALL BUSINESS TAX RATE.—

"(1) IN GENERAL.—If a taxpayer has taxable small business income for any taxable year to which this subsection applies, then the tax imposed by this section shall not exceed the sum of—

"(A) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the greater of—

"(i) taxable income reduced by the amount of taxable small business income, or

"(ii) the amount of taxable income taxed at a rate below 31 percent, plus

"(B) a tax of 31 percent of the amount of taxable income in excess of the amount determined under paragraph (1).

"(2) TAXABLE SMALL BUSINESS INCOME.—For purposes of this subsection, the term 'taxable small business income' means the taxable income of the taxpayer for any taxable year attributable to the active conduct of any trade or business of an eligible small business in which the taxpayer materially participates (within the meaning of section 469(h) (other than paragraph (4)).

"(3) ELIGIBLE SMALL BUSINESS.—For purposes of paragraph (2)—

"(A) IN GENERAL.—The term 'eligible small business' means for any taxable year an individual, partnership, S corporation, or other pass-through entity the average annual gross receipts of which do not exceed $5,000,000 for the 3-taxable-year period ending with the preceding taxable year.

"(B) APPLICABLE RULES.—

"(i) 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 subparagraph (A).

"(ii) SPECIAL RULES.—The rules of subsections (c)(3) and (d)(8) of section 448 shall apply for purposes of subparagraph (A).

"(4) YEARS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any taxable year if the highest rate of tax set forth in subsection (a), (b), (c), (d), or (e) (whichever

applies) for the taxable year exceeds 31 percent."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1992.

Mr. BENNETT. Mr. President, I appreciate the leadership of the ranking member of the Small Business Committee in offering this legislation.

It coincides completely with the statement I made on the floor some weeks ago pointing out that the major problem in dealing with small business, from the Government's standpoint, is that the Government does not understand how small business operates.

Small business does not operate from accounting profits. The Government taxes accounting profits. Small business operates from cash-flow. Very often, the worst thing that can happen to a small business is to get a big order. They cannot finance it out of their cash-flow, and they are buried by their own success.

I have made a living advising small businesses occasionally, and I stepped into being a CEO of a small business and made an even better living doing that. And I know very clearly that the issue is cash-flow.

Madam President, the fact is, as I have said, that small businesses are managed on the basis of cash-flow, not accounting profits and, yet, the tax man shows up and demands his slice of the success on the basis of accounting profits and not cash flow, which produces tremendous problems. So now we are recognizing in this bill that Senator PRESSLER has offered the reality of things, which is that the proposals made by President Clinton would, in fact, not only damage small business but cut down the opportunity to create jobs.

I put it in this context because many people have difficulty with some of the numbers that get thrown around here in the Senate from time to time. It is as if a small business wants to solve its cash-flow problem and says, well, the way to do this is to increase prices. We are selling 1,000 widgets a month; if we raise the price on every widget by 10 percent, we will increase our cash-flow by 10 percent of our total revenue, and all of our problems will be solved.

The only difficulty with that, as every small business person knows, is that the market might say, if you are going to raise your profits, we are going to quit buying your product. So it might work on paper, but it does not work in reality. Transferring that to the Government, we have the deficit problem, and the people in the Congressional Budget Office and Office of Management and Budget say: We will solve the problem by raising our prices; we will charge more for the governmental services we are providing. Only we do not call it raising prices; we call it raising taxes, since we will raise taxes on the wealthy—and we are not aware of the fact that the ranking member pointed out, that most of these so-called wealthy are, in fact, small business people—and we will get the same return.

The fact is, just like the businessman who cannot get a return by automatically raising prices, the Government cannot get an automatic return by raising taxes. For that reason, I am proud to serve as a cosponsor for this bill.

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By Mr. MITCHELL:

S. 949. A bill to amend the Internal Revenue Code of 1986 to provide an excise tax exemption for transportation on certain ferries; to the Committee on Finance.

INTERNATIONAL DEPARTURE TAX ON SHIP PASSENGERS

Mr. MITCHELL. Mr. President, I am reintroducing legislation today that would address a problem with the implementation of a section in the Internal Revenue Code that imposes a $3 departure tax on ship passengers. That provision was intended to apply to passengers on cruise ships and gambling voyages. The language of the statute reaches further, however, and the Internal Revenue Service interprets the law to apply to a broader class of passenger ship traffic, including ferry services that operate between the United States and Canada.

Section 4471 of the Internal Revenue Code, the ship passengers international departure tax, was added to the Internal Revenue Code in the Omnibus Reconciliation Act of 1989. The provision originated in the Senate Commerce Committee as a means of that committee fulfilling its reconciliation instructions. The tax writing committees assumed jurisdiction once it became clear that the provision was more in the nature of a tax than a fee. The fee, as envisioned by the Commerce Committee, was intended to apply to overnight passenger cruises and to gambling boats providing gambling entertainment to passengers outside the jurisdiction of the port of departure.

Unfortunately, the statutory language of the 1989 act was not drafted in accordance with the intent of Congress. As a result, the tax appears to apply to three commercial ferry operations traveling between Maine and Nova Scotia and Seattle and Vancouver. The Maine ferries carry commercial and passenger vehicles to Nova Scotia in the warmer months as a more direct means of transportation between Maine and eastern Canada. As such they are an extension of the highway system, carrying commercial traffic and vacationers. The lengths of the voyages are approximately 11 hours and almost all passengers traveling on the outbound voyages do not return on the inbound voyages of the two ferries. Because the trips are of some length, the ferries provide entertainment for the passengers, including some gaming tables that bring in minimal income.

This is not a voyage for the purpose of gambling and the great majority of the passengers, including children, do not gamble. Clearly, these ferries are not the kind of overnight passenger cruises or gambling boats intended to be covered by the law. However, the IRS in proposed regulations is interpreting the statute to apply this tax to ferries.

The statute establishes a dual test for determining if the tax applies. First, the tax applies to voyages of passenger vessels which extend over more than night. As a factual matter, the Maine ferries do not travel over more than night but the IRS interprets that they do because it takes into account both the outward and inward voyage of the vessel. The IRS considers both portions of the trip to be one voyage even though virtually no passengers are the same.

Second, the tax applies to commercial vessels transporting passengers engaged in gambling. Although the intent was to apply the tax to gambling boats, the wording of the statute applies to all passengers on vessels that carry any passengers engaged in gambling, no matter how minor that gambling. That interpretation subjects the Maine ferries to the tax because they earn a minimal amount of income from providing gambling entertainment to some passengers.

The legislation I am introducing clarifies the statute in two ways. First, the inward and outward bound trip of a passenger vessel would not be considered one voyage if no more than 50 percent of the passengers complete both portions of the voyage. Second, the tax would apply, not to vessels with any passengers engaged in gambling, but to vessels which are gambling voyages. A gambling voyage would be a vessel where at least 10 percent of the gross proceeds of the voyage are derived from gambling.

This legislation is not intended to give a special break to a certain class of passenger ships. It is instead intended to clarify the statute so that it achieves its original intent: to tax passengers on cruise ships and gambling voyages, not passengers on ferry boats.

The tax bills that were approved by Congress last year, but vetoed by President Bush, both included this change in law.

I ask unanimous consent that a copy of the introduced legislation be included in the RECORD.

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

S. 949

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION. 1. EXEMPTION FOR TRANSPORTATION ON CERTAIN FERRIES.**

(a) GENERAL RULE.—Subparagraph (B) of section 4472(1) of the Internal Revenue Code

of 1986 (relating to exception for certain voyages on passenger vessels) is amended to read as follows:

"(B) EXCEPTION FOR CERTAIN VOYAGES.—The term 'covered voyage' shall not include—

"(i) a voyage of a passenger vessel of less than 12 hours between 2 ports in the United States, and

"(ii) a voyage of less than 12 hours on a ferry between a port in the United States and a port outside the United States.

For purposes of the preceding sentence, the term 'ferry' means any vessel if normally no more than 50 percent of the passengers on any voyage of such vessel return to the port where such voyage began on the 1st return of such vessel to such port."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to voyages beginning after December 31, 1989; except that—

(1) no refund of any tax paid before the date of the enactment of this Act shall be made by reason of such amendment, and

(2) any tax collected from the passenger before the date of the enactment of this Act shall be remitted to the United States.

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By Mr. CHAFEE (for himself, Mr. BUMPERS, Mr. LIEBERMAN, Mr. PRESSLER, Mr. KEMPTHORNE, and Mr. WALLOP):

S. 950. A bill to increase the credit available to small businesses by reducing the regulatory burden on small regulated financial institutions having total assets of less than $400,000,000; to the Committee on Banking, Housing, and Urban Affairs.

SMALL BUSINESS-ASSISTANCE AND CREDIT CRUNCH RELIEF ACT

• Mr. CHAFEE. Mr. President, I am introducing legislation today—along with Senator BUMPERS, chairman of the Senate Committee on Small Business, Senator LIEBERMAN, Senator WALLOP, Senator KEMPTHORNE, and Senator PRESSLER—to promote small business lending by reducing unnecessary burdens on small banks. This legislation, the Small Business Assistance and Credit Crunch Relief Act, should ease the credit crunch by making it easier for small businesses to secure the capital they need to expand and to hire new workers.

The credit crunch is having a terrible impact on the small business community in Rhode Island, throughout New England, and around the nation. Virtually every small business owner that I meet tells me that banks are not lending. This problem is reflected in the enormous demand for SBA loans—in fact, the SBA's 7(a) loan guarantee fund ran out of money on April 27 because demand for capital in the small business community is so high.

In my view, the credit crunch has been caused in large part by misguided Federal banking policies. Laws and regulations designed to correct past abuses in the banking industry have simply gone too far. Because regulators are determined to avoid a repeat of the S&L crisis and the banking problems of the late 1980's, they have gone overboard in their regulatory zeal. Federal Reserve Chairman Alan Greenspan shares this view. Just last month he said before the House Small Business Committee that recently enacted Federal banking laws and their accompanying regulations have caused "a substantial tightening of [bank] lending terms and standards and it has affected small businesses."

Now, I want to make clear that I am all for safety and soundness. I am all for strong enforcement actions to protect the Federal deposit insurance funds. But banks need to be permitted to exercise some judgment in their credit decisions. Banks need to be able to make loans to creditworthy small business borrowers without being interrogated by Federal bank examiners.

The president of a healthy community bank in Rhode Island told me that every small business loan he makes today is subject to regulatory micromanagement and second-guessing by bank examiners. He tells me that it causes fewer headaches if he simply invests in no-risk Government securities and slams the door on small business borrowers.

What has led to this unfortunate situation? How did we create these unnecessary paperwork and regulatory burdens? I went back and reviewed the 1989 and 1991 banking laws. I wanted to see whether Congress shoulders part of the blame for an environment that discourages small business lending.

Let me share with you what I learned. In the past 5 years, more than 4 major provisions affecting bank operations have been enacted into law, resulting in hundreds of new regulations. A sampling of some major provisions is documented on the accompanying chart.

Now some of these provisions are good, even necessary. But the cumulative burden on small banks—and their small business customers—has created a terrible credit crunch.

Even leaders at the Federal banking agencies themselves are now saying that these regulations are too much. Vice Chairman of the Board of Governors at the Federal Reserve, Mr. David Mullins, made the following comments at a recent hearing before the Senate Committee on Small Business:

[The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and the Federal Deposit Insurance Corporation Improvement Act of 1991] produced, directly and indirectly, a substantial increase in the regulatory burden on the banking industry.

President Clinton also recognizes this problem. On March 10 he said, "Under the current [banking] system, the paperwork is daunting * * * and discourages banks from making smaller loans."

The Treasury Department has already begun making regulatory changes to ease the credit crunch, and plans to make new announcements in the coming weeks. I applaud the Treasury Department's efforts to end the credit crunch. But more needs to be done. Again, perhaps Federal Reserve Chairman Greenspan's comments last month said it best: "these regulatory actions will be, I hope, quite helpful, but legislation is still required."

Accordingly, the bill we introduced this morning will promote small business lending by reducing unnecessary burdens on small banks. I define small banks as those institutions with less than $400 million in assets. Nationwide, roughly 10,000 of the Nation's 11,500 federally insured banks have assets below $400 million, but these banks represent less than 20 percent of the Nation's total banking assets.

Let me briefly describe the highlights of my legislation.

First, it would freeze all new banking regulations until the appropriate agency conducts a regulatory impact analysis and concludes that the benefits of the new regulations outweigh the costs to small banks of implementing and complying with them.

Second, it would allow banking regulators to suspend regulations that it determines are duplicative, unnecessary, or have the effect of prohibiting small banks from lending to creditworthy small businesses.

Third, the loan process for small businesses would be accelerated and borrowing costs reduced by raising the threshold for licensed or certified real estate appraisals on small business loans to not less than $250,000 from $100,000. I understand that the U.S. Treasury Department supports this proposal, and plans to raise the threshold pursuant to its regulatory powers sometime later this month.

Fourth, it would reward small banks that have received the highest rating under the standards established under the Community Reinvestment Act—a rating of outstanding—by creating a safe harbor for CRA protests. Further, regulators would be directed to significantly reduce the onerous paperwork requirements under CRA for banks with the highest CRA rating.

At the same time, the bill calls for stiff penalties on small banks with the worst CRA rating. Specifically, it would provide Federal regulators with the authority to levy fines up to $20,000 on small banks that receive the worst CRA rating—Substantial noncompliance. These underperforming banks would also be required to enter into an agreement with its supervising agency to implement a plan to ascertain and meet the credit needs of the community.

Small businesses create the jobs that drive our economy. If enacted, this legislation would help end the credit crunch, and spur the job creation necessary to fuel our recovery, all at no cost to the Treasury.•

• Mr. BUMPERS. Mr. President, I am pleased to join Senator CHAFEE today in introducing the Small Business Assistance and Credit Crunch Relief Act. This legislation provides relief to the many bankers and small businesses which have suffered from the ever-increasing regulatory burden.

In March, the Senate Committee on Small Business held a hearing to examine lack of credit availability for small businesses, known as the credit crunch. All witnesses acknowledged the great problem small businesses face in obtaining bank loans today. Like them, I am convinced that overly zealous regulatory policies have kept bankers from being able to offer credit to creditworthy small businesses.

Today, when facing mountains of paperwork and appraisal requirements, banks simply find making loans to small companies uneconomical. As a result, small businesses have had to resort to other sources of credit, such as SBA, or simply do without adequate capital. Unfortunately, these sources cannot meet the demand. SBA, the Government's leading guarantor of loans, has used all available funding for its popular 7(a) guaranteed loans. Unless additional funding is authorized, SBA will be unable to provide creditworthy applicants with needed loans until the beginning of fiscal year 1994.

In March, President Clinton announced changes to banking regulatory policies to provide bankers greater incentive to lend to small businesses. The Small Business Assistance and Credit Crunch Relief Act takes us one step further. This bill provides reasonable relief to bankers and small businesses without endangering the safety and soundness of the banking industry. It directs Federal banking regulators to change regulations which discourage community banks from lending to small businesses. It also reduces banks' paperwork and appraisal requirements by raising the threshold for licensed or certified real estate appraisals on small business loans from $100,000 to $250,000 and exempting some borrowers from Truth in Lending Act disclosure provisions. Finally, it directs regulators to report promptly to the Congress on changes in legislation which are needed to alleviate the credit crunch.

This legislation does not endanger the well-being of the banking industry. This bill does not include some of the sweeping changes that some have proposed which could ultimately result in a disastrous bailout situation. It ensures that regulators do not suspend laws which directly relate to banks' safety and soundness, preserving important protective measures necessary to a healthy banking industry.

This bill will help provide needed credit to small businesses, allowing banks to make loans without facing needless requirements and regulations. Best of all, it won't cost the taxpayer one additional nickel. I urge my colleagues to support and cosponsor this bill, and I hope the Banking Committee will schedule hearings expeditiously.•

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By Mr. WELLSTONE:

S. 951. A bill to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate primary and general election campaigns, to prohibit participation in Federal elections by multicandidate political committees, to establish a $100 limit on individual contributions to candidates, and for other purposes; to the Committee on Rules and Administration.

FAIR ELECTIONS AND GRASSROOTS DEMOCRACY ACT OF 1993

Mr. WELLSTONE. Mr. President, in anticipation of the upcoming debate in the Senate on campaign finance reform, today I am introducing the Senate Fair Elections and Grassroots Democracy Act of 1993, legislation which I believe should serve as a benchmark for true campaign finance reform for U.S. Senate campaigns.

I have been working on this bill for many months, with one goal in mind: to develop legislation designed to address the central ethical issue of politics in our time—the way in which big money special interests have come to dominate governmental decisionmaking.

The essential standard of a truly representative democracy is this: Every person should count as one, and no more than one. This bill squarely meets that standard.

As I have said on this floor before, my own experience as a candidate in 1990 illustrates the problem. The gatekeepers of today's politics, big-money donors, weren't interested in my positions or experience. They only wanted to know if I could raise millions to run a media-driven campaign. They knew that big money talks—and that early money screams. Outspent almost 7 to 1, my election was a rare exception to this big-money rule that stifles countless promising candidacies.

Americans have pressed for a complete overhaul of the way we finance and conduct Federal elections—not a set of modest, incremental changes. People feel ripped off by our political system, unrepresented, angry and frustrated by gridlock. They are demanding change, we have promised change, and I intend to do whatever I can to help the Senate deliver on that promise.

Recent public opinion polls demonstrate clearly that the public's trust in Congress is at a historic low, and the demand for serious political reform is very high. When people hear that almost $500 million was contributed to congressional candidates in the 1992 elections, they react with anger. They know that without real campaign reform, attempts to restructure America's health care system, create jobs and rebuild our cities, reduce defense spending, and solve other pressing problems will remain frustrated by the pressures of special interest, big-money politics.

I do not believe the current campaign finance reform proposals that are before the Congress meet the true test of reform. In general, the contribution limits in these bills are much too high—well beyond the reach of ordinary Americans—and the amount of public financing is too low to promote a genuinely level playing field for incumbents and challengers.

The American people have demanded fundamental political reform, and they deserve nothing less. "To give the capital back to the people to whom it belongs," was President Clinton's challenge to Congress in his inaugural address. Congress will either answer that call with fundamental campaign reform—a real revolution to reduce private big-money influence on our Government—or shrink from the challenge by enacting only superficial reforms. If we in the Senate are to earn back the trust of the American people, we must enact sweeping reform now.

And let me be frank. If Congress enacts S. 3 without significant changes, claiming that it has successfully addressed a difficult and divisive issue, it will likely backfire. Ultimately, such an attempt to present piecemeal reform as fundamental change would simply intensify already high levels of voter anger and further erode public confidence in our democracy.

Critics of public financing argue that many Americans don't want their tax dollars going for political campaigns. If public funding is presented polemically, as food stamps for politicians, this is true. But if asked whether they'd be willing to invest a small amount to restore competitive elections, end the mortgaging of governance to big-money contributors, and restore representative democracy, polls consistently show Americans enthusiastically agree.

A recent Greenberg-Lake poll, for example, found that almost three-fourths—72 percent—of voters support extending the Presidential public financing system to congressional elections if the reform package includes limiting campaign spending and reducing individual and PAC contributions, funded by a voluntary tax check-off and new taxes on lobbyists.

The cost of such a public financing system for Senate elections has been estimated at approximately $150 million per cycle, assuming all candidates participate. That is still well under half the cost of the subsidy provided by the political contributions tax credit prior to passage of the Tax Reform Act of 1986.

Often overlooked are the actual costs, to taxpayers and our democratic process, of the current system. For a fraction of the estimated $500 billion it is costing to fix the damage done by S&L lobbyists who pressed for weakened thrift regulations, we could finance decades of honest, democratic elections.

Or how many billions are lost each year in tax breaks for the securities and finance industries, who together gave more than $16 million to Federal candidates in 1992?

The same hidden costs pervade our current system. From this perspective, extending public financing to congressional races would save billions, maybe tens of billions, each year.

Any campaign reform bill enacted must be judged according to some basic standards: Does it effectively sever the money links between incumbent lawmakers and special interests seeking their votes? And does it get big money out of politics once and for all? Or does it simply rechannel campaign contributions through yet more clever loopholes? In particular, does it limit the practice that most smacks of corruption, where incumbents solicit large amounts of money from lobbying coalitions of corporations and other special interests. This bill meets these tests.

The Senate Fair Elections and Grassroots Democracy Act provides for individual limits of $100 on contributions to Senate candidates, a total ban on Political Action Committee [PAC] contributions, lower spending limits than in S. 3 based on State voting-age population, a 90-percent reduction in the amount wealthy candidates can contribute to their own campaigns, a prohibition of soft money, free broadcast time, reduced mail rates for eligible candidates, and prohibitions of contributions from certain lobbyists—all within a comprehensive system of voluntary public financing of primary and general Senate campaigns patterned after the Presidential system. I believe these elements are key to true reform.

This is the best time in two decades for fundamental reform, when we have a President committed to change, a Congress elected on pledges of change, and a citizenry angry enough to demand change. We must restore the basic democratic principle of one person, one vote by enacting true reform.

I have attached a summary of my bill, and urge my colleagues to join me by cosponsoring this bill and supporting amendments embodying key elements of my reform package, which I intend to offer to the campaign finance reform bill when it comes to the Senate floor.

I ask unanimous consent that the text of the bill be printed in the RECORD at this point, along with a summary of its major provisions.

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

S. 951

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; AMENDMENT OF CAMPAIGN ACT; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Senate Fair Elections and Grassroots Democracy Act of 1993".

(b) AMENDMENT OF FECA.—When used in this Act, the term "FECA" means the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.).

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; amendment of Campaign Act; table of contents.
Sec. 2. Findings and declarations of the Senate.

TITLE I—CONTROL OF CONGRESSIONAL CAMPAIGN SPENDING

Subtitle A—Senate Election Campaign Spending Limits and Benefits

Sec. 101. Senate spending limits and benefits.
Sec. 102. Ban on activities of political action committees in Federal elections.
Sec. 103. Reporting requirements.
Sec. 104. Disclosure by noneligible candidates.
Sec. 105. Free broadcast time.

Subtitle B—General Provisions

Sec. 131. Extension of reduced third-class mailing rates to eligible Senate committees.
Sec. 132. Reporting requirements for certain independent expenditures.
Sec. 133. Campaign advertising amendments.
Sec. 134. Definitions.
Sec. 135. Provisions relating to franked mass mailings.

TITLE II—INDEPENDENT EXPENDITURES

Sec. 201. Clarification of definitions relating to independent expenditures.

TITLE III—EXPENDITURES

Subtitle A—Personal Loans; Credit

Sec. 301. Personal contributions and loans.
Sec. 302. Extensions of credit.

Subtitle B—Provisions Relating to Soft Money of Political Parties

Sec. 311. Contributions to political party committees for grassroots Federal election campaign activities.
Sec. 312. Provisions relating to national, State, and local party committees.
Sec. 313. Restrictions on fundraising by candidates and officeholders.
Sec. 314. Reporting requirements.
Sec. 315. Limitations on combined political activities of political committees of political parties.

TITLE IV—CONTRIBUTIONS

Sec. 401. Reduction of contribution limits.
Sec. 402. Contributions through intermediaries and conduits; prohibition of certain contributions by lobbyists.
Sec. 403. Contributions by dependents not of voting age.
Sec. 404. Contributions to candidates from State and local committees of political parties to be aggregated.
Sec. 405. Limited exclusion of advances by campaign workers from the definition of the term "contribution".

TITLE V—REPORTING REQUIREMENTS

Sec. 501. Change in certain reporting from a calendar year basis to an election cycle basis.
Sec. 502. Personal and consulting services.
Sec. 503. Reduction in threshold for reporting of certain information by persons other than political committees.
Sec. 504. Computerized indices of contributions.

TITLE VI—PRESIDENTIAL DEBATES

Sec. 601. Findings and purposes.
Sec. 602. Presidential and vice presidential candidate debates.

TITLE VII—MISCELLANEOUS

Sec. 701. Prohibition of leadership committees.
Sec. 702. Polling data contributed to candidates.

TITLE VIII—EFFECTIVE DATES; AUTHORIZATIONS

Sec. 801. Effective date.
Sec. 802. Sense of the Senate regarding funding of Senate Election Campaign Fund.
Sec. 803. Severability.
Sec. 804. Expedited review of constitutional issues.

**SEC. 2. FINDINGS AND DECLARATIONS OF THE SENATE.**

(a) NECESSITY FOR SPENDING LIMITS.—The Senate finds and declares that—

(1) the current system of campaign finance has led to public perceptions that political contributions and their solicitation have unduly influenced the official conduct of elected officials;

(2) permitting candidates for Federal office to raise and spend unlimited amounts of money constitutes a fundamental flaw in the current system of campaign finance; it has undermined public respect for the Congress as an institution and has given large private contributors undue influence with respect to public policymaking by the Congress;

(3) the failure to limit campaign expenditures has driven up the cost of election campaigns and made it difficult for qualified candidates without personal fortunes or access to large contributors to mount competitive congressional campaigns;

(4) the failure to limit campaign expenditures has caused individuals elected to the Senate to spend an increasing proportion of their time in office as elected officials raising funds, interfering with the ability of the Senate to carry out its constitutional responsibilities;

(5) the failure to limit campaign expenditures has damaged the Senate as an institution, due to the time lost to raising funds for campaigns;

(6) to prevent the appearance of corruption and to restore public trust in the Senate as an institution, it is necessary to limit campaign expenditures, through a system that provides substantial public benefits to candidates who agree to limit campaign expenditures; and

(7) serious and thoroughgoing reform of Federal election law that imposes strict new rules on spending and contributions would—

(A) help eliminate access to wealth as a determinant of a citizen's influence in the political process;

(B) help to restore meaning to the principle of "one person, one vote";

(C) produce more competitive Federal elections; and

(D) halt and reverse the escalating cost of Federal elections.

(b) NECESSITY FOR PROHIBITION OF POLITICAL ACTION COMMITTEES.—The Senate finds and declares that—

(1) contributions by political action committees to individual candidates have cre-

ated the perception that candidates are beholden to special interests, and leave candidates open to charges of corruption;

(2) contributions by political action committees to individual candidates have undermined the Senate as an institution; and

(3) to prevent the appearance of corruption and to restore public trust in the Senate as an institution, it is necessary to ban participation by political action committees in Federal elections.

(c) NECESSITY FOR ATTRIBUTING COOPERATIVE EXPENDITURES TO CANDIDATES.—The Senate finds and declares that—

(1) public confidence and trust in the system of campaign finance would be undermined should any candidate be able to circumvent a system of caps on expenditures through cooperative expenditures with outside individuals, groups, or organizations;

(2) cooperative expenditures by candidates with outside individuals, groups, or organizations would severely undermine the effectiveness of caps on campaign expenditures, unless they are included within such caps; and

(3) to maintain the integrity of the system of campaign finance, expenditures by any individual, group, or organization that have been made in cooperation with any candidate, authorized committee, or agent of any candidate must be attributed to that candidate's cap on campaign expenditures.

(d) NECESSITY FOR PROVIDING SUBSTANTIAL PUBLIC FINANCING FOR SENATE ELECTIONS.—The Senate finds and declares that the replacement of private campaign contributions with partial or complete public financing for Senate elections would enhance American democracy by eliminating real and potential conflicts of interest and increasing the accountability of Members of Congress, thereby helping to restore public confidence in the fairness of the electoral and policymaking processes.

## TITLE I—CONTROL OF CONGRESSIONAL CAMPAIGN SPENDING

### Subtitle A—Senate Election Campaign Spending Limits and Benefits

**SEC. 101. SENATE SPENDING LIMITS AND BENEFITS.**

(a) IN GENERAL.—FECA is amended by adding at the end the following new title:

**"TITLE V—EXPENDITURE LIMITS AND BENEFITS FOR SENATE ELECTION CAMPAIGNS**

**"SEC. 501. ELIGIBILITY.**

"(a) IN GENERAL.—For purposes of this title, a candidate is an eligible Senate candidate if—

"(1) the candidate and the candidate's authorized committees meet the threshold contribution and ballot access requirements of subsection (b);

"(2) the candidate and the candidate's authorized committees do not make expenditures from personal funds in an amount that exceeds the personal funds expenditure limit except as permitted under section 502(e);

"(3) the candidate and the candidate's authorized committees do not make expenditures in excess of the primary election expenditure limit, the runoff election expenditure limit, or the general election expenditure limit except as permitted under section 502(e);

"(4) the candidate and the candidate's authorized committees—

"(A) do not accept contributions for the primary or runoff election in an amount that exceed the primary election expenditure limit or the runoff election expenditure limit except as permitted under section 503(e); and

"(B) do not accept contributions for the general election except as permitted under section 503(e); and

"(5) the candidate's authorized committees do not accept contributions from multicandidate political committees for the primary election or runoff election in an amount that exceeds the primary election multicandidate political committee contribution limit or the runoff election multicandidate political committee contribution limit that may be in effect in accordance with section 502(f);

"(6)(A) with respect to a primary election, at least one other candidate has qualified for the same primary election ballot under the law of the candidate's State;

"(B) with respect to a general election, at least one other candidate has qualified for the same general election ballot under the law of the candidate's State;

"(7) the candidate and the candidate's authorized committees do not accept any contribution in violation of section 315;

"(8) the candidate and the candidate's authorized committees deposit all payments received under this title in an account insured by the Federal Deposit Insurance Corporation from which funds may be withdrawn by check or similar means of payment to third parties;

"(9) the candidate and the candidate's authorized committees furnish campaign records, evidence of contributions, and other appropriate information to the Commission;

"(10) the candidate and the candidate's authorized committees cooperate in the case of any examination and audit by the Commission under section 505;

"(11) the candidate and the candidate's authorized committees comply with all of the requirements of this Act that apply to eligible candidates; and

"(12) the candidate, not later than 7 days after becoming a candidate, files with the Commission a declaration that the candidate and the candidate's authorized committees have complied with and will continue to comply with all of the requirements of this Act that apply to eligible Senate candidates and their authorized committees.

"(b) THRESHOLD CONTRIBUTION AND BALLOT ACCESS REQUIREMENTS.—

"(1) IN GENERAL.—The requirements of this subsection are met if—

"(A) the candidate and the candidate's authorized committees have received allowable contributions during the applicable period in an amount at least equal to 5 percent of the general election expenditure limit from contributors at least 60 percent of whom are residents of the candidate's State; and

"(B) the candidate has qualified for the ballot for a primary election, runoff election, or general election, respectively, under State law.

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

"(A) the term 'allowable contributions'—

"(i) means contributions that are made as gifts of money by an individual pursuant to a written instrument identifying the individual as the contributor; and

"(ii) does not include—

"(I) contributions made directly or indirectly through an intermediary or conduit that are treated as being made by the intermediary or conduit under section 315(a)(8)(B); or

"(II) contributions from any individual during the applicable period to the extent that such contributions exceed $100; and

"(B) the term 'applicable period' means—

"(i) with respect to a candidate who is or who is seeking to become a candidate in a general election, the period beginning on January 1 of the calendar year preceding the calendar year of the general election and ending on the date on which a candidate submits a first request to receive benefits under section 503; or

"(ii) with respect to a candidate who is or who is seeking to become a candidate in a special election, the period beginning on the date the vacancy occurs in the office for which the election is held and ending on the date of the general election.

**"SEC. 502. EXPENDITURE AND CONTRIBUTION LIMITS.**

"(a) PERSONAL FUNDS EXPENDITURE LIMIT.—

"(1) IN GENERAL.—The personal funds expenditure limit applicable to an eligible Senate candidate is an aggregate amount of expenditures equal to $25,000 made during an election cycle by an eligible Senate candidate and the candidate's authorized committees from the sources described in paragraph (2).

"(2) SOURCES.—A source is described in this paragraph if it is—

"(A) personal funds of the candidate and members of the candidate's immediate family; or

"(B) personal debt incurred by the candidate and members of the candidate's immediate family.

"(b) PRIMARY ELECTION EXPENDITURE LIMIT.—The primary election expenditure limit applicable to an eligible Senate candidate is an amount equal to the lesser of—

"(1) 67 percent of the general election expenditure limit; or

"(2) $2,500,000.

"(c) RUNOFF ELECTION EXPENDITURE LIMIT.—The expenditure limit applicable to an eligible Senate candidate is 20 percent of the general election expenditure limit.

"(d) GENERAL ELECTION EXPENDITURE LIMIT.—

"(1) IN GENERAL.—The general election expenditure limit applicable to an eligible Senate candidate is an amount equal to the lesser of—

"(A) $4,500,000; or

"(B) the greater of—

"(i) $775,000; or

"(ii) $325,500, plus—

"(I) 30 cents multiplied by the voting age population not in excess of 4,000,000; and

"(II) 25 cents multiplied by the voting age population in excess of 4,000,000.

"(2) STATE WITH ONE TELEVISION TRANSMITTER.—In the case of an eligible Senate candidate in a State that has no more than 1 transmitter for a commercial Very High Frequency (VHF) television station licensed to operate in the State, paragraph (1)(B)(ii) shall be applied by substituting—

"(A) '60 cents' for '30 cents' in subclause (I); and

"(B) '50 cents' for '25 cents' in subclause (II).

"(e) EXCEPTIONS.—

"(1) LEGAL AND ACCOUNTING COMPLIANCE FUND.—(A) An eligible Senate candidate and the candidate's authorized committees may accept contributions and make expenditures without regard to the primary election expenditure limit, runoff expenditure limit, or general election expenditure limit for the purpose of maintaining a legal and accounting compliance fund meeting the requirements of subparagraph (B), out of which fund qualified legal and accounting expenditures may be made.

"(B) A legal and accounting compliance fund meets the requirements of this subparagraph if—

"(i) the only amounts transferred to the fund are amounts received in accordance with the limitations, prohibitions, and reporting requirements of this Act;

"(ii) the aggregate amounts transferred to, and expenditures made from, the fund do not exceed the sum of—

"(I) the lesser of—

"(aa) 10 percent of the general election expenditure limit for the general election for which the fund was established; or

"(bb) $300,000, plus—

"(II) the amount determined under subparagraph (D); and

"(iii) no funds received by the candidate pursuant to section 503(a)(3) are transferred to the fund.

"(C) For purposes of this paragraph, the term 'qualified legal and accounting expenditure' means the following:

"(i) An expenditure for costs of a legal or accounting service provided in connection with—

"(I) any administrative or court proceeding initiated pursuant to this Act during the election cycle for the primary election, runoff election, or general election; or

"(II) the preparation of any documents or reports required by this Act or the Commission.

"(ii) An expenditure for a legal or accounting service provided in connection with the primary election, runoff election, or general election for which the legal and accounting compliance fund was established to ensure compliance with this Act with respect to the election cycle for the primary election, runoff election, or general election.

"(D)(i) If, after a general election, a candidate determines that the qualified legal and accounting expenditures will exceed the limitation under subparagraph (B)(ii)(I), the candidate may petition the Commission by filing with the Secretary of the Senate a request for an increase in such limitation. The Commission shall authorize an increase in such limitation in the amount (if any) by which the Commission determines the qualified legal and accounting expenditures exceed that limitation. The Commission's determination shall be subject to judicial review under section 507.

"(ii) Except as provided in section 315, any contribution received or expenditure made pursuant to this paragraph shall not be taken into account for any contribution or expenditure limit applicable to the candidate under this title.

"(E)(i) A candidate shall terminate a legal and accounting compliance fund as of the earlier of—

"(I) the date of the first primary election for the office following the general election for the office for which the fund was established; or

"(II) the date specified by the candidate.

"(ii) Any amount remaining in a legal and accounting compliance fund as of the date determined under clause (i) shall be transferred—

"(I) to a legal and accounting compliance fund for the election cycle for the next primary election, runoff election, or general election; or

"(II) to the Senate Election Campaign Fund.

"(2) PAYMENT OF TAXES.—An eligible Senate candidate and the candidate's authorized committees may accept contributions and make expenditures without regard to the primary election expenditure limit, runoff expenditure limit, or general election expenditure limit for the purpose of funding and making expenditures for Federal, State, or local income taxes with respect to the candidate's authorized committees.

"(3) INDEPENDENT EXPENDITURE AMOUNT AND EXCESS EXPENDITURE AMOUNT.—An eligible Senate candidate who receives payment of an independent expenditure amount under section 503(b)(1)(B) or an excess expenditure amount under section 503(b)(1)(C) may make expenditures from such payments to defray expenditures for the primary election, runoff election, or general election, respectively, without regard to the primary expenditure limit, runoff election expenditure limit, or general election expenditure limit.

"(4) UNMATCHED EXCESS EXPENDITURES.—(A) An eligible Senate candidate and the candidate's authorized committees may accept contributions and make expenditures without regard to the personal funds expenditure limit, primary election expenditure limit, runoff election expenditure limit, or general election expenditure limit if any one of the eligible Senate candidate's opponents who is not an eligible Senate candidate raises aggregate contributions or makes or becomes obligated to make aggregate expenditures that exceed 200 percent of the primary election expenditure limit, runoff expenditure limit, or general election expenditure limit, respectively, applicable to the eligible Senate candidate.

"(B) An eligible Senate candidate and the candidate's authorized committees may accept contributions without regard to the primary election expenditure limit, runoff expenditure limit, or general election expenditure limit in anticipation of their being needed for the purpose of making expenditures under subparagraph (A) if—

"(i) any opposing candidate in the primary election, runoff election, or general election who is not an eligible Senate candidate raises aggregate contributions or makes or becomes obligated to make aggregate expenditures for the primary election, runoff election, or general election that exceed 75 percent of the primary election expenditure limit, runoff election expenditure limit, or general election expenditure limit applicable to the candidate; or

"(ii) any opposing candidate in the general election who is the nominee of a major party is not an eligible Senate candidate.

"(C) The amount of the contributions that may be accepted and expenditures that may be made by reason of subparagraphs (A) and (B) shall not exceed 100 percent of the primary election expenditure limit, runoff election expenditure limit, or general election expenditure limit, respectively.

"(f) MULTICANDIDATE POLITICAL COMMITTEE CONTRIBUTION LIMITS.—

"(1) MULTICANDIDATE POLITICAL COMMITTEE PRIMARY ELECTION CONTRIBUTION LIMIT.—The multicandidate political committee primary election contribution limit applicable to an eligible Senate candidate is an amount equal to 10 percent of the primary election spending limit.

"(2) MULTICANDIDATE POLITICAL COMMITTEE RUNOFF ELECTION CONTRIBUTION LIMIT.—The multicandidate political committee runoff election contribution limit applicable to an eligible Senate candidate is an amount equal to 10 percent of the runoff election spending limit.

"(3) PERIODS WHEN PROVISIONS ARE IN EFFECT.—This subsection and other provisions in this title relating to multicandidate political committees shall be of no effect except during any period in which the prohibition under section 324 is not in effect.

"(g) INDEXING.—The $2,500,000 amount under subsection (b)(2) and the amount otherwise determined under subsection (d)(1) shall be increased as of the beginning of each calendar year based on the increase in the price index determined under section 315(c), except that, for purposes of those provisions, the base period shall be calendar year 1993.

"(h) EXPENDITURES.—For purposes of this title, the term 'expenditure' has the meaning stated in section 301(9), except that in determining any expenditures made by, or on behalf of, a candidate or a candidate's authorized committees, section 301(9)(B) shall be applied without regard to clause (ii) or (vi) thereof.

**"SEC. 503. BENEFITS.**

"(a) IN GENERAL.—An eligible Senate candidate shall be entitled to—

"(1) free broadcast time under title VI;

"(2) the mailing rates provided in section 3626(e) of title 39, United States Code; and

"(3) payments in the amounts determined under subsection (b).

"(b) AMOUNT OF PAYMENTS.—

"(1) IN GENERAL.—For purposes of subsection (a)(3), the amounts determined under this subsection are—

"(A) the public financing amount;

"(B) the independent expenditure amount; and

"(C) the excess expenditure amount.

"(2) PUBLIC FINANCING AMOUNT.—For purposes of paragraph (1), the public financing amount is—

"(A) in the case of an eligible Senate candidate who is a major party candidate—

"(i) during the primary election period, an amount equal to the amount of contributions received during that period from individuals residing in the candidate's State (other than the candidate and members of the candidate's immediate family) in the aggregate amount of $100 or less, up to 50 percent of the primary election spending limit;

"(ii) during the runoff election period, an amount equal to the amount of contributions received during that period from individuals residing in the candidate's State (other than the candidate and members of the candidate's immediate family) in the aggregate amount of $100 or less, up to 50 percent of the runoff election spending limit, less the amount of any unexpended campaign funds from the primary election, which the candidate shall transfer to the runoff election; and

"(iii) during the general election period, an amount equal to the general election expenditure limit applicable to the candidate, less the amount of any unexpended campaign funds from the primary election or runoff election, which the candidate shall transfer to the general election; and

"(B) in the case of an eligible Senate candidate who is not a major party candidate—

"(i) during the primary election period, an amount equal to the amount of contributions received during that period from individuals residing in the candidate's State (other than the candidate and members of the candidate's immediate family) in the aggregate amount of $100 or less, up to 50 percent of the primary election expenditure limit;

"(ii) during the runoff election period, an amount equal to the amount of contributions received during that period from individuals residing in the candidate's State (other than the candidate and members of the candidate's immediate family) in the aggregate amount of $100 or less, up to 50 percent of the runoff election expenditure limit, less the amount of any unexpended campaign funds from the primary election, which the candidate shall transfer to the runoff election; and

"(iii) during the general election period, an amount equal to the amount of contributions received during that period from individuals residing in the candidate's State (other than the candidate and members of the candidate's immediate family) in the aggregate amount of $100 or less, up to 50 percent of the general election expenditure limit, less the amount of any unexpended campaign funds from the primary election or runoff election, which the candidate shall transfer to the general election.

"(3) INDEPENDENT EXPENDITURE AMOUNT.—For purposes of paragraph (1), the independent expenditure amount is the total amount of independent expenditures made, or obligated to be made, during the primary election period, runoff election period, or general election period, respectively, by 1 or more persons in opposition to, or on behalf of an opponent of, an eligible Senate candidate that are required to be reported by such persons under section 304(c) with respect to each such period, respectively, and are certified by the Commission under section 304(c).

"(4) EXCESS EXPENDITURE AMOUNT.—For purposes of paragraph (1), the excess expenditure amount is the amount determined as follows:

"(A) In the case of an eligible Senate candidate of an eligible Senate candidate of major party who has an opponent in the primary election, runoff election, or general election, respectively, who receives contributions, or makes (or obligates to make) expenditures, for such election in excess of the primary election expenditure limit, the runoff election expenditure limit, or the general election expenditure limit, respectively, an amount equal to the sum of—

"(i) if the excess is not greater than 133⅓ percent of the primary election expenditure limit, the runoff election expenditure limit, or the general election expenditure limit, respectively, an amount equal to one-third of such limit applicable to the eligible Senate candidate for the election; plus

"(ii) if the excess equals or exceeds 133⅓ percent but is less than 166⅔ percent of such limit, an amount equal to one-third of such limit; plus

"(iii) if the excess equals or exceeds 166⅔ percent of such limit, an amount equal to one-third of such limit.

"(B) In the case of an eligible Senate candidate who is not a candidate of a major party who has an opponent in the primary election, runoff election, or general election, respectively, who receives contributions, or makes (or obligates to make) expenditures, for such election in excess of the primary election expenditure limit, the runoff election expenditure limit, or the general election expenditure limit, respectively, an amount equal to 50 percent of the amount of the excess of the contributions received or expenditures made or obligated to be made by an opponent over the primary election expenditure limit, the runoff election expenditure limit, or the general election expenditure limit, respectively, but not exceeding the amount of contributions received by the eligible Senate candidate during the primary election period, runoff election period, or general election period, respectively, from individuals residing in the candidate's State (other than the candidate and members of the candidate's immediate family) in the aggregate amount of $100 or less, up to 50 percent of the excess primary election expenditure limit, the runoff election expenditure limit, or the general excess expenditure limit, respectively.

"(c) USE OF PAYMENTS.—

"(1) PERMITTED USE.—Payments received by an eligible Senate candidate under subsection (a)(3) shall be used to defray expenditures incurred with respect to the general election primary election period, runoff election period, and period for the candidate.

"(2) PROHIBITED USE.—Payments received by an eligible Senate candidate under subsection (a)(3) shall not be used—

"(A) except as provided in subparagraph (D), to make any payments, directly or indirectly, to such candidate or to any member of the immediate family of the candidate;

"(B) to make any expenditure other than expenditures to further the primary election, runoff election, or general election of the candidate;

"(C) to make any expenditures that constitute a violation of any law of the United States or of the State in which the expenditure is made; or

"(D) subject to section 315(i), to repay any loan to any person except to the extent the proceeds of such loan were used to further the primary election, runoff election, or general election of the candidate.

**"SEC. 504. CERTIFICATION BY COMMISSION.**

"(a) IN GENERAL.—

"(1) IN GENERAL.—The Commission shall certify to any candidate that meets the eligibility requirements of section 501 that the candidate is an eligible Senate candidate entitled to benefits under this title. The Commission shall revoke such a certification if it determines that a candidate fails to continue to meet those requirements.

"(2) REQUESTS TO RECEIVE BENEFITS.—(A) A candidate to whom a certification has been issued may from time to time file with the Commission a request to receive benefits under section 503.

"(B) A request under subparagraph (A) shall—

"(i) contain such information and be made in accordance with such procedures as the Commission may provide by regulation; and

"(ii) contain a verification signed by the candidate and the treasurer of the principal campaign committee of the candidate stating that the information furnished in support of the request, to the best of their knowledge, is correct and fully satisfies the requirements of this title.

"(C) Not later than 3 business days after a candidate files a request under subparagraph (A), the Commission shall certify to the Secretary of the Treasury the amount of benefits to which the candidate is entitled.

"(b) DETERMINATIONS BY COMMISSION.—All determinations (including certifications under subsection (a)) made by the Commission under this title shall be final and conclusive, except to the extent that they are subject to examination and audit by the Commission under section 505 and judicial review under section 507.

**"SEC. 505. EXAMINATION AND AUDITS; REPAYMENTS; CIVIL PENALTIES.**

"(a) EXAMINATION AND AUDITS.—

"(1) RANDOM AUDITS.—After each general election, the Commission shall conduct an examination and audit of the campaign accounts of 10 percent of all candidates for the office of United States Senator to determine, among other things, whether such candidates have complied with the expenditure limits and conditions of eligibility of this title, and other requirements of this Act. Such candidates shall be designated by the Commission through the use of an appropriate statistical method of random selection. If the Commission selects a candidate, the Commission shall examine and audit the campaign accounts of all other candidates in the general election for the office the selected candidate is seeking.

"(2) REASON TO INVESTIGATE.—The Commission may conduct an examination and audit of the campaign accounts of any candidate in a general election for the office of United States Senator if the Commission determines that there exists reason to investigate whether the candidate may have violated any provision of this title.

"(b) EXCESS PAYMENTS; REVOCATION OF STATUS.—

"(1) EXCESS PAYMENTS.—If the Commission determines that payments were made to an eligible Senate candidate under this title in excess of the aggregate amounts to which such candidate was entitled, the Commission shall so notify such candidate, and such candidate shall pay an amount equal to the excess.

"(2) REVOCATION OF STATUS.—If the Commission revokes the certification of a candidate as an eligible Senate candidate under section 504(a)(1), the Commission shall notify the candidate, and the candidate shall pay an amount equal to the payments received under this title.

"(c) MISUSE OF BENEFITS.—If the Commission determines that any amount of any benefit made available to an eligible Senate candidate under this title was not used as provided for in this title, the Commission shall so notify such candidate and such candidate shall pay the amount of such benefit.

"(d) EXCESS EXPENDITURES.—If the Commission determines that any eligible Senate candidate who has received benefits under this title has made expenditures (except as permitted under section 502(e)) that in the aggregate exceed—

"(1) the primary election expenditure limit;

"(2) the runoff election expenditure limit; or

"(3) the general election expenditure limit, the Commission shall so notify the candidate and the candidate shall pay an amount equal to the amount of the excess expenditures.

"(e) CIVIL PENALTIES FOR EXCESS EXPENDITURES AND CONTRIBUTIONS.—

"(1) IN GENERAL.—If the Commission determines that a candidate has committed a violation described in subsection (c), the Commission may assess a civil penalty against the candidate in an amount not greater than 200 percent of the amount involved.

"(2) LOW AMOUNT OF EXCESS EXPENDITURES.—An eligible Senate candidate who makes expenditures that exceed the primary election expenditure limit, runoff election expenditure, or general election expenditure limit by 2.5 percent or less shall pay an amount equal to the amount of the excess expenditures.

"(3) MEDIUM AMOUNT OF EXCESS EXPENDITURES.—An eligible Senate candidate who makes expenditures that exceed the primary election expenditure limit, runoff election expenditure, or general election expenditure limit by more than 2.5 percent and less than 5 percent shall pay an amount equal to 3 times the amount of the excess expenditures.

"(4) LARGE AMOUNT OF EXCESS EXPENDITURES.—Any eligible Senate candidate who makes expenditures that exceed the primary election expenditure limit, runoff election expenditure, or general election expenditure limit by 5 percent or more shall pay an amount equal to 3 times the amount of the excess expenditures plus a civil penalty in an amount determined by the Commission.

"(f) UNEXPENDED FUNDS.— Any amount received by an eligible Senate candidate under this title may be retained for a period not

exceeding 120 days after the date of the primary election, runoff election, or general election for the liquidation of all obligations to pay expenditures for the primary election, runoff election, or general election incurred during the primary election period, runoff election period, or general election period. At the end of such 120-day period, any unexpended funds received under this title, except those that are transferred as required by section 503(b)(2) (A) (ii) or (iii) or (B) (ii) or (iii), shall be promptly repaid.

"(g) LIMIT ON PERIOD FOR NOTIFICATION.—No notification shall be made by the Commission under this section with respect to an election more than 3 years after the date of such election.

"(h) DEPOSITS.—The Secretary of the Treasury shall deposit all payments received under this section into the Senate Election Campaign Fund.

**"SEC. 506. CRIMINAL PENALTIES.**

"(a) ACCEPTANCE OR USE OF BENEFITS EXPENDITURES IN EXCESS OF LIMITS.—

"(1) OFFENSE.—No person shall knowingly and willfully—

"(A) accept benefits under this title in excess of the aggregate benefits to which the candidate on whose behalf such benefits are accepted is entitled;

"(B) use such benefits for any purpose not provided for in this title; or

"(C) make expenditures in excess of—

"(i) the primary election expenditure limit;

"(ii) the runoff election expenditure limit; or

"(iii) the general election expenditure limit,

except as permitted under section 502(e).

"(2) PENALTY.—A person who violates paragraph (1) shall be fined not more than $25,000, imprisoned not more than 5 years, or both. An officer, employee, or agent of a political committee who knowingly consents to any expenditure in violation of paragraph (1) shall be fined not more than $25,000, imprisoned not more than 5 years, or both.

"(b) USE OF BENEFITS.—

"(1) OFFENSE.—It is unlawful for a person who receives any benefit under this title, or to whom any portion of any such benefit is transferred, knowingly and willfully to use, or to authorize the use of, the benefit or such portion other than in the manner provided in this title.

"(2) PENALTY.—A person who violates paragraph (1) shall be fined not more than $10,000, imprisoned not more than 5 years, or both.

"(c) FALSE INFORMATION.—

"(1) OFFENSE.—It is unlawful for a person knowingly and willfully—

"(A) to furnish any false, fictitious, or fraudulent evidence, books, or information (including any certification, verification, notice, or report) to the Commission under this title, or to include in any evidence, books, or information so furnished any misrepresentation of a material fact, or to falsify or conceal any evidence, books, or information relevant to a certification by the Commission or an examination and audit by the Commission under this title; or

"(B) to fail to furnish to the Commission any records, books, or information requested by it for purposes of this title.

"(2) PENALTY.—A person who violates paragraph (1) shall be fined not more than $10,000, imprisoned not more than 5 years, or both.

"(d) KICKBACKS AND ILLEGAL PAYMENTS.—

"(1) OFFENSE.—It is unlawful for a person knowingly and willfully to give or to accept any kickback or any illegal payment in connection with any benefits received under this title by an eligible Senate candidate.

"(2) PENALTY.—(A) A person who violates paragraph (1) shall be fined not more than $10,000, imprisoned not more than 5 years, or both.

"(B) In addition to the penalty provided by subparagraph (A), a person who accepts any kickback or illegal benefit in connection with any benefits received by an eligible Senate candidate pursuant to the provisions of this title, or received by the authorized committees of such a candidate, shall pay to the Secretary, for deposit into the Senate Election Campaign Fund, an amount equal to 125 percent of the kickback or benefit received.

**"SEC. 507. JUDICIAL REVIEW.**

"(a) JUDICIAL REVIEW.—Any agency action by the Commission made under the provisions of this title shall be subject to review by the United States Court of Appeals for the District of Columbia Circuit upon petition filed in such court within 30 days after the agency action by the Commission for which review is sought. It shall be the duty of the Court of Appeals to expeditiously take action on all petitions filed pursuant to this title.

"(b) APPLICATION OF TITLE 5.—Chapter 7 of title 5, United States Code, shall apply to judicial review of any agency action by the Commission.

"(c) AGENCY ACTION.—For purposes of this section, the term 'agency action' has the meaning stated in section 551(13) of title 5, United States Code.

**"SEC. 508. PARTICIPATION BY COMMISSION IN JUDICIAL PROCEEDINGS.**

"(a) APPEARANCES.—The Commission may appear in and defend against any action instituted under this section and under section 507 either by attorneys employed in its office or by counsel whom it may appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title.

"(b) INSTITUTION OF ACTIONS.—The Commission may, through attorneys and counsel described in subsection (a), institute actions in the district courts of the United States to seek recovery of any amounts determined under this title to be payable to the Secretary.

"(c) INJUNCTIVE RELIEF.—The Commission may, through attorneys and counsel described in subsection (a), petition the courts of the United States for such injunctive relief as is appropriate in order to implement any provision of this title.

"(d) APPEALS.—The Commission may, on behalf of the United States, appeal from, and to petition the Supreme Court for certiorari to review, judgments, or decrees entered with respect to actions in which it appears pursuant to the authority provided in this section.

**"SEC. 509. REPORTS TO CONGRESS; REGULATIONS.**

"(a) REPORTS.—The Commission shall, as soon as practicable after each election, submit a full report to the Senate setting forth—

"(1) the expenditures (shown in such detail as the Commission determines appropriate) made by each eligible Senate candidate and the authorized committees of such candidate;

"(2) the amounts certified by the Commission under section 504 as benefits available to each eligible Senate candidate;

"(3) the amount of repayments, if any, required under section 505 and the reasons for each repayment required; and

"(4) the balance in the Senate Election Campaign Fund, and the balance in any account maintained the Fund.

Each report submitted pursuant to this section shall be printed as a Senate document.

"(b) REGULATIONS.—The Commission may prescribe regulations, conduct such examinations and investigations, and require the keeping and submission of such books, records, and information, as it deems necessary to carry out its functions and duties under this title.

"(c) STATEMENT TO SENATE.—Thirty days before prescribing a regulation under subsection (b), the Commission shall transmit to the Senate a statement setting forth the proposed regulation and containing a detailed explanation and justification of the regulation.

**"SEC. 510. PAYMENTS RELATING TO ELIGIBLE CANDIDATES.**

"(a) ESTABLISHMENT OF CAMPAIGN FUND.—

"(1) IN GENERAL.—There is established on the books of the Treasury of the United States a special fund to be known as the 'Senate Election Campaign Fund'.

"(2) APPROPRIATIONS.—(A) There are appropriated to the Fund for each fiscal year, out of amounts in the general fund of the Treasury not otherwise appropriated, amounts equal to—

"(i) any contributions by persons which are specifically designated as being made to the Fund;

"(ii) amounts collected under section 505(h); and

"(iii) any other amounts that may be appropriated to or deposited into the Fund under this title.

"(B) The Secretary of the Treasury shall, from time to time, transfer to the Fund an amount not in excess of the amounts described in subparagraph (A).

"(C) Amounts in the Fund shall remain available without fiscal year limitation.

"(3) AVAILABILITY.—Amounts in the Fund shall be available only for the purposes of—

"(A) making payments required under this title; and

"(B) making expenditures in connection with the administration of the Fund.

"(4) ACCOUNTS.—The Secretary shall maintain such accounts in the Fund as may be required by this title or which the Secretary determines to be necessary to carry out the provisions of this title.

"(b) PAYMENTS UPON CERTIFICATION.—Upon receipt of a certification from the Commission under section 504, the Secretary shall promptly pay the amount certified by the Commission to the candidate out of the Senate Election Campaign Fund.

**"SEC. 511. AUTHORIZATION OF APPROPRIATIONS.**

"There are authorized to be appropriated to the Commission such sums as are necessary for the purpose of carrying out its functions under this title.".

(b) EFFECTIVE DATES.—(1) Except as provided in this subsection, the amendment made by subsection (a) shall apply to elections occurring after December 31, 1993.

(2) For purposes of any expenditure or contribution limit imposed by the amendment made by subsection (a)—

(A) no expenditure made before January 1, 1994, shall be taken into account, except that there shall be taken into account any such expenditure for goods or services to be provided after such date; and

(B) all cash, cash items, and Government securities on hand as of January 1, 1994, shall be taken into account in determining whether the contribution limit is met, except that there shall not be taken into account

amounts used during the 60-day period beginning on January 1, 1994, to pay for expenditures which were incurred (but unpaid) before such date.

(c) EFFECT OF INVALIDITY ON OTHER PROVISIONS OF ACT.—If section 501, 502, or 503 of title V of FECA (as added by this section), or any part thereof, is held to be invalid, all provisions of, and amendments made by, this Act shall be treated as invalid.

**SEC. 102. BAN ON ACTIVITIES OF POLITICAL ACTION COMMITTEES IN FEDERAL ELECTIONS.**

(a) IN GENERAL.—Title III of FECA (2 U.S.C. 301 et seq.) is amended by adding at the end the following new section:

"BAN ON FEDERAL ELECTION ACTIVITIES BY POLITICAL ACTION COMMITTEES

"SEC. 324. (a) 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) In the case of individuals who are executive or administrative personnel of an employer—

"(1) no contributions may be made by such individuals—

"(A) to any political committees established and maintained by any political party; or

"(B) to any candidate for election to the office of United States Senator or the candidate's authorized committees,

unless such individuals certify that such contributions are not being made at the direction of, or otherwise controlled or influenced by, the employer; and

"(2) the aggregate amount of such contributions by all such individuals in any calendar year shall not exceed—

"(A) $20,000 in the case of such political committees; and

"(B) $5,000 in the case of any such candidate and the candidate's authorized committees.".

(b) DEFINITION OF POLITICAL COMMITTEE.—(1) Paragraph (4) of section 301 of FECA (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 or State committee of a political party; and

"(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 expenditure 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."

(2) Section 316(b)(2) of FECA (2 U.S.C. 441b(b)(2)) is amended by striking subparagraph (C).

(c) CANDIDATE'S COMMITTEES.—Section 315(a) of FECA (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 or Federal officeholder shall be deemed to be an authorized committee of such candidate or officeholder.".

(d) RULES APPLICABLE WHEN BAN NOT IN EFFECT.—For purposes of the Federal Election Campaign Act of 1971, during any period beginning after the effective date in which the prohibition under section 324 of such Act (as added by subsection (a)) is not in effect—

(1) the amendments made by subsections (a), (b), and (c) shall not be in effect;

(2) in the case of a candidate for election, or nomination for election, to the United States Senate (and such candidate's authorized committees), section 315(a)(2)(A) of FECA (2 U.S.C. 441a(a)(2)(A)) shall be applied by substituting "$250" for "$5,000"; and

(3) it shall be unlawful for a multicandidate political committee to make a contribution to a candidate for election, or nomination for election, to the United States Senate (or an authorized committee) to the extent that the making of the contribution will cause the amount of contributions received by the candidate and the candidate's authorized committees from multicandidate political committees to exceed the lesser of—

(A) $825,000; or

(B) the greater of—

(i) $375,000; or

(ii) 20 percent of the sum of the general election expenditure limit under section 502(b) of FECA plus the primary election spending limit under section 502(d)(1)(A) of FECA (without regard to whether the candidate is an eligible Senate candidate (as defined in section 301(19)) of FECA).

In the case of an election cycle in which there is a runoff election, the limit determined under paragraph (3) shall be increased by an amount equal to 20 percent of the runoff election expenditure limit under section 501(d)(1)(A) of FECA (without regard to whether the candidate is such an eligible candidate). The $825,000 and $375,000 amounts in paragraph (3) shall be increased as of the beginning of each calendar year based on the increase in the price index determined under section 315(c) of FECA, except that for purposes of paragraph (3), the base period shall be the calendar year in which the first general election after the date of the enactment of paragraph (3) occurs. A candidate or authorized committee that receives a contribution from a multicandidate political committee in excess of the amount allowed under paragraph (3) shall return the amount of such excess contribution to the contributor.

(e) EFFECTIVE DATES.—(1) Except as provided in paragraph (2), the amendments made by this section shall apply to elections (and the election cycles relating thereto) occurring after December 31, 1993.

(2) In applying the amendments made by this section, there shall not be taken into account—

(A) contributions made or received on or before the date of the enactment of this Act; or

(B) contributions made to, or received by, a candidate after such date, to the extent such contributions are not greater than the excess (if any) of—

(i) such contributions received by any opponent of the candidate on or before such date, over

(ii) such contributions received by the candidate on or before such date.

**SEC. 103. REPORTING REQUIREMENTS.**

Title III of FECA is amended by adding after section 304 the following new section:

"REPORTING REQUIREMENTS FOR SENATE CANDIDATES

"SEC. 304A. (a) CANDIDATE OTHER THAN ELIGIBLE SENATE CANDIDATE.—(1) Each candidate for the office of United States Senator who does not file a certification with the Secretary of the Senate under section 501(c) shall file with the Secretary of the Senate a declaration as to whether such candidate intends to make expenditures for the general election in excess of the general election expenditure limit applicable to an eligible Senate candidate under section 502(b). Such declaration shall be filed at the time provided in section 501(c)(2).

"(2) Any candidate for the United States Senate who qualifies for the ballot for a general election—

"(A) who is not an eligible Senate candidate under section 501; and

"(B) who either raises aggregate contributions, or makes or obligates to make aggregate expenditures, for the general election which exceed 75 percent of the general election expenditure limit applicable to an eligible Senate candidate under section 502(b),

shall file a report with the Secretary of the Senate within 1 business day after such contributions have been raised or such expenditures have been made or obligated to be made (or, if later, within 1 business day after the date of qualification for the general election ballot), setting forth the candidate's total contributions and total expenditures for such election as of such date. Thereafter, such candidate shall file additional reports (until such contributions or expenditures exceed 200 percent of such limit) with the Secretary of the Senate within 1 business day after each time additional contributions are raised, or expenditures are made or are obligated to be made, which in the aggregate exceed an amount equal to 10 percent of such limit and after the total contributions or expenditures exceed 133⅓, 166⅔, and 200 percent of such limit.

"(3) The Commission—

"(A) shall, within 2 business days of receipt of a declaration or report under paragraph (1) or (2), notify each eligible Senate candidate in the election involved about such declaration or report; and

"(B) if an opposing candidate has raised aggregate contributions, or made or has obligated to make aggregate expenditures, in excess of the applicable general election expenditure limit under section 502(b), shall certify, pursuant to the provisions of subsection (d), such eligibility for payment of any amount to which such eligible Senate candidate is entitled under section 503(a).

"(4) Notwithstanding the reporting requirements under this subsection, the Commission may make its own determination that a candidate in a general election who is not an eligible Senate candidate has raised aggregate contributions, or made or has obligated to make aggregate expenditures, in the amounts which would require a report under paragraph (2). The Commission shall, within 2 business days after making each such determination, notify each eligible Senate candidate in the general election involved about such determination, and shall, when such contributions or expenditures exceed the general election expenditure limit under section 502(b), certify (pursuant to the provisions of subsection (d)) such candidate's eligibility for payment of any amount under section 503(a).

"(b) REPORTS ON PERSONAL FUNDS.—(1) Any candidate for the United States Senate who during the election cycle expends more than the limitation under section 502(a) during the election cycle from his personal funds, the funds of his immediate family, and personal loans incurred by the candidate and the candidate's immediate family shall file a report with the Secretary of the Senate

within 1 business day after such expenditures have been made or loans incurred.

"(2) The Commission within 2 business days after a report has been filed under paragraph (1) shall notify each eligible Senate candidate in the election involved about each such report.

"(3) Notwithstanding the reporting requirements under this subsection, the Commission may make its own determination that a candidate for the United States Senate has made expenditures in excess of the amount under paragraph (1). The Commission within 2 business days after making such determination shall notify each eligible Senate candidate in the general election involved about each such determination.

"(c) CANDIDATES FOR OTHER OFFICES.—(1) Each individual—

"(A) who becomes a candidate for the office of United States Senator;

"(B) who, during the election cycle for such office, held any other Federal, State, or local office or was a candidate for such other office; and

"(C) who expended any amount during such election cycle before becoming a candidate for the office of United States Senator which would have been treated as an expenditure if such individual had been such a candidate, including amounts for activities to promote the image or name recognition of such individual,

shall, within 7 days of becoming a candidate for the office of United States Senator, report to the Secretary of the Senate the amount and nature of such expenditures.

"(2) Paragraph (1) shall not apply to any expenditures in connection with a Federal, State, or local election which has been held before the individual becomes a candidate for the office of United States Senator.

"(3) The Commission shall, as soon as practicable, make a determination as to whether the amounts included in the report under paragraph (1) were made for purposes of influencing the election of the individual to the office of United States Senator.

"(d) CERTIFICATIONS.—Notwithstanding section 505(a), the certification required by this section shall be made by the Commission on the basis of reports filed in accordance with the provisions of this Act, or on the basis of such Commission's own investigation or determination.

"(e) COPIES OF REPORTS AND PUBLIC INSPECTION.—The Secretary of the Senate shall transmit a copy of any report or filing received under this section or of title V as soon as possible (but no later than 4 working hours of the Commission) after receipt of such report or filing, and shall make such report or filing available for public inspection and copying in the same manner as the Commission under section 311(a)(4), and shall preserve such reports and filings in the same manner as the Commission under section 311(a)(5).

"(f) DEFINITIONS.—For purposes of this section, any term used in this section which is used in title V shall have the same meaning as when used in title V.".

**SEC. 104. DISCLOSURE BY NONELIGIBLE CANDIDATES.**

Section 318 of FECA (2 U.S.C. 441d), as amended by section 133, is amended by adding at the end the following:

"(e) If a broadcast, cablecast, or other communication is paid for or authorized by a candidate in the general election for the office of United States Senator who is not an eligible Senate candidate, or the authorized committee of such candidate, such communication shall contain the following sentence: 'This candidate has not agreed to voluntary campaign spending limits.'.".

**SEC. 105. FREE BROADCAST TIME.**

(a) AMENDMENT OF COMMUNICATIONS ACT.—Title III of the Communications Act of 1934 (47 U.S.C. 301 et seq.) is amended by inserting after section 315 the following new section:

"FREE BROADCAST TIME FOR ELIGIBLE SENATE CANDIDATES

"SEC. 315A. (a) IN GENERAL.—In addition to broadcast time that a licensee makes available to a candidate under section 315(a), a licensee shall make available at no charge, to each eligible Senate candidate in each State within its broadcast area, 90 minutes of broadcast time during a prime time access period (as defined in section 601 of the Federal Election Campaign Act of 1971).

"(b) APPEARANCES ON NEWS OR PUBLIC SERVICE PROGRAMS.—An appearance by a candidate on a news or public service program at the invitation of a broadcasting station or other organization that presents such a program shall not be counted toward time made available pursuant to subsection (a).".

(b) AMENDMENT OF FECA.—FECA, as amended by section 101, is amended by adding at the end the following new title:

**"TITLE VI—DISSEMINATION OF POLITICAL INFORMATION**

**"SEC. 601. DEFINITIONS.**

"In this title—

"(1) The term 'free broadcast time' means time provided by a broadcasting station during a prime time access period pursuant to section 315A of the Communications Act of 1934.

"(2) The term 'minor party' means a political party other than a major party—

"(A) whose candidate for the Senate in a State received more than 5 percent of the popular vote in the most recent general election; or

"(B) which files with the Commission, not later than 90 days before the date of a general or special election in a State, the number of signatures of registered voters in the State that is equal to 5 percent of the popular vote for the office of Senator in the most recent general or special election in the State.

"(3) The term 'prime time access period' means the time between 6:00 p.m. and 8:00 p.m. of a weekday during the period beginning on the date that is 60 days before the date of a general election or special election for the Senate and ending on the day before the date of the election.

**"SEC. 602. USE OF FREE BROADCAST TIME.**

"An eligible Senate candidate shall ensure that—

"(1) free broadcast time is used in a manner that promotes a rational discussion and debate of issues with respect to the elections involved;

"(2) in programs in which free broadcast time is used, not more than 25 percent of the time of the broadcast consists of presentations other than a candidate's own remarks;

"(3) free broadcast time is used in segments of not less than 1 minute; and

"(4) not more than 15 minutes of free broadcast time is used by the candidate in a 24-hour period.

**"SEC. 603. REPORTS.**

"(a) CANDIDATE REPORTS TO THE COMMISSION.—An eligible Senate candidate that uses free broadcast time under section 602 shall include with the candidate's post-general election report under section 304(a)(2)(A)(ii) or, in the case of a special election, with the candidate's first report under section 304(a)(2) filed after the special election, a statement of the amount of free broadcast time that the candidate used during the general election period or special election period.

"(b) COMMISSION REPORTS TO CONGRESS.—The Commission shall submit to Congress, not later than June 1 of each year that follows a year in which a general election for the Senate is held, a report setting forth the amount of free broadcast time used by eligible Senate candidates under section 602.

**"SEC. 604. JUDICIAL PROCEEDINGS.**

"(a) IN GENERAL.—The Commission may appear in any action filed under this section, either by attorneys employed in its office or by counsel whom it may appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to the provisions of chapter 51 and title III of chapter 53 of that title.

"(b) ENFORCEMENT.—At its own instance or on the complaint of any person, and whether or not proceedings have been commenced or are pending under section 309, the Commission may petition a district court of the United States for declaratory or injunctive relief concerning any civil matter arising under this title, through attorneys and counsel described in subsection (a).

"(c) APPEALS.—The Commission may, on behalf of the United States, appeal from, and petition the Supreme Court of the United States for certiorari to review, a judgment or decree entered with respect to an action in which it appeared pursuant to this section.".

**Subtitle B—General Provisions**

**SEC. 131. EXTENSION OF REDUCED THIRD-CLASS MAILING RATES TO ELIGIBLE SENATE CANDIDATES.**

Section 3626(e) of title 39, United States Code, is amended—

(1) in paragraph (2)(A)—

(A) by striking "and the National" and inserting "the National"; and

(B) by striking "Committee;" and inserting "Committee, and, subject to paragraph (3), the principal campaign committee of an eligible Senate candidate;";

(2) in paragraph (2)(B), by striking "and" after the semicolon;

(3) in paragraph (2)(C), by striking the period and inserting "; and";

(4) by adding after paragraph (2)(C) the following new subparagraph:

"(D) The terms 'eligible Senate candidate' and 'principal campaign committee' have the meanings given those terms in section 301 of the Federal Election Campaign Act of 1971."; and

(5) by adding after paragraph (2) the following new paragraph:

"(3) The rate made available under this subsection with respect to an eligible Senate candidate shall apply only to—

"(A) the general election period (as defined in section 301 of the Federal Election Campaign Act of 1971); and

"(B) that number of pieces of mail equal to the number of individuals in the voting age population (as certified under section 315(e) of such Act) of the State.".

**SEC. 132. REPORTING REQUIREMENTS FOR CERTAIN INDEPENDENT EXPENDITURES.**

Section 304(c) of FECA (2 U.S.C. 434(c)) is amended—

(1) in paragraph (2), by striking out the undesignated matter after subparagraph (C);

(2) by redesignating paragraph (3) as paragraph (5); and

(3) by inserting after paragraph (2), as amended by paragraph (1), the following new paragraphs:

"(3)(A) Any independent expenditure (including those described in subsection (b)(6)(B)(iii) of this section) aggregating $1,000 or more made after the 20th day, but more than 24 hours, before any election shall be reported within 24 hours after such independent expenditure is made.

"(B) Any independent expenditure aggregating $5,000 or more made at any time up to and including the 20th day before any election shall be reported within 48 hours after such independent expenditure is made. An additional statement shall be filed each time independent expenditures aggregating $5,000 are made with respect to the same election as the initial statement filed under this section.

"(C) Such statement shall be filed with the Secretary of the Senate and the Secretary of State of the State involved and shall contain the information required by subsection (b)(6)(B)(iii) of this section, including whether the independent expenditure is in support of, or in opposition to, the candidate involved. The Secretary of the Senate shall as soon as possible (but not later than 4 working hours of the Commission) after receipt of a statement transmit it to the Commission. Not later than 48 hours after the Commission receives a report, the Commission shall transmit a copy of the report to each candidate seeking nomination or election to that office.

"(D) For purposes of this section, the term 'made' includes any action taken to incur an obligation for payment.

"(4)(A) If any person intends to make independent expenditures totaling $5,000 during the 20 days before an election, such person shall file a statement no later than the 20th day before the election.

"(B) Such statement shall be filed with the Secretary of the Senate and the Secretary of State of the State involved, and shall identify each candidate whom the expenditure will support or oppose. The Secretary of the Senate shall as soon as possible (but not later than 4 working hours of the Commission) after receipt of a statement transmit it to the Commission. Not later than 48 hours after the Commission receives a statement under this paragraph, the Commission shall transmit a copy of the statement to each candidate identified.

"(5) The Commission may make its own determination that a person has made, or has incurred obligations to make, independent expenditures with respect to any Federal election which in the aggregate exceed the applicable amounts under paragraph (3) or (4). The Commission shall notify each candidate in such election of such determination within 24 hours of making it.

"(6) At the same time as a candidate is notified under paragraph (3), (4), or (5) with respect to expenditures during a general election period, the Commission shall certify eligibility to receive benefits under section 503(a).

"(7) The Secretary of the Senate shall make any statement received under this subsection available for public inspection and copying in the same manner as the Commission under section 311(a)(4), and shall preserve such statements in the same manner as the Commission under section 311(a)(5).".

**SEC. 133. CAMPAIGN ADVERTISING AMENDMENTS.**

Section 318 of FECA (2 U.S.C. 441d) is amended—

(1) in the matter before paragraph (1) of subsection (a), by striking "an expenditure" and inserting "a disbursement";

(2) in the matter before paragraph (1) of subsection (a), by striking "direct";

(3) in paragraph (3) of subsection (a), by inserting after "name" the following "and permanent street address"; and

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

"(c) Any printed communication described in subsection (a) shall be—

"(1) of sufficient type size to be clearly readable by the recipient of the communication;

"(2) contained in a printed box set apart from the other contents of the communication; and

"(3) consist of a reasonable degree of color contrast between the background and the printed statement.

"(d)(1) Any broadcast or cablecast communication described in subsection (a)(1) or subsection (a)(2) shall include, in addition to the requirements of those subsections an audio statement by the candidate that identifies the candidate and states that the candidate has approved the communication.

"(2) If a broadcast or cablecast communication described in paragraph (1) is broadcast or cablecast by means of television, the statement required by paragraph (1) shall—

"(A) appear at the end of the communication in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds; and

"(B) be accompanied by a clearly identifiable photographic or similar image of the candidate.

"(e) Any broadcast or cablecast communication described in subsection (a)(3) shall include, in addition to the requirements of those subsections, in a clearly spoken manner, the following statement—

' is responsible for the content of this advertisement.'

with the blank to be filled in with the name of the political committee or other person paying for the communication and the name of any connected organization of the payor; and, if broadcast or cablecast by means of television, shall also appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds.".

**SEC. 134. DEFINITIONS.**

(a) IN GENERAL.—Section 301 of FECA (2 U.S.C. 431) is amended by striking paragraph (19) and inserting the following new paragraphs:

"(19) The term 'eligible Senate candidate' means a candidate who is eligible under section 502 to receive benefits under title V.

"(20) The term 'general election' means any election which will directly result in the election of a person to a Federal office, but does not include an open primary election.

"(21) The term 'general election period' means, with respect to any candidate, the period beginning on the day after the date of the primary or runoff election for the specific office the candidate is seeking, whichever is later, and ending on the earlier of—

"(A) the date of such general election; or

"(B) the date on which the candidate withdraws from the campaign or otherwise ceases actively to seek election.

"(22) The term 'immediate family' means—

"(A) a candidate's spouse;

"(B) a child, stepchild, parent, grandparent, brother, half-brother, sister or half-sister of the candidate or the candidate's spouse; and

"(C) the spouse of any person described in subparagraph (B).

"(23) The term 'major party' has the meaning given such term in section 9002(6) of the Internal Revenue Code of 1986, except that if a candidate qualified under State law for the ballot in a general election in an open primary in which all the candidates for the office participated and which resulted in the candidate and at least one other candidate qualifying for the ballot in the general election, such candidate shall be treated as a candidate of a major party for purposes of title V.

"(24) The term 'primary election' means an election which may result in the selection of a candidate for the ballot in a general election for a Federal office.

"(25) The term 'primary election period' means, with respect to any candidate, the period beginning on the day following the date of the last election for the specific office the candidate is seeking and ending on the earlier of—

"(A) the date of the first primary election for that office following the last general election for that office; or

"(B) the date on which the candidate withdraws from the election or otherwise ceases actively to seek election.

"(26) The term 'runoff election' means an election held after a primary election which is prescribed by applicable State law as the means for deciding which candidate will be on the ballot in the general election for a Federal office.

"(27) The term 'runoff election period' means, with respect to any candidate, the period beginning on the day following the date of the last primary election for the specific office such candidate is seeking and ending on the date of the runoff election for such office.

"(28) The term 'voting age population' means the resident population, 18 years of age or older, as certified pursuant to section 315(e).

"(29) The term 'election cycle' means—

"(A) in the case of a candidate or the authorized committees of a candidate, the term beginning on the day after the date of the most recent general election for the specific office or seat which such candidate seeks and ending on the date of the next general election for such office or seat; or

"(B) for all other persons, the term beginning on the first day following the date of the last general election and ending on the date of the next general election.

"(30) The term 'personal funds expenditure limit' means the limit applicable to an eligible Senate candidate under section 502(a).

"(31) The term 'primary election expenditure limit' means the limit applicable to an eligible Senate candidate under section 502(b).

"(32) The term 'runoff election expenditure limit' means the limit applicable to an eligible Senate candidate under section 502(c).

"(33) The term 'general election expenditure limit' means the limit applicable to an eligible Senate candidate under section 502(d).

"(34) The term 'multicandidate political committee primary election contribution limit' means the limit applicable to an eligible Senate candidate under section 502(e)(1).

"(35) The term 'multicandidate political committee runoff election contribution limit' means the limit applicable to an eligible Senate candidate under section 502(e)(2).

"(36) The terms 'Senate Election Campaign Fund' and 'Fund' mean the Senate Election Campaign Fund established under section 510.".

(b) IDENTIFICATION.—Section 301(13) of FECA (2 U.S.C. 431(13)) is amended by strik-

ing "mailing address" and inserting "permanent residence address".

**SEC. 135. PROVISIONS RELATING TO FRANKED MASS MAILINGS.**

Section 3210(a)(6) of title 39, United States Code, is amended—

(1) in subparagraph (A), by striking "It is the intent of Congress that a Member of, or a Member-elect to, Congress" and inserting "A Member of, or Member-elect to, the House"; and

(2) in subparagraph (C)—

(A) by striking "if such mass mailing is postmarked fewer than 60 days immediately before the date" and inserting "if such mass mailing is postmarked during the calendar year"; and

(B) by inserting "or reelection" immediately before the period.

## TITLE II—INDEPENDENT EXPENDITURES

**SEC. 201. CLARIFICATION OF DEFINITIONS RELATING TO INDEPENDENT EXPENDITURES.**

(a) INDEPENDENT EXPENDITURE DEFINITION AMENDMENT.—Section 301 of FECA (2 U.S.C. 431) is amended by striking paragraphs (17) and (18) and inserting the following:

"(17)(A) The term 'independent expenditure' means an expenditure for an advertisement or other communication that—

"(i) contains express advocacy; and

"(ii) is made without the participation or cooperation of a candidate or a candidate's representative.

"(B) The following shall not be considered an independent expenditure:

"(i) An expenditure made by a political committee of a political party.

"(ii) An expenditure made by a person who, during the election cycle, has communicated with or received information from a candidate or a representative of that candidate regarding activities that have the purpose of influencing that candidate's election to Federal office, where the expenditure is in support of that candidate or in opposition to another candidate for that office.

"(iii) An expenditure if there is any arrangement, coordination, or direction with respect to the expenditure between the candidate or the candidate's agent and the person making the expenditure.

"(iv) An expenditure if, in the same election cycle, the person making the expenditure is or has been—

"(I) authorized to raise or expend funds on behalf of the candidate or the candidate's authorized committees; or

"(II) serving as a member, employee, or agent of the candidate's authorized committees in an executive or policymaking position.

"(v) An expenditure if the person making the expenditure has advised or counseled the candidate or the candidate's agents at any time on the candidate's plans, projects, or needs relating to the candidate's pursuit of nomination for election, or election, to Federal office, in the same election cycle, including any advice relating to the candidate's decision to seek Federal office.

"(vi) An expenditure if the person making the expenditure retains the professional services of any individual or other person also providing services in the same election cycle to the candidate in connection with the candidate's pursuit of nomination for election, or election, to Federal office, including any services relating to the candidate's decision to seek Federal office.

"(vii) An expenditure if the person making the expenditure has consulted at any time during the same election cycle about the candidate's plans, projects, or needs relating to the candidate's pursuit of nomination for election, or election, to Federal office, with—

"(I) any officer, director, employee or agent of a party committee that has made or intends to make expenditures or contributions, pursuant to subsections (a), (d), or (h) of section 315 in connection with the candidate's campaign; or

"(II) any person whose professional services have been retained by a political party committee that has made or intends to make expenditures or contributions pursuant to subsections (a), (d), or (h) of section 315 in connection with the candidate's campaign.

For purposes of this subparagraph, the person making the expenditure shall include any officer, director, employee, or agent of such person.

"(18) The term 'express advocacy' means, when a communication is taken as a whole, an expression of support for or opposition to a specific candidate, to a specific group of candidates, or to candidates of a particular political party, or a suggestion to take action with respect to an election, such as to vote for or against, make contributions to, or participate in campaign activity.".

(b) CONTRIBUTION DEFINITION AMENDMENT.—Section 301(8)(A) of FECA (2 U.S.C. 431(8)(A)) is amended—

(1) in clause (i), by striking "or" after the semicolon at the end;

(2) in clause (ii), by striking the period at the end and inserting "; or"; and

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

"(iii) any payment or other transaction referred to in paragraph (17)(A)(i) that does not qualify as an independent expenditure under paragraph (17)(A)(ii).".

## TITLE III—EXPENDITURES

### Subtitle A—Personal Loans; Credit

**SEC. 301. PERSONAL CONTRIBUTIONS AND LOANS.**

Section 315 of FECA (2 U.S.C. 441a) is amended by adding at the end the following new subsection:

"(i) LIMITATIONS ON PAYMENTS TO CANDIDATES.—(1) If a candidate or a member of the candidate's immediate family made any loans to the candidate or to the candidate's authorized committees during any election cycle, no contributions received after the date of the general election for such election cycle may be used to repay such loans.

"(2) No contribution by a candidate or member of the candidate's immediate family may be returned to the candidate or member other than as part of a pro rata distribution of excess contributions to all contributors.".

**SEC. 302. EXTENSIONS OF CREDIT.**

Section 301(8)(A) of FECA (2 U.S.C. 431(8)(A)), as amended by section 201(b), is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting "; or"; and

(3) by inserting at the end the following new clause:

"(iv) with respect to a candidate and the candidate's authorized committees, any extension of credit for goods or services relating to advertising on broadcasting stations, in newspapers or magazines, or by mailings, or relating to other types of general public political advertising, if such extension of credit is—

"(I) in an amount of more than $500; and

"(II) for a period greater than the period, not in excess of 60 days, for which credit is generally extended in the normal course of business after the date on which such goods or services are furnished or the date of the mailing in the case of advertising by a mailing.".

### Subtitle B—Provisions Relating to Soft Money of Political Parties

**SEC. 311. CONTRIBUTIONS TO POLITICAL PARTY COMMITTEES FOR GRASSROOTS FEDERAL ELECTION CAMPAIGN ACTIVITIES.**

(a) IN GENERAL.—Section 315(a)(1)(C) of FECA (2 U.S.C. 441a(a)(1)(C)) is amended by striking "$5,000." and inserting "5,000, plus an additional $5,000 that may be contributed to a political committee established and maintained by a State political party for the sole purpose of conducting grassroots Federal election campaign activities coordinated by the Congressional Campaign Committee and Senatorial Campaign Committee of the party.".

(b) INCREASE IN OVERALL LIMIT.—Paragraph (3) of section 315(a) of FECA (2 U.S.C. 441a(a)(3)) is amended by adding at the end the following new sentence: "The limitation under this paragraph shall be increased (but not by more than $5,000) by the amount of contributions made by an individual during a calendar year to political committees which are taken into account for purposes of paragraph (1)(C).".

(c) DEFINITION.—Section 301(a) of FECA (2 U.S.C. 431(a)), as amended by section 134, is amended by adding at the end the following new paragraph:

"(37) The term 'grassroots Federal election campaign activity' means—

"(A) voter registration and get-out-the-vote activities;

"(B) campaign activities, including broadcasting, newspaper, magazine, billboard, mass mail, and newsletter communications, and similar kinds of communications or public advertising that—

"(i) are generic campaign activities; or

"(ii) identify a Federal candidate regardless of whether a State or local candidate is also identified;

"(C) the preparation and dissemination of campaign materials that are part of a generic campaign activity or that identify a Federal candidate, regardless of whether a State or local candidate is also identified;

"(D) development and maintenance of voter files;

"(E) any other activity affecting (in whole or in part) an election for Federal office; and

"(F) activities conducted for the purpose of raising funds to pay for activities described in subparagraphs (A), (B), (C), (D), and (E), to the extent that any such activity is allocable to Federal elections under a regulation issued by the Commission.".

**SEC. 312. PROVISIONS RELATING TO NATIONAL, STATE, AND LOCAL PARTY COMMITTEES.**

(a) EXPENDITURES BY STATE COMMITTEES IN CONNECTION WITH PRESIDENTIAL CAMPAIGNS.—Section 315(d) of FECA (2 U.S.C. 441a(d)) is amended by inserting at the end the following new paragraph:

"(4) A State committee of a political party, including subordinate committees of that State committee, shall not make expenditures in connection with the general election campaign of a candidate for President of the United States who is affiliated with such party which, in the aggregate, exceed an amount equal to 4 cents multiplied by the voting age population of the State, as certified under subsection (e). This paragraph shall not authorize a committee to make expenditures for audio broadcasts (including television broadcasts) in excess of

the amount which could have been made without regard to this paragraph.".

(b) CONTRIBUTION AND EXPENDITURE EXCEPTIONS.—(1) Section 301(8)(B) of FECA (2 U.S.C. 431(8)(B)) is amended—

(A) in clause (xi), by striking "direct mail" and inserting "mail"; and

(B) by repealing clauses (x) and (xii).

(2) Section 301(9)(B) of FECA (2 U.S.C. 431(9)(B)) is amended by repealing clauses (viii) and (ix).

(c) SOFT MONEY OF COMMITTEES OF POLITICAL PARTIES.—(1) Title III of FECA, as amended by section 102(a), is amended by inserting after section 323 the following new section:

"POLITICAL PARTY COMMITTEES

"SEC. 325. (a) Any amount solicited, received, or expended directly or indirectly by a national, State, district, or local committee of a political party (including any subordinate committee) with respect to an activity which, in whole or in part, is in connection with an election to Federal office shall be subject in its entirety to the limitations, prohibitions, and reporting requirements of this Act.

"(b) For purposes of subsection (a):

"(1) Any activity which is solely for the purpose of influencing an election for Federal office is in connection with an election for Federal office.

"(2) A grassroots Federal election campaign activity shall be treated as in connection with an election for Federal office.

"(3) The following shall not be treated as in connection with a Federal election:

"(A) Any amount described in section 301(8)(B)(viii).

"(B) Any amount contributed to a candidate for other than Federal office.

"(C) Any amount received or expended in connection with a State or local political convention.

"(D) Campaign activities, including broadcasting, newspaper, magazine, billboard, mass mail, and newsletter communications, and similar kinds of communications or public advertising that are exclusively on behalf of State or local candidates and are conducted in a year that is not a Presidential election year.

"(E) Research pertaining solely to State and local candidates and issues.

"(F) Any other activity which is solely for the purpose of influencing, and which solely affects, an election for non-Federal office.

"(4) For purposes of this subsection, the term 'Federal election period' means the period—

"(A) beginning on January 1 of any even-numbered calendar year; and

"(B) ending on the date during such year on which regularly scheduled general elections for Federal office occur.

In the case of a special election, the Federal election period shall include at least the 60-day period ending on the date of the election.

"(c) SOLICITATION BY COMMITTEES.—A Congressional or Senatorial Campaign Committee of a political party may not solicit or accept contributions not subject to the limitations, prohibitions, and reporting requirements of this Act.

"(d) AMOUNTS RECEIVED FROM STATE AND LOCAL CANDIDATE COMMITTEES.—(1) For purposes of subsection (a), any amount received by a national, State, district, or local committee of a political party (including any subordinate committee) from a State or local candidate committee shall be treated as meeting the requirements of subsection (a) and section 304(d) if—

"(A) such amount is derived from funds which meet the requirements of this Act with respect to any limitation or prohibition as to source or dollar amount, and

"(B) the State or local candidate committee—

"(i) maintains, in the account from which payment is made, records of the sources and amounts of funds for purposes of determining whether such requirements are met, and

"(ii) certifies to the other committee that such requirements were met.

"(2) Notwithstanding paragraph (1), any committee receiving any contribution described in paragraph (1) from a State or local candidate committee shall be required to meet the reporting requirements of this Act with respect to receipt of the contribution from such candidate committee.

"(3) For purposes of this subsection, a State or local candidate committee is a committee established, financed, maintained, or controlled by a candidate for other than Federal office.".

(2) Section 315(d) of FECA (2 U.S.C. 441a(d)), as amended by subsection (a), is amended by adding at the end the following new paragraph:

"(5)(A) The national committee of a political party, the congressional campaign committees of a political party, and a State or local committee of a political party, including a subordinate committee of any of the preceding committees, shall not make expenditures during any calendar year for activities described in section 325(b)(2) with respect to such State which, in the aggregate, exceed an amount equal to 30 cents multiplied by the voting age population of the State (as certified under subsection (e)).

"(B) Expenditures authorized under this paragraph shall be in addition to other expenditures allowed under this subsection, except that this paragraph shall not authorize a committee to make expenditures to which paragraph (3) or (4) applies in excess of the limit applicable to such expenditures under paragraph (3) or (4).

"(C) No adjustment to the limitation under this paragraph shall be made under subsection (c) before 1992 and the base period for purposes of any such adjustment shall be 1990.

"(D) For purposes of this paragraph—

"(i) a local committee of a political party shall only include a committee that is a political committee (as defined in section 301(4)); and

"(ii) a State committee shall not be required to record or report under this Act the expenditures of any other committee which are made independently from the State committee.".

(3) Section 301(4) of FECA (2 U.S.C. 431(4)) is amended by adding at the end the following new sentence:

"For purposes of subparagraph (C), any payments for get-out-the-vote activities on behalf of candidates for office other than Federal office shall be treated as payments exempted from the definition of expenditure under paragraph (9) of this section.".

(d) GENERIC ACTIVITIES.—Section 301 of FECA (2 U.S.C. 431), as amended by section 311(c), is amended by adding at the end the following new paragraph:

"(32) The term 'generic campaign activity' means a campaign activity the purpose or effect of which is to promote a political party rather than any particular Federal or non-Federal candidate.".

**SEC. 313. RESTRICTIONS ON FUNDRAISING BY CANDIDATES AND OFFICEHOLDERS.**

(a) STATE FUNDRAISING ACTIVITIES.—Section 315 of FECA (2 U.S.C. 441a), as amended by section 301, is amended by adding at the end the following new subsection:

"(k) LIMITATIONS ON FUNDRAISING ACTIVITIES OF FEDERAL CANDIDATES AND OFFICEHOLDERS AND CERTAIN POLITICAL COMMITTEES.—(1) For purposes of this Act, a candidate for Federal office (or an individual holding Federal office) may not solicit funds to, or receive funds on behalf of, any Federal or non-Federal candidate or political committee—

"(A) which are to be expended in connection with any election for Federal office unless such funds are subject to the limitations, prohibitions, and requirements of this Act; or

"(B) which are to be expended in connection with any election for other than Federal office unless such funds are not in excess of amounts permitted with respect to Federal candidates and political committees under this Act, and are not from sources prohibited by this Act with respect to elections to Federal office.

"(2)(A) The aggregate amount which a person described in subparagraph (B) may solicit from a multicandidate political committee for State committees described in subsection (a)(1)(C) (including subordinate committees) for any calendar year shall not exceed the dollar amount in effect under subsection (a)(2)(B) for the calendar year.

"(B) A person is described in this subparagraph if such person is a candidate for Federal office, an individual holding Federal office, or any national, State, district, or local committee of a political party (including subordinate committees).

"(3) The appearance or participation by a candidate or individual in any activity (including fundraising) conducted by a committee of a political party or a candidate for other than Federal office shall not be treated as a solicitation for purposes of paragraph (1) if—

"(A) such appearance or participation is otherwise permitted by law; and

"(B) such candidate or individual does not solicit or receive, or make expenditures from, any funds resulting from such activity.

"(4) Paragraph (1) shall not apply to the solicitation or receipt of funds, or disbursements, by an individual who is a candidate for other than Federal office if such activity is permitted under State law.

"(5) For purposes of this subsection, an individual shall be treated as holding Federal office if such individual—

"(A) holds a Federal office; or

"(B) holds a position described in level I of the Executive Schedule under section 5312 of title 5, United States Code.".

(b) TAX-EXEMPT ORGANIZATIONS.—Section 315 of FECA (2 U.S.C. 441a), as amended by subsection (a), is amended by adding at the end the following new subsection:

"(l) TAX-EXEMPT ORGANIZATIONS.—(1) If during any period an individual is a candidate for, or holds, Federal office, such individual may not during such period solicit contributions to, or on behalf of, any organization which is described in section 501(c) of the Internal Revenue Code of 1986 if a significant portion of the activities of such organization include voter registration or get-out-the-vote campaigns.

"(2) For purposes of this subsection, an individual shall be treated as holding Federal office if such individual—

"(A) holds a Federal office; or

"(B) holds a position described in level I of the Executive Schedule under section 5312 of title 5, United States Code.".

**SEC. 314. REPORTING REQUIREMENTS.**

(a) REPORTING REQUIREMENTS.—Section 304 of FECA (2 U.S.C. 434) is amended by adding at the end the following new subsection:

"(d) POLITICAL COMMITTEES.—(1) The national committee of a political party and any congressional campaign committee, and any subordinate committee of either, shall report all receipts and disbursements during the reporting period, whether or not in connection with an election for Federal office.

"(2) A political committee (not described in paragraph (1)) to which section 325 applies shall report all receipts and disbursements in connection with a Federal election (as determined under section 325) and all payments for combined activities under 326;

"(3) Any political committee to which paragraph (1) or (2) does not apply shall report any receipts or disbursements which are used in connection with a Federal election or for combined activities.

"(4) If any receipt or disbursement to which this subsection applies exceeds $50, the political committee shall include identification of the person from whom, or to whom, such receipt or disbursement was made.

"(5) Reports required to be filed by this subsection shall be filed for the same time periods required for political committees under subsection (a).".

(b) REPORT OF EXEMPT CONTRIBUTIONS.—Section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)) is amended by inserting at the end the following:

"(C) The exclusions provided in clauses (v) and (viii) of subparagraph (B) shall not apply for purposes of any requirement to report contributions under this Act, and all such contributions in excess of $50 shall be reported.".

(c) REPORTING OF EXEMPT EXPENDITURES.—Section 301(9) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(9)) is amended by inserting at the end the following:

"(C) The exclusions provided in clause (iv) of subparagraph (B) shall not apply for purposes of any requirement to report expenditures under this Act, and all such expenditures in excess of $50 shall be reported.".

(d) CONTRIBUTIONS AND EXPENDITURES OF POLITICAL COMMITTEES.—Section 301(4) of FECA (2 U.S.C. 431(4)) is amended by adding at the end the following: "For purposes of this paragraph, the receipt of contributions or the making of, or obligating to make, expenditures shall be determined by the Commission on the basis of facts and circumstances, in whatever combination, demonstrating a purpose of influencing any election for Federal office, including, but not limited to, the representations made by any person soliciting funds about their intended uses; the identification by name of individuals who are candidates for Federal office or of any political party, in general public political advertising; and the proximity to any primary, runoff, or general election of general public political advertising designed or reasonably calculated to influence voter choice in that election.".

(e) REPORTS BY STATE COMMITTEES.—Section 304 of FECA (2 U.S.C. 434), as amended by subsection (a), is amended by adding at the end the following new subsection:

"(e) FILING OF STATE REPORTS.—In lieu of any report required to be filed by this Act, the Commission may allow a State committee of a political party to file with the Commission a report required to be filed under State law if the Commission determines such reports contain substantially the same information.".

**SEC. 315. LIMITATIONS ON COMBINED POLITICAL ACTIVITIES OF POLITICAL COMMITTEES OF POLITICAL PARTIES.**

Title III of FECA (2 U.S.C. 431 et seq.), as amended by section 312(c), is amended by adding at the end the following new section:

"LIMITATIONS ON COMBINED POLITICAL ACTIVITIES OF POLITICAL COMMITTEES OF POLITICAL PARTIES

"SEC. 326. (a)(1) Political party committees that make payments for combined political activity shall allocate a portion of such payments to Federal accounts containing contributions subject to the limitations and prohibitions of this Act, as provided for in this section.

"(2) National party committees shall allocate as follows:

"(A) At least 65 percent of the costs of voter registration drives, development and maintenance of voter files, get-out-the-vote activities, and administrative expenses shall be paid from a Federal account in Presidential election years. At least 60 percent of the costs of voter drives and administrative expenses shall be paid from a Federal account in all other years.

"(B) The costs of fundraising activities which shall be paid from a Federal account shall equal the ratio of funds received into the Federal account to the total receipts from each fundraising program or event.

"(C) The costs of activities subject to limitation under section 315(d) which involve both Federal and non-Federal candidates, shall be paid from a Federal account according to the time or space devoted to Federal candidates.

"(3) State and local party committees shall allocate as follows:

"(A) At least 50 percent of the costs of voter registration drives, development and maintenance of voter files, get-out-the-vote activities, and administrative expenses shall be paid from a Federal account in Presidential election years. In all other years, the costs of voter drives and administrative expenses which shall be paid from a Federal account shall be determined by the ballot composition for the election cycle, but, in no event, shall the amount paid from the Federal account be less than 33 percent.

"(B) The costs of fundraising activities which shall be paid from a Federal account shall equal the ratio of funds received into the Federal account to the total receipts from each fundraising program or event.

"(C) The costs of activities exempt from the definition of 'contribution' or 'expenditure' under section 301, when conducted in conjunction with both Federal and non-Federal elections, shall be paid from a Federal account according to the time or space devoted to Federal candidates or elections.

"(D) The costs of activities subject to limitation under section 315 (a) or (d) which involve both Federal and non-Federal candidates, shall be paid from a Federal account according to the time or space devoted to Federal candidates.

"(b) For purposes of this subsection—

"(1) the term 'combined political activity' means any activity that is both—

"(A) in connection with an election for Federal office; and

"(B) in connection with an election for any non-Federal office.

"(2) Any activity which is undertaken solely in connection with a Federal election is not combined political activity.

"(3) Except as provided in paragraph (4), combined political activity shall include—

"(A) State and local party activities exempt from the definitions of 'contribution' and 'expenditure' under section 301 and activities subject to limitation under section 315 which involve both Federal and non-Federal candidates, except that payments for activities subject to limitation under section 315 are not subject to the limitation of subsection (a)(1);

"(B) voter drives including voter registration, voter identification and get-out-the-vote drives or any other activities that urge the general public to register, vote for or support non-Federal candidates, candidates of a particular party, or candidates associated with a particular issue, without mentioning a specific Federal candidate;

"(C) fundraising activities where both Federal and non-Federal funds are collected through such activities; and

"(D) administrative expenses not directly attributable to a clearly identified Federal or non-Federal candidate, except that payments for administrative expenses are not subject to the limitation of subsection (a)(1).

"(4) The following payments are exempt from the definition of combined political activity:

"(A) Any amount described in section 301(8)(B)(viii).

"(B) Any payments for legal or accounting services, if such services are for the purpose of ensuring compliance with this Act.

"(5) The term 'ballot composition' means the number of Federal offices on the ballot compared to the total number of offices on the ballot during the next election cycle for the State. In calculating the number of offices for purposes of this paragraph, the following offices shall be counted, if on the ballot during the next election cycle: President, United States Senator, United States Representative, Governor, State Senator, and State Representative. No more than three additional statewide partisan candidates shall be counted, if on the ballot during the next election cycle. No more than three additional local partisan candidates shall be counted, if such offices are on the ballot in the majority of the State's counties during the next election cycle.

"(6) The term 'time or space devoted to Federal candidates' means with respect to a particular communication, the portion of the communication devoted to Federal candidates compared to the entire communication, except that no less than one-third of any communication shall be considered devoted to a Federal candidate.".

**TITLE IV—CONTRIBUTIONS**

**SEC. 401. REDUCTION OF CONTRIBUTION LIMITS.**

Section 315(a)(1)(A) of FECA (2 U.S.C. 441a(a)(1)(A)) is amended by striking "$1,000" and inserting "$100".

**SEC. 402. CONTRIBUTIONS THROUGH INTERMEDARIES AND CONDUITS; PROHIBITION OF CERTAIN CONTRIBUTIONS BY LOBBYISTS.**

(a) IN GENERAL.—Section 315(a)(8) of FECA (2 U.S.C. 441a(a)(8)) is amended to read as follows:

"(8) For the purposes of this subsection:

"(A) Contributions made by a person, either directly or indirectly, to or on behalf of a particular candidate, including contributions that are in any way earmarked or otherwise directed through an intermediary or conduit to a candidate, shall be treated as contributions from the person to the candidate.

"(B) Contributions made directly or indirectly by a person to or on behalf of a particular candidate through an intermediary or conduit, including contributions made or arranged to be made by an intermediary or conduit, shall be treated as contributions from the intermediary or conduit to the candidate if—

"(i) the contributions made through the intermediary or conduit are in the form of a check or other negotiable instrument made payable to the intermediary or conduit rather than the intended recipient; or

"(ii) the intermediary or conduit is—

"(I) a political committee;

"(II) an officer, employee, or agent of such a political committee;

"(III) a political party;

"(IV) a partnership or sole proprietorship;

"(V) a lobbyist; or

"(VI) an organization prohibited from making contributions under section 316, or an officer, employee, or agent of such an organization acting on the organization's behalf.

"(C)(i) The term 'intermediary or conduit' does not include—

"(I) a candidate or representative of a candidate receiving contributions to the candidate's principal campaign committee or authorized committee;

"(II) a professional fundraiser compensated for fundraising services at the usual and customary rate;

"(III) a volunteer hosting a fundraising event at the volunteer's home, in accordance with section 301(8)(B); or

"(IV) an individual who transmits a contribution from the individual's spouse.

"(ii) The term 'representative' means an individual who is expressly authorized by the candidate to engage in fundraising, and who occupies a significant position within the candidate's campaign organization, provided that the individual is not described in subparagraph (B)(ii).

"(iii) The term 'contributions made or arranged to be made' includes—

"(I) contributions delivered to a particular candidate or the candidate's authorized committee or agent; and

"(II) contributions directly or indirectly arranged to be made to a particular candidate or the candidate's authorized committee or agent, in a manner that identifies directly or indirectly to the candidate or authorized committee or agent the person who arranged the making of the contributions or the person on whose behalf such person was acting.

"(iv) The term 'acting on the organization's behalf' includes the following activities by an officer, employee or agent of a person described in subparagraph (B)(ii)(IV):

"(I) Soliciting or directly or indirectly arranging the making of a contribution to a particular candidate in the name of, or by using the name of, such a person.

"(II) Soliciting or directly or indirectly arranging the making of a contribution to a particular candidate using other than incidental resources of such a person.

"(III) Soliciting contributions for a particular candidate by substantially directing the solicitations to other officers, employees, or agents of such a person.

"(D) Nothing in this paragraph shall prohibit—

"(i) bona fide joint fundraising efforts conducted solely for the purpose of sponsorship of a fundraising reception, dinner, or other similar event, in accordance with rules prescribed by the Commission, by—

"(I) 2 or more candidates;

"(II) 2 or more national, State, or local committees of a political party within the meaning of section 301(4) acting on their own behalf; or

"(III) a special committee formed by 2 or more candidates, or a candidate and a national, State, or local committee of a political party acting on their own behalf; or

"(ii) fundraising efforts for the benefit of a candidate that are conducted by another candidate.

"(iii) bona fide fundraising efforts conducted by and solely on behalf of an individual for the purpose of sponsorship of a fundraising reception, dinner, or other similar event, but only if all contributions are made directly to a candidate or a representative of a candidate.

When a contribution is made to a candidate through an intermediary or conduit, the intermediary or conduit shall report the original source and the intended recipient of the contribution to the Commission and to the intended recipient.".

(b) PROHIBITION OF CERTAIN CONTRIBUTIONS BY LOBBYISTS.—Section 315 of FECA (2 U.S.C. 441a), as amended by section 313(b), is amended by adding at the end the following new subsection:

"(m)(1) A lobbyist shall not make a contribution to or solicit a contribution on behalf of a legislative branch official before whom the lobbyist has appeared or with whom the lobbyist has made a lobbying contact, in the lobbyist's representational capacity, during the 12-month period preceding the date on which the contribution is made or solicited.

"(2) A lobbyist who makes a contribution to or solicits a contribution on behalf of a legislative branch official shall not appear before or make a lobbying contact with that legislative branch official, in the lobbyist's representational capacity, during the 12-month period after the date on which the contribution is made or solicited.".

(c) DEFINITIONS.—Section 301(a) of FECA (2 U.S.C. 431(a)), as amended by section 311(c), is amended by adding at the end the following new paragraphs:

"(37) The term 'lobbyist' means—

"(A) a person required to register under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267) or the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.);

"(B) a person required under any other law to register as a lobbyist (as the term 'lobbyist' may be defined in any such law); and

"(C) any other person that receives compensation in return for making a lobbying contact with Congress on any legislative matter, including a member, officer, or employee of any organization that receives such compensation.

"(38)(A) The term 'lobbying contact'—

"(i) means an oral or written communication with a legislative branch official made by a lobbyist on behalf of another person with regard to—

"(I) the formulation, modification, or adoption of Federal legislation (including a legislative proposal);

"(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) but—

"(ii) does not include a communication that is—

"(I) made by a public official acting in an official capacity;

"(II) made by a representative of a media organization who is primarily engaged in gathering and disseminating news and information to the public;

"(III) made in a speech, article, publication, or other material that is widely distributed to the public or through the media;

"(IV) a request for an appointment, a request for the status of a Federal action, or another similar ministerial contact, if there is no attempt to influence a legislative branch official at the time of the contact;

"(V) made in the course of participation in an advisory committee subject to the Federal Advisory Committee Act (5 U.S.C. App.);

"(VI) testimony given before a committee, subcommittee, or office of Congress, or submitted for inclusion in the public record of a hearing conducted by the committee, subcommittee, or office;

"(VII) information provided in writing in response to a specific written request from a legislative branch official;

"(VIII) required by subpoena, civil investigative demand, or otherwise compelled by statute, regulation, or other action of Congress or a Federal agency;

"(IX) made to an agency official with regard to a judicial proceeding, criminal or civil law enforcement inquiry, investigation, or proceeding, or filing required by law;

"(X) 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;

"(XI) a written comment filed in a public docket and other communication that is made on the record in a public proceeding;

"(XII) a formal petition for agency action, made in writing pursuant to established agency procedures; or

"(XIII) made on behalf of a person with regard to the person's benefits, employment, other personal matters involving only that person, or disclosures pursuant to a whistleblower statute.

"(39) The term 'legislative branch official' means—

"(A) a member of Congress;

"(B) an elected officer of Congress;

"(C) an 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) an 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) an employee of a joint committee of the Congress, other than a clerical or secretarial employee.".

**SEC. 403. CONTRIBUTIONS BY DEPENDENTS NOT OF VOTING AGE.**

(a) IN GENERAL.—Section 315 of FECA (2 U.S.C. 441a), as amended by section 402(b), is amended by adding at the end the following new subsection:

"(n) For purposes of this section, any contribution by an individual who—

"(1) is a dependent of another individual; and

"(2) has not, as of the time of such contribution, attained the legal age for voting for elections to Federal office in the State in which such individual resides,

shall be treated as having been made by such other individual. If such individual is the dependent of another individual and such other individual's spouse, the contribution shall be allocated among such individuals in the manner determined by them.".

**SEC. 404. CONTRIBUTIONS TO CANDIDATES FROM STATE AND LOCAL COMMITTEES OF POLITICAL PARTIES TO BE AGGREGATED.**

(a) IN GENERAL.—Section 315(a) of FECA (2 U.S.C. 441a(a)) is amended by adding at the end the following new paragraph:

"(9) A candidate for Federal office may not accept, with respect to an election, any contribution from a State or local committee of a political party (including any subordinate committee of such committee), if such con-

tribution, when added to the total of contributions previously accepted from all such committees of that political party, exceeds a limitation on contributions to a candidate under this section.".

(b) CONFORMING AMENDMENT.—Section 315(a)(5) of FECA (2 U.S.C. 441a(a)(5)) is amended—

(1) by adding "and" at the end of subparagraph (A);

(2) by striking subparagraph (B); and

(3) by redesignating subparagraph (C) as subparagraph (B).

**SEC. 405. LIMITED EXCLUSION OF ADVANCES BY CAMPAIGN WORKERS FROM THE DEFINITION OF THE TERM "CONTRIBUTION".**

Section 301(8)(B) of FECA (2 U.S.C. 431(8)(B)) is amended—

(1) in clause (xiii), by striking "and" after the semicolon at the end;

(2) in clause (xiv), by striking the period at the end and inserting: "; and"; and

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

"(xv) any advance voluntarily made on behalf of an authorized committee of a candidate by an individual in the normal course of such individual's responsibilities as a volunteer for, or employee of, the committee, if the advance is reimbursed by the committee within 10 days after the date on which the advance is made, and the aggregate value of advances on behalf of a committee does not exceed $500 with respect to an election.".

## TITLE V—REPORTING REQUIREMENTS

**SEC. 501. CHANGE IN CERTAIN REPORTING FROM A CALENDAR YEAR BASIS TO AN ELECTION CYCLE BASIS.**

Paragraphs (2) through (7) of section 304(b) of FECA (2 U.S.C. 434(b)(2)–(7)) are amended by inserting after "calendar year" each place it appears the following: "(election cycle, in the case of an authorized committee of a candidate for Federal office)".

**SEC. 502. PERSONAL AND CONSULTING SERVICES.**

Section 304(b)(5)(A) of FECA (2 U.S.C. 434(b)(5)(A)) is amended by adding before the semicolon at the end the following: ", except that if a person to whom an expenditure is made is merely providing personal or consulting services and is in turn making expenditures to other persons (not including employees) who provide goods or services to the candidate or his or her authorized committees, the name and address of such other person, together with the date, amount and purpose of such expenditure shall also be disclosed".

**SEC. 503. REDUCTION IN THRESHOLD FOR REPORTING OF CERTAIN INFORMATION BY PERSONS OTHER THAN POLITICAL COMMITTEES.**

Section 304(b)(3)(A) of FECA (2 U.S.C. 434(b)(3)(A)) is amended by striking "$200" and inserting "$50".

**SEC. 504. COMPUTERIZED INDICES OF CONTRIBUTIONS.**

Section 311(a) of FECA (2 U.S.C. 438(a)) is amended—

(1) by striking "and" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting "; and"; and

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

"(11) maintain computerized indices of contributions of $50 or more.".

## TITLE VI—PRESIDENTIAL DEBATES

**SEC. 601. FINDINGS AND PURPOSES.**

(a) FINDINGS.—The Congress finds that—

(1) American voters are increasingly frustrated with the lack of significant political debate in presidential elections in the United States, and voting participation in the United States is lower than in any other advanced industrialized country, due in part to such frustration;

(2) the right of eligible citizens to participate in the election process as informed voters, provided in and derived from the first and fourteenth amendments to the Constitution, has consistently been protected and promoted by the Federal Government;

(3) United States presidential debates sponsored by nonpartisan organizations offer important fora for free, open, and substantive exchanges of candidates' ideas, and should include all significant candidates, including non-major and independent candidates; and

(4) throughout United States history, significant minor party and independent candidates have often been a source for new ideas and new programs, offering American voters an opportunity to engage in a diverse and open political discourse on critical issues of the day.

(b) PURPOSES.—The purposes of this title are to make participation in presidential debates a requirement for receipt of Federal general election campaign funds and to allow all candidates who meet the criteria outlined in this Act to participate in such debates.

**SEC. 602. PRESIDENTIAL AND VICE PRESIDENTIAL CANDIDATE DEBATES.**

Section 9003 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

"(e) PRESIDENTIAL AND VICE PRESIDENTIAL CANDIDATE DEBATES.—

"(1) AGREEMENT TO DEBATE.—In addition to meeting the requirements of subsection (a), (b), or (c), in order to be eligible to receive any payments under section 9006, the candidates for the office of President and Vice President in a Presidential election shall agree in writing that—

"(A) the Presidential candidate, if eligible under paragraph (3), will participate in not less than 3 Presidential candidate debates, which shall be held in the September and October preceding a Presidential general election at least 2 weeks before the election; and

"(B) the Vice Presidential candidate, if eligible under paragraph (3), will participate in not less than 1 Vice Presidential candidate debate, which shall be held prior to the third Presidential candidate debate.

"(2) DEBATE REQUIREMENTS.—

"(A) IN GENERAL.—Each debate under paragraph (1) shall—

"(i) be sponsored by a nonpartisan organization that has no affiliation with any political party;

"(ii) include all candidates that meet the criteria stated in paragraph (3) (except any such candidate who elects not to receive payments under section 9006), who shall appear and participate in a regulated exchange of questions and answers on political, social, economic, and other issues; and

"(iii) be of at least 90 minutes' duration, of which not less than 30 minutes are devoted to questions and answers or discussion directly between the candidates, as determined by the sponsor of the debate.

"(B) ANNOUNCEMENT OF TIME, LOCATION, AND FORMAT.—The sponsor of debates shall announce the time, location, and format of the debate prior to the first Monday in September before the Presidential election.

"(3) CRITERIA FOR PARTICIPATION IN PRESIDENTIAL CANDIDATE DEBATES.—A candidate is eligible to participate in a debate under paragraph (1) if—

"(A) the candidate has qualified for the election ballot as the candidate of a political party or as an independent candidate to the office of President or Vice President in not less than 40 States;

"(B) the candidate met the requirements of section 9033(b) (3) and (4); or

"(C) the candidate raised not less than $500,000 on or after January 1 of the calendar year immediately preceding the calendar year of the Presidential election, as disclosed in a report filed pursuant to section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434).

"(4) ENFORCEMENT.—If the Commission, acting on its own or at the complaint of any person, determines that a Presidential or Vice Presidential candidate that has received payments under section 9006 failed to participate in a debate under paragraph (1) and was responsible at least in part for that failure, the candidate shall pay to the Secretary an amount equal to the amount of the payments made to the candidate under section 9006.".

## TITLE VII—MISCELLANEOUS

**SEC. 701. PROHIBITION OF LEADERSHIP COMMITTEES.**

Section 302(e) of FECA (2 U.S.C. 432(e)) is amended—

(1) by amending paragraph (3) to read as follows:

"(3)(A) No political committee that supports or has supported more than one candidate may be designated as an authorized committee, except that—

"(i) 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

"(ii) a candidate may designate a political committee established solely for the purpose of joint fundraising by such candidates as an authorized committee.

"(B) As used in this paragraph, the term 'support' does not include a contribution by any authorized committee in amounts of $1,000 or less to an authorized committee of any other candidate."; and

(2) by adding at the end the following new paragraph:

"(6)(A) A candidate for Federal office or any individual holding Federal office may not establish, maintain, or control any political committee other than a principal campaign committee of the candidate, authorized committee, party committee, or other political committee designated in accordance with paragraph (3). A candidate for more than one Federal office may designate a separate principal campaign committee for each Federal office.

"(B) For one year after the effective date of this paragraph, any such political committee may continue to make contributions. At the end of that period such political committee shall disburse all funds by one or more of the following means: making contributions to an entity qualified under section 501(c)(3) of the Internal Revenue Code of 1986; making a contribution to the treasury of the United States; contributing to the national, State or local committees of a political party; or making contributions not to exceed $250 to candidates for elective office.".

**SEC. 702. POLLING DATA CONTRIBUTED TO CANDIDATES.**

Section 301(8) of FECA (2 U.S.C. 431(8)), as amended by section 314(b), is amended by inserting at the end the following new subparagraph:

"(D) A contribution of polling data to a candidate shall be valued at the fair market

value of the data on the date the poll was completed, depreciated at a rate not more than 1 percent per day from such date to the date on which the contribution was made.".

**TITLE VIII—EFFECTIVE DATES; AUTHORIZATIONS**

**SEC. 801. EFFECTIVE DATE.**

Except as otherwise provided in this Act, the amendments made by, and the provisions of, this Act shall take effect on the date of the enactment of this Act but shall not apply with respect to activities in connection with any election occurring before January 1, 1994.

**SEC. 802. SENSE OF THE SENATE REGARDING FUNDING OF SENATE ELECTION CAMPAIGN FUND.**

It is the sense of the Senate that—

(1) the current Presidential checkoff should be increased to $5.00, its designation changed to the "Federal Election Campaign Checkoff", and individuals should be permitted to contribute an additional $5.00 to the fund in additional taxes if they so desire;

(2) the Internal Revenue Service and the Federal Election Commission should be required to develop and implement a plan to publicize the fund and the checkoff to increase citizen participation; and

(3) funds to pay for the increase in the checkoff to $5.00 should come from the repeal of the tax deduction for business lobbying activity.

**SEC. 803. SEVERABILITY.**

Except as provided in sections 101(c) and 121(b), if any provision of this Act (including any amendment made by this Act), or the application of any such provision to any person or circumstance, is held invalid, the validity of any other provision of this Act, or the application of such provision to other persons and circumstances, shall not be affected thereby.

**SEC. 804. EXPEDITED REVIEW OF CONSTITUTIONAL ISSUES.**

(a) DIRECT APPEAL TO SUPREME COURT.—An appeal may be taken directly to the Supreme Court of the United States from any interlocutory order or final judgment, decree, or order issued by any court ruling on the constitutionality of any provision of this Act or amendment made by this Act.

(b) ACCEPTANCE AND EXPEDITION.—The Supreme Court shall, if it has not previously ruled on the question addressed in the ruling below, accept jurisdiction over, advance on the docket, and expedite the appeal to the greatest extent possible.

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SUMMARY OF SENATE FAIR ELECTIONS AND GRASSROOTS DEMOCRACY ACT

CONTRIBUTION LIMITS

Political Action Committees—prohibited from making contributions or expenditures to influence federal elections. If ban declared unconstitutional: (1) lowers PAC contribution limit to $250 per candidate, and (2) imposes aggregate PAC receipts limit on Senate candidates.

Individual Contribution Limits—lowered to $100 for donations to Senate candidates, per election cycle.

VOLUNTARY CAMPAIGN EXPENDITURE LIMITS

General election period: Formula-based, from $775,000 (small states) to $4.5 million (large states).

Primary election period: 67% of general election limit ($2.5 million max).

Runoff election: 20% of general election limit.

Candidate's personal funds: $25,000.

Limits increased if opponent raises or spends more than 200% of general election limit.

BENEFITS FOR CANDIDATES ABIDING BY VOLUNTARY EXPENDITURE LIMITS

Public funding—Primary (and Runoff): match for individual in-state donations of $100 or less, up to 50% of spending limit;

General: Major party candidates given subsidy equal to spending limit;

Minor party candidates: provided match for individual in-state donations of $100 or less, up to 50% of spending limit;

Contigent funding: payments to participating candidates to compensate for and in amount of (1) opponents' expenditures in excess of spending limit, and (2) independent expenditures made against participant or for opponent;

Free Broadcast Time—broadcasters must provide 90 min. of prime access time to eligible candidates within broadcast area, in segments of at least 1 min., with no more than 15 min. within a 24-hr. period and no more than 25% of a broadcast consisting of other than candidate remarks.

Reduced Postal Rate—1 mailing per eligible voter during general election period, at lowest non-profit third-class rate.

Eligibility threshold for benefits—candidate must raise 5% of general election limit in amounts of $100 or less (at least 60% within-state).

Funding source—appropriated funds, financed by increase in dollar checkoff to $5 and elimination of tax deduction for lobbying.

SOFT MONEY

Prohibits all "soft" money in federal elections; requires that all federal election expenditures be from sources allowed by federal law.

Establishes Grassroots Federal Election Fund to be maintained by state political parties for grassroots political activities that benefit federal candidates exclusively. Contributions to these funds must be raised and disclosed under federal limits, and may not exceed $5000.

BUNDLING

Prohibits bundling by all PACs; parties; unions, corporations, trade associations, and national banks; partnerships or sole proprietorships; and lobbyists.

Prohibits lobbyists from contributing funds to, or soliciting funds for Members of Congress if they have lobbied those Members or their staff within the last twelve months.

INDEPENDENT EXPENDITURES

Tigthens definition to ensure proper distance from candidates; augments disclosure and disclaimer requirements.

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By Mr. DANFORTH:

S. 952. To reliquidate certain entries of lithotripters that were imported by nonprofit private or public institutions established for research or educational purposes; to the Committee on Finance.

DUTY-FREE ENTRY OF CERTAIN LITHOTRIPTERS

• Mr. DANFORTH. Mr. President, today I am introducing legislation to provide for the duty-free entry of certain lithotripters imported into the United States last year. A lithotripter is a medical instrument that permits the treatment of kidney stones without invasive surgery. It essentially pulverizes the kidney stones with sound waves so they can be passed out of the kidney without surgery.

Current law permits nonprofit institutions that are established for educational or scientific purposes to import "instruments and apparatus" for their use duty-free if articles of equivalent scientific value are not being manufactured in the United States. This provision was enacted in 1966 to permit the United States to implement the Florence agreement relating to international trade in scientific and educational devices.

Last year, Midwest Stone Institute imported a new-generation lithotripter from Europe for its ongoing research needs. Midwest Stone Institute is one of the world's leading research centers on the treatment of kidney stones. As an affiliate of Barnes Hospital in St. Louis and the Washington University School of Medicine, the institute regularly supports research conducted by the professors and students at those institutions. Its director, Dr. Ralph Clayman, is a pioneer in the use of lithotripters for the treatment of kidney stones. The institute was one of the first institutions in the country to receive a lithotripther in the mid-1980's. More recently, it has been chosen as the site for Food and Drug Administration [FDA] premarket approval tests for the latest generation of lithotripters.

When Midwest Stone Institute imported its lithotripter last year, it submitted applications for duty-fee entry under the Educational, Scientific and Cultural Materials Importation Act of 1966. Despite the fact that the institute would otherwise qualify for duty-free treatment under the law, the U.S. Customs Service ruled that the fact that the institute was also the test site for FDA approval rendered the importation commercial, and therefore not entitled to duty-free treatment.

In my view, the Customs Service's position is not supported by the 1966 act or the Customs Service's own regulations. Nonetheless, a legal challenge to the Customs Service's position would be time-consuming and costly, especially for a nonprofit organization like Midwest Stone Institute. Rather than having the issue settled in court, the extension of temporary duty-free treatment to the importation of lithotripters by nonprofit institutions seems a reasonable solution.

Accordingly, the bill I am introducing today would allow nonprofit private or public institutions established for research or educational purposes to obtain a refund of any duties paid on lithotripters imported into the United States after June 1, 1992, and before September 30, 1992. The bill would not affect imports of lithotripters by profitmaking hospitals or providers of medical services and would assure that the spirit of the Florence agreement is carried out.

Mr. President, I ask unanimous consent that the text of the bill be printed in full in the RECORD.

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

S. 952

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. RELIQUIDATION OF CERTAIN LITHOTRIPTERS.**

Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, upon proper request filed with the appropriate customs officer before the 90th day after the date of the enactment of this Act, any entry of an extracorporeal shock wave lithotripter that—

(1) is described in subheading 9018.90.70 or 9018.90.80 of the Harmonized Tariff Schedule of the United States,

(2) was entered after June 1, 1992, and before September 30, 1992, and

(3) was imported by a nonprofit private or public institution established for research or educational purposes,

shall be liquidated or reliquidated as free of duty and the Secretary of the Treasury shall refund any duties paid with respect to such entry.●

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By Mr. WARNER:

S. 953. A bill to provide a right for a member of the Armed Services to be voluntarily separated from military service if the existing policy concerning military service by homosexuals is changed so that homosexuality is no longer incompatible with military service and if such member has religious, moral, or personal morale objections to such change in policy, to provide separation benefits for certain such members, and for other purposes; to the Committee on Armed Services.

LEGISLATION ON HOMOSEXUALS IN THE MILITARY

Mr. WARNER. Madam President, I am introducing today a bill, which will accord rights to men and women of the Armed Services who volunteered for such service prior to the announcement by the President of his intention to change the policy with respect to gays and homosexuals in our military services. This policy is now under review in the Department of Defense. It is now under review in the Senate. However, I think it is appropriate at this time to introduce legislation to show my concern, the concern of many, should a policy along the lines of the one now proposed by the President be ultimately adopted either by regulation, Executive order, or law, or a combination thereof.

Madam President, I rise today to introduce a bill designed to address the concerns of many men and women on active duty today.

That concern is, what are the rights of military personnel if the Department of Defense policy, before President Clinton took office, as expressed in DOD Directive 1332.4, enclosure 3, which states, "that homosexuality is incompatible with military service" is substantially changed, either by Executive order or by the Congress? As of today, men and women who volunteered to serve before the policy change, now being proposed by the President, would be required to continue to serve under materially changed conditions if that policy becomes permanent. They would be required to continue to serve no matter how sincerely they are against the policy for religious, moral, or personal morale reasons.

Since the President's proposal will accord new rights to homosexuals, the bill which I introduce today will provide rights to members of the Armed Forces who volunteered to serve under the existing policy. They will be entitled to leave active duty status and be separated, without losing all the benefits they have earned to date through lengthy, honorable service.

This legislation will apply equally to heterosexuals as well as homosexuals. Some in the latter category may well find that their continued service will become intolerable, especially if they desire not to go public. Peer pressure is likely to be brought on them to do so and conflict with their personal morale.

Specifically, my bill would become effective only if the current DOD regulations are changed, directive 1332.4 The legislation would permit any member who had entered military service prior to a change in policy to make, within 1 year after the effective date of a new regulation, a formal, written request for release from active duty, honorably, based on the service person's religious, moral, or personal morale objections to continuing to serve under a changed policy. Those persons who make such a timely, formal, written request pursuant to regulations to be issued under this legislation will be separated within 6 months after their request is approved. However, I have provided the Secretaries of the military departments authority to delay the effective date of separation for up to 2 years if the Secretary determines that the individual has unique skills and capabilities and that the separation of such individual would have direct and serious impact on the readiness of the military department concerned.

For those members who have served 6 or more years and who are separated under this section, separation benefits are provided as set forth in subsection (d) of my bill. These are the same separation benefits approved during the past 2 years by the Congress as part of the ongoing downsizing of our military forces.

Those who advocate lifting the current ban have indicated that they want to do so to protect what they describe as the "rights of gays and lesbians."

If they succeed in gaining their rights by the ban being lifted, then I believe that Congress has an equal obligation to certain members of the Armed Forces who would find their continued service in the military to be unequivocably incompatible with their moral, religious, or personal values and beliefs.

Those who argue that this legislation might cause a serious impact on the capabilities of our Armed Forces due to a potential sizable loss of qualified people must consider such an impact before moving to change policy and allow gays and lesbians to serve and openly profess their homosexuality or lesbianism while serving on active duty.

My legislation would be effective only if the ban were lifted. Those who are genuinely concerned about the capabilities and effectiveness of our military services must consider also the statements of numerous, authoritative current and former members of our military, including retired Gen. Norman Schwarzkopf, the commander of our forces in Desert Storm, his deputy commander, retired Lt. Gen. Calvin Waller and Col. Fred Peck, U.S. Marine Corps, some of our most recent combat commanders, and combat experienced officers.

These witnesses have described the severe degradation that will occur to our military if the ban were lifted. Therefore, in order to be equally fair to all those who oppose lifting the ban and see the change as one which significantly alters the terms and conditions under which they volunteered to serve, they should be allowed to exercise the option to voluntarily leave military service.

It has been suggested that there may be those who don't truly have religious, moral, or personal morale objections to a change in the homosexual policy, but who would attempt to use this legislation as a way to avoid completing their military service obligation for other reasons. My bill gives the Secretary of the military department concerned the discretion and authority to inquire into and verify a member's claims.

Furthermore, I believe my bill provides sufficient disincentive to prevent attempts to misuse this authority.

Madam President, I believe this is an appropriate, fair response if there is a substantial change in the existing policy concerning homosexuals serving in the military.

I provided a copy of this legislation in advance to Secretary of Defense Aspin on March 29, 1993, for his review and consideration. I have not received any comments from him on this legislation to date.

In accordance with the agreement entered into by Senators on February 4, 1993, I do not intend to seek final passage of this bill unless there is action taken by the administration or in the Congress to make further changes, from the interim policy in effect today, regarding homosexuals in the military.

Madam President, I request that the text of this bill be printed in full in the RECORD.

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

S. 953

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That Chapter 59 of title 10, United States Code, is amended by adding at the end thereof the following new section:

**"SEC. . VOLUNTARY SEPARATION FOR REASON OF OBJECTION TO MILITARY POLICY ON HOMOSEXUALS.**

"(a) GENERALLY.—A member of the Armed Forces may request separation from the Armed Forces under this section and, if found eligible for separation under this section by the Secretary of the military department concerned, such member shall be separated from military service as provided for in this section.

"(b) ELIGIBILITY.—A member is eligible for separation under this section if such member—

"(1) became a member of the Armed Forces on or before the date on which the policy of the Department of Defense that was in effect on May 11, 1993, that homosexuality is incompatible with military service, was changed to a policy under which homosexuality is not incompatible with military service;

"(2) has not incurred or accepted any new or additional military service obligation on or after the date of such change in such policy;

"(3) is not eligible to retire from the Armed Forces;

"(4) has not previously been approved for separation from the Armed Forces under any other section of law; and

"(5) has religious, moral, or personal morale objections to such change in such policy, and has filed within one year after the date of such change in such policy a written request to the Secretary concerned for voluntary separation under this section because of such religious, moral, or personal morale objections to such change in such policy.

"(c) ADMINISTRATION.—The Secretary concerned shall determine, under such regulations as are deemed appropriate by such Secretary, if a member who requests separation under this section is eligible for separation under this section. In determining if such a member has met the requirements of subsection (b)(5), a written request for voluntary separation by such member that asserts the request is made because the member has religious, moral, or personal morale objections to such change in such policy will generally be sufficient to establish that such member has met the requirements of that subsection. However, the Secretary may consider such other information as he deems appropriate in determining if such member's request for separation is because of such objections, including any information that such member previously has sought separation or relief from any military service obligation for any other reason, information concerning whether such member has previously expressed any opinion about such member's religious, moral, or personal morale objections to such change in such policy, or any information that such member has expressed a desire or intent to be separated or relieved from any military service obligation for any other reason.

"(d)(1) ACTIVE DUTY BENEFITS.—A member who is separated under this section and who—

"(A) has served on active duty for more than six years on the date of the policy change described in subsection (b)(1);

"(B) has served on active duty for not more than twenty years on the date of such separation;

"(C) has served at least five years of continuous active duty immediately preceding the date of such separation; and

"(D) if a Reserve, is on an active duty list,

shall be entitled to the benefits payable to either a member voluntarily separated under section 1174a(b) or a member voluntarily separated under section 1175, at the discretion of the member being separated under this section.

"(2) RESERVE BENEFITS.—A member of the Selected Reserve, as defined in section 4412 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484), who is separated from the Armed Forces under this section and who has completed at least six years of service computed under section 1332 on the date of the policy change described in subsection (b)(1) shall be entitled to either—

"(A) the benefits provided to member involuntarily discharged or transferred under section 4418 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484); or

"(B) if such member also has completed at least fifteen years of service computed under section 1332, to the rights and benefits provided to members found eligible for such rights and benefits under section 1331a of title 10, United States Code,

at the discretion of the member being separated under this section.

"(3) ELECTION OF BENEFITS.—A member separated under this section may not receive benefits under both paragraphs (1) and (2) of this subsection. If such a member is eligible for benefits under both paragraphs (1) and (2) of this subsection, such member will elect which benefits he shall receive.

"(e)(1) DATE OF SEPARATION GENERALLY.—The Secretary concerned may determine the date upon which a member entitled to be separated under this section is to be separated. However, except as provided in paragraphs (2) and (3), such date of separation shall not be later than 180 days after receipt by the Secretary concerned of such member's request to be separated under this section.

"(2) REQUIREMENT FOR REIMBURSEMENT.—Notwithstanding the 180-day period established by paragraph (1), the date of separation for a member entitled to be separated under this section who has any military service obligation for which, because of contract, agreement, or law, such member is liable for reimbursement to the United States if such military service obligation is not fully served, may not be prior to the earlier of—

"(A) the date on which the member fully reimburses the United States for any such military service obligation as required by such contract, agreement, or law; or

"(B) the date on which the member completes such military service obligation.

"(3) READINESS EXTENSION.—Notwithstanding the 180-day period established by paragraph (1), the Secretary concerned may delay the date of separation of an individual member entitled to be separated under this section if the Secretary determines that the separation of such member within that 180-day period would create a direct and serious negative impact on the readiness of the military department concerned. However, a delay under this paragraph may not extend a date of separation more than two years beyond that which would otherwise be required by paragraph (1).".

**SEC. 2. EFFECTIVE DATE.**

This section shall take effect only if that policy of the Department of Defense that was in effect on May 11, 1993, that homosexuality is incompatible with military service is changed to a policy under which homosexuality is not incompatible with military service, but shall be effective on the date of any such change in such policy.

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By Mr. KOHL (for himself, Mr. LEAHY, and Mr. FEINGOLD):

S. 954. A bill to prohibit the use of bovine somatotropin in intrastate, interstate, or international commerce until equivalent marketing practices for the use of bovine somatotropin are established with the marketing practices of other major milk or dairy products exporting nations; to the Committee on Agriculture, Nutrition, and Forestry.

BOVINE GROWTH HORMONE LEGISLATION

• Mr. KOHL. Mr. President, I rise today to introduce legislation to place a temporary moratorium on the commercial use of recombinant bovine somatotropin [rBST] in the U.S. dairy industry, until other major dairy exporting nations such as the European Community, Australia, New Zealand, and Canada have equivalent marketing practices regarding rBST. I believe that this is a reasonable approach to addressing one aspect of what has become a very contentious issue.

This legislation is important for several reasons. But primarily it is important because this Nation in general, and the dairy industry specifically, cannot afford to invite other nations to erect barriers to our dairy product exports at a time when the dairy industry is striving to expand markets abroad.

The Food and Drug Administration is currently reviewing rBST, and could potentially approve it for commercial use in the very near future. If rBST were to be used commercially in the United States at this time, the United States would be the first major dairy producing nation to do so. While this in and of itself is not bad, it is necessary to take a close look at the potential affects that unilateral introduction of rBST could have on our dairy product exports.

Although the European Community has conducted the standard health and efficacy review normally associated with the animal drug approval process, the EC has imposed a temporary moratorium on the use of rBST, pending a review of the economic effects of the product. The moratorium is in effect until December 31, 1993, at which time a decision must be made, based on all the data, whether or not rBST will be permitted to be used commercially in the European Community.

Australia has also conducted its health and efficacy review of rBST and found no problems. However, recognizing the potential sensitivity of the

world market to this new technology, Australia has prohibited the use of rBST commercially on dairy cows. New Zealand and Canada have not approved rBST for commercial use, either.

While U.S. dairy product exports are not as large as some other agricultural products, they are significant. During fiscal year 1991–92, the United States exported 638 million dollars' worth of dairy products. Analysis of these markets shows that at least one quarter of these exports would be at risk of restriction or embargo. This loss would be multiplied many times in the form of cost to dairy farmers and the taxpayers alike.

The dairy supply-demand and price balance in the United States has become extremely sensitive over the past several years as the dairy price support level has been reduced to levels well below average market prices. As a result, the loss of sales to potential rBST-embargoing nations could cause a 5-percent erosion of U.S. average prices and a loss of U.S. dairy farm income of approximately $1 billion annually. Corresponding to these losses in dairy farmer income would be large increases in the cost to taxpayers, as the Federal dairy price support program would be responsible for purchasing any surplus created by the lost markets.

Mr. President, this legislation does not purport to address any of the other issues regarding the use of recombinant rBST, such as labeling or structural affects on the dairy industry, which are currently being debated. While these are critical issues which need to be resolved before rBST is used commercially in this Nation, the exclusive purpose of this bill is to ensure that rBST does not become the source of a trade barrier on U.S. dairy product exports.

I am proud that Senator LEAHY, chairman of the Senate Agriculture Committee, and my colleague Senator FEINGOLD, are cosponsoring this legislation, and I am pleased that it is also endorsed by the National Milk Producers Federation and the National Family Farm Coalition.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 954

**SECTION 1. SHORT TITLE.**

This Act shall be known as the Bovine Somatotropin Marketing Equivalency Act of 1993.

**SEC. 2. DEFINITIONS.**

(a) "Bovine Somatotropin". The term "bovine somatotropin" means a synthetic growth hormone produced through the process of recombinant DNA techniques intended for use in Cows (bovine animals).

(b) "Equivalent Marketing Practices". The term "equivalent marketing practices" means:

(1) Practices designed to affect the use of bovine somatotropin in intrastate, interstate or international commerce; or

(2) Measures which have the effect of discouraging the sale of, or discriminating against, the use of bovine somatotropin in intrastate, interstate or international commerce which are similar or quantitatively approximate.

**SEC. 3. FINDINGS.**

Congress finds that—

(1) the United States is the single largest milk producing country in the world;

(2) an important national policy interest exists for the United States when entering into trade agreements to provide a more level playing field for international trade;

(3) it is important that the dairy industry in the United States with respect to the use of bovine somatotropin have equivalent marketing practices with those of other major milk or dairy products exporting nations and regions, such as New Zealand, Australia, Canada, and the European Community;

(4) the European Community has imposed a moratorium on the use of bovine somatotropin through December 31, 1993;

(5) in order to avoid possible discrimination against its dairy exports, Australia has announced its intention not to approve the commercial use of bovine somatotropin until other major milk and dairy exporting nations approve bovine somatotropin;

(6) bovine somatotropin has not been approved for commercial use in either New Zealand or Canada;

(7) the dairy price support program in the United States relies on the federal government to remove surplus dairy products from the domestic market, and to make subsequent sales of surplus products to defray budgetary costs of the program;

(8) the introduction by the dairy industry in the United States of bovine somatotropin into intrastate, interstate or international commerce prior to achievement of equivalent marketing practices by other countries could have a detrimental effect on the sales of milk or dairy products, causing disruptions to milk consumption, to management of the dairy price support program, to Commodity Credit Corporation dairy stocks, and to dairy producer income; and

(9) the Food and Drug Administration is likely to approve the use of bovine somatotropin prior to December 31, 1993.

**SEC. 4. DEFINITION OF BOVINE SOMATOTROPIN FOR PURPOSES OF THE FOOD, DRUG, AND COSMETIC ACT.**

Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended by adding at the end the following:

"(gg) the term 'bovine somatotropin' means a synthetic growth hormone produced through the process of recombinant DNA techniques intended for use in cows (bovine animals).

**SEC. 5. PROHIBITION ON THE USE OF BOVINE SOMATOTROPIN IN COMMERCE.**

(a) Prohibited Act. Section 301 of the Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended by adding at the end the following:

"(u) the use of bovine somatotropin in intrastate, interstate or international commerce absent a certification by the President as provided in the Bovine Somatotropin Marketing Equivalency Act of 1993."

(b) Exception. Nothing in subsection (a) shall preclude:

(1) the conduct of research on bovine somatotropin; or

(2) the introduction into intrastate or interstate commerce of bovine somatotropin to be used for research.

**SEC. 6. CERTIFICATION.**

A "certification" as used in this Act means a certification originated by the President, and submitted to Congress, in which the President makes findings that, with respect to the use of bovine somatotropin, the dairy industry in the United States has established equivalent marketing practices with those of one or more other major milk and dairy exporting countries.●

● Mr. FEINGOLD. Mr. President, I am pleased to cosponsor legislation being introduced today by the senior Senator from Wisconsin [Mr. KOHL] which would place a moratorium on the use of bovine growth hormone, BGH, until the President has certified that its introduction in the U.S. dairy system would not adversely affect the marketing activities of the United States abroad.

Senator KOHL has focused upon a very important aspect of the controversy over FDA approval of the use of BGH, sometimes called BST or supplemental bovine somatotropin—the adverse impact that this action will have on the ability of milk producers in this country to export milk and milk products which have been produced by injecting cows with BGH. The European Community [EC] has a ban on the marketing of milk from cows treated with BGH at least until December of 1993. BGH has not been approved in either Canada or New Zealand, and Australia has announced the intention not to approve the commercial use of BGH until other major dairy product exporting nations approve such use in order to avoid possible discrimination against Australian dairy imports. This legislation would require the same safeguard for U.S. milk products.

The United States is now the single largest milk producing country in the world. If major areas of the world, such as the EC, have banned the sale of milk produced through the use of BGH, it is clear that United States exports will suffer enormously. That will have serious consequences not only for our international trade efforts, it will also adversely impact the Federal deficit. Under the U.S. dairy price support system, the Federal Government is obligated to purchase surplus milk products from the domestic market and sell our surplus products to help defray the budgetary costs of the problem. If major international markets are closed to U.S. milk products because of BGH usage in this country, neither our dairy farmers or the Federal Government will be able to export substantial amounts of milk produced in this country.

Mr. President, this legislation focuses upon the adverse economic impact that introduction of BGH into the U.S. dairy system will clearly have. This adverse economic impact has been the focus of my efforts against BGH. Last month, I introduced three measures, S. 734, S. 735, and S. 736, which, respectively, would impose a moratorium on use of BGH until an economic

impact study has been completed, require labeling of milk and milk products produced through the use of BGH in order to help reduce the likelihood of consumer adverse reactions to this product, and shift increased dairy assessments upon those producers who use BGH, rather than on all producers. In fact, the negative trade impact which would be caused by the introduction of BGH into the United States is one of the negative economic consequences which the U.S. Department of Agriculture was asked to study in S. 734. The legislation being introduced today is fully consistent with the goals of each of these measures.

Mr. President, I want to make one final observation about the adverse economic consequences of introduction of BGH. Obviously, BGH will have a significant impact upon the Federal budget and international trade. But it is the small and medium-size family dairy farmers in this country who are likely to suffer the most. Studies have shown that many may be driven out of business if BGH is approved for use in the United States. I am deeply committed to exploring every possible avenue that will prevent that result.●

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By Mr. DANFORTH:

S. 955. A bill to suspend temporarily the duty on sulfathiozole; to the Committee on Finance.

S. 956. A bill to suspend temporarily the duty on difenzoquat methyl sulfate; to the Committee on Finance.

S. 957. A bill to suspend temporarily the duty on oxalacetic acid diethyl ester sodium salt; to the Committee on Finance.

S. 964. A bill to suspend temporarily the duty on sulfamethazine; to the Committee on Finance.

DUTY SUSPENSION LEGISLATION

● Mr. DANFORTH. Mr. President, I am introducing today four miscellaneous tariff bills of critical importance to agricultural chemical production facilities in my State. The first two bills extend retroactively the temporary suspensions of duty on sulfamethazine and sulfathiazole through the end of 1995. Both of these chemicals are used as animal feed additives and neither is produced in the United States.

The third bill extends retroactively the temporary suspension of duty on difenzoquat methyl sulfate through the end of 1995. The fourth bill suspends temporarily the duty on oxalacetic acid diethyl ester sodium salt through the end of 1995. Both of these chemicals are used in herbicides and, again, neither is produced in the United States.

I ask unanimous consent that the texts of these bills be printed in full in the RECORD.

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

S. 955

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SULFATHIAZOLE.**

(a) IN GENERAL.—Heading 9902.29.82 of the Harmonized Tariff Schedule of the United States (relating to sulfathiazole) is amended by striking "12/31/90" and inserting "12/31/95".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

(2) RETROACTIVE APPLICATION TO CERTAIN ENTRIES.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, upon proper request filed with the appropriate customs officer before the 90th day after the date of the enactment of this Act, any entry, or withdrawal from warehouse for consumption, of any goods described in subheading 9902.29.82 of the Harmonized Tariff Schedule of the United States that was made—

(A) after December 31, 1990; and

(B) before the 15th day after the date of the enactment of this Act;

shall be liquidated or reliquidated as though the amendment made by subsection (a) applied to such entry or withdrawal.

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S. 956

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DIFENZOQUAT METHYL SULFATE.**

(a) IN GENERAL.—Heading 9902.29.65 of the Harmonized Tariff Schedule of the United States (relating to 1,2-Dimethyl-3,5-diphenylpyrazolium methyl sulfate) is amended by striking "12/31/90" and inserting "12/31/95".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

(2) RETROACTIVE APPLICATION TO CERTAIN ENTRIES.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, upon proper request filed with the appropriate customs officer before the 90th day after the date of the enactment of this Act, any entry, or withdrawal from warehouse for consumption, of any goods described in subheading 9902.29.65 of the Harmonized Tariff Schedule of the United States that was made—

(A) after December 31, 1990; and

(B) before the 15th day after the date of the enactment of this Act;

shall be liquidated or reliquidated as though the amendment made by subsection (a) applied to such entry or withdrawal.

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S. 957

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. TEMPORARY DUTY SUSPENSION.**

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new subheading:

| | | | | | |
|---|---|---|---|---|---|
| "9902.31.12 | Oxalacetic acid diethyl ester sodium salt (provided for in subheading 2918.30.50) ..... | Free | No change | No change | On or before 12/31/95". |

**SEC. 2. EFFECTIVE DATE.**

The amendment made by section 1 applies with respect to goods entered, or withdrawn from warehouse consumption, on or after the 15th day after the date of the enactment of this Act.

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S. 964

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SULFAMETHAZINE.**

(a) IN GENERAL.—Heading 9902.29.80 of the Harmonized Tariff Schedule of the United States (relating to sulfamethazine) is amended by striking "12/31/90" and inserting "12/31/95".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

(2) RETROACTIVE APPLICATION TO CERTAIN ENTRIES.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, upon proper request filed with the appropriate customs officer before the 90th day after the date of the enactment of this Act, any entry, or withdrawal from warehouse for consumption, of any goods described in subheading 9902.29.80 of the Harmonized Tariff Schedule of the United States that was made—

(A) after December 31, 1990; and

(B) before the 15th day after the date of the enactment of this Act;

shall be liquidated or reliquidated as though the amendment made by subsection (a) applied to such entry or withdrawal.●

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By Mr. DANFORTH:

S. 958. A bill to extend the temporary suspension of duty on 0,0 - dimethyl - S[(4 - oxo - 1,2,3 - benzotriazin - 3 - (4H) - yl)methyl] phosphorodithioate; to the Committee on Finance.

S. 959. A bill to extend the temporary suspension of duty on 4-fluoro-3-phenoxy benzaldehyde; to the Committee on Finance.

DUTY SUSPENSION LEGISLATION

● Mr. DANFORTH. Mr. President, today I am introducing two bills to extend retroactively the temporary duty suspensions on certain chemicals used in the manufacture of insecticide products for the domestic agriculture market. The first would extend the temporary suspension of duty on 0,0 - dimethyl - S - [(4 - oxo - 1,2,3 - benzotriazin - 3 - (4H) - yl)methyl] phosphorodithioate. The second bill would extend the temporary suspension of duty on 4-fluoro-3-phenoxy benzaldehyde. In both cases, the chemicals in question are not manufactured in the United States. However, the duty suspensions on these chemicals are critical to the competitiveness of the domestic industry.

I ask unanimous consent that the texts of these bills be printed in full in the RECORD.

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

S. 958

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. 0,0-DIMETHYL-S-[(4-OXO-1,2,3-BENZOTRIAZIN-3-(4H)-YL)METHYL] PHOSPHORODITHIOATE.**

(a) IN GENERAL.—Heading 9902.31.09 of subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007) is amended by striking "12/31/92" and inserting "12/31/95".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

(2) RETROACTIVE APPLICATION TO CERTAIN ENTRIES.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, upon proper request filed with the appropriate customs officer before the 90th day after the date of the enactment of this Act, any entry, or withdrawal from warehouse for consumption, of any goods described in subheading 9902.31.09 of the Harmonized Tariff Schedule of the United States that was made—

(A) after December 31, 1992; and

(B) before the 15th day after the date of the enactment of this Act;

shall be liquidated or reliquidated as though the amendment made by subsection (a) applied to such entry or withdrawal.

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S. 959

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. 4-FLUORO-3-PHENOXY BENZALDEHYDE.**

(a) IN GENERAL.—Heading 9902.30.54 of subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007) is amended by striking "12/31/92" and inserting "12/31/95".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

(2) RETROACTIVE APPLICATION TO CERTAIN ENTRIES.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, upon proper request filed with the appropriate customs officer before the 90th day after the date of the enactment of this Act, any entry, or withdrawal from warehouse for consumption, of any goods described in subheading 9902.30.54 of the Harmonized Tariff Schedule of the United States that was made—

(A) after December 31, 1992; and

(B) before the 15th day after the date of the enactment of this Act;

shall be liquidated or reliquidated as though the amendment made by subsection (a) applied to such entry or withdrawal.●

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By Mr. DANFORTH:

S. 960. A bill to extend the temporary duty reduction on certain unwrought lead; to the Committee on Finance.

DUTY SUSPENSION LEGISLATION

● Mr. DANFORTH. Mr. President, today I am introducing a miscellaneous tariff bill to reinstate the import duty arrangement on unalloyed, unwrought lead that expired at the end of last year. This temporary arrangement was put into place on January 1, 1980, and has had the effect of stabilizing the effective tariff on these lead imports. The arrangement reduced the previously existing ad valorem tariff rate from 3.5 to 3.0 percent but also established as a specific duty floor a minimum tariff of 2.3424 cents per kilogram of lead content.

The underlying purpose of this legislation is to ensure the continued operation of this lead duty arrangement pending the conclusion of the Uruguay round tariff negotiations. In these negotiations, the U.S. industry has proposed the elimination of U.S. and foreign import duties on this product. However, in the event that these multilateral negotiations are not concluded by the end of the year, the legislation would continue the duty arrangement for a period during which the U.S. industry hopes that negotiations can be completed.

The duty arrangement aids both the domestic producers and consumers of primary lead by contributing to stability in the primary lead market. During periods of relatively high lead prices, the reduction in the ad valorem rate reduces the duty cost for consumers, while the specific rate duty floor assists the domestic producers when lead prices are relatively low and the domestic industry is vulnerable to cyclical pressures.

I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 960

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. UNWROUGHT LEAD.**

(a) IN GENERAL.—Heading 9902.78.01 of the Harmonized Tariff Schedule of the United States is amended by striking out "12/31/92" and inserting "12/31/95".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.●

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By Mr. DANFORTH:

S. 961. A bill to extend the suspension of duty on certain small toys, toy jewelry, and novelty goods, and for other purposes; to the Committee on Finance.

DUTY SUSPENSION LEGISLATION

● Mr. DANFORTH. Mr. President, today I am introducing legislation to extend retroactively the suspension of duty for certain small toys, toy jewelry, and novelty goods imported at not more than 8 cents per item. This duty suspension has been in place since 1982 and expired at the end of last year only because the Congress was unable to pass any duty suspension legislation whatsoever.

The small toys and novelty items in question are sold through bulk vending machines found in supermarkets, department stores, theaters, bowling alleys, and other retail establishments. The tariffs in question no longer serve a useful purpose; there no longer is any significant domestic industry producing these small toys. However, the American bulk vending industry, which relies on duty-free imports of these goods, employs over 10,000 people throughout the United States. This is a small industry, which represents less than 1 percent of the vending industry overall and includes less than 500 operators and 12 manufacturers of bulk vending machines.

The companies involved in the bulk vending industry are entirely small businesses. Due to the nature of the industry, these small businesses cannot readily pass on increases in costs, including the outdated and unnecessary tariffs suspended by this legislation. This industry has already been hit hard by the recent economic downturn and the closing of national supermarkets and chainstores. As a result, half the companies in this industry have closed over the last decade; the rest are struggling with small profit margins. Extending the duty suspension on small toys and novelty items will help ensure that these jobs are not lost and that this group of small businesses survives.

The bill also amends the Harmonized Tariff Schedule to increase the maximum value of small toy and novelty items which could enter the United States duty free from 5 to 8 cents. This increase is designed to offset inflation and increased labor costs between 1989—when the previous duty suspension legislation was introduced—and 1995, when this legislation would sunset.

I ask unanimous consent that the text of the bill be printed in full in the RECORD following my remarks.

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

S. 961

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SMALL TOYS, TOY JEWELRY, AND NOVELTY GOODS.**

(a) IN GENERAL.—Heading 9902.71.13 of the Harmonized Tariff Schedule of the United States is amended—

(1) by striking "5 cents" each place it appears and inserting "8 cents"; and

(2) by striking "12/31/92" and inserting "12/31/95".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

(2) RETROACTIVE APPLICATION TO CERTAIN ENTRIES.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, upon proper request filed with the appropriate customs officer before the 90th day after the date of the enactment of this Act, any entry, or withdrawal from warehouse for consumption, of any goods described in subheading 9902.71.13 of the Harmonized Tariff Schedule of the United States that was made—

(A) after December 31, 1992; and

(B) before the 15th day after the date of the enactment of this Act;

shall be liquidated or reliquidated as though the amendment made by subsection (a)(2) applied to such entry or withdrawal.•

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By Mr. DANFORTH:

S. 962. A bill to extend the suspension of duty on triallate.

DUTY SUSPENSION LEGISLATION

• Mr. DANFORTH. Mr. President, today I am introducing legislation to extend retroactively the suspension of duty for triallate—S-2,3,3-trichlorallyl diisopropylthiocarbamate—that expired at the end of last year. Triallate is the active technical ingredient of a herbicide used to control wild oats in small grain crops such as wheat and barley. There has been no U.S. manufacturer of this product since 1986, and the duty on this product has been suspended since passage of the 1988 Trade Act. I ask unanimous consent that the text of the bill be printed in full in the RECORD following my remarks.

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

S. 962

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. TRIALLATE.**

(a) IN GENERAL.—Heading 9902.29.60 of the Harmonized Tariff Schedule of the United States (relating to S-2,3,3-trichloroallyl diisopropylthiocarbamate) is amended by—

(1) striking "S-(2,3,3'-trichloroallyl) diisopropylthiocarbamate" and inserting "S-2,3,3-trichloroallyl diisopropylthiocarbamate"; and

(2) striking "12/31/92" and inserting "12/31/95".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection (a) apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

(2) RETROACTIVE APPLICATION TO CERTAIN ENTRIES.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, upon proper request filed with the appropriate customs officer before the 90th day after the date of the enactment of this Act, any entry, or withdrawal from warehouse for consumption, of any goods described in heading 9902.29.60 of the Harmonized Tariff Schedule of the United States that was made—

(A) after December 31, 1992; and

(B) before the 15th day after the date of the enactment of this Act;

shall be liquidated or reliquidated as though the amendments made by subsection (a) applied to such entry or withdrawal.•

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By Mr. DANFORTH (for himself and Mr. BREAUX):

S. 963. A bill to reliquidate certain entries on which excessive countervailing duties were paid, and for other purposes; to the Committee on Finance.

DUTY SUSPENSION LEGISLATION

• Mr. DANFORTH. Mr. President, on behalf of myself and Senator BREAUX, I am introducing today legislation to correct certain clerical errors by the Customs Service that have prevented the Bunge Corp. of St. Louis, MO from receiving refunds on excess countervailing duty deposits previously paid by Bunge.

Under our trade laws, where an import is subject to a countervailing duty order, the importer of the product is required to pay countervailing duty deposits based on the estimated countervailing duty rate established by the Department of Commerce. Later, if the actual countervailing duty rate is found to be lower than that previously estimated, the importer is entitled to a refund on the excess deposited, plus interest.

During the 1980's, one division of Bunge imported cotton yarns from a related company in Peru. Those imports were subject to an outstanding countervailing duty order, and Bunge therefore paid deposits on each of these imports based on the estimated countervailing duty rate. Unfortunately, due to some clerical errors, Customs liquidated—that is, closed-out—certain entries prior to the determination of the actual countervailing duty rate that was to apply. By the time Bunge became aware of this problem, it was too late for the Customs Service to correct the error and refund Bunge its excess deposits. It is therefore necessary to introduce this legislation to authorize the reliquidation of these entries so that the excess deposits can be refunded to Bunge with appropriate interest.

Mr. President, I ask unanimous consent that the text of the bill be printed in full at this point in the RECORD.

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

S. 963

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. AUTHORITY FOR RELIQUIDATION AND PAYMENT OF INTEREST.**

Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, and subject to section 2, upon proper request filed with the appropriate customs officer within 180 days after the date of the enactment of this Act—

(1) any entry listed in section 3 that was not reliquidated as of such date of enactment shall be reliquidated so as to reduce the amount of countervailing duty imposed on such entry to the amount found by the Secretary of Commerce to be owed as a result of final review under title VII of the Tariff Act of 1930 and a refund of any excess countervailing duty so found shall be made to the importer of record; and

(2) interest on the amount of any excess countervailing duty found as a result of—

(A) any reliquidation under paragraph (1); or

(B) a reliquidation of any entry listed under section 3 that occurred before such date of enactment;

shall be paid to the importer of record.

**SEC. 2. ADMINISTRATION.**

(a) REQUEST INFORMATION.—A request filed under section 1 shall contain sufficient information to enable the United States Customs Service—

(1) to locate the entry in question; or

(2) to reconstruct the entry if it cannot be located.

(b) INTEREST.—Interest shall be paid under paragraph (2) of section 1 on the excess countervailing duty imposed on an entry from the date of the liquidation of the entry to the date of the liquidation.

(c) TIME FOR MAKING REFUNDS AND PAYMENTS.—

(1) The refund of excess countervailing duties, and the payment of interest thereon, resulting from a reliquidation under section 1(1) shall be made within 90 days after the date of the reliquidation.

(2) The payment of interest on reliquidations described in section 1(2)(B) shall be made within 90 days after the date on which the request therefore is filed under section 1.

**SEC. 3. ENTRIES.**

The entries referred to in section 1 are as follows:

| Entry No.: | *Date of Entry* |
|---|---|
| 832779703 | 05/06/83. |
| 832779716 | 05/06/83. |
| 832782677 | 05/31/83. |
| 832782680 | 05/31/83. |
| 832785852 | 06/23/83. |
| 832793174 | 08/11/83. |
| 832796074 | 08/29/83. |
| 841387694 | 06/20/84. |
| 841390432 | 07/11/84. |
| 841616064 | 08/15/84. |
| 842683627 | 02/03/84. |
| 842691732 | 03/30/84. |
| 842691745 | 03/30/84. |
| 842716484 | 08/27/84. |
| 842720098 | 09/20/84. |
| 855108089 | 10/10/84. |
| 855118613 | 11/26/84. |
| 856113838 | 11/01/84.• |

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By Mr. LAUTENBERG (for himself, Mr. MITCHELL, Mrs. BOXER, Mrs. FEINSTEIN, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Mr. SARBANES, Mr. SIMON, and Mr. WELLSTONE):

S. 965. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to provide relief to local taxpayers, municipalities, and small businesses regarding the cleanup of hazardous substances, and for other purposes; to the Committee on Environment and Public Works.

TOXIC CLEANUP EQUITY ACT OF 1993

• Mr. LAUTENBERG. Mr. President, I am pleased today to introduce legislation that comprehensively addresses the issue of Superfund municipal liability. As you know, I have been championing this issue for the last several years. As chairman of the Senate Superfund Subcommittee I will be looking forward to hearings and legislative action on this critical problem in the coming months.

My home State of New Jersey has the dubious privilege of having more Superfund high priority toxic waste sites than any other State in the country—113 all told. As New Jersey Environment Commissioner Scott Weiner testified at a hearing before my sub-

committee last month, cleanup has been completed at half of the 302 subsites in the State, and cleanup activity is underway at all but 1 percent of the sites in my State. So while the pace of cleanup can certainly be speeded up, there has been considerable progress already in New Jersey.

But this has not come without a price. Some 108 municipalities in New Jersey have been sued for sending ordinary household garbage and sewage sludge to landfills that have since become Superfund sites; 18 other municipalities in my State—are owners or operators of Superfund landfills. Their taxpayers are already burdened and simply cannot afford to bear the crushing burden of these lawsuits.

This problem is not unique to New Jersey. Over 450 local governments and thousands of small businesses in a dozen States across the country have been sued by industrial polluters for sending ordinary household garbage to Superfund sites. The Girl Scouts and Boy Scouts, churches, pizza parlors, and other innocent parties have been faced with extortionate claims by the real polluters, simply because the Superfund law theoretically allows these parties to be held liable. For these parties, it is cheaper to settle with industrial polluters than it is to hire a lawyer and get a court to adjudicate their miniscule liability.

In the last Congress I introduced legislation, held hearings, and ultimately passed through the Senate a bill that would provide relief to municipalities, small businesses, and others who generated or transported ordinary household garbage or sewage sludge to a site that later became a Superfund site. Although the House of Representatives did not act on a companion bill and the measure therefore died with the 102d Congress, I reintroduced my bill as S. 343 on February 3, 1993, and the bill has been reintroduced in the House as H.R. 870. The bill expands the scope of the legislation to address settlements with municipal owners and operators of landfills subject to Superfund response actions.

I have expanded the scope of the legislation because the problem is not limited to local governments which sent ordinary household garbage to Superfund sites; 18 municipalities in New Jersey and approximately 175 local governments across the country currently own a Superfund site. These numbers will only grow, as more municipally owned or operated sites are added to the Superfund priority list. These governments face potentially crushing liabilities, since the person who owns or operates a Superfund site often picks up the biggest part of the tab for its cleanup.

Yet for many of those local governments, there was no choice. State laws often required local governments to handle waste disposal and operate landfills. They were discharging a public service for their citizens, and they didn't run a profit making operation in the same way a private landfill owner/operator may have. Today, faced with the lion's share of responsibility for cleaning up sites which average $25 to $30 million, many of these local governments would be forced to cut back on police and fire protection, or sacrifice other critical public health and safety services, or even declare bankruptcy and default on all their obligations. They simply cannot raise the revenue needed to pay for cleanup, either because their tax base cannot support the additional strain, or because these governments are facing State laws that limit the amount that they can raise in revenues each year for any of their many public duties.

We in Congress have increasingly heard the concerns about unfunded Federal mandates being heaped on local governments, without regard to the mounting costs of compliance and the inevitable sacrifices that will be made in other, sometimes equally important public health and safety areas. The Clinton administration has fully recognized this concern, and much of its economic stimulus package was targeted to funding environmental obligations, such as ensuring safe drinking water, that may hitherto have lacked sufficient local funding. For example, the city of Columbus, OH commissioned an important study that found that, by the year 2000, nearly one-quarter of the city's budget will be devoted to environmental compliance, costing the average household $856 per year.

This is not to say that we should let municipal owner/operators off the hook for Superfund liability. While there are certainly sympathetic circumstances that warrant special treatment when compared to private owner/operators of Superfund sites, some of these municipal operators may have engaged in inappropriate waste disposal practices.

But we should not bankrupt these parties or turn a blind eye to the broader public health and safety repercussions of demanding too much from them. We cannot squeeze blood from a stone—particularly when the public may end up paying in lost lives from diminished police and fire protection, or reduced disease control, or other key services that could be sacrificed.

To some extent, the EPA already takes into account a municipality's ability to pay for a possible Superfund settlement demand when it negotiates with these parties. But there are no guidelines for how this is to be done, and no process for expediting these settlements and saving the taxpayers from paying lawyers' fees for years while settlement discussions drag on endlessly. Nor is there protection against third-party lawsuits brought by industrial polluters, who may be less willing than EPA to consider the ability of the municipality to pay any judgment.

Therefore, Mr. President, I am introducing this legislation to require EPA to expeditiously consider a good faith settlement offer from local governments who owned or operated a Superfund site. A key component in that consideration will be the municipality's ability to pay. EPA will be required to consider the cost of other competing environmental obligations in deciding how much to demand in settlement. And if a settlement demand would lead to a significant, demonstrable risk that the local government would be forced into bankruptcy, default, or budgetary cutbacks that would unduly impede public health and safety activities, EPA will be required to tailor its settlement demands accordingly. You cannot get blood out of a stone—particularly if you end up cannibalizing other public health and safety obligations.

I am pleased to be joined by Senators MITCHELL, BOXER, FEINSTEIN, KENNEDY, KERRY, KOHL, SARBANES, SIMON, and WELLSTONE in introducing this bill today. A companion bill is being introduced in the House of Representatives by Representative TORRICELLI. In addition, my legislation has the support of the major national environmental and municipal organizations, including: the National League of Cities, the National Association of Counties, the U.S. Conference of Mayors, the National Association of Towns and Townships, the Sierra Club, the Environmental Defense Fund, the Natural Resources Defense Council, the U.S. Public Interest Research Group, and Friends of the Earth.

As these endorsements suggest, there will be no sacrifice in environmental protection here. Indeed, the national municipal and environmental groups are this week endorsing a continuation of the tough liability scheme and stringent cleanup standards of Superfund. But what we will assure through this legislation is the consideration of appropriate, special constraints and repercussions on a local government's ability to pay for a Superfund judgment. If we don't do so, we may end up hurting, not helping, the public health and safety of our citizens.

I ask unanimous consent that the full text of the bill and section-by-section analysis be printed in the RECORD.

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

S. 965

*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 "Toxic Cleanup Equity Act of 1993".

**SEC. 2. FINDINGS.**

Consistent with the policies under the Comprehensive Environmental Response,

Compensation, and Liability Act of 1980 (CERCLA) (42 U.S.C. 9601 et seq.), the Congress finds that—

(1) the polluter should pay for cleanup, and cleanups must fully protect human health and the environment;

(2) municipalities have traditionally performed the public service of helping their citizens dispose of ordinary garbage and sewage, and have at times been required to perform this function under State law;

(3) municipalities did not operate their waste disposal services for the purpose of receiving a profit;

(4) many municipal landfills used to dispose of garbage and sewage sludge also have been used to dispose of industrial hazardous waste, which has contaminated the sites and created the need for Superfund cleanups;

(5) the vast majority of the hazardous substances that are causing threats to human health and the environment at Superfund sites were produced by non-municipal operations;

(6) third-party contribution suits based on the generation or transportation of municipal solid waste and sewage sludge distort the intent of CERCLA and drain the precious resources of municipalities, small businesses, and nonprofit associations;

(7) many of the Nation's local governments are facing a financial crisis, and their ability to provide essential public services is being threatened;

(8) municipalities are facing expensive mandates imposed by the Federal and State governments, including some related to environmental protection; and

(9) municipalities that own Superfund sites bear a double burden: their citizens live near the sites and these local governments may be forced to cut back on important public health and safety services to help pay for the cleanup.

**SEC. 3. MUNICIPALITIES, MUNICIPAL SOLID WASTE, AND SEWAGE SLUDGE.**

(a) Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601) is amended by adding the following new paragraphs at the end thereof:

"(39) The term 'municipal solid waste' means all waste materials generated by households, including single and multiple residences, and hotels and motels. The term also includes waste materials generated by commercial, institutional, and industrial sources (A) when such waste materials are essentially the same as waste normally generated by households, or (B) when such waste materials were collected and disposed of with other municipal solid waste or sewage sludge and, regardless of when generated, would be considered conditionally exempt small quantity generator waste under section 3001(d) of the Solid Waste Disposal Act (42 U.S.C. 6921(d)). Examples of municipal solid waste include food and yard waste, paper, clothing, appliances, consumer product packaging, disposable diapers, office supplies, cosmetics, glass and metal food containers, school science laboratory waste, and household hazardous waste (such as painting, cleaning, gardening, and automotive supplies). For the purposes of this Act, the term 'municipal solid waste' does not include combustion ash generated by resource recovery facilities or municipal incinerators, or waste from manufacturing or processing (including pollution control) operations not essentially the same as waste normally generated by households.

"(40) The term 'sewage sludge' refers to any solid, semisolid, or liquid residue removed during the treatment of municipal waste water, domestic sewage, or other waste waters at or by a publicly-owned treatment works.

"(41) The term 'municipality' means any political subdivision of a State and may include cities, counties, villages, towns, townships, boroughs, parishes, schools, school districts, sanitation districts, water districts, and other local governmental entities. The term also includes any natural person acting in his or her official capacity as an official, employee, or agent of a municipality.".

(b) Section 113 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9613) is amended by adding the following new subsections at the end thereof:

"(m) CONTRIBUTION ACTIONS FOR GENERATORS AND TRANSPORTERS OF MUNICIPAL SOLID WASTE AND SEWAGE SLUDGE.—No municipality or other person shall be liable to any person other than the President for claims of contribution under this section or for other response costs, penalties, or damages under this Act for the generation, transportation, or arrangement for the transportation, treatment, or disposal of municipal solid waste or sewage sludge.

"(n) CONTRIBUTION ACTIONS FOR MUNICIPAL OWNERS AND OPERATORS.—No eligible municipality as defined in section 122(p) shall be liable to any person other than the President for claims of contribution under this section or for other response costs, penalties, or damages under this Act for the ownership or operation of a facility to the extent that the municipality is an eligible municipality under section 122(p)(1).

"(o) PUBLIC RIGHT-OF-WAY.—In no event shall a municipality incur liability under this Act for the acts of owning or maintaining a public right-of-way over which hazardous substances are transported, or of granting a business license to a private party for the transportation, treatment, or disposal of municipal solid waste or sewage sludge. For the purposes of this subsection, 'public right-of-way' includes, but is not limited to, roads, streets, flood control channels, or other public transportation routes, and pipelines used as a conduit for sewage or other liquid or semiliquid discharges.".

(c) Section 122 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9622) is amended by adding the following new subsections at the end thereof:

"(n) SETTLEMENT PROCEDURES FOR GENERATORS AND TRANSPORTERS OF MUNICIPAL SOLID WASTE OR SEWAGE SLUDGE.—

"(1) ELIGIBLE PERSONS.—The term 'eligible person' under this subsection means any person against whom an administrative or judicial action is brought, or to whom notice is given of potential liability under this Act, for the generation, transportation, or arrangement for the transportation, treatment, or disposal of municipal solid waste or sewage sludge. An eligible person who may be liable under paragraph (1) or (2) of section 107(a) or for substances other than municipal solid waste or sewage sludge is covered by this subsection to the extent that the person is liable for the generation, transportation, or arrangement for the transportation, treatment, or disposal of municipal solid waste or sewage sludge.

"(2) NEGOTIATION OF SETTLEMENTS; MORATORIUM.—Eligible persons under this subsection may offer to settle their potential liability with the President by stating in writing their ability and willingness to settle their potential liability in accordance with this subsection. Upon receipt of such good faith offer to settle, no further administrative or judicial action shall be taken against the eligible person, unless the President determines that the eligible person's offer or position during negotiations is not in good faith or otherwise not in accordance with this subsection or that the matters addressed include liability not related to the generation, transportation, or arrangement for the transportation, treatment, or disposal of municipal solid waste or sewage sludge. Nothing in this subsection shall limit or modify the President's authority under section 104(e).

"(3) TIMING.—Eligible persons may tender offers under this subsection within 180 days after receiving a notice of potential liability or becoming subject to administrative or judicial action, or within 180 days after a record of decision is issued for the portion of the response action that is the subject of the person's settlement offer, whichever is later. If the President notifies an eligible person that he or she may be a potentially responsible party, no further administrative or judicial action may be taken by any party for 120 days against such person.

"(4) EXPEDITED FINAL SETTLEMENT.—The President shall make a good faith effort to reach final settlements as promptly as possible under this subsection, and such settlements shall—

"(A) allocate to all generation, transportation, or arrangement for the transportation, treatment, or disposal of municipal solid waste or sewage sludge a combined total of no more than four percent (4%) of the total response costs for the facility: *Provided, however,* That the President shall reduce this percentage when the volume of municipal solid waste and sewage sludge present at the facility is not significant;

"(B) require an eligible person under this subsection to pay only for his or her equitable share of the maximum four percent (4%) portion of response costs described in subparagraph (A);

"(C) reduce an eligible person's payments based on such person's inability to pay, litigative risks, public interest considerations, precedential value, and equitable factors;

"(D) permit an eligible person to provide appropriate in-kind services with regard to the response action in lieu of cash contributions and to be credited at market rates for such services;

"(E) reduce a publicly owned treatment works' payments if it has promoted the beneficial reuse of sewage sludge through land application when the basis of liability arises from sewage sludge generated 36 months after the date of enactment of this subsection or thereafter; and

"(F) be reached even in the event that an eligible person may be liable under paragraph (1) or (2) of section 107(a) or for substances other than municipal solid waste or sewage sludge.

"(5) COVENANT NOT TO SUE.—The President may provide a covenant not to sue with respect to the facility concerned to any person who has entered into a settlement under this subsection unless such a covenant would be inconsistent with the public interest as determined under subsection (f).

"(6) EFFECT OF AGREEMENT.—A person that has resolved his or her liability to the United States under this subsection shall not be liable for claims of contribution or for other response costs, penalties, or damages under this Act regarding matters addressed in the settlement. Such settlement does not discharge any of the other potentially respon-

sible parties unless the terms of the settlement so provide, but the settlement reduces the potential liability of the other parties by the amount of the settlement.

"(7) DE MINIMIS SETTLEMENTS.—Nothing in this subsection shall alter or diminish a person's ability to reach a settlement with the President under subsection (g).

"(8) JUDICIAL REVIEW.—Any judicial review of a settlement reached with the President under this subsection shall be limited to the administrative record. Otherwise applicable principles of administrative law shall govern whether any supplemental materials may be considered by the court. In considering objections raised to such a settlement, the court shall uphold the President's decision to enter into the settlement unless the objecting party can demonstrate, on the administrative record, that the decision was arbitrary, capricious, or otherwise not in accordance with law.

"(o) FUTURE DISPOSAL PRACTICES.—This subsection applies only to the generation, transportation, or arrangement for the transportation, treatment, or disposal of municipal solid waste or sewage sludge occurring 36 months after the date of enactment of this subsection or thereafter. Beginning at such time and with regard to such future municipal solid waste or sewage sludge, eligible persons who are municipalities or operators of publicly owned treatment works may assert the provisions of subsection (n) only under the following circumstances:

"(1) If liability arises from municipal solid waste collected and disposed of 36 months or later after the date of enactment of this subsection and the eligible person is a municipality, a qualified household hazardous waste collection program must have been operating while such municipal solid waste was collected and disposed.

"(2) If liability arises from sewage sludge generated 36 months or later after the date of enactment of this subsection and the eligible person is an owner or operator of a publicly owned treatment works, a qualified publicly owned treatment works must have been operating while such sewage sludge was generated at such treatment works.

"(3) The term 'qualified household hazardous waste collection program' means a program that includes—

"(A) at least semiannual, well-publicized collections at conveniently located collection points with an intended goal of participation by ten percent of community households;

"(B) a public education program that identifies potentially hazardous household products, safer substitutes (source reduction), and proper use and disposal of consumer products;

"(C) efforts to collect hazardous waste from conditionally exempt small quantity generators under section 3001(d) of the Solid Waste Disposal Act (42 U.S.C. 6921(d)), with an intended goal of collecting wastes from twenty percent of such generators doing business within the jurisdiction of the municipality; and

"(D) a comprehensive plan, which may include regional compacts or joint ventures, that outlines how the program will be accomplished.

"(4) To satisfy the criterion of having a qualified household hazardous waste collection program in operation, a municipality may operate its own program or may certify that other persons are, jointly or individually, operating each of the elements of a qualified program which serves the municipality's jurisdiction, and such other persons may include, but are not limited to, private contractors and businesses, other municipalities, and States.

"(5) A person that operates a 'qualified household hazardous waste collection program' and collects hazardous waste from conditionally exempt small quantity generators under section 3001(d) of the Solid Waste Disposal Act (42 U.S.C. 6921(d)) must transport or arrange to transport such waste in accordance with the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) and must dispose of such waste at a hazardous waste treatment, storage, or disposal facility with a permit under section 3005 of the Solid Waste Disposal Act (42 U.S.C. 6925), but such person is otherwise deemed to be handling only household waste under the Solid Waste Disposal Act when the person operates a qualified household hazardous waste collection program.

"(6) Nothing in this Act is intended to prohibit a person from assessing fees to persons whose waste is accepted during household hazardous waste collections, or shall prohibit a person from refusing to accept waste that the person believes is being disposed of in violation of the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

"(7) The term 'qualified publicly owned treatment works' means a publicly owned treatment works that complies with section 405 of the Federal Water Pollution Control Act (33 U.S.C. 1345).

"(8) The President may determine that a household hazardous waste collection program or a publicly owned treatment works is not qualified under this subsection. Minor instances of noncompliance do not render a household hazardous waste collection program or publicly owned treatment works unqualified under this subsection.

"(9) If the President determines that a household hazardous waste collection program is not qualified, the provisions of subsection (n) shall not apply, but only with regard to the municipal solid waste disposed of during the period of disqualification.

"(10) If a municipality or operator of a publicly owned treatment works is notified by the President or by a State with a program approved under section 402(b) of the Federal Water Pollution Control Act (33 U.S.C. 1342(b)) that the publicly owned treatment works of the municipality or operator is not in compliance with the requirements of paragraph (7), and if such noncompliance is not remedied within twelve months, the provisions of subsection (n) shall not apply, but only with regard to the sewage sludge generated or disposed of during the period of noncompliance.

"(p) SETTLEMENT PROCEDURES FOR MUNICIPAL OWNERS AND OPERATORS.—

"(1) ELIGIBLE MUNICIPALITIES.—The term 'eligible municipality' under this subsection means any municipality against which an administrative or judicial action is brought, or to which notice is given of potential liability, under paragraph (1) or (2) of section 107(a) with respect to a facility that does not contain, by overall volume, predominantly wastes produced by municipal operations that are wastes other than municipal solid waste or sewage sludge, and which meets all of the following conditions:

"(A) Before the date of enactment of this subsection, the municipality owned or operated the facility or an identifiable unit at such facility.

"(B) Such facility or identifiable unit at such facility was or is subject to a response action.

"(C) Such facility or identifiable unit at such facility, with respect to which the municipality seeks to resolve its liability under this subsection, does not receive any waste after the date of enactment of this subsection.

A municipality that may be liable under paragraph (3) or (4) of section 107(a) is covered by this subsection to the extent that the municipality is eligible under this paragraph.

"(2) NEGOTIATION OF SETTLEMENTS; MORATORIUM.—Eligible municipalities under this subsection may offer to settle their potential liability with the President by stating in writing their ability and willingness to settle their potential liability in accordance with this subsection. Upon receipt of such good faith offer to settle, no further administrative or judicial action shall be taken against the eligible municipality, unless the President determines that the eligible municipality's offer or position during negotiations is not in good faith or otherwise not in accordance with this subsection. Nothing in this subsection shall limit or modify the President's authority under section 104(e).

"(3) TIMING.—Eligible municipalities may tender offers under this subsection within 180 days after receiving a notice of potential liability or becoming subject to administrative or judicial action, or within 180 days after a record of decision is issued for the portion of the response action that is the subject of the municipality's settlement offer, whichever is later. If the President notifies an eligible municipality that it may be a potentially responsible party, no further administrative or judicial action may be taken by any party for 120 days against such municipality.

"(4) EXPEDITED FINAL SETTLEMENT.—The President shall make a good faith effort to reach final settlements as promptly as possible under this subsection, and such settlements shall conform to the following criteria:

"(A) Such settlements shall take into account the public interest factors normally considered by the President in formulating settlements under this Act.

"(B) The amount demanded in settlement shall not exceed the municipality's ability to pay. The municipality's 'ability to pay' shall be determined by the President through a consideration of factors, including but not limited to the following: (i) the ratio of debt service to operating revenues, other than obligated or encumbered revenues, (ii) the ratio of total funds, other than dedicated funds, to total expenses, (iii) the ratio of total revenues, other than obligated or encumbered revenues, to total expenses, (iv) the ratio of debt service to population, (v) the ratio of operating revenues, other than obligated or encumbered revenues, to population, (vi) the ratio of total expenses to population, (vii) the ratio of total funds, other than dedicated funds, to total revenues, (viii) the ratio of total funds, other than dedicated funds, to population, (ix) the impact of the settlement on essential services the municipality must provide, and (x) the feasibility of making delayed payments and payments over time.

"(C) A municipality shall not be deemed to possess the ability to pay to the extent that such payment would create a significant, demonstrable risk that the municipality will default on existing debt obligations, be forced into bankruptcy, be forced to dissolve, or be forced to make budgetary cutbacks that unduly impede the protection of public health and safety by the municipality. Municipal activities that protect 'public health and safety' include all operations that can

protect the environment, human and animal health, and public safety, including but not limited to environmental protection and restoration, police and fire protection, hospitals and medical services, human services, and water, sewage, and solid waste services. Such municipal activities do not include operations that are primarily intended to provide recreational activities or aesthetic civic improvements.

"(D) A municipality shall not be deemed to possess the ability to pay to the extent that the President determines that raising the funds for such payment would violate legal requirements or limitations of general applicability concerning the assumption and maintenance of municipal fiscal obligations: *Provided*, That for the purposes of this subparagraph, a legal requirement or limitation of general applicability means a legislative enactment that governs a municipality's financial affairs generally and that is not limited to the payment of claims for costs or damages under this Act.

"(E) If a municipality asserts that it has obligations under any applicable environmental law besides the municipality's potential liability under this Act, such municipality may create a list of the obligations and estimate the costs of complying with each obligation, and, if requested by the municipality, the President shall provide assistance with these tasks and shall consider the total cost of these obligations in determining whether the municipality has an ability to pay.

"(F) Once the appropriate settlement amount has been determined, the President shall permit an eligible municipality to provide appropriate in-kind services with regard to the response action in lieu of cash contributions and to be credited at market rates for such services.

"(G) Notwithstanding the entry of consent decrees by the President with other potentially responsible parties, the provisions of this paragraph shall apply to the remaining allocation of response costs, penalties, and damages to eligible municipalities.

"(5) EFFECT OF AGREEMENT.—An eligible municipality that has resolved its liability to the United States under this subsection shall not be liable for claims of contribution or for other response costs, penalties, or damages under this Act regarding matters addressed in the settlement. Such settlement does not discharge any of the other potentially responsible parties unless the terms of the settlement so provide, but the settlement reduces the potential liability of the other parties by the amount of the settlement.

"(6) CONSOLIDATED SETTLEMENTS.—If a municipality is an eligible municipality under this subsection and an eligible person under subsection (n) with regard to the same facility, the President should attempt to reach a single, expeditious settlement with the municipality covering all liability that may be addressed by settlements under subsection (n) or (p).

"(7) ONGOING WASTE DISPOSAL; BURDEN OF PROOF.—If an eligible municipality receives waste after the date of enactment of this subsection at units adjacent to those units of the facility for which the municipality is eligible under paragraph (1), and if releases or threatened releases into the environment on or beneath the open units are threatened or occur, then the municipality shall bear the burden of proving that such releases are caused by the closed units in any judicial or administrative proceeding in which the municipality's liability is at issue under environmental law.

"(8) JUDICIAL REVIEW.—Any judicial review of a settlement reached with the President under this subsection shall be limited to the administrative record. Otherwise applicable principles of administrative law shall govern whether any supplemental materials may be considered by the court. In considering objections raised to such a settlement, the court shall uphold the President's decision to enter into the settlement unless the objecting party can demonstrate, on the administrative record, that the decision was arbitrary, capricious, or otherwise not in accordance with law.".

(d) Section 122(g)(1)(A)(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9622(g)(1)(A)(i)) is amended by adding the following new sentence at the end thereof: "The amount of hazardous substances in municipal solid waste and sewage sludge shall refer to the quantity of hazardous substances which are constituents within municipal solid waste and sewage sludge, not the overall volume of municipal solid waste and sewage sludge present at the facility.".

(e) Nothing in this section or the amendments made by this section shall modify the meaning or interpretation of the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

(f) Nothing in this section or the amendments made by this section shall modify a State's ability under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) to carry out actions authorized in such Act and to enter into a contract or cooperative agreement with the President to carry out such actions.

(g) The settlement procedures and bar on judicial and administrative proceedings addressed in this section and the amendments made by this section shall apply even if any constituent component of municipal solid waste or sewage sludge may be considered a hazardous substance under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) when the constituent component exists apart from municipal solid waste or sewage sludge.

(h) This section and the amendments made by this section shall apply to each municipality and other person against whom administrative or judicial action has been commenced before the date of enactment of this Act, unless a final court judgment has been rendered against such municipality or other person or final court approval of a settlement agreement including such municipality or other person as a party has been granted. If a final court judgment has been rendered or court-approved settlement agreement has been reached that does not resolve all contested issues, this section and the amendments made by this section shall apply to all contested issues not expressly resolved by such court judgment or settlement agreement.

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## SECTION-BY-SECTION ANALYSIS OF THE TOXIC CLEANUP EQUITY ACT OF 1993

### SECTIONS 1 AND 2—SHORT TITLE AND CONGRESSIONAL FINDINGS

The short title of this legislation is "The Toxic Cleanup Equity Act of 1993" (TCEA). The purpose of the TCEA is to protect citizens, municipalities, and other generators and transporters of municipal solid waste and sewage sludge from lawsuits equating these substances with industrial hazardous wastes. The TCEA will also protect municipal owners and operators of Superfund sites who are struggling to provide essential public services, without profit, while facing unfunded mandates. The TCEA will reaffirm the basic Superfund philosophy of requiring the polluter to pay for the cost of cleaning up the nation's toxic waste sites.

### SECTION 3

*Subsection (a)—Additional Definitions*

The legislation adds three new definitions to the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§9601 *et seq.* Any reference to "CERCLA" or "Superfund" should be construed as a reference to that act. The subsection does not alter any existing definitions under CERCLA and thus, for example, does not affect current law's definition of "person" as virtually any public or private entity or natural person, including federal, state, and local governments.

The subsection defines "municipal solid waste" (MSW) as including all waste materials generated by households and multiple residences, as well as waste from other sources when it is essentially the same as household waste. The definition also includes small amounts of hazardous waste that qualify as conditionally exempt small quantity generator waste under the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §6921(d). Thus, for example, if a person disposed of less than 100 kilograms in a given calendar month of RCRA hazardous waste along with municipal solid waste, it would be able to claim the benefits of the legislation as to such hazardous waste. For the purposes of Superfund only, the term municipal solid waste does not include incinerator ash or waste from industrial processes not essentially the same as household waste but also regulated under Subtitle D of RCRA.

The subsection defines "sewage sludge" as essentially any residues removed during the treatment of waste water at a publicly-owned treatment works.

The subsection defines "municipality" to be any political subdivision of a state and includes individuals who act in an official capacity on behalf of a municipality.

*Subsection (b)—Contribution Actions*

Under CERCLA, "potentially responsible parties" (PRPs) who have been notified by EPA or others that they may be liable for cleanup costs may sue, subject to certain provisions in CERCLA, other parties who may also be responsible for the hazardous waste site. Such "third-party" or "contribution" suits provide PRPs a mechanism for making other polluters share the cleanup costs.

This subsection modifies CERCLA to prohibit third-party suits for contribution or for other response costs, penalties, or damages against any persons if the actions challenged were related to the generation or transportation of MSW or sewage sludge. As used herein, "generation" or "generators" is meant to refer to actions or persons described by section 107(a)(3) of CERCLA and may include arranging for the transportation, treatment, or disposal of hazardous substances. "Transportation" or "transporters" is meant to refer to actions or persons described by section 107(a)(4). To the extent municipalities or other persons generated or transported waste materials that do not meet the definitions of municipal solid waste or sewage sludge, the block on third-party suits does not apply.

The subsection also prohibits third-party suits against municipalities that owned or operated sites, as long as the municipality owned or operated the site before the date of enactment and did not accept waste after the

date of enactment at any identifiable units at the site that are the subject of a response action and the settlement, and also so long as the site does not contain predominantly hazardous wastes produced by municipal operations that are wastes other than municipal solid waste or sewage sludge.

The subsection defines two situations in which a municipality will not be liable under Superfund for exercising its regulatory power: when it owns a public right-of-way, such as a road or sewage pipeline, over which hazardous substances are transported, or when it grants a business license to a private party to transport or dispose of municipal solid waste or sewage sludge.

*Subsection (c)—Settlements*

The subsection creates a special settlement opportunity for any person alleged to be a generator or transporter of MSW or sewage sludge in an administrative or judicial action. Such persons may offer in good faith to settle their potential liability with the President by stating in writing their ability and willingness to pay their share of cleanup costs in accordance with this subsection. Upon receipt of such a good faith offer to settle, all further administrative or judicial action against such party is stayed pending negotiations with the President, unless the President determines that the party is not negotiating in good faith or that the settlement offer addresses liability not related to the generation or transportation of MSW or sewage sludge.

This good faith requirement is intended, for example, to prevent a person from seeking permanent shelter from third-party suits but avoiding paying a settlement to EPA by simply engaging in dilatory settlement discussions. This moratorium on administrative or judicial actions is not intended, however, to affect EPA's authority under CERCLA section 104(e) to obtain access or information, or exercise other authorities in that subsection.

Eligible persons may tender offers either (1) within 180 days after receiving a notice of potential liability or becoming subject to administrative or judicial action or (2) within 180 days after a record of decision is issued for the portion of the response action for which the person may have liability, whichever is later. In any event, neither the President nor any other person may pursue administrative or judicial action against any eligible party for 120 days after such party receives a notice of potential liability from the government.

In negotiating final settlements with persons eligible to tender offers under this subsection, the President shall (1) make a good faith effort to reach such settlements expeditiously; (2) allocate to all generation and transportation of MSW or sewage sludge at a particular facility a combined total of no more than four percent of total cleanup costs; (3) reduce such percentage share when the volume present of MSW or sewage sludge is not significant at the facility; (4) require each individual eligible party to pay no more than his or her fair share of the total MSW or sewage sludge share; (5) reduce an eligible person's contribution based on such person's inability to pay, public interest considerations, and other equitable factors; (6) permit eligible persons to provide appropriate in-kind services credited at market rates in lieu of a cash contribution; and (7) beginning 36 months following the date of enactment, for disposal of sewage sludge occurring after the date, reduce a publicly owned treatment works' payments if it has promoted the beneficial reuse of sewage sludge through land application.

To minimize frivolous or dilatory litigation by parties challenging such a settlement, any court reviewing a proposed consent decree or administrative settlement should give great deference to the proposed settlement under the subsection, which is intended to provide an expedited process that minimizes taxpayer-funded transaction costs. Judicial review shall be limited to the administrative record, and the settlement should be upheld unless an objecting party can demonstrate that EPA's decision to enter into the settlement was arbitrary, capricious, or otherwise not in accordance with law. Consistent with existing Section 122(a), a decision of the President to use or not to use the procedures in this section is not subject to judicial review.

The subsection provides further that eligible parties shall be able to negotiate settlements under its terms even if they have committed acts that could give rise to potential liability under other sections of the statute by, for example, acting as the owner or operator of a site. However, a settlement reached under this subsection, regarding generator/transporter liability, would presumably be reached independently of or on parallel tracks with a settlement reached under subsection (p), regarding owner/operator liability.

The subsection states that the President may provide a covenant not to sue with respect to the facility concerned to any person who has entered into a settlement under the subsection and that any such settlement blocks all future claims of contribution or other cost recovery, penalties, or damages regarding matters the settlement addresses. Such a settlement does not discharge the liability of any potentially responsible parties who do not participate in it, although such parties' liability shall be reduced by the amount paid under the settlement.

This subsection further provides that beginning three years after the date of enactment of the legislation, for disposal of MSW or sewage sludge that occurs at such time or later, municipalities wishing to take advantage of the settlement provisions of the subsection must take the following affirmative steps.

For municipal potentially responsible parties allegedly liable for the generation or transportation of MSW, eligible municipalities must establish, or must certify that another person has established, a "qualified household hazardous waste collection program" that includes at least (1) semiannual, well-publicized collections at conveniently located collection points with the intended goal of participation by ten percent of community households; (2) a public education program that identifies potentially hazardous household products, safer substitutes, and proper use and disposal of consumer products; (3) efforts to collect hazardous waste from conditionally exempt generators; and (4) a comprehensive plan, which may include regional compacts or joint ventures, outlining how the program will be accomplished.

Potentially responsible parties who are owners or operators of publicly owned treatment works and whose liability allegedly arises out of the generation or transportation of sewage sludge, must comply with section 405 of the Federal Water Pollution Control Act regulating the disposal of sewage sludge in order to be eligible for settlements under this subsection.

This subsection further provides that the President may determine that a household hazardous waste collection program or a publicly owned treatment works is not qualified under the subsection, but that minor instances of noncompliance do not render such programs or facilities unqualified. The subsection states that if a municipality is notified that its publicly owned treatment works does not comply with the requirements of the subsection and does not remedy such noncompliance within 12 months, or if the President determines that a household hazardous waste collection program is not qualified for some period, the municipality shall lose its ability to use the settlement provisions of the subsection with respect to waste materials disposed of during the period of noncompliance or disqualification.

Subsection (p) also provides a settlement opportunity for municipalities that own or operate facilities subject to a Superfund response action. To be eligible, a municipality must have owned or operated the site before the date of enactment and must not receive waste after the date of enactment at any identifiable units at the site that are the subject of a response action and the settlement, and also so long as the site does not contain predominantly hazardous wastes produced by municipal operations that are wastes other than municipal solid waste or sewage sludge.

If eligible, the municipality can offer to settle its liability with the President and invoke a moratorium on litigation similar to the one made available to municipal waste generators and transporters described above. The President must then make a good faith effort to settle promptly with the municipality according to the following criteria.

EPA in arriving at a settlement must consider the normal public interest factors under Superfund, must not require a settlement amount greater than the municipality's "ability to pay" as defined below, and must give the municipality the option to assert that it has other environmental obligations besides Superfund. The President can be called upon to assist in identifying and estimating the total cost of those obligations and the municipality may require the President to consider that total cost when determining the municipality's ability to pay.

The municipality's ability to pay shall be determined by considering: (a) several financial tests comparing factors such as a municipality's debt service, operating and encumbered revenues, funds and dedicated funds, total expenses, and population; (b) the settlement's impact on the municipality's ability to provide essential services; and (c) the feasibility of making payments over time. Furthermore, EPA may not demand in settlement payments which would create a significant, independently demonstrable risk of bankruptcy, default, or cutbacks that would unduly impede the protection of public health and safety. Such a risk should be established to EPA's satisfaction by independent bond counsel or other independent auditors.

The importance given to competing public health and safety obligations stems from Congress' recognition that, unlike private parties, municipalities often cannot be forced to pay enormous Superfund liabilities without directly jeopardizing police and fire protection or other critical services that can save lives. It would be inadvisable, for example, to allow EPA to extract large settlements that would force cutbacks in fire protection services that end up costing communities the lives of some of their citizens.

In addition, the municipality could not be required to violate legal requirements or limitations of general applicability concern-

ing the assumption and maintenance of municipal fiscal obligations. Such legal requirements or limitations of general applicability include, but are not limited to, legal limitations on a municipality's ability to raise revenues and incur debts, and legal restrictions on a legislative body's authority to bind future legislative bodies. The requirement that these legal requirements be of "general applicability" is intended to deter states or local governments from enacting laws which, while worded generically, create a ceiling on payments for specific Superfund obligations and thereby improperly reduce the settlement amount that EPA could demand. Invocation of such laws should be deemed in bad faith and grounds for terminating settlement discussions and the moratorium on actions provided in this subsection.

Once the appropriate settlement amount has been determined, the municipality must be offered the opportunity to provide appropriate "in-kind" services in lieu of cash, valued at market rates.

The subsection states that any settlement blocks all future claims of contribution or other cost recovery, penalties, or damages regarding matters the settlement addresses. Such a settlement does not discharge the liability of any potentially responsible parties who do not participate in it, although such parties' liability shall be reduced by the amount paid under the settlement.

The subsection further provides that if an eligible municipal owner or operator accepts waste after the date of enactment at identifiable disposal units adjacent to those for which the municipality is eligible under the subsection, then the municipality will bear the burden of providing that any contamination on or beneath the open units was caused by the closed units in any judicial or administrative proceeding in which the municipality's liability is at issue under environmental law.

Finally, when courts review a settlement reached under this subsection between the President and a municipal owner or operator, judicial review shall be limited to the administrative record, and the court must uphold the settlement unless an objecting party can show that it was arbitrary, capricious, or otherwise not in accordance with law. Consistent with existing Section 122(a), a decision of the President to use or not to use the procedures in this section is not subject to judicial review.

*Subsection (d)—Volume of Municipal Solid Waste and Sewage Sludge*

The subsection states that in determining eligibility for de minimis settlements under section 122(g)(1)(A)(i) of CERCLA, the amount of hazardous substances in MSW or sewage sludge shall refer to the quantity of hazardous substances which are constituents within the MSW or sewage sludge, not the overall volume of municipal solid waste or sewage sludge present at a facility.

*Subsection (e)—Effect on Other Law*

The subsection states that the legislation does not modify the meaning or interpretation of the Solid Waste Disposal Act.

*Subsection (f)—State Enforcement*

The subsection states that the legislation does not modify the states' ability to carry out actions authorized by Superfund or through cooperative agreements with the President.

*Subsection (g)—Constituent Components of MSW and Sewage Sludge*

The subsection makes clear that the legislation shall apply to municipal solid waste and sewage sludge as defined, even though these materials may contain constituent components that are considered hazardous substances under Superfund when they exist apart from MSW or sewage sludge.

*Subsection (h)—Retroactivity*

This subsection provides that the legislation applies to all administrative or judicial actions that began before the effective date of the legislation, unless a final court judgment has been rendered or a court-approved settlement agreement has been reached.●

● Mr. WELLSTONE. Mr. President, I express my support for the Toxic Cleanup Equity Act of 1993, which solves a serious problem in the administration of the Superfund law. That problem is the legal extortion of municipalities, small businesses, and other small waste generators by large industrial polluters.

Under current law, when the EPA sues a major polluter to pay for the cost of cleaning up a Superfund site, that polluter may in turn sue others who are alleged to have contributed to the mess to help pay for the cleanup. Unfortunately, the larger polluters have been abusing this provision, sending notices to any municipality or Mom-and-Pop establishment that has used the site, giving them a choice between paying a settlement discount and hiring a lawyer to protect them in court. It's a lose-lose situation. Many small business owners in my State have every right to call this extortion.

By bringing these suits, some of the major polluters—the large businesses the Superfund law is meant to focus on—are making a mockery of the Superfund system.

I have been receiving desperate calls from irate Minnesotans faced with the prospect of taking on stables of lawyers hired by major corporations. Among the small businesses being extorted for having their waste brought to the Oak Grove Municipal Landfill are a donut shop and travel agent. All they did was dump their office trash, and now they are told it could cost them thousands.

In Minnesota and in other parts of the country, municipalities that owned the landfills or sent municipal waste there, have been sued, sometimes for more than they can afford to pay without cutting important municipal services. In the end, the taxpayers are the ones who suffer.

This bill would protect the small business from frivolous third party suits. It would bar third party contribution suits against small businesses and municipalities that have started their good faith intention to settle with the EPA, but only to the extent that the material they sent to the landfill was similar to municipal solid waste. They could still be sued for contribution as to their hazardous wastes, and if they were held responsible for such toxic pollution, then they should contribute.

There are a couple of aspects of this bill that concern me somewhat, and I hope the problems can be remedied as the bill moves through the legislative process. First, since this measure fosters settlement with the EPA and would prevent third party suits against potential settlors, the result might be an increased burden on EPA resources in order for full cleanup funds to be provided.

Second, the new bill would cap at 4 percent the total amount of nonhazardous cleanup costs that the EPA would be able to collect from municipalities and other generators and transporters of municipal-type wastes. This figure is based on EPA's estimate of what the relative cleanup costs would likely be, but it seems to me that to put this percentage in the legislation might be a bit too restrictive of EPA's discretion.

Those two concerns aside, this bill solves a serious, current problem without sacrificing the goal of Superfund, which is to make major polluters pay to clean up after themselves. To that end, I lend my support.●

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By Mr. LAUTENBERG (for himself and Mr. CHAFEE):

S. 966. A bill to reduce metals in packaging, and for other purposes; to the Committee on Environment and Public Works.

REDUCTION OF METALS IN PACKAGING ACT

● Mr. LAUTENBERG. Mr. President, today I am reintroducing the Reduction of Metals in Packaging Act. I am being joined by the ranking member of the Environment Committee, Senator CHAFEE. The bill is based on the model legislation developed by the Source Reduction Council of the Coalition of Northeast Governors [CONEG]. The Reduction of Metals in Packaging Act will phase down the use of four metals—cadmium, mercury, lead, and hexavalent chromium—in packaging in favor of more benign alternatives. This will tackle waste at the source, before it is generated and before it is released into the air, soil, and water.

Mr. President, lead, mercury, cadmium, and chromium are among the most harmful substances found in packaging today. A 1989 report by the Office of Technology Assessment identifies cadmium, mercury, and lead as the principal toxic metals in municipal solid waste. The medical community has concluded that these metals can damage the nervous system and cause mental retardation. As part of our solid waste stream, these metals pose significant threats to the environment and public health. When disposed of in landfills, these metals can leach into groundwater and poison our drinking water supplies or migrate into surface waters where they harm fish and wildlife. Humans and wildlife can also inhale or injest these toxic metals when they are incinerated, either through air emmissions or landfill disposal of the incineration ash.

And hexavalent chromium can cause lung cancer. In 1990, the Environmental

Protection Agency banned the use of hexavalent chromium in certain heating and air conditioning systems because they release dangerous amounts of chromium into the air.

Two years ago, EPA announced a program to reduce releases of 17 toxic chemicals that present both significant risk to human health and the environment and opportunities to reduce such risks through pollution prevention. All 4 of the metals which are the subject of this bill are included in the list of 17 pollutants EPA is targeting for reduction.

Sources of lead in packaging include solder in steel cans, paint pigments, ceramic glazes and inks, and plastics. Cadmium is found in metal coating and plating, in pigments for some plastics, and in some printing inks. Chromium is also used to plate metal products and appears in paints, pigments, and dyes. Mercury is found in certain paints.

Mr. President, alternatives to these harmful materials in packaging are available. For example, the National Association of Printing Ink Manufacturers has noted that the use of leadbased orange and yellow inks can be further reduced by using organic pigment substitutes. Progress is already being made in many areas. The use of lead in soldering food cans declined 77 percent between 1979 and 1986.

Mr. President, packaging comprises nearly one-third of all municipal solid waste. It is about time that we stop using these dangerous metals in packaging when safe alternatives are readily available.

The bill I am introducing today requires that manufacturers reduce the total concentration of cadmium, mercury, lead, and chromium in packaging to 600 parts per million in 2 years, 250 parts per million in 3 years, and 100 parts per million in 4 years. It does allow exemptions for packaging that either is made from recycled materials or where the metals are needed to protect its contents, such as medical products used in radiation and x rays. Finally, this legislation requires that manufacturers present certificates showing that they are complying with these reductions.

The Reduction of Metals in Packaging Act was included in both the House Energy and Commerce and Senate Environment and Public Works Committees' versions of RCRA reauthorization legislation which were considered in the last Congress. And the Lead Exposure Reduction Act introduced by Senator REID includes a provision to reduce levels of lead in packaging which are based on my bill.

Mr. President, the bill I am offering today reflects the hard work of CONEG, industry, and environmental organizations. I commend all of the organizations involved for their effort to protect the environment from these toxic materials.

Since CONEG developed this model legislation, 14 states have adopted legislation to reduce toxic metals in packaging including: Connecticut, Maine, New Hampshire, New York, Rhode Island, Vermont, Iowa, Wisconsin, Georgia, Maryland, Minnesota, New Jersey, Washington, and Illinois.

Mr. President, the swift action on behalf of the States to enact this legislation indicates that getting toxic metals out of packaging is a pressing problem—and one that can be solved efficiently and effectively under this bill.

I urge my colleagues to support this legislation. And I ask unanimous consent that the bill be included in the RECORD.

S. 966

*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 "Reduction of Metals in Packaging Act".

**SEC. 2. FINDINGS.**

Congress finds that—

(1) the management of solid waste can pose a wide range of hazards to public health and safety and to the environment;

(2) packaging comprises a significant percentage of the overall solid waste stream;

(3) the presence of heavy metals in packaging is a concern in light of the likely presence of heavy metals in emissions or ash when packaging is incinerated, or in leachate when packaging is landfilled;

(4) lead, mercury, cadmium, and hexavalent chromium, on the basis of available scientific and medical evidence, are of particular concern;

(5) it is desirable as a first step in reducing the toxicity of packaging waste to eliminate the addition of these heavy metals to packaging; and

(6) the intent of this Act is to achieve this reduction in toxicity without impeding or discouraging the expanded use of postconsumer materials in the production of packaging and components of packaging.

**SEC. 3. DEFINITIONS.**

As used in this Act:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) DISTRIBUTOR.—The term "distributor" means any person who purchases goods from a manufacturer for sale or promotional use.

(3) INCIDENTAL PRESENCE.—The term "incidental presence" means the presence of lead, cadmium, mercury, or hexavalent chromium in a package or packaging component if the substance was not intentionally introduced into the package or packaging component for its own properties or characteristics.

(4) INTENTIONAL INTRODUCTION.—

(A) IN GENERAL.—The term "intentional introduction" means the purposeful introduction of lead, cadmium, mercury, or hexavalent chromium into a package or packaging component with an intent that one or more of the substances be present in the package or packaging component.

(B) EXCLUSION.—The term does not include—

(i) the background levels of the substances that naturally occur in raw materials or are present as postconsumer additions, and that are not purposefully added to perform as part of a package or packaging component; and

(ii) any trace quantities of a processing aid or similar material used to produce a product from which a package or packaging component is manufactured, if the processing aid or similar material is reasonably expected to be consumed or transformed into a nonregulated material during the process.

(5) MANUFACTURER.—The term "manufacturer" means any person in the chain of production who makes a package or packaging component for sale or promotional purposes, including an importer of packages or packaging components.

(6) PACKAGE OR PACKAGING.—The term "package" or "packaging" means a container that provides a means of marketing, protecting, or handling a product. The term includes a unit package, an intermediate, and a chipping container as defined in standard D-996 issued by the American Society of Testing and Materials, and unsealed receptacles such as carrying cases, crates, cups, pails, rigid foil, and other trays, wrappers and wrapping films, bags, and tubs.

(7) PACKAGING COMPONENT.—The term "packaging component" means any individual assembled part of packaging, including any interior or exterior blocking, bracing, cushioning, weatherproofing, exterior strapping, coating, closure, ink, label, adhesive, and stabilizer, except that the term does not include steel strapping. For the purposes of this section, tin-plated steel that meets the specification under standard A-623 issued by the American Society of Testing and Materials shall be deemed an individual packaging component.

**SEC. 4. PROHIBITION ON ADDITION OF CERTAIN HEAVY METALS IN PACKAGING.**

(a) IN GENERAL.—Except as provided in section 5, effective 2 years after the date of enactment of this Act, the intentional introduction of lead, cadmium, mercury, or hexavalent chromium to packaging or any component thereof during manufacturing or distribution by any person is prohibited.

(b) CONCENTRATION LEVELS.—The sum of the concentration levels of lead, cadmium, mercury, and hexavalent chromium present in packaging or any component thereof may not exceed—

(1) 600 parts per million by weight (0.06 percent) on or after the date that is 2 years after the date of enactment of this Act and before the date specified in paragraph (2);

(2) 250 parts per million by weight (0.025 percent) on or after the date that is 3 years after the date of enactment of this Act and before the date specified in paragraph (3); and

(3) 100 parts per million by weight (0.01 percent) on or after the date that is 4 years after the date of enactment of this Act.

**SEC. 5. EXEMPTIONS.**

(a) IN GENERAL.—The requirements of section 4 shall not apply to packaging and any component thereof—

(1) with a code indicating a date of manufacture of the packaging or component, or date of bottling or manufacturing of distilled spirits and wines, that is prior to the effective date of this Act; or

(2) if alternative evidence of a date of manufacture or bottling prior to the effective date of this Act is provided to the satisfaction of the Administrator.

(b) SAFETY CONSIDERATIONS.—

(1) IN GENERAL.—The requirements of section 4 shall not apply to packaging and any component thereof to which lead, cadmium, mercury, or hexavalent chromium has been added in the manufacturing, forming, printing, or distribution process—

(A) in order to comply with health or safety requirements of Federal law; or

(B) because the addition of one or more of the substances is essential for the protection, safe handling, or functioning of the contents of the packaging,

if the Administrator grants an exemption from the requirements of this Act to the manufacturer of the package or packaging component on the basis of either criterion.

(2) PERIOD.—If the Administrator determines that circumstances warrant an exemption from the requirements of this Act, the Administrator may grant an exemption for a period of 2 years.

(3) RENEWAL.—An exemption under paragraph (2) may, on meeting either criterion under paragraph (1), be renewed every 2 years.

(c) USE OF RECYCLED MATERIALS.—During the 6-year period beginning on the date of enactment of this Act, the requirements of section 4 shall not apply to packaging and any component thereof that would not exceed the concentration levels in section (b) but for the addition of recycled materials.

**SEC. 6. CERTIFICATE OF COMPLIANCE.**

(a) IN GENERAL.—

(1) REQUIREMENT.—Not later than 2 years after the date of enactment of this Act, the manufacturer or supplier of packaging or any component thereof shall furnish to each purchaser a certificate of compliance stating that the packaging or packaging component is in compliance with the requirements of this Act.

(2) EXEMPTIONS.—If the manufacturer or supplier claims an exemption under section 5, the manufacturer or supplier shall state the specific basis on which the exemption is claimed on the certificate of compliance.

(3) SIGNATURE.—The certificate of compliance shall be signed by an authorized official of the manufacturing or supplying company.

(4) RETENTION OF CERTIFICATE BY PURCHASER.—The purchaser shall retain the certificate of compliance for as long as the packaging is in use.

(5) RETENTION OF COPY BY MANUFACTURER OR SUPPLIER.—A copy of the certificate of compliance shall be kept on file by the manufacturer or supplier of the packaging or packaging component.

(6) COPIES TO ADMINISTRATOR AND PUBLIC.—A copy of the certificate of compliance shall be furnished to the Administrator on request, and to members of the public in accordance with section 7.

(b) AMENDED OR NEW CERTIFICATE.—If the manufacturer or supplier of packaging or packaging components reformulates or creates a new package or packaging component, the manufacturer or supplier shall provide an amended or new certificate of compliance for the reformulated or new package or packaging component.

**SEC. 7. PUBLIC ACCESS.**

(a) REQUEST.—A request from a member of the public for a copy of a certificate of compliance from the manufacturer or supplier of packaging or components thereof shall be—

(1) in writing, with a copy provided to the Administrator; and

(2) specific as to the package or packaging component information requested.

(b) RESPONSE TO REQUEST.—A manufacturer shall respond to a request that meets the requirements of subsection (a) not later than 60 days after receipt of the request.

**SEC. 8. FEDERAL ENFORCEMENT.**

Whenever on the basis of any information the Administrator determines that any person has violated or is in violation of this Act, the Administrator may issue an order assessing a civil penalty in an amount not to exceed $25,000.

**SEC. 9. NONPREMPTION.**

Nothing in this Act shall be construed so as to prohibit a State from establishing and enforcing a standard or requirement with respect to toxic metals in packaging that is more stringent than a standard or requirement relating to toxic metals in packaging established or promulgated under this Act.

**SEC. 10. REGULATIONS.**

Not later than 18 months after the date of enactment of this Act, the Administrator shall promulgate regulations to carry out this Act.•

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By Mr. SHELBY:

S. 967. A bill to amend the Internal Revenue Code of 1986 and the Social Security Act to repeal provisions relating to the State enforcement of child support obligations, to require the Internal Revenue Service to collect child support through wage withholding, and for other purposes; to the Committee on Finance.

CHILD SUPPORT LEGISLATION

• Mr. SHELBY. Mr. President, last year the Congress approved and the President signed into law a bill that I sponsored to make interstate flight to avoid child support payments a Federal crime. The passage of this law provided hope to the thousands of custodial parents and their children who face the nightmare of confronting an unbelievably complicated and most often ineffective interstate enforcement system. Today, I intend to continue in my commitment to improve our Nation's archaic child support system by introducing the Uniform Child Support Enforcement Act of 1993. This measure would federalize the collection, distribution, and enforcement of child support orders.

Mr. President, this measure might be scrutinized and read as an effacement of States rights. However, my legislation simply acknowledges that we already have a child support system that is largely paid for by the Federal Government but administered by the States. Through the title IV-D enforcement guidelines, the Federal Government has mandated the basic mission and structure of state child support systems and has provided two-thirds of the funding for these programs. Congress continues to consider additional State mandates on an annual basis to further improve the system and I would predict that another round of mandates is on the way in the not so distant future. Therefore, Mr. President, let us not delude ourselves into believing that we do not have a Federal child support system already in place. We just simply order the States to administer a program that we in Washington outline and fund.

Mr. President, child support issues touch on a number of matters related to family welfare that include paternity and order establishment, health care, and public assistance. However, the overriding concern facing custodial parents within the child support system is still the simple issue of collection, the problem of getting the money from the people who owe it to the children to whom it is owed. At present, only 50 percent of the custodial parents in this country who are owned child support receive regular payments; $20 billion in back child support is now owed in this country to some 16 million children. Mr. President, the present system is failing us with regard to its most basic function: collection.

We could, Mr. President, consider another set of mandates to improve child support collection. However, States are drowning in a sea of Federal mandates ranging from child support to Medicaid rules. The present set of child support mandates only promises to become more financially and administratively burdensome to States that are carrying an ever increasing share of public services and regulatory functions at the command of the Federal Government. The present child support mandates are already proving difficult for the States to meet. Only 15 States have met or say that they will meet the 1995 deadline for the federally mandated child support automation requirement.

We've heard a good deal about efficiency, rethinking government, and cutting expenditures in the last few months. The legislation that I am introducing today, Mr. President, meets these criteria. First, with regard to efficiency, custodial parents now face a collection and enforcement system that often involves a complicated web of local and State administration, courts and law enforcement. So often, if the custodial parent needs to have a delinquent order enforced, she or he often lacks any access to the most basic information about how to approach this diffuse and complicated system. If they do acquire such information, they often find that any one part of the system may be unwilling to cooperate with the other or is simply unaware of the other's action. This is only at the in-State level, Mr. President. The problem is even more complicated and frustrating when one must deal with an interstate case.

The legislation will replace this confusing and inefficient system with a centralized IRS-based system. Child support orders and arrearages, as established by the States, would be transmitted to the IRS from the States. Child support payments would be withheld from paychecks or collected through self-employed tax payments just as taxes are now collected. Payments received would be promptly mailed from the Treasury to the custodial parent. Enforcement would be handled by the IRS, treating nonpayment as tax evasion and applying the same penalties in these cases. Countless amounts of paperwork, court hearings, legal costs, and suffering would be eliminated and be replaced with this simple, efficient, unified system of collection, enforcement, and distribution.

In terms of rethinking government, this legislation takes the burden of numerous mandates off the States and relieves them of millions of dollars in annual child support enforcement costs by repealing the various requirements in the IV–D program that require the States to have child support collection and distribution programs. The present State based system is inefficient and ineffective with regard to collecting and distributing child support payments. Why not replace it with a more efficient and rational system of wage withholding? Further, if we really want to get women and children off public assistance, what could be a better method than payments received through the improved collection rate that would result from this legislation?

Finally, the issue of cost is never far from our minds these days. Presently, the Federal Government is providing over $1 billion per year for title IV–D enforcement and collection programs, two-thirds of the amount currently provided by the Federal Government for the IV–D program. The CBO estimates that this amount will grow to over $1.5 billion by the end of the decade. This act will repeal not only the mandates for these programs but 60 percent of the funding for the present program, savings of well over $1 billion per year over the next decade. These savings will more than pay for an expansion of the IRS's collection duties. This legislation leaves in place the programs and funding for paternity and order establishment.

Mr. President, the time has come for this legislation. No one, especially myself, looks at federalization issues in a casual manner. However, we must realize that our present system is heavily funded and directed by the Federal Government already. That system, Mr. President, is not adequately utilizing our money nor following our mandates. The policy of Federal collection and distribution makes fiscal and social sense. I look forward to a vigorous debate on this matter and I urge my colleagues to join me in support of this effort.●

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By Mr. BRADLEY (for himself, Mr. LEAHY, Mr. SIMON, and Mr. HARKIN):

S. 968. A bill to establish additional exchange and training programs with the independent states of the former Soviet Union and the Baltic States; to the Committee on Foreign Relations.

THE FREEDOM EXCHANGE AND TRAINING ACT

● Mr. BRADLEY. Mr. President, I rise to introduce Freedom Exchange and Training Act. I am delighted to have Mr. LEAHY, chairman of the Appropriations Subcommittee on Foreign Operations, join me in introducing this legislation. His efforts last year to make the exchange program a reality are remembered and appreciated. I am also pleased to be joined by my colleagues Senator SIMON, from Illinois, and Senator HARKIN from Iowa.

Mr. President, this bill is in America's best interests. America's interest are to see Russia become a democracy with a market-based economy that raises living standards, with a much smaller defense establishment, and with an acceptance of free flowing capital, trade, and ideas. In other works, the United States objective should be to normalize our relations with Russia and bring them into the international system as full members.

One of the most cost-effect ways to accomplish our goals of economic prosperity and political security for Russia, its neighbors, and ourselves is provide for cultural exchanges. Cultural exchanges benefit both sides. Not only would we be assuring peaceful ties between these nations and ours, we can also learn much. Americans can learn from having foreign student in their homes and classrooms. Americans studying in Kiev, St. Petersburg, Vilnius, and Alma-Alta will return with a better understanding of the people of these new republics; they will also have the unique privilege of witnessing first hand the new frontiers of democratic capitalism.

The purpose of these educational exchanges is to bring young people from the former Soviet Union and Baltics to the United States so that they might experience firsthand how a free market democracy functions. Person-to-person contact—not dollars—will build the bonds that will construct an era of mutual respect to replace the cold war era of mutual suspicion. On a long-term basis, it's not food or supplies that the people of the former Soviet Union need, but a vision. A vision of what their new societies could look like. A vision of what their societies should look like. And by accepting students into their homes and lives, Americans can help to provide this. This program calls for a personal involvement that other aid programs do not demand of Americans. Instead of shipping over a plane full of advisers, we will bring in a plane full of talented youth. They will come into our communities to live, to study, to work. We believe this is what the situation demands.

The dramatic changes we have all witnessed in the world in recent years should prompt us to reflect on our own Nation's task in years ahead: How can we adapt to the altered world?

Mr. President, I believe that recent events will lead to a redefinition of our superpower role. We will continue to exercise a leadership role, but in a new form. In a multipolar, multicultural world, we must lead by example. We should be able to lead the world by our example of a pluralist nation that is a free and democratic society—a nation striving to accommodate ethnic and religious minorities, a nation of economic opportunity. We recognize our problems, and that, too, we can show others is a key element of a democratic society.

But in order to lead by example, we should give the youth of these former Communist republics the chance to see for themselves what a free market democracy means and how our institutions work. By doing so, we can provide the type of aid they most need. The needs of the states of the former Soviet Union and the Baltics are many. They need skill building and institution building so that they can begin the process of nation building. All of this will require increased understanding of democratic principles.

We must move swiftly. The people of the newly independent states must be brought out of their isolation now. We must make up for 40 years of barriers between our citizens and theirs. We cannot afford to be complacent. A slow response risks retrenchment of economic and democratic reforms. It also risks the growth of new versions of authoritarian rule.

This year, 3,360 high school students from the former Soviet Union will visit the United States under the Freedom Exchange Act, and 1,990 American students will participate in the exchange program. But, much more is required if we are to accomplish our goals of economic prosperity and political security for Russia, its neighbors, and ourselves. In March, 1,500 Armenian high school students gathered outside the American Embassy in Yerevan to hear whether they had been selected as semifinalists for 32 exchange slots.

The $77 million authorization sought for educational exchanges will substantially increase the number of students who can participate in the program. The key component of the educational exchanges is the high school exchange program. The bill authorizes $40 million for high school exchanges for the 1994 school year, twice the amount provided for 1993. This amount will serve over 10,000 high school students. These youths will live with families, attend schools, and return to their own homes having learned about our institutions, skills, and values. They will have acquired a better appreciation of how they—the future leaders—can build their own institutions. Because we want the students' experiences to be meaningful, the legislation favors long term exchanges over short term stays.

We have added a new section to the high school exchange component. For the first time, exchanges for secondary school teachers and administrators are included. The bill authorizes $5 million for these exchanges. There is a real need in the Soviet Union for teachers of social science, humanities, English teachers. The legislation gives preferential treatment to persons interested in studying these areas.

The second component of the exchange legislation authorizes $18 mil-

lion for undergraduate and graduate exchanges. Also, for the first time, the college and university section will specifically target community colleges. The bill authorizes $6 million for community colleges, with special emphasis placed on providing vocational training for adults from the former Soviet Union and the Baltics. As in the high school exchanges, the college and university exchanges will allow future leaders of the former Soviet Union to study and experience American society. The bill also authorizes $8 million for the sister university program. This program would create links between our universities, colleges, and community colleges, and their institutions of higher learning.

The third component of the bill provides $20 million for technical assistance and training programs. The bill establishes exchange and training programs in public administration and governance for government officials. Legal initiatives to assist the former Soviet Union and Baltic States in modifying or restructuring their law and legal systems to reflect democratic principles are among the types of programs supported. Programs in agriculture, agribusiness are to be included, as well as agriculture exchanges that will allow foreign farmers to live on American farms for extended periods to learn the latest in agriculture technology. Energy and environmental programs, such as nuclear safety and energy conservation are to be supported. The bill also lists health and medicine, and trade and investment, as areas for program development. The legislation also requests funds for leadership training.

The Iron Curtain between our societies has parted, Mr. President, but contact between our people and the people of the former Soviet Union remains woefully limited. In the 1990–91 school year, the total number of undergraduate and graduate students from the former Soviet Union was 1,210. China had almost 40,000 for the same period. Even Switzerland had more students at American universities than did the former Soviet Union. There are over 5 million college and graduate level students in the former Soviet Union. We should see thousands more over here.

It is my hope that in the years ahead we will see tens of thousands more students here. According to Dr. Elena Lenskaya, head of the International Cooperation Department of the Russian Ministry of Education, as word of the exchange program has reached into the corners of the former Soviet republics, its impact has been profound. Doctor Lenskaya states that for many the exchange program is the first tangible evidence of outside help, inspiring a hope for the children of Russia and the former Soviet Union that the future will be brighter.

Mr. President, let us continue to build new relationships with Russia and the other former republics—one based on two peoples coming together in a common commitment to make the tough choices for the long-term health of each country and the world; two peoples aware that having stared each other to the brink of nuclear holocaust, we now have a special responsibility to find in each other and within ourselves the capacity to reorder, to begin anew, to reconceive our possibilities as two nations, two peoples, one world.

Mr. President, I ask unanimous consent that a summary of the bill be printed in the RECORD at this point.

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

S. 968

*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 "Freedom Exchange and Training Act".

**SEC. 2. STATEMENT OF PURPOSE.**

The purpose of this Act is—

(1) to bring young people, teachers, and education administrators of the former Soviet Union and the Baltic states to the United States so that they might experience first-hand how a free market democracy functions;

(2) to assist the skill-building process necessary for both institution-building and nation-building; and

(3) to provide leadership training and technical assistance to officials and others from the former Soviet Union and Baltic states.

**SEC. 3. DEFINITIONS.**

As used in this Act—

(1) the term "Baltic states" means Latvia, Lithuania, and Estonia;

(2) the term "eligible organization" means, during fiscal year 1994, any private nonprofit organization which has experience in exchange programs and demonstrates a capacity to carry out such programs in the independent states of the former Soviet Union or in the Baltic States; and

(3) the term "independent states of the former Soviet Union" includes the following states that formerly were part of the Soviet Union: Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

**TITLE I—EDUCATIONAL EXCHANGE PROGRAMS**

**SEC. 101. AUTHORITIES FOR AWARDING EDUCATIONAL EXCHANGE GRANTS.**

(a) GENERAL AUTHORITY.—The Director shall establish and carry out an exchange program with the independent states of the former Soviet Union and the Baltic states in accordance with this title. In carrying out such a program, the Director shall award, on a competitive basis, grants to eligible organizations to enable such organizations to finance—

(1) the exchange of secondary school students in accordance with section 102;

(2) the exchange of secondary school teachers and administrators in accordance with section 103;

(3) the exchange of postsecondary students in accordance with section 104; and

(4) exchanges of college and university educators in accordance with section 105.

(b) ADMINISTRATIVE EXPENSES.—The Director may use up to 5 percent of the funds appropriated under this title for administrative expenses.

(c) APPLICATION.—(1) Each eligible organization seeking a grant under this section shall submit an application to the Director at such time, in such manner, and accompanied by such information as the Director may reasonably require.

(2) Each application submitted pursuant to paragraph (1) shall—

(A) describe the activities for which assistance under this section is sought; and

(B) provide such additional assurances as the Director determines to be essential to ensure compliance with the requirements of this section.

(d) ELIGIBILITY FOR GRANTS.—Grants may be made to eligible organizations only if such organizations agree to comply with the requirements specified in this title.

(e) IMPLEMENTATION.—In carrying out this title, the Director shall—

(1) encourage colleges and universities receiving students to supplement public grants with their own resources, to the extent possible; and

(2) allow for a wide range of United States institutions to participate in programs under this title.

(f) COMPLIANCE WITH BUDGET ACT.—The authority to make grants under this title shall be effective only to such extent or in such amount as are provided in appropriations Acts.

(g) DEFINITIONS.—For purposes of this title—

(1) the term "Director" means the Director of the United States Information Agency;

(2) the term "institution of higher education" has the same meaning as is given to such term by section 1201(a) of the Higher Education Act of 1965; and

(3) the term "secondary school" has the same meaning given to such term by section 1471(21) of the Elementary and Secondary Education Act of 1965.

**SEC. 102. SECONDARY SCHOOL STUDENTS.**

(a) GRANT USES.—(1) Grants awarded under section 101(a)(1) shall be used to finance—

(A) visits of short duration by eligible secondary school students, to the United States, to any of the independent states of the former Soviet Union, or to any Baltic state; or

(B) studies, instruction, and other educational exchange activities in the United States, in any of the independent states of the former Soviet Union, or in any Baltic state, each educational exchange activity lasting not less than one semester or more than one year, for eligible secondary school students.

(2) Of the amount of grants awarded under section 101(a)(1), not more than 35 percent in fiscal year 1994 may be used for the purpose of paragraph (1)(A).

(b) CONDITIONS.—(1) The Director may require that a portion of a grant awarded under section 101(a)(1) be used only for educational activities that are conditioned on the reciprocal exchange of American students.

(2) Not more than 25 percent of the total amount of grant funds awarded under section 101(a)(1) may be used to finance educational exchanges of American students under this section.

(c) DEFINITION.—For purposes of this section, the term "eligible secondary school student" means a secondary school student

from the United States, any of the independent states of the former Soviet Union, or any Baltic state who—

(1) is at least 15 years of age;

(2) is attending school at a grade level equivalent to any of the grade levels 10 through 12 in United States secondary schools or has just completed secondary school in any of the independent states of the former Soviet Union or any Baltic state; and

(3) has a minimum level of proficiency in English, as determined by testing.

(d) ADMINISTRATION.—(1) To the maximum extent practicable, a grant under this section shall be used to support the activities described in subsection (a) for secondary school students of widely divergent backgrounds.

(2) The recruitment of foreign students under this section shall be carried out in an efficient, uniform manner, preferably under direction of a United States-based group or organization under guidelines established by the Director.

(3) The selection and examination of students from the former Soviet Union and Baltic states under this section should be a cooperative effort with input from organizations involved in the placement of the exchange students.

(4) The specific structure for this cooperative effort should be approved by the Director as part of the granting of funds for selection and examination of students.

(5) The selection process under this section should be designed to ensure selection of a representative group of students from the former Soviet Union and the Baltic states.

(e) AUTHORIZATION OF APPROPRIATIONS.—In addition to funds otherwise available for such purpose, there are authorized to be appropriated $40,000,000 for fiscal year 1994 to carry out this section.

**SEC. 103. SECONDARY SCHOOL TEACHERS AND ADMINISTRATORS.**

(a) GRANT USES.—(1) Grants awarded under section 4(a)(2) shall be used to finance visits of at least four weeks duration for eligible secondary school teachers and administrators to the United States, to any of the independent states of the former Soviet Union, or to any Baltic state.

(2) Visits financed under this section—

(A) shall focus on a particular area of study or project and may involve seminars, with special emphasis on classroom practicums; and

(B) should, where possible, be developed and coordinated with programs established under section 102.

(b) PRIORITY EXCHANGES.—Preference is to be given to foreign teachers and administrators interested in the social sciences, the humanities, teaching English, and acquiring knowledge or skills applicable to building democratic institutions.

(c) RESTRICTION.—Not more than 25 percent of the total amount of funds awarded under this section may be used to finance educational exchanges of American secondary teachers and administrators.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for fiscal year 1994 to carry out this section.

**SEC. 104. POSTSECONDARY STUDENTS.**

(a) COLLEGE STUDENTS.—

(1) GRANT USES.—Grants awarded under section 101(a)(3) shall be used to finance studies, research, instruction, and other educational exchange activities for eligible college students in institutions of higher education in the United States, in any of the independent states of the former Soviet Union, or in any Baltic state, each educational exchange activity lasting not less than one semester or more than one year, with special emphasis on—

(A) those foreign students who are interested in studying the social sciences and humanities;

(B) those foreign students who are studying to become English teachers; and

(C) those foreign students who are seeking to acquire knowledge or skills applicable to restructuring the economy or building democratic institutions.

(2) CONDITION.—(A) The Director may require that an eligible organization, in order to receive a grant under section 101(a)(3), agree to use a portion of such grant for educational activities that are conditioned on the institution of higher education providing an eligible college student with some financial resources, either in the form of room and board or as a waiver of tuition.

(B) Not more than 25 percent of the total amount of grant funds awarded under this subsection may be used to finance educational exchanges of American students under this section.

(3) DEFINITION.—For purposes of this subsection, the term "eligible college student" means a student enrolled in four-year programs of study at a college or university in the United States, any of the independent states of the former Soviet Union, or any Baltic state, including any American-founded school in the former Soviet Union, and who—

(A) has completed at least one year of study and is not in the last year of such study; and

(B) in the case of a foreign student, is sufficiently proficient in English to undertake the course of study proposed, as determined by testing.

(4) AUTHORIZATION OF APPROPRIATIONS.—In addition to funds otherwise available for such purpose, there are authorized to be appropriated $9,000,000 for fiscal year 1994 to carry out this subsection.

(b) GRADUATE STUDENTS.—

(1) GRANTS USES.—Grants awarded under section 101(a)(3) shall be used to finance studies, research, instruction, and other educational exchange activities for eligible graduate students in the United States, in any of the independent states of the former Soviet Union, or in any Baltic state, each educational exchange activity lasting not less than one semester or more than one year, with special emphasis on—

(A) those foreign students who are interested in studying the social sciences and humanities;

(B) those foreign students who are studying to become English teachers; and

(C) those foreign students who are seeking to acquire knowledge or skills applicable to restructuring the economy or building democratic institutions.

(2) CONDITION.—Not more than 25 percent of the total amount of grant funds awarded under this subsection may be used to finance educational exchanges of American students under this section.

(3) DEFINITION.—For purposes of this section, the term "eligible graduate student" means a student from the United States, any of the independent states of the former Soviet Union, or any Baltic state, including any student attending an American-founded university in the former Soviet Union, who—

(A) is enrolled in a graduate course of study at a college or university;

(B) has completed one year of such study; and

(C) in the case of a foreign student, is sufficiently proficient in English to undertake the course of study proposed, as determined by testing.

(4) AUTHORIZATION OF APPROPRIATIONS.—In addition to funds otherwise available for such purpose, there are authorized to be appropriated $9,000,000 for fiscal year 1994 to carry out this subsection.

(c) COMMUNITY COLLEGES.—(1) Grants awarded under this subsection shall be used to finance—

(A) studies and research in any of the independent states of the former Soviet Union, or in any Baltic state;

(B) vocational retraining of foreign students from the former Soviet Union or Baltic states; and

(C) faculty and student exchange activity lasting not less than one semester or more than one year,

with special emphasis on—

(i) those foreign students who are interested in studying the social sciences and humanities;

(ii) those foreign students who are studying to become English teachers; and

(iii) those foreign students who are seeking to acquire knowledge or skills applicable to restructuring the economy or building democratic institutions.

(2) An individual is eligible for a grant under this section who—

(A) is at least 18 years of age;

(B) has completed secondary school in the United States, any of the independent states of the former Soviet Union, or any Baltic states;

(C) if an American, is enrolled in a community college and has completed at least one year of study; and

(D) in the case of foreign students, is sufficiently proficient in English to undertake the course of study proposed, as determined by testing.

(3) In addition to funds otherwise available for such purpose, there are authorized to be appropriated $6,000,000 for fiscal year 1994 to carry out this subsection.

**SEC. 105. "SISTER" UNIVERSITY PROGRAM.**

(a) GRANT USES.—(1) Grants awarded under section 101(a)(4) shall be used to finance exchanges of college and university educators of eligible paired institutions for the purpose of developing curriculum and otherwise strengthening ties between the independent states of the former Soviet Union and the Baltic states and the United States at the institutional level.

(2) Each grant awarded under this subsection shall not exceed $100,000.

(3) Each grant awarded under this subsection to eligible paired institutions may be disbursed during a period of two fiscal years.

(b) DEFINITION.—For purposes of this section, the term "eligible paired institutions" means in fiscal year 1994, a pairing by the Director of one United States institution of higher education with a college or university in any of the independent states of the former Soviet Union or any Baltic state wherever such pairing is likely to promote a continuing relationship between the institutions after the termination of assistance under this title.

(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to funds otherwise available for such purpose, there are authorized to be appropriated $8,000,000 for fiscal year 1994.

## TITLE II—OTHER TRAINING AND EXCHANGE PROGRAMS

**SEC. 201. PROGRAMS OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT.**

(a) GENERAL AUTHORITY.—The President shall establish and carry out technical as-

sistance and exchange programs with the independent states of the former Soviet Union and the Baltic states in accordance with this title. Such programs may be implemented by grants to eligible organizations or otherwise. Programs funded by this title are as follows:

(1) PUBLIC ADMINISTRATION AND GOVERNANCE.—Funds made available under this paragraph shall be used for programs of up to 8 weeks duration for—

(A) exchanges and training of local and regional government officials, practitioners and experts in public administration to assist the former Soviet Union and Baltic states in establishing and sustaining democratic institutions;

(B) exchanges and training that will assist the former Soviet Union and Baltic states in the establishment of social services programs; and

(C) exchanges and training in the area of political science.

It is the sense of the Congress that technical assistance and training of public officials under this paragraph should be conducted by American organizations that are representative of elected officials.

(2) RULE OF LAW.—Funds made available under this paragraph shall be used for legal initiatives to assist the former Soviet Union and Baltic states in modifying or restructuring their laws and legal systems to reflect democratic principles and be compatible with a democratic society and free market principles.

(3) AGRICULTURE AND AGRIBUSINESS.—Funds made available under this paragraph shall be used for—

(A) technical assistance and training for the development of market-oriented policies, agricultural financial institutions and marketing systems, agribusiness organization, privatization of state agricultural organizations; and

(B) agricultural exchanges that will allow foreign farmers to come to the United States to acquire agriculture skills.

(4) ENERGY AND ENVIRONMENT.—Funds made available under this paragraph shall be used for a comprehensive exchange and training program for enhancing environmental management and sustainable economic development, emphasizing the active participation of local scientific expertise, nongovernmental organizations, and the public, and including—

(A) environmental monitoring and protection,

(B) establishment of appropriate environmental institutions and infrastructure,

(C) programs to enhance energy conservation and efficiency, and

(D) nuclear safety and other appropriate initiatives consistent with this paragraph.

(5) HEALTH AND MEDICINE.—Funds made available under this paragraph shall be used for exchange and training programs that will enhance medical delivery systems, assist in establishment of pharmaceutical industry, and provide general medical training and education.

(6) TRADE AND INVESTMENT.—Funds made available under this paragraph shall be used to assist in the development of American business centers and the expansion of the Special American Business Internship Training (SABIT) program of the Department of Commerce.

(7) LEADERS TRAINING.—Funds made available under this paragraph shall be used for training by United States business, universities, and others to build a cadre of young technocrats with strong grounding in market economics principles who are likely to rise to positions of responsibility in the public and private sectors and influence future national development. Training under this paragraph shall be targeted on the priority sectoral areas of the United States technical assistance program, including health, energy, environment, banking, and agriculture, and educational training shall be combined with on-the-job training experiences and practical internships.

(b) DEGREE OF ENGLISH LANGUAGE PROFICIENCY.—Foreign participants in the programs under this section shall be sufficiently proficient in English to fulfill the purposes of this section.

(c) ADMINISTRATIVE EXPENSES.—The President may use up to 5 percent of the funds appropriated under this title for administrative expenses.

(d) GENERAL AUTHORITY FOR AWARDING GRANTS.—Training and other exchange programs carried out under this section shall be administered by the Agency for International Development or such other Government agency as has experience and expertise in carrying out such programs.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $20,000,000 for fiscal year 1994 to carry out this section.●

● Mr. SIMON. Mr. President, I am pleased to be an original cosponsor of Senator BILL BRADLEY's admirable legislation expanding our foreign exchange programs with the peoples of the former Soviet Union and Baltic States. For the price of two or three F-15 fighters, we can exchange more than 10,000 students a year each way.

I hope that we can work something out with the United States Information Agency [USIA] so that a fair number of the new exchanges called for in this bill go to students from Republics other than the Russian Federation, which will clearly get the lion's share of slots. It seems to me that we should be reaching out a little more than we have to the people of these new independent States.

I would also like to say again that in this whole area of exchanges, and this is not related to the Bradley bill, we really have to broaden our approach more than we have. In particular, we should exchange more students, faculty, and professionals between Africa and the United States.

Africa has gotten the short end of the exchanges stick over the years. If we can increase and expand our exchange programs with African countries, it would send a powerful message to the people and governments there. There is a lot we can learn from our friends in Africa, and there is much we can teach them. We can all gain from stepping up our exchanges with Africa.

I look forward to working with my colleagues on both the former U.S.S.R. exchanges and Africa exchanges as we consider the Foreign Relations Authorization Act later this summer.●

## ADDITIONAL COSPONSORS

S. 13

At the request of Mr. HATCH, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 13, a bill to institute accountability in the Federal regulatory process, establish a program for the systematic selection of regulatory priorities, and for other purposes.

S. 50

At the request of Mr. WARNER, the names of the Senator from Delaware [Mr. BIDEN] and the Senator from Florida [Mr. MACK] were added as cosponsors of S. 50, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 250th anniversary of the birth of Thomas Jefferson.

S. 69

At the request of Mr. BREAUX, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 69, a bill to amend the Internal Revenue Code of 1986 to repeal the luxury tax on boats.

S. 102

At the request of Mr. MACK, the name of the Senator from New Hampshire [Mr. GREGG] was added as a cosponsor of S. 102, a bill to provide for a line item veto; capital gains tax reduction; enterprise zones; raising the social security earnings limit; and workfare.

S. 236

At the request of Mr. MCCAIN, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 236, a bill to increase Federal payments to units of general local government for entitlement lands, and for other purposes.

S. 271

At the request of Mr. GRASSLEY, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 271, a bill to amend the Internal Revenue Code of 1986 to allow a credit for interest paid on education loans.

S. 299

At the request of Mr. RIEGLE, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of S. 299, a bill to amend the Housing and Community Development Act of 1974 to establish a program to demonstrate the benefits and feasibility of redeveloping or reusing abandoned or substantially underutilized land in economically and socially distressed communities, and for other purposes.

S. 338

At the request of Mr. FORD, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 338, a bill to amend the Petroleum Marketing Practices Act to clarify the Federal standards governing the termination and nonrenewal of franchises and franchise relationships for the sale of motor fuel, and for other purposes.

S. 342

At the request of Mr. BOREN, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 342, a bill to amend the Inter-

nal Revenue Code of 1986 to encourage investment in real estate and for other purposes.

S. 360

At the request of Mr. DORGAN, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 360, a bill to amend the Internal Revenue Code of 1986 to extend the deduction for health insurance costs of self-employed individuals for an indefinite period, and to increase the amount of such deduction.

At the request of Mr. LIEBERMAN, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of S. 360, supra.

S. 482

At the request of Mr. BOREN, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor 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. DANFORTH, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor 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. HEFLIN, the names of the Senator from Arkansas [Mr. PRYOR] and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors 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. 573

At the request of Mr. BREAUX, the names of the Senator from Alabama [Mr. HEFLIN], the Senator from South Dakota [Mr. PRESSLER], and the Senator from Nebraska [Mr. EXON] 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. 636

At the request of Mr. KENNEDY, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 636, a bill to amend the Public Health Service Act to permit individuals to have freedom of access to certain medical clinics and facilities, and for other purposes.

S. 655

At the request of Mr. LIEBERMAN, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 655, a bill to provide for the transfer of funds from the Harbor Maintenance Trust Fund to support nautical charting and marine navigational safety programs, and other activities of the National Oceanic and Atmospheric Administration related to commercial navigation, and for other purposes.

S. 666

At the request of Mr. DANFORTH, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 666, a bill to amend the Internal Revenue Code of 1986 to permanently extend and modify the credit for increasing research activities, and for other purposes.

S. 667

At the request of Mr. COVERDELL, his name was added as a cosponsor of S. 667, a bill to amend the Immigration and Nationality Act to improve procedures for the exclusion of aliens seeking to enter the United States by fraud.

S. 687

At the request of Mr. GRASSLEY, his name was added as a cosponsor of S. 687, a bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes.

S. 775

At the request of Mr. WALLOP, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 775, a bill to modify the requirements applicable to locatable minerals on public lands, consistent with the principles of self-initiation of mining claims, and for other purposes.

S. 895

At the request of Mr. DANFORTH, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 895, a bill to amend the Internal Revenue Code of 1986 with respect to the treatment of the rehabilitation credit under the passive activity limitation and the alternative minimum tax.

S. 925

At the request of Mr. INOUYE, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 925, a bill to require the Secretary of the Interior to pay interest on Indian funds invested, to authorize demonstrations of new approaches for the management of Indian trust funds, to clarify the trust responsibility of the United States with respect to Indians, to establish a program for the training and recruitment of Indians in the management of trust funds, to account for daily and annual balances on and to require periodic statements for Indian trust funds, and for other purposes.

SENATE JOINT RESOLUTION 58

At the request of Mr. RIEGLE, the names of the Senator from Mississippi [Mr. LOTT] and the Senator from Virginia [Mr. WARNER] 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 73

At the request of Mr. RIEGLE, the names of the Senator from Delaware [Mr. BIDEN], the Senator from Nebraska [Mr. EXON], the Senator from Montana [Mr. BAUCUS], the Senator from Connecticut [Mr. LIEBERMAN], and the Senator from West Virginia [Mr. BYRD] 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 77

At the request of Mr. HATCH, the names of the Senator from Nebraska [Mr. EXON], the Senator from New Jersey [Mr. BRADLEY], the Senator from Missouri [Mr. BOND], and the Senator from South Dakota [Mr. DASCHLE] were added as cosponsors of Senate Joint Resolution 77, a joint resolution to designate the week of April 18, 1993, through April 24, 1993, as "International Student Awareness Week."

SENATE JOINT RESOLUTION 88

At the request of Mr. DECONCINI, the names of the Senator from Maryland [Ms. MIKULSKI], the Senator from Arkansas [Mr. PRYOR], the Senator from California [Mrs. BOXER], the Senator from Vermont [Mr. LEAHY], the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from Tennessee [Mr. MATHEWS], the Senator from Colorado [Mr. CAMPBELL], the Senator from Nevada [Mr. BRYAN], the Senator from Illinois [Mr. SIMON], the Senator from Kentucky [Mr. FORD], the Senator from Louisiana [Mr. JOHNSTON], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Hawaii [Mr. INOUYE], the Senator from North Dakota [Mr. DORGAN], the Senator from South Dakota [Mr. DASCHLE], the Senator from Washington [Mrs. MURRAY], the Senator from Louisiana [Mr. BREAUX], the Senator from California [Mrs. FEINSTEIN], and the Senator from Georgia [Mr. NUNN] were added as cosponsors of Senate Joint Resolution 88, a joint resolution to designate July 1, 1993, as "National NYSP Day."

## AMENDMENTS SUBMITTED

## THRIFT DEPOSITOR PROTECTION ACT OF 1993

### COHEN AMENDMENT NO. 355

(Ordered to lie on the table.)

Mr. COHEN (for himself, Mr. DOMENICI, Mr. LAUTENBERG, Mr. FAIRCLOTH, Mr. D'AMATO, Mr. DECONCINI, and Mrs. FEINSTEIN), submitted an amendment intended to be proposed by him to the

bill (S. 714) to provide funding for the resolution of failed savings associations, and for other purposes, as follows:

At the appropriate place, add the following:

**SEC. ___. COST EFFECTIVENESS OF FEDERAL PROPERTY MANAGEMENT.**

(a) FINDINGS.—The Congress finds that—

(1) the Federal Government owns over 400,000 buildings that cost the taxpayers hundreds of billions of dollars;

(2) the Federal Government is the largest single tenant and builder of office space in the United States;

(3) the Federal Government currently has $11,400,000,000 of construction in the works which, when completed, will add approximately 23,000,000 square feet of office space;

(4) the Federal Government is constructing, or entering into long-term leases for buildings constructed expressly for the Federal Government, in areas with building vacancy rates as high as 30 percent;

(5) significant budget savings can be achieved if, before considering new construction, Federal agencies aggressively explore the possibilities of purchasing or leasing suitable office buildings available in the market or acquiring suitable real estate under the control of the Federal Deposit Insurance Corporation or Resolution Trust Corporation;

(6) the physical space requirements of Federal agencies and the Judiciary are too often overstated and inflexible and, therefore, do not permit the acquisition or lease of existing properties which may be suitable and cost-effective;

(7) current scorekeeping rules may be discouraging agencies from entering into the most responsible arrangements for securing office space (for example, in some cases, a lease/purchase agreement may be most cost-effective but current scorekeeping rules require that the budget authority and outlays for the entire obligation, paid over a period of years, be scored in the year the contract is signed); and

(8) the Federal Buildings Fund, established in 1972 as a revolving fund to cover the General Services Administration's cost of rent, repairs, renovations, and to pay for the construction of new Federal buildings, and funded by the rent agencies pay to the General Services Administration, has failed to be self-sustaining and has required billions in appropriations to finance new construction.

(b) COMPREHENSIVE REVIEW OF FEDERAL PROPERTY MANAGEMENT.—

(1) IN GENERAL.—The Director of the Office of Management and Budget shall conduct a comprehensive review of Federal property management policies and procedures and make recommendations to promote better coordination between Government agencies, maximize efficiency, and encourage flexibility to make decisions which are in the best interest of the Federal Government.

(2) INCLUDED IN REVIEW.—The review required by this subsection shall include—

(A) recommendations requiring the General Services Administration, the Department of Defense, the Postal Service and all other Federal agencies and the Judiciary, when appropriate, to develop or modify existing building requirements in such a way as to allow for—

(i) the purchase, lease, lease/purchase of existing buildings at market rates; and

(ii) the purchase of Resolution Trust Corporation-owned and Federal Deposit Insurance Corporation-owned real estate rather than new construction of buildings;

(B) in conjunction with the Director of the Congressional Budget Office, developing recommendations to revise scorekeeping rules for Federal property leasing, lease/purchase, construction, and acquisition to encourage flexibility and decisions which are in the best interest of the Federal Government; and

(C) recommendations on whether the Federal Buildings Fund should be maintained, alternatives for meeting the Fund's objectives, and changes to the Fund that will enable it to meet its objectives and become self-sustaining.

(c) REPORT.—Not later than two months after the date of enactment of this Act, the Director of the Office of Management and Budget shall report the recommendations developed pursuant to this section to—

(1) the Senate Committees on Governmental Affairs, Appropriations, and Environment and Public Works; and

(2) the House of Representatives Committees on Government Operations, Appropriations, and Public Works and Transportation.

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## METZENBAUM AMENDMENT NO. 356

Mr. METZENBAUM (for himself and Mr. WOFFORD) proposed an amendment to the bill (S. 714), supra; as follows:

**SEC. . CIVIL STATUTE OF LIMITATIONS FOR TORT ACTIONS BROUGHT BY THE RTC.**

(a) RESOLUTION TRUST CORPORATION.—Section 11(d)(14) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(14) is amended—

(1) in subparagraph (A)(ii), by inserting "except as provided in subparagraph (B)," before "in the case of";

(2) by redesignating subparagraph (B) as subparagraph (C);

(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) TORT ACTIONS BROUGHT BY THE RESOLUTION TRUST CORPORATION.—The applicable statute of limitations with regard to any action in tort brought by the Resolution Trust Corporation in its capacity as conservator or receiver of a failed savings association shall be the longer of—

"(i) the 5-year period beginning on the date the claim accrues; or

"(ii) the period applicable under State law,"; and

(4) in subparagraph (C), as redesignated—

(A) by striking "subparagraph (A)" and inserting "subparagraphs (A) and (B)"; and

(B) by striking "such subparagraph" and inserting "such subparagraphs".

(b) EFFECTIVE DATE; TERMINATION; FDIC AS SUCCESSOR.—

(1) EFFECTIVE DATE.—The amendments made by subsection (a) shall be construed to have the same effective date as section 212 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

(2) TERMINATION.—The amendments made by subsection (a) shall remain in effect only until the termination of the Resolution Trust Corporation.

(3) FDIC AS SUCCESSOR TO THE RTC.—The Federal Deposit Insurance Corporation, as successor to the Resolution Trust Corporation, shall have the right to pursue any tort action that was properly brought by the Resolution Trust Corporation prior to the termination of the Resolution Trust Corporation.

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## WELLSTONE—MURRAY AMENDMENT NO. 357

Mr. WELLSTONE (for himself and Mrs. MURRAY) proposed an amendment to the bill (S. 714), supra, as follows:

At the end of section 3, strike the quotation marks and final period and inset the following:

"(M) INDEPENDENT REPORT BY THE GENERAL ACCOUNTING OFFICE.—No funds appropriated in subparagraph (E) or made available under subparagraph (H) shall be paid pursuant to a certification under clause (i) or (ii) of subparagraph (K) by the Secretary of the Treasury to the Savings Association Insurance Fund for 60 days after such certifications are made. During such 60-day period, the Comptroller General of the United States shall transmit a report to the Congress that—

"(i) states whether such certifications have been verified; and

"(ii) states whether—

"(I) further increases in the deposit insurance premiums paid by Savings Association Insurance Fund members could create a substantial risk that losses due to additional failures caused by the increases would exceed the increased premium income;

"(II) Savings Association Insurance Fund members, in the aggregate, are unable to pay additional semiannual assessments under section 7(b) during such year at the assessment rate which would be required in order to meet the repayment schedule required under section 14(c) for any amount borrowed under section 14(a) to cover losses incurred by the Fund during such year; and

"(III) an increase in the assessment rate for Savings Association Insurance Fund members to meet any such repayment schedule could reasonably be expected to result in greater losses to the Government (through an increase in the number of institutions in default)."

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## GRAHAM-HARKIN AMENDMENT NO. 358

Mr. GRAHAM (for himself and Mr. HARKIN) proposed an amendment to the bill (S. 714), supra, as follows:

At the appropriate place, insert the following:

**SECTION 1. SENSE OF THE SENATE RELATING TO PARTICIPATION OF DISABLED AMERICANS IN CONTRACTING FOR DELIVERY OF SERVICES TO FINANCIAL INSTITUTION REGULATORY AGENCIES.**

(a) FINDINGS.—The Senate finds the following:

(1) Congress, in adopting the Americans with Disabilities Act of 1990, 42 U.S.C. section 12101, (the ADA) specifically found that:

(a) some 43,000,000 Americans have one or more physical or mental disabilities, and this number is increasing;

(b) discrimination against individuals with disabilities persists in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and access to public services;

(c) individuals with disabilities continually encounter various forms of discrimination, including outright intentional exclusion, the discriminatory effects of architectural, transportation, and communication barriers, overprotective rules and policies, failure to make modifications to existing facilities and practices, exclusionary qualification standards and criteria, segregation, and relegation to lesser services, programs, activities, benefits, jobs, or other opportunities;

(d) census data, national polls, and other studies have documented that people with disabilities, as a group, occupy an inferior status in our society, and are severely dis-

advantaged socially, vocationally, economically, and educationally;

(e) individuals with disabilities are a discrete and insular minority who have been faced with restrictions and limitations, subjected to a history of purposeful unequal treatment, and relegated to a position of political powerlessness in our society, based on characteristics that are beyond the control of such individuals and resulting from stereotypic assumptions not truly indicative of the individual ability of such individuals to participate in, and contribute to, society;

(f) the Nation's proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for such individuals; and

(g) the continuing existence of unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity to compete on an equal basis and to pursue those opportun'ties for which our free society is justifiably famous, and costs the United States billions of dollars in unnecessary expenses resulting from dependency and nonproductivity.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the chief executive officer of the Resolution Trust Corporation, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Federal Housing Finance Board shall take all necessary steps within each such agency to ensure that individuals with disabilities and entities owned by individuals with disabilities, including financial institutions, investment banking firms, underwriters, asset managers, accountants, and providers of legal services, are availed of all opportunities to compete in a manner which, at a minimum, does not discriminate on the basis of their disability for contracts entered into by the agency to manage the institutions and their assets for which the agency is responsible or to perform such other functions authorized under any law applicable to such agency.

## DORGAN AMENDMENT NO. 359

Mr. DORGAN (for himself and Mr. FEINGOLD, Mr. BAUCUS, Mr. CONRAD, and Mr. MATHEWS) proposed an amendment to the bill (S. 714), supra, as follows:

At the appropriate place, insert the following new section:

**SEC. 6. TASK FORCE ON THRIFT FRAUD.**

Section 2539 of the Crime Control Act of 1990 (28 U.S.C. 509 note) is amended by adding at the end the following new subsection:

"(d) TASK FORCE ON SAVINGS ASSOCIATION FRAUD—

"(1) ESTABLSIHMENT.—The Attorney General shall establish within the Department of Justice, in accordance with subsection (a), the Thrift Fraud Task Force to coordinate and assist in the investigation and prosecution of crimes in or against federally insured savings associations (as defined in section 3 of the Federal Deposit Insurance Act).

"(2) SPECIAL COUNSEL FOR THRIFT FRAUD.—The Thrift Fraud Task Force shall be headed by a Special Counsel for Thrift Fraud, appointed by the Attorney General.

"(3) DUTIES.—The Thrift Fraud Task Force, under the direction of the Special Counsel for Thrift Fraud, shall—

"(A) assist, consult with, and advise all Federal agencies engaged in the investigation and prosecution of criminal fraud cases involving federally insured savings associations;

"(B) establish a system of information on the adequacy of Federal agency staffing for such cases;

"(C) determine the adequacy of such staffing; and

"(D) develop and assist in the implementation of measures for improving, if necessary, the effectiveness of the Federal investigative and prosecutorial efforts in such cases.

"(4) AGENCY COOPERATION.—Each member of the senior interagency group established under subsection (c), and all other relevant Federal agencies, shall provide such information, assistance, and co-operation to the Thrift Fraud Task Force as the Special Counsel for Thrift Fraud may request.".

## LIEBERMAN AMENDMENT NO. 360

Mr. LIEBERMAN (for himself and Mr. WOFFORD) proposed an amendment to the bill (S. 714), supra, as follows:

At the end of the bill, insert the following new section:

**SEC. . RTC CONTRACTING.**

(a) No person shall execute, on behalf of the Corporation, any contract, or modification to a contract, for goods or services exceeding $100,000 in value unless the person executing the contract or modification states in writing that—

(1) the contract or modification is for a fixed price, the person has received a written cost estimate for the contract or modification, or a cost estimate cannot be obtained as a practical matter with an explanation of why such a cost estimate cannot be obtained as a practical matter;

(2) the person has received the written statement described in paragraph (b);

(3) the person is satisfied that the contract or modification to be executed has been approved by a person legally authorized to do so pursuant to a written delegation of authority.

(b) A person who authorizes a contract, or a modification to a contract, for goods or services exceeding $100,000, shall state, in writing, that he or she has been delegated the authority, pursuant to a written delegation of authority, to authorize that contract or modification.

(c) The failure of any person executing a contract, or a modification of a contract, on behalf of the Corporation, or authorizing such a contract or modification of a contract, to comply with the requirements of this section shall not void, or be grounds to void or rescind, any otherwise properly executed contract.

## RIEGLE AMENDMENT NO. 361

Mr. RIEGLE proposed an amendment to the bill (S. 714), supra, as follows:

On page 8, line 10, strike "the balance of the Fund meets" and insert ", after deducting losses anticipated during that fiscal year, the Fund is expected to meet".

## RIEGLE AMENDMENT NO. 362

Mr. RIEGLE proposed an amendment to the bill (S. 714), supra, as follows:

On page 5, line 6, of amendment No. 355, after "Affairs," insert "Budget,".

## RIEGLE FOR SHELBY AMENDMENT NO. 363

Mr. RIEGLE (for Mr. SHELBY, for himself and Mr. BRYAN) proposed an amendment to the bill (S. 714), supra, as follows:

At the appropriate place, insert the following new section:

**SEC. . REPORT TO CONGRESS BY SPECIAL COUNSEL.**

(a) REPORT.—Not later than 90 days after the date of enactment of this Act, the Special Counsel appointed under section 2537 of the Crime Control Act of 1990 (28 U.S.C. 509 note) shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report on the status of its efforts to monitor and improve the collection of fines and restitution in cases involving fraud and other criminal activity in and against the financial services industry.

(b) CONTENTS.—The report required under subsection (a) shall include—

(1) information on the amount of fines and restitution assessed in cases involving fraud and other criminal activity in and against the financial services industry, the amount of such fines and restitution collected, and an explanation of any difference in those amounts;

(2) an explanation of the procedures for collecting and monitoring restitution assessed in cases involving fraud and other criminal activity in and against the financial services industry and any suggested improvements to such procedures;

(3) an explanation of the availability under any provision of law of punitive measures if restitution and fines assessed in such cases are not paid;

(4) information concerning the efforts by the Department of Justice to comply with guidelines for fine and restitution collection and reporting procedures developed by the interagency group established by the Attorney General in accordance with section 2539 of the Crime Control Act of 1990;

(5) any recommendations for additional resources or legislation necessary to improve collection efforts; and

(6) information concerning the status of the National Fine Center of the Administrative Office of the United States Courts.

## RIEGLE FOR BURNS AMENDMENT NO. 364

Mr. RIEGLE (for Mr. BURNS) proposed an amendment to the bill (S. 714), supra; as follows:

**SEC. . REPORTING REQUIREMENTS.**

The Resolution Trust Corporation shall provide semi-annual reports to the Senate Committee on Banking, Housing and Urban Affairs and the House Committee on Banking, Finance and Urban Affairs. Such reports shall—

(a) detail procedure for expediting the registration and contracting for selecting auctioneers for asset sales with anticipated gross proceeds of $1,500,000 or less;

(b) list by name and geographic area the number of auction contractors which have been registered and qualified to perform services for the RTC; and

(c) list by name, address of home office, location of assets disposed, and gross proceeds realized the number of auction contractors which have been awarded contracts.

## GRAMM AND OTHERS AMENDMENT NO. 365

Mr. GRAMM (for himself, Mr. MACK, and Mr. BROWN) proposed an amendment to the bill S. 714, supra, as follows:

At the appropriate place, insert the following new section:

**SEC. . DEFICIT REDUCTION.**

(a) DEFINITION OF CATEGORY—Section 250(c)4 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

"(4) The term category means:

(A) For fiscal years 1993, 1994, 1995, 1996, 1997 and 1998, any of the following subsets of discretionary appropriations: defense, international, or domestic. Discretionary appropriations in each of the three categories shall be those so designated in the joint statement of managers accompanying the conference on the Omnibus Budget Reconciliation Act of 1990. New accounts or activities shall be categorized in consultation with the Committees on Appropriations and the Budget of the House of Representatives and the Senate.

(b) BUDGET LEVELS BINDING—Section 601(a)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding after subparagraph (E) the following new subparagraph:

"(F) For fiscal years 1994, 1995, 1996, 1997, and 1998 the applicable budget authority and outlay levels for the discretionary categories shall be the levels set forth in H. Con. Res. 64 as agreed to on April 1, 1993, in accordance with the definitions of categories set forth in Section 250(c)(4) of the Balanced Budget and Emergency Deficit Control Act of 1995.".

(c) APPLICATION OF PROCEDURES AND LIMITS.—Section 250 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following new subsection:

"(d) APPLICATION OF PROCEDURES AND LIMITS REQUIRED IN THE 1990 ACT.—All procedures and limits applicable to the discretionary categories for fiscal years 1991, 1992, and 1993 provided in the Budget Enforcement Act of 1993 shall apply to the limits established by the section and sections 251, 253, and 254.".

## NOTICES OF HEARINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Committee on Indian Affairs will be holding an oversight hearing on Thursday, May 20, 1993, beginning at 2 p.m., in 485 Russell Senate Office Building on the National Indian Policy Center.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224-2251.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BUMPERS. Mr. President, I would like to announce that a hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources.

The hearing will take place on Tuesday, May 25, 1993, beginning at 2:30 p.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the following bills currently pending before the Subcommittee. The bills are:

S. 273, to remove certain restrictions from a parcel of land owned by the city of North Charleston, SC, in order to permit a land exchange, and for other purposes;

S. 472, to improve the administration and management of public lands, national forests, units of the National Park System, and related areas by improving the availability of adequate, appropriate, affordable, and cost effective housing for employees needed to effectively manage the public lands;

S. 548, to provide for the appointment of the Director of the National Park Service, and for other purposes;

S. 742, to amend the National Parks and Recreation Act of 1978 to establish the Friends of Kaloko-Honokohau, an advisory commission for the Kaloko-Honokohau National Historical Park, and for other purposes;

S. 752, to modify the boundary of Hot Springs National Park, and for other purposes; and

Senate Joint Resolution 78, designating the beach at 53 degrees 53'51"N, 166 degrees 34'15"W to 53 degrees 53'48"N, 166 degrees 34'21"W on Hog Island, which lies in the Northeast Bay of Unalaska, AL, as Arkasas Beach in commemoration of the 206th Regiment of the National Guard, who served during the Japanese attack on Dutch Harbor, Unalaska on June 3 and 4, 1942.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit a written statement is welcome to do so by sending two copies of the Subcommittee on Public Lands, National Parks and Forests, Committee on Energy and Natural Resources, 304 Dirksen Senate Office Building, Washington, DC.

For further information regarding the hearing, please contact David Brooks of the subcommittee staff at (202) 224-7145.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. FORD. Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR-301, Russell Senate Office Building, on Thursday, May 20, 1993, at 9:30 a.m., to hold a markup. The committee will consider the following legislative business: S. 277, to authorize the establishment of the National African American Museum within the Smithsonian Institution; S. 779, to continue the authorization of appropriation for the East Court of the National Museum of Natural History, and for other purposes; S. 345, to authorize the Library of Congress to provide certain information products and services, and for other purposes; S. 685, to authorize appropriations for the American Folklife Center for fiscal years 1994, 1995, 1996, and 1997; an original bill to authorize appropriations for the Federal Election Commission for fiscal year 1994; S. 27, to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia; and an original resolution to authorize the purchase of 104,000 1994 U.S. Capitol Historical Society wall calendars for the use of the Senate.

The committee will also consider certain legal issues raised by the petitions relating to the election in Oregon.

For further information regarding this meeting, please contract Carole Blessington of the Rules Committee staff on x40278.

## AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on Coverage for Mental and Addictive Disorders in Health Care Reform: A Cost-Effective Approach, during the session of the Senate on Thursday, May 13, 1993, at 10 a.m.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, May 13, 1993 at 4 p.m. to hold a closed hearing on intelligence matters.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 10 a.m., May 13, 1993, to receive testimony from George Frampton, Jr., nominee to be Assistant Secretary of the Interior for Fish and Wildlife and Parks, and Daniel Beard, nominee to be Commissioner of the Bureau of Reclamation, Department of the Interior.

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

COMMITTEE ON FOREIGN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, May 13, at 10 a.m., to conduct a nomination hearing.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MITCHELL. 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 13, 1993, at 10 a.m. on S. 674—Sensible Advertising and Family Education Act.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. MITCHELL. Mr. President, the Committee on Veterans' Affairs would

like to request unanimous consent to hold a hearing on S. 843, the uniformed services employment and reemployment rights bill. The hearing will be held in room 418 of the Russell Senate Office Building at 10:30 a.m. on Thursday, May 13, 1993.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet for a markup on Thursday, May 13, at 9:30 a.m. on S. 185, the Hatch Act Reform Amendments of 1993; and S. 587, the Mansfield Fellowship Act.

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

SUBCOMMITTEE ON DEFENSE TECHNOLOGY ACQUISITION, AND INDUSTRIAL BASE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Defense Technology, Acquisition, and Industrial Base of the Senate Armed Services Committee be authorized to meet on Thursday, May 13, 1993, at 2:30 p.m. In open session in SR-222, to receive testimony on the State of the National Defense Industrial and Technology Bases in review of the defense authorization request for fiscal year 1994 and the future years defense program.

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

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry Subcommittee Agricultural Research, Conservation, and Forestry be allowed to meet during the session of the Senate on Thursday, May 13, 1993 at 9 a.m. to hold a hearing on the oversight and reauthorization of the Federal Grain Inspection Service [FGIS].

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

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, May 13, 1993, at 9:30 a.m., in open session, to consider the nomination of Thomas P. Grumbly to be Assistant Secretary of Energy for Environmental Restoration and Waste Management.

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

SUBCOMMITTEE ON COMMUNICATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Communications Subcommittee of the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, May 13, 1993, at 2 p.m. on S. 329, Campaign Advertising and Disclosure Act; S. 334, Clean Campaign Act and S. 829, Campaign Advertising and Accountability Act.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, May 13, at 2 p.m., to conduct a briefing on Chinese compliance.

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

## ADDITIONAL STATEMENTS

### WAMBAW DISTRICT EARNS FOREST SERVICE'S TOP HONOR

• Mr. HOLLINGS. Mr. President, I rise with pride and gratitude to note that the Francis Marion National Forest's Wambaw District has been rated as the top ranger district in the U.S. Forest Service's southeastern region. The Wambaw District won this high honor in competition with more than 100 other ranger districts on 32 national forests in 13 States.

Mr. President, I know from my own personal involvement with the Francis Marion National Forest that prime credit for this achievement goes to Glen Stapleton, the Wambaw District's head ranger. Ranger Stapleton and his team have shown tremendous initiative and creativity in implementing the Forest Service's new ecosystem management philosophy.

Bear in mind that Francis Marion National Forest was devastated in 1989 by Hurricane Hugo, which downed more than a billion board feet of the forest's timber. In the wake of Hugo, fast-growing loblolly pines have reseeded themselves and made a strong comeback. But Wambaw rangers have concentrated their efforts on restoring vast stands of slower growing longleaf pines, which require planting and management. Longleaf woods serve as hosts to endangered species such as the cockaded woodpecker, and the Wambaw District's work in reviving the woodpecker population since Hugo has been one of the most intensive and successful programs ever mounted to restore an endangered species.

Mr. President, I salute Ranger Stapleton and his Wambaw District colleagues for their excellence and achievement. They have done a brilliant job in restoring Francis Marion National Forest to its pre-Hugo splendor. We owe them a debt of gratitude.•

### IN COMMEMORATION OF NATIONAL SMALL BUSINESS WEEK

• Mr. MACK. Mr. President, as my colleagues may know this week is National Small Business Week. I believe it is extremely important that we pay tribute to America's small business owners, for small businesses are the catalyst for job creation. According to the Small Business Administration, from 1988 to 1990, small business accounted for 150 percent of all net new job growth in the United States. From January 1992 to September 1992 alone, small businesses accounted for 171,000 new jobs compared to a loss of 347,000 jobs in our large corporations and factories.

We hear a great deal of talk coming from the Clinton administration about job creation. With statistics like those I just mentioned, it would clearly make sense for the President to support policies which encourage the creation of small businesses, job growth and productivity. However, his actions tell a very different story.

Small business owners are alarmed by President Clinton's economic policies. Their message to me has been loud and strong: The tax and spend policies which the President has proposed will hurt small businesses. Small business owners are already drowning in a sea of redtape, regulation, bureaucracy, and paperwork. Higher taxes and more government have never created permanent jobs. Yet, it seems as though we hear proposals such as a value added tax and a Btu tax coming out of the administration every couple of weeks. Small business owners are opposed to these tax increases. They believe the President's proposed plan for change will only worsen many of the burdens they currently face.

Perhaps more than any other issue, small business owners are growing increasingly anxious over their ability to provide health insurance for their employees. While we don't have the details from the President's health care task force, the initial reports are indeed ominous. Small business owners say they simply cannot withstand the weight of a federally mandated health insurance package. In a recent poll conducted by the National Federation of Independent Business, 87 percent of small business owners opposed a federally mandated health insurance program. This approach can only lead to one result—higher prices, lower wages, layoffs, and, in some cases, bankruptcy. Clearly, this is the wrong approach to take with regard to health care reform.

Small business owners are also concerned about the lack of available credit, especially for minority small business owners. Banks aren't lending, and loan officers tell me that the SBA paperwork requirements for loans aren't worth the trouble. What's the Clinton solution to the credit crunch? He tied the recapitalization of the SBA's 7(a) loan guarantee program to a pork-laden spending bill—and then he turns around and blames Republicans who defeated this ill-conceived bill because the 7(a) account has run dry. But small business owners aren't buying into that story. They know that President Clin-

ton could reprogram funds from other SBA accounts into the 7(a) account with the stroke of a pen. The President should stop playing politics with small business owners who desperately need the credit to start new businesses and create new jobs.

I am, however, hopeful that the new Administrator of the SBA, Erskine Bowles, will be the successful advocate for small business owners within the administration. This may mean Mr. Bowles taking a Cabinet member or agency administrator aside and saying, "this policy will only hurt small businesses across America. I cannot accept this, and we must find an alternative." This hands-on approach is what small business owners need and, quite frankly, it's what they expect out of the Administrator of the SBA. After listening to his testimony before the Small Business Committee, I am hopeful Erskine Bowles will be the advocate they are looking for.

Congress also has an obligation to enact legislation to support small business. We should pass Senator BUMPERS' proposal to reduce the capital gains tax on small business investment. The Regulatory Flexibility Act must be strengthened to relieve some of the regulatory burdens imposed upon small business. We should establish a secondary market for small business investment. Finally, Congress must stop the practice of exempting itself from the laws we pass on to small business owners. As a member of the Small Business Committee, I look forward to working with my colleagues to pass these and other meaningful initiatives which will help small businesses.

Mr. President, small business is truly the backbone of America's economy. More than 80 percent of all Americans work for a small business. It is therefore imperative that Congress and the administration work together to enact laws which will help, not inhibit, small business owners to expand and create meaningful new jobs.●

## THE RIGHT TO A JOB

● Mr. SIMON. Mr. President, recently, the Chicago Defender ran an op ed piece written by Dr. Benjamin F. Chavis, Jr., who then was executive director of the United Church of Christ Commission for Racial Justice, but has since become head of the National Association for the Advancement of Colored People.

What he talks about is the need to have a jobs program in America.

I could not agree more.

There will be no genuine welfare reform until we have a job opportunity for everyone.

And it need not be that costly.

Some years ago I wrote a book called "Let's Put America Back To Work," which basically took the idea of the old WPA of the 1930's and applied it to the modern situation.

Senator DAVID BOREN and several of us, including Senator HARRIS WOFFORD and Senator HARRY REID, have introduced a demonstration program along that line.

The basic idea that providing jobs for people is a fundamental civil rights issue, I accept completely.

I ask to insert the Benjamin Chavis item in the RECORD at this point.

The article follows:

THE STRUGGLE FOR FULL EMPLOYMENT

(By Dr. Benjamin F. Chavis, Jr.)

The spring of 1993 has now become another critical time for a renewed national debate on the issue of full employment. The need for jobs in the African American and other communities comprising people of color has reached a crisis stage. This is certainly the situation in many of the nation's urban centers. Yet, in addition, we have found, from our own survey, that joblessness is also a growing problem in rural America.

Joblessness is a civil rights issue because so much of the ultimate impact of racial discrimination on the African American and other people of color leads to a displacement from the mainstream of American life, from employment and education to economics. The Civil Rights Movement, therefore, must exhibit the capacity to help determine the outcome of the debate now gaining attention on Capitol Hill concerning President Clinton's "Jobs Package."

Clinton presented an "Economic Stimulus Plan" which included a billion-dollar summer jobs program for the nation's youths who have been entrapped in a spiral of continuous unemployment for the last several years. (Editor's note: The Senate defeated the president's plan via a 56–43 vote last week in a losing bid to stop a filibuster that was holding up work on the plan.)

There are many who are arguing against a "stimulus" approach to solving the bad state of the U.S. economy. Those who take that position say priority should be placed on reducing the huge national deficit.

We believe, however, that the economy needs a significant stimulation from the infusion of new money for new programs. Further, we maintain that any national strategy that involves the infusion of new financial resources into the economy should include specific programs that are designed to confront the growing unemployment in the African American and other communities historically disenfranchised.

We join with the Congressional Black Caucus and other concerned organizations in efforts to pass a strong jobs bill. We must not let our children down. We must not let our communities continue to be wreaked with havoc as a result of joblessness.

Full employment must become a rallying slogan of the new Civil Rights Movement. Our collective efforts on this issue will not only help to create jobs, but also will help to save our communities.●

## THE 85TH ANNIVERSARY OF THE U.S. NAVY NURSE CORPS

● Mr. DODD. Mr. President, I rise today to express my sincere appreciation to the thousands of women and men who have served honorably in the U.S. Navy Nurse Corps since its inception 85 years ago.

Founded on May 13, 1908, by an act of Congress, the Navy Nurse Corps can boast a long and proud record of contribution, achievement, and excellence. Since its first superintendent, Esther Voorhees Hasson, was appointed to head the original team of 20 pioneering women, who became known as the Sacred Twenty, the Navy Nurse Corps as developed into an invaluable source of unparalleled patient care at naval hospitals and clinics worldwide. Today, the corps has 3,000 active duty members and 2,500 reserves, who serve as ambassadors of good will in places as remote as Guam, Japan, and Alaska.

Providing critical support to our armed service men and women in every major conflict of the 20th century, the Navy Nurse Corps has braved the perils of two world wars in field hospitals set up throughout Great Britain, Ireland, and France. Of the four Navy nurses who were awarded the Navy Cross for extraordinary heroism during World War I, three received this honor posthumously. In World War II, nurses served in the Atlantic and the Pacific. Five nurses were captured by the Japanese on Guam and were interned for 6 months before repatriation. Eleven other Navy nurses were captured in the Philippines and spent 37 months as prisoners of war.

Navy nurses served with distinction in the Korean war, the Vietnam conflict, and, most recently, in Operation Desert Storm. Over time, Navy nurses have expanded their role in and contribution to the U.S. Navy. They now serve in a variety of capacities, as consultants, analysts, resource managers, and as commanding officers throughout the fleet.

I am proud to convey my gratitude to this outstanding organization—the Navy Nurse Corps—whose contribution to our military has helped to ensure its status as the most respected force in the world.●

## L.W. HIGGINS HIGH SCHOOL, WINNERS OF THE LOUISIANA COMPETITION OF "WE THE PEOPLE * * * THE CITIZEN AND THE CONSTITUTION"

● Mr. JOHNSTON. Mr. President, I rise today to congratulate Jamie Fratello Staub's civics class from L.W. Higgins High School in Marrero, LA, winners of the Louisiana competition of the "We the People * * * the Citizen and the Constitution" Program. The team represented our State with honor in the national competition held in Washington, DC, on May 1–3, 1993.

Ms. Staub deserves a great deal of credit for preparing her students for this rigorous and challenging program. The competing members of the team were: Erick Arteaga, Stephanie Badeaux, Johtell Brown, Shawntell Crossgrow, Adam Delyea, Sheena Earl, Mitzy Lasseigne, Keanna Louper, Titus McGee, Michelle Miles, Michelle Moore, Anne Nguyen, Katherine

Nguyen, Serena Pham, Kelly Robichaux, Eddie Seaberry, Lakisha Seldon, LaQona Surratt, Kelly Talley, Jaime Taylor, Krystal Thibodeaux, Rachel Till, Hahn Tran, Kitty Tran, Michelle Truong, Angela Turcios, Marylynh Vu, Ann Wactor, Jarzel Williams, and Tanya Williams.

State coordinator, William Miller and district coordinator, John Alexander also are to be commended for their contributions in supporting the efforts of the team.

Mr. President, approximately 250 schools in Louisiana participated in the program this year. I would note that L.W. Higgins High School is a public school, a fact of which I am particularly pleased. The efforts of the teachers and students of L.W. Higgins are clear examples of the power, potential, and value of public education in this nation.

I also want to use this occasion to express my support for the continued growth and success of the "We the People * * * the Citizen and the Constitution" Program. It is essential that we support and provide incentives for quality educational programs and, especially, civic education.

To underscore my support, I have joined 39 of my colleagues in cosponsoring S. 881, the Civic Education Act of 1993. This legislation would reauthorize this valuable program.

Last year 4.1 million students participated in the program and 16.2 million students have taken part over the past 6 years. Statistics compiled by the Center for Civic Education also show that participants in the program are much more likely to vote, once they become eligible, than their peers. In addition, participants consistently score higher on civic education tests than college freshmen and sophomores.

As we, in Congress, consider legislation in the future concerning issues such as national educational goals, national assessment procedures and standards, and innovative learning techniques, we must look to this program as a guide and resource. It works.

Participating students learn lessons that will stay with them throughout their lives. Lessons including the paradox of an external, yet changing Constitution. Lessons which balance our history with the challenges of the future. Lessons which confirm that our Republic can thrive only when citizens remain engaged in the debate of politics and governing.

Most important, in my view, is the lesson that our system of government will only thrive if citizens remain informed and vigilant to secure democracy for future generations. Vigilance implies and requires discipline. And the discipline needed is not only related to civic education.

These students learn that hard work and effort are fundamental requirements for citizens to be vigilant and disciplined. They also learn that hard work in and of itself can be rejuvenating, joyful, and rewarding. Even if this were the only lesson learned, the investment we make in this program is well worth the effort to ensure its continued existence.●

## DRUG WAR NEEDS A NEW DIRECTION

● Mr. SIMON. Mr. President, the Chicago Sun-Times recently ran a column by Cynthia Tucker suggesting that we have to reexamine how we are dealing with drug policy. We have assumed that just throwing people in prison for long terms is going to have a massive impact on drug use. After wasting billions of dollars and tens of thousands of lives, we are gradually learning—I hope—that this policy does not work.

I have written a column about a conference at Dana College in Nebraska on the question of crime and sentencing.

The column by Cynthia Tucker, as well as my column, deal with essentially the same subject, each from different perspectives.

I ask to insert the column by Cynthia Tucker from the Chicago Sun-Times in the RECORD at this point, as well as the column I wrote on the question of sentencing.

The material follows:

[From the Chicago Sun-Times, May 4, 1993]

DRUG WAR NEEDS A NEW DIRECTION

(By Cynthia Tucker)

There is an old cliche about the definition of insanity. You know the one: You're insane if you keep doing the same thing over and over again and expect to get different results.

I think of that because President Clinton has nominated Lee P. Brown to head the Office of National Drug Control Policy. Here's hoping Mr. Brown will bring a new era of sanity to the nation's crusade against illegal narcotics.

For the last decade or more, year in and year out, the country has fought its war on drugs the same way, never veering from a rigid course that emphasized force, punishment, capture, criminals.

For every federal dollar spent in the fight against drugs, 65 cents to 70 cents have gone to law enforcement and only 30 cents to 35 cents have gone to drug treatment and preventive education. And we have spent billions.

And what have we bought with our money? Largely through drug-related arrests, we have filled our prisons to overflowing. Experts say America now locks up a higher percentage of its citizens than any other country.

The cost to our economy in prison upkeep and lost workers is staggering.

And there are other costs, as well. The color-conscious drug war has brought its weight down most heavily on African-American men. In 1989, USA Today analyzed drug arrest figures and found that black men made up 38 percent of those arrested for drug violations. Yet, according to the National Institute on Drug Abuse, blacks make up only 12 percent of those who regularly use drugs.

Even drug laws are not colorblind.

Penalties doled out for the use of crack cocaine, more often used by blacks and Latinos, can be 100 times harsher than the penalties for powdered cocaine.

With so many African-American men behind bars, it is no wonder that the black family structure deteriorates. Who are the teenaged mothers to marry? The fathers are often in prison. Would it not be better to put a nonviolent drug offender in treatment so that he (or she) can continue to support a family?

The militaristic war on drugs also has helped to nurture the culture of violence that has made some urban neighborhoods unlivable and some cities (Miami comes to mind) resemble war zones. As Prohibition created a class of heavily armed criminals who terrorized the streets of the nation's biggest cities in the 1920s, so the anti-drug crusade has helped to create a group of well-armed thugs who brutalize even babies and old women.

In the long run, it may be harder to take the Uzis away from them than the cocaine.

Has the money spent in the drug war curbed drug use in this country? Surveys show that if there has been any decrease in drug use it has been slight. In fact, while cocaine may have decreased in popularity among our nation's youth, LSD has come back into vogue.

Some skeptics don't think Mr. Brown will do what must be done—redirect the bulk of federal anti-drug spending to rehabilitation and preventive education—because he has spent his career in law enforcement.

He has headed up police departments in New York, Houston, and Atlanta.

But Mr. Brown has not hesitated to part with the thinking of law enforcement traditionalists when their policies are clearly not working.

The war on drugs needs a cop with his common sense.

[From P.S./Washington, May 3, 1993]

BY ALL SCORES, OUR PRISON SYSTEM HAS FAILED

(By Senator Paul Simon)

At a recent gathering of prison officials, judges and policymakers from around the nation at Dana College in Nebraska, the discussion centered on these questions: Are we dealing with crime effectively? How can we do better?

Among those at the meeting were directors of state departments of corrections; several people who have spent time in prison; Professor Norval Morris of the University of Chicago—who is probably the nation's top expert in this field; Gov. Benjamin Nelson of Nebraska; Tom Wicker of the New York Times, who has written extensively in this field, and others.

You would probably not find agreement among them on some things, but this came through clearly: We are failing in our attempts to reduce crime—and we are failing at a huge economic and social cost.

In 1970, the U.S. had 134 people in prison for each 100,000 population. Now we have 455 for each 100,000—far more than any other nation that records such numbers. South Africa is second with 311 and Canada has 109.

On the theory it would reduce crime we started spending billions on building more prisons, and the violent crime rate has gone up. The evidence is strong that most of our prisons are schools of crime, rather than places to prepare people for life after prison.

It costs an average of $14,000 to $20,000 a year to take care of a prisoner, not counting the cost of prison construction.

There is no question that people who have been involved in crimes of violence, who rep-

resent a possible threat to society, should be locked up.

But in the federal system, for example, a majority of the prisoners have committed non-violent crimes like embezzlement, forging checks or minor drug offenses.

They should be punished, but I tend to think they should serve a short time in prison, to understand what that's like, and then be forced to spend the rest of their time doing some type of community service: Helping in a mental hospital, planting trees in a national forest, or other constructive work. They could be paid minimum wage, but most of what they earn should go to pay their room and board and in some cases to compensate their victims. It would save the nation billions, and the evidence suggests that it would be more effective in reducing crime.

And our prisons do painfully little to prepare people for life on the outside, as former Chief Justice Warren Burger has pointed out again and again. The Dana College conference found judges, prosecutors and everyone in agreement that mandatory sentences in the law sound tough, but sometimes lead to great injustices. Judges should have guidelines, but if they want to sentence someone for more than the guideline or less than the guideline, they should be able to do that. But if they go outside of the guidelines, they have to explain in writing why they do it, and that sentence must then be reviewed by a higher court or a sentencing commission.

If the billions we have spent to build more prisons and house more people were partially spent on creating jobs, better schools and constructive opportunities for the poor—and most people in prison are poor—my instinct is that we would do much more to reduce crime than we now do.

Building more prisons has been an expensive and ineffective way to halt crime. It has been a flop.

Other countries have found better answers, and we can too.•

## FRENCH DOCUMENT SHOWS EXTENSIVE SPYING EFFORT AGAINST UNITED STATES FIRMS

• Mr. DECONCINI. Mr. President, last week there were a number of press stories concerning a French document which had been provided to several journalists and to the United States Government which purported to show a widespread effort by French intelligence services to collect information regarding a number of United States firms. Indeed, after being apprised of the existence of the document which show it to be one of the targets of the spying effort, Hughes Aircraft Co. decided that it would not take part this year in the Paris Air Show to be held in June.

The French Government did not deny the authenticity of the document, but it did dismiss it as a thing of the past and accused the CIA of having resurfaced it now in an effort to justify its existence.

Mr. President, the Select Committee on Intelligence obtained a copy of the document at issue. It is, in fact, undated, and one cannot ascertain precisely when it was written.

Be that as it may, I think the document clearly does indicate an extensive effort by the French to collect information on United States companies, particularly those in the Defense and Financial sectors. In all, 87 United States firms are identified targets for French intelligence-gathering. Specific programs undertaken by many of those firms are identified.

It is a rather graphic reminder, Mr. President, that in an era where global economic competition is intensifying, the efforts of even friendly and allied governments to collect information to improve their competitive positions vis-a-vis this country—or at the expense of this country—cannot be underestimated.

I think that the U.S. Intelligence community, when it becomes aware of information like this, does have an obligation to bring it to the attention of policymakers as well as to ensure that the information reaches the U.S. companies affected. I call upon the administration to take appropriate actions on the displomatic front to curtail these sorts of activities by the French Government as well as other countries who may be so inclined. We should not tolerate such activities by other governments, be they hostile or friendly. And I call upon U.S. firms to continue to maintain a vigilant posture in terms of protecting their own proprietary data. The cold war may be over, but the Nation cannot afford to lose its technological edge, either in terms of maintaining a strong national defense or maintaining a strong competitive position in the world marketplace.

Mr. President, I have ascertained that there is no national security objection to making public a translation of the French Intelligence Document at issue. I therefore ask unanimous consent that the full text of the document be printed in the RECORD at the conclusion of my remarks.

Memorandum for: Director/DR.

Subject: DEST Collection Plan.

Prepared by the Exploitation-Implementation Office of the Department of Economics, Science, and Technology (DEST), this document lists the intelligence requirements and related targets, based on guidance and studies for each section.

It consists of three general categories:

Technical-Industrial: (Computers/electronics/telecommunications, aeronautics/armament, nuclear, chemical, space, consumer goods, capital goods, raw materials, and major civilian contracts).

*Finance.*

*Maritime Matters*

This document is divided into two parts: general presentation of requirements; a list of intelligence requirements by geographic sector and country: specific targets in priority order, descending from 1 to 3. Under each country, requirements are grouped similarly.

[Translator's note: all abbreviations as given]

UNITED STATES

DEFENSE-SPACE

Target: Bell.

Priority: 1.

Requirements:

Aeronautics

Commercial activities with BELL civilian and military helicopters.

Industrial strategy regarding industrial alliances.

V-22 Osprey technology—commercial strategy in association with Westland (UK).

Industrial compensation plans related to equipment sales.

Company participation in LHX program.

Target: Boeing.

Priority: 1.

Requirements:

Civil Aeronautics

To follow:

Commercial activities related to sale of civilian aircraft.

Analysis of production capacities.

Current technical problems with BOEING aircraft.

Restructuring of the means of production.

757-X (and 767-X) programs.

Exploratory developments concerning orbital aircraft.

Composite, resin, and alloy technology, manufacturing costs, and production plans.

Dispute with AIRBUS (notably as regards GATT).

Priority: 1.

Requirements:

Electronics and Arms Systems

Follow:

Company activities in SDI program.

Integration of equipment into materiel intended for special forces.

Company activities regarding beginning work on major programs (C3I, aeronautic, naval).

Industrial compensation plans (notably Saudi PEACE SHIELD and PEACE SENTINEL programs).

Determination of priorities regarding association with European companies.

Company activities in the ground-to-air field.

Target: Ford Aerospace.

Priority: 1.

Requirements:

Telecommunications, weather, and NATO satellites (SUPERBIRD platform).

Target: General Dynamics.

Priority: 1.

Requirements:

Military Aeronautics

Follow activities relating to the Middle East, Asia, Africa, Europe.

Commercial activities regarding the F-16 AGILE FALCON program.

Company participation in the ATA program.

Target: General Dynamics Corp. (Space Systems Div.).

Priority: 3

Requirements:

Atlas/Centaur 1-2 AS launchers competing with Ariane

NASP module (CC-MMC materials).

Target: Hughes Aircraft Co. (Space and Communications Group).

Priority: 1.

Requirements:

Telecommunications, weather, probe satellites.

HS 601 platform.

Target: Itex Optical Systems.

Priority: 1.

Requirements:

Optical element for space (mirrors: composites and cryogenic cooling) CCD.

Target: Kearfott (formerly Singer).

Priority: 1.

Requirements:

Inertial equipment (accelerometers, VBA).

Stellar sensors (Trident II D 5 missile command).
Target: Lockheed.
Priority: 1.
Requirements:
ATF program development and technologies, notably: aerodynamic and infra-red stealth integration of passive sensors.
Priority: 2.
Requirements:
Follow:
Commercial activities regarding C130 and P3 aircraft.
Technical problems with C5 Galaxy aircraft.
Activities of company's Arab subdivision (Lockhar).
Development of LRAACA program (maritime patrol).
Target: Lockheed Missile and Space Co. Inc.
Priority: 1.
Requirements:
Shuttle titles, space station.
Milstar satellite.
SDI/BSTS, SSTS, ERIS.
Target: Los Alamos and Lawrence Livermore Lab.
Priority: 1.
Requirements:
Follow ongoing research and development for military projects.
Target: McDonnel Douglas
Priority: 1.
Requirements:

Civil Aeronautics

Follow:
Commercial activities regarding range of civilian aircraft (MD 80-90x-11)
Production capacity, costs and charges plan.
Seeking of industrial alliances with foreign manufacturers.
Priority: 1.
Requirements:

Military Aeronautics

Follow:
Activities relating to Middle East, Asia, Europe.
Related industrial compensation plans.
Technologies in fields of: stealth, maneuverability (F 15 STOL demonstrator).
Commercial activities relating to sales of military and civilian helicopters.
Target: McDonnel Douglas Astronautics Co.
Priority: 1.
Requirements:
SDI/GSTS, BMC 3
Delta 2 launcher/competition/Ariane.
ALV
NASP module (CC-CMC materials).
Space station (external framework) stage 2, Johnson Center.
Target: Martin Marietta Astronautics Group.
Priority: 1.
Requirements:
Target: Liquid-fuel boosters.
Titan 2, 3, and 4 launchers; competition Titan 3/Ariane 4.
Strategic missiles (Pershing 2 knowledge: i.e., cooperation/West Germany).
SDI: Zenith Star laser, space intercepter: SBI.
Satellites (Tethered satellite project).
Space probes.
Priority: 1.
Requirements:
Follow:
Technical problems of ADATS system (developed with OERLIKON SUISSE).
Target: Northrop.
Priority: 1.
Requirements:
Gyrolasers.
AIRS command systems for MX missiles, MIDGETMAN's MODAIRS.
Target: Perkin Elmer Corp.
Priority: 1.
Requirements:
Electro-optical on-board systems (CCD).
SDI: mirrors for lasers.
Target: Pratt and Whitney (engines).
Priority: 1.
Requirements:
Follow:
Commercial activities concerning civilian and military engines.
Company participation in foreign fighter aircraft programs.
Target: Rockwell International (Space Transportation Systems Div.) (Satellite and Space Electronics).
Priority: 1.
Requirements:
GPS Satellites: ROCKWELL COLLINS, Cedar Rapids, Iowa.
Propulsion/Rocketdyne Div. (Canoga Park, Cal.) SCRAMJET for NASP.
Future shuttle.
Space station/Rocketdyne Div. (energy production step 4—LEWIS center).
NASP module (metals, CC).
SDI/SBI.
Target: Sikorsky.
Priority: 1.
Requirements:

Helicopters

Follow: Commercial activities regarding civilian and military helicopters.
Industrial strategy (OPA—associations with other manufacturers—penetration of European market by WESTLAND).
Target: TRW (Space and Defense Sector).
Priority: 1.
Requirements:
Military telecommunications (detection: DSCS, DSP (phase II), Fltsatcom system) and surveillance satellites.
SDI/SSTS, ERIS, BM/C3.
Electronic listening systems (FERRET program code 711).
Target: Westinghouse (airborne, naval, and ground-based radar).
Priority: 1.
Requirements:
Follow:
New generation radar technology (military).
Commercial and industrial strategy activities (compensations—alliances).
Target: Aerojet General Corp.
Priority: 2.
Requirements:
Solid and liquid propellants (2nd stage MINUTEMAN SACRAMENTO).
Satellite sensors.
Powered commands ["pilotage en force"].
Target: Allied Signal Inc. (Guidance Systems Div.).
Priority: 2.
Requirements:
Inertial sensors, calculators.
Stellar sensors.
Altitude control (GPS).
Target: Allison (turbo engines).
Priority: 2.
Requirements:
To identify:
Marketing strategy.
Company participation in new LHX helicopters programs.
Target: Atlantic Research Corp.
Priority: 2.
Requirements:
Development of solid and liquid propellants.
Composite materials.
Target: General Dynamics.
Priority: 2.
Requirements:
Technical problems of F-16 aircraft.
Research and development of stealth material.
Marketing strategy regarding STINGER ground-to-air missile.
Bimodal sensor technology (IR/UV) on this system.
STINGER licensed construction accords.
Commercial activities regarding M 1 ABRAMS tank (sales, licensings, industrial compensation).
Submarine anechoic exterior technology.
Target: Gould (naval activities).
Priority: 2.
Requirements:
Follow:
Research and development work on sensors and ships.
Research on new generation light torpedoes.
Marketing of MK 48 torpedoes.
Ship modernization activities.
Target: GTE Communications Products Corp.
Priority: 2.
Requirements:
Microwave communications system.
Strategic recognition system, lasers in space.
Target: B.F. Goodrich (aeronautical equipment).
Priority: 2.
Requirements:
Follow:
Carbon brakes technology.
Negotiations with airline companies.
Target: Boeing.
Priority: 2.
Requirements:

Military Aeronautics

Follow:
V-22 OSPREY program (technology, marketing strategy).
Integration of electronic equipment in E6A aircraft (TACAMO).
Target: Fiberite Corp.
Priority: 2.
Requirements:
New materials.
Target: GE Astrospace Div.
Priority: 2.
Requirements:
Satellites, payloads, sensors, software, propulsion, guidance, command ["pilotage"], energy source.
Space station (automatic platform) step 3 Goddard center.
Target: Grumman Aerospace Corp.
Priority: 2.
Requirements:
Space station.
SDI/BSTS.
Target: Hercules Aerospace Co.
Priority: 2.
Requirements:
Engines.
Materials.
Target: Honeywell Inc. (Satellite Systems Div.).
Priority: 2.
Requirements:
Guidance, gyrolasers (CLEARWATER CFL).
Stellar sensors.
Target: LTV (Missiles and Electronics Group).
Priority: 2.
Requirements:
SCOUT launchers.
Non-ablative materials, Stealth materials.

SDI: directed-energy weapons.
Development of highspeed ground-to-air systems (anti-missile missiles).
Guidance technologies for these systems.
Target: MDC.
Priority: 2.
Requirements:
Follow:
NOTAR technology (rotor tail suppression).
Company participation in LHX program.
Development of C-17 transport aircraft program.
Company participation in ATF (Advanced Tactical Fighter) program.
Commercial activities concerning F-15/F-18/AV-8 aircraft.
Priority: 2.
Requirements:

Electronics

Follow:
Commercial activities and industrial strategy of the Detection and Communications Division (SDC).
Guidance technology for air-to-ground and ground-to-air weapons.
Target: Martin Marietta (weapons systems).
Priority: 2.
Requirements:
Follow:
Development and marketing of vertical launch ground-to-air weapons systems.
Research and development in the field of ground-to-air weapons.
Research and development in the field of electro-optical sensors.
Target: Northrop.
Priority: 2.
Requirements:

Military Aeronautics

Follow:
Commercial activities.
Relations with foreign countries with a view to providing F-20 program technology.
Technologies used in B-2 program.
Target: Systron Donner (Inertial Div.)
Priority: 2.
Requirements:
Inertial systems (sensors, accelerometers).
Target: Texas Instruments (radar).
Priority: 2.
Requirements:
Follow:
Airborne radar industrial objectives and cooperative programs with Europe and Japan.
Target: Textron Corp. (Textron Defense Systems) (Textron Aerostructures).
Priority: 2.
Requirements:
Re-entry vehicles.
Target: United Technologies. (Chemical Systems Div.).
Priority: 2.
Requirements:
Solid propellants (ORBUS family) (Hamilton Standard).
Inertial systems.
Space Station (Pratt and Whitney).
Development of SCRAMJET for NASP.
Target: Allied Signal.
Priority: 3.
Requirements:
Follow:
Research and development in the field of military avionics (Bendix).
Research and development in the field of cruise missile propulsion.
Research in the field of high-altitude turbo-propulsion (GARRETT).
General commercial activities, industrial strategy (OPA, alliances), participation in major programs.
Target: American Rocket Company (AMROC).
Priority: 3.
Requirements:
Launcher development.
Target: Ball Corp.
Priority: 3.
Requirements:
Satellites (main contractor).
Instrumentation (spectrographs).
Target: Bell.
Priority: 3.
Requirements:
Follow activities regarding helicopters in Africa.
Target: Boeing Aerospace Co.
Priority: 3.
Requirements:
Space station (contracts for modules) step 1 Marshall Center.
IUS
OTV.
Target: Cadillac Gage (combat tanks).
Priority: 3.
Requirements:
Follow commercial activities followed by licensing (local production).
Target: DGA International.
Priority: 3.
Requirements:
Follow:
Intermediary activities for European firms in order to penetrate American market.
Target: EOSAT.
Priority: 3.
Requirements:
LANDSAT.
Target: Fairchild Space Co.
Priority: 3.
Requirements:
TOPEX satellites.
Communications networks.
Target: General Dynamics.
Priority: 3.
Requirements:
Follow commercial activity (F-16 in Cameroon).
Target: GM Hughes Electronics Delco Electronics Corp.
Priority: 3.
Requirements:
Inertial systems, calculators.
Target: Grumman.
Priority: 3.
Requirements:
*Military Aeronautics*
Follow activities concerning Middle East, Asia.
Commercial activities concerning HAWKEYE E-2C detection aircraft.
Target: Harris Corp. (Satellite Communications Division).
Priority: 3.
Requirements:
Communications satellites.
Target: Honeywell (sensors).
Priority: 3.
Requirements:
Follow:
Research and development concerning electro-optical sensors on aircraft, ships, and ground-to-air weapons systems.
Research and development work on MK-50 light torpedoes.
Guidance unit technology.
Target: Hughes (weapons systems).
Priority: 3.
Requirements:
Follow:
Technology for fiber optic-guided ground-to-air anti-tank weapons.
Technologies used in land and naval radar, systems marketing.
Air-to-air PHOENIX 54 C missile technology.
Technologies used in the field of electro-optical sensors.
Guidance technology for air-to-ground, air-to-air, and ground-to-air weapons.
Technologies for APG 65/71 airborne radar.
Target: ITT/Gilfillan (radar).
Priority: 3.
Requirements:
Follow:
Technologies used in new military radar.
Systems commercialization.
Commercialization and industrial strategy in the field of very short-range ground-to-air systems.
Radar: research, development, and marketing activities for land and naval radar.
Technologies and operational criteria for retrodiffusion systems (OTH B radar).
Naval activities: technologies used in the new range of active and passive sonars.
Commercial activities regarding gas turbine sales (LM 2500).
Target: Litton Loral Sanders Tracor Sperry (electronic equipment).
Priority: 3.
Requirements:
Follow technologies for electronic warfare systems on aircraft and ships.
Target: Morton Thiokol Inc.
Priority: 3.
Requirements:
Liquid propulsion.
Target: NASA.
Priority: 3.
Requirements:
Marshall, Johnson, Goddard, and Lewis (materials) centers.
Target: NOAA.
Priority: 3.
Requirements:
Weather satellites.
Target: Norden.
Priority: 3.
Requirements:

Electronics

Follow guidance technology for ground-to-ground weapons.
Target: Northrop.
Priority: 3.
Requirements:

Electronics

Identify:
Weapons guidance electro-optical detection sensor technology.
Airborne electronic warfare equipment technology.
Target: Pacific North American Launch Systems Inc.
Priority: 3.
Requirements:
LIGHTSAT programs.
Target: Rockwell.
Priority: 3.
Requirements:

Aeronautics

Identify technical problems in B1B aircraft.
Target: Sikorsky.
Priority: 3.
Requirements:
Follows:
Electromagnetic compatibility problems between (Black Hawk) S-70 modules and equipment.
Target: Space Commerce Corp.
Priority: 3.
Requirements:
Commercial agent for the Soviet PROTON launcher.
Target: Watervliet (arsenal).
Priority: 3.
Requirements:
Follow:

Chrome-plating technology for tank cannons.

Electro-thermal and electro-magnetic cannon technology.

Developments in the field of liquid propulsion for munitions.

Research and development on reactive armor for tanks.

Target: Westinghouse.

Priority: 3.

Requirements:

Follow:

Magnetic anomaly detection (MAD) systems technology.

Company participation in fight aircraft modernization markets.

NUCLEAR

Target: Babcock and Wilcox (Nuclear Power Division).

Priority: 1.

Requirements:

Identify their strategy regarding nuclear products and services.

Target: Motorola.

Priority: 1.

Requirements:

Strategy for penetrating the European cellular radiotelephone market.

Military application of numeric signal treatment, research on numeric modulations (cost, efficiency, etc.), as well as on problems and solutions relating to encoding information and data.

Development of secure radiotelephone equipment intended for high-level authorities, i.e., governmental.

Target: Corning Glass Works.

Priority: 2.

Requirements:

Draft industrial accords in the USSR to build or renovate television tube production plants.

Target: High Definition Television (see Zenith).

Priority: 1.

Requirements:

Enterprises involved in the program, names of officials.

All information on defining standards, the positions of American negotiators in international arenas, particularly vis-á-vis European and Japanese standards.

What technologies are being applied: flat screens, memories. . . .

Actions undertaken by Japanese manufacturers to impose their standards on cinema and audiovisual professionals (producers, film-makers, technicians).

FINANCE

Targets: Lazard Brothers, Goldman Sachs, First Boston, Wasserstein Perella and Co., Salomon Brothers, Morgan Guaranty, Drexel Burnham Lambert, Prudential Bache, Shearson Lehman, Bankers Trust, Morgan Stanley, Irving Trust, Kidder and Peabody, Chase Manhattan Bank, Merrill Lynch, First National Bank, City Bank, Chemical Bank, KKR, Park Tower, Republic National Bank, International Capital Access Group, founded by M. Milken in Los Angeles, Proxy fighters such as the Carter Organization, DG King and Co., and Princial consultants offices, such as MacKinsay.

Priority: 1

Requirements:

Development strategy; participation, fusions, acquisitions, joint ventures, establishment in Europe.

Lawyers, consultants, financial companies used for any operation.

Proposals and projects regarding debt.

All types of accords with Japanese financial firms or banks.

Target: USTR, Economic and Finance Department, Agriculture Department, Commerce Department, and Central Bank.

Priority: 2

Requirements:

Follow issues causing problems with the EEC: agriculture, subsidies, national and reciprocal treatment, within the framework of the Uruguay Round.

Proposals and projects regarding debt.

Ministries' studies regarding the main issues of the Uruguay Round: agriculture, services, intellectual property. . . .

Mrs. Carla Hills.

Basic analysis and positions of the U.S. Treasury [Department] on international monetary problems.

U.S. positions on relations between the EEC and the Eastern countries.

U.S. representatives' instructions at major international meetings (G7, G10, Summits); they are useful; even after the meetings.

Follow bilateral commercial negotiations between the United States and the newly industrialized countries.

Target: International organizations: World Bank, International Monetary Fund.

Priority: 2

Requirements:

Follow their general policy.

Proposals and projects regarding debt issues.

Target: SEC.

Priority: 1

Requirements:

Reforms.

## NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, REGARDING EDUCATIONAL TRAVEL

• Mr. BRYAN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee received notification under rule 35 for Senators COHEN, COCHRAN, GLENN, MCCAIN, and ROTH and James Bodner, a member of the staff of Senator COHEN, to participate in the 29th Wehrkunde conference, sponsored by the Wehrkunde Conference and the U.S. Government, from February 5–7, 1993.

The committee determined that no Federal statute or Senate rule would prohibit participation by Senators COHEN, COCHRAN, GLENN, MCCAIN, and ROTH and Mr. Bodner in this program.

The select committee received notification under rule 35 for Christine Ciccone, a member of the staff of Senator STEVENS, to participate in a program in Mexico, sponsored by the Mexican Business Coordinating Council, Consejo Coordinator Empresarial, from February 9–11, 1993.

The committee determined that no Federal statute or Senate rule would prohibit participation by Ms. Ciccone in this program.

The select committee received notification under rule 35 for John Zirschky, a member of the staff of Senator JEFFORDS, to participate in a program in Taiwan, sponsored by Soochow University, from December 14–21, 1992.

The committee that no Federal statute or Senate rule would prohibit participation by Mr. Zirchsky in this program.

The select committee received notification under rule 35 for Mike Harvey, a member of the staff of Senator JOHNSTON, to participate in a program in Mexico, sponsored by the Mexican Business Coordinating Council, Consejo Coordinador Empresarial, from February 9–12, 1993.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Harvey in this program.

The select committee received notification under rule 35 for Margarte Goud-Collins, a member of the staff of Senator BAUCUS, to participate in a program in Mexico, sponsored by the Mexican Business Coordinating Council, Consejo Coordinador Empresarial, from February 9–12, 1993.

The committee determined that no Federal statute or Senate rule would prohibit participation by Ms. Goud-Collins in this program.

The select committee received notification under rule 35 for Steven Shimberg, a member of the staff of Senator CHAFEE, to participate in a program in Mexico, sponsored by the Mexican Business Coordinating Council, Consejo Coordinador Empresarial [CCE], from February 9–12, 1993.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Shimberg in this program.

The select committee received notification under rule 35 for Mike Tongour, a member of the staff of Senator SIMPSON, to participate in a program in Israel, sponsored by Project Interchange, from January 9–18, 1993.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Tongour in this program.

The select committee received notification under rule 35 for James Bodner, a member of the staff of Senator COHEN, to participate in a program in Belgium, sponsored by the United States Liaison Office of the NATO Office of Information and Press, from January 13–16, 1993.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Bodner in this program.

The select committee received notification under rule 35 for William Reinsch, a member of the staff of Senator ROCKEFELLER, to participate in a program in Brussels, Strasbourg, and London, sponsored by the European Community's Visitors Program

[ECVP], from January 30–February 13, 1993.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Reinsch in this program.

The select committee received notification under rule 35 for Mr. Brad Figel a member of the staff of Senator PACKWOOD, to participate in a program in Mexico, sponsored by the Mexican Business Coordinating Council, Consejo Coordinador Empresarial [CCE], from February 9–12, 1993.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Figel in this program.

The select committee received notification under rule 35 for Amy Dunathan, a member of the staff of Senator CHAFEE, to participate in a program in Mexico, sponsored by the Mexican Business Coordinating Council, Consejo Coordinador Empresarial [CCE], from February 9–12, 1993.

The committee determined that no Federal statute or Senate rule would prohibit participation by Ms. Dunathan in this program.

The select committee received notification under rule 35 for Edward Long, a member of the staff of Senator HARKIN, to participate in a program in Chile, sponsored by the Chilean American Chamber of Commerce, from January 9–13, 1993.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Long in this program.

The select committee received notification under rule 35 for Stuart Feldman, a member of the staff of Senator HATCH, to participate in a program in Israel, sponsored by the Project Interchange, from January 10–17, 1993.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Feldman in this program.

The select committee received notification under rule 35 for Brian Ahlberg, a member of the staff of Senator WELLSTONE, to participate in a program in Mexico, sponsored by the Mexican Business Coordinating Council, Consejo Coordinator Empresarial [CCE] from January 12–15, 1993.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Ahlberg in this program.

The select committee received notification under rule 35 for Melissa Patack, a member of the staff of Senator GRASSLEY, to participate in a program in Germany, sponsored by the Konrad Adenauer Foundation, from January 9–13, 1993.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Patack in this program.

The select committee received notification under rule 35 for Kennie Gill, a member of the staff of Senator FORD, to participate in a program in Mexico, sponsored by the Mexican Business Coordinating Council, Consejo Coordinator Empresarial [CCE] from January 12–15, 1993.

The committee determined that no Federal statute or Senate rule would prohibit participation by Ms. Gill in this program.

The select committee received notification under rule 35 for Todd Bernstein, a member of the staff of Senator WOFFORD, to participate in a program in Germany, sponsored by the Konrad Adenauer Foundation, from February 7–14, 1993.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Bernstein in this program.

The select committee received notification under rule 35 for Sandra Chiu, a member of the staff of Senator MOSELEY-BRAUN, to participate in a program in the People's Republic of China, sponsored by the Chinese People's Institute of Foreign Affairs, from April 3–18, 1993.

The committee determined that no Federal statute or Senate rule would prohibit participation by Ms. Chiu in this program.

The select committee received notification under rule 35 for W. Kirk Johnson, a member of the staff of Senator KASSEBAUM, to participate in a program in the People's Republic of China, sponsored by the Chinese People's Institute of Foreign Affairs, from April 3–18, 1993.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Johnson in this program.

The select committee received notification under rule 35 for Eric Liu, a member of the staff of Senator BOREN, to participate in a program in China, sponsored by the Chinese People's Institute of Foreign Affairs, from April 5–16, 1993.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Liu in this program.

The select committee received notification under rule 35 for Patricia J. Beneke, a member of the staff of Senator JOHNSTON, to participate in a program in China, sponsored by the Chinese People's Institute of Foreign Affairs, from April 3–18, 1993.

The committee determined that no Federal statute or Senate rule would prohibit participation by Ms. Beneke in this program.

The select committee received notification under rule 35 for Rose Johnson, a member of the staff of Senator NUNN, to participate in a program in China, sponsored by Tamkang University, from April 3–9, 1993.

The committee determined that no Federal statute or Senate rule would prohibit participation by Rose Johnson in this program.

The select committee received notification under rule 35 for David Hill, a member of the staff of Senator PRESSLER, to participate in a program in Hong Kong, sponsored by the Hong Kong Chamber of Commerce, from April 5–12, 1993.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Hill in this program.

The select committee received notification under rule 35 for Patricia Davies, a member of the staff of Senator DOMENICI, to participate in a program in China, sponsored by Tamkang University, from April 3–9, 1993.

The committee determined that no Federal statute or Senate rule would prohibit participation by Ms. Davies in this program.

The select committee received notification under rule 35 for Peter D. Caldwell, a member of the staff of Senator JEFFORDS, to participate in a program in Hong Kong, sponsored by the General Chamber of Commerce, from April 5–12.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Caldwell in this program.

The select committee received notification under rule 35 for Brian Cavey, a member of the staff of Senator BAUCUS, to participate in a program in China, sponsored by the United States-China Friendship Program, from April 3–18, 1993.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Cavey in this program.

The select committee received notification under rule 35 for Paul Taylor, a member of the staff of Senator CAMPBELL, to participate in a program in Hong Kong, sponsored by the Hong Kong General Chamber of Commerce, from April 5–12, 1993.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Taylor in this program.

The select committee received notification under rule 35 for Erik Autor, a member of the staff of Senator PACKWOOD, to participate in a program in Taiwan, sponsored by the Chung Yuan Christian University, from April 10–17, 1993.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Autor in this program.

The select committee received notification under rule 35 for Brian Riendeau, a member of the staff of Senator MCCONNELL, to participate in a program in Korea, sponsored by the Korea Economic Institute of America, from April 10–18, 1993.

The committee determined that no Federal statute or Senate rule would

prohibit participation by Mr. Riendeau in this program.

The select committee received notification under rule 35 for Judy Siegel, a member of the staff of Senator BREAUX, to participate in a program in Taiwan, sponsored by Tamkang University, from April 3–9, 1993.

The committee determined that no Federal statute or Senate rule would prohibit participation by Ms. Siegel in this program.

The select committee received notification under rule 35 for Sam Spina, a member of the staff of Senator GORTON, to participate in a program in South Korea, sponsored by the Korea Institute for International Economic Policy, from April 10–18, 1993.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Spina in this program.

The select committee received notification under rule 35 for Kent Knutson, a member of the staff of Senator PRESSLER, to participate in a program in Taiwan, sponsored by the Chung Yuan Christian University, from April 10–17, 1993.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Knutson in this program.●

## THE LIBYAN POSITION

● Mr. D'AMATO. Mr. President, I wish to submit to the RECORD a copy of a letter that I received from a delegation of the Secretariat of the Basic People's Congress of Libya. It is an interesting letter that outlines the basic Libyan position regarding a letter that my colleagues and I sent to President Clinton asking him to seek an oil embargo against Libya for its total lack of cooperation in the investigation into the bombing of Pan Am Flight 103.

The tone of the letter suggests that Libya still refuses to cooperate, and moreover, explains that the plane crashed over Lockerbie, with no mention that it was in fact blown up by terrorists.

This letter is just another form of Libyan treachery and hypocrisy. I am including it in the RECORD so that Mu'ammar Qadhafi's continued defiance of the world is plain to see for all.

I ask that the text of the letter be printed following the conclusion of my remarks.

The letter follows:

[Translation]

APRIL 3, 1993.

Hon. ALFONSE M. D'AMATO,
*U.S. Senate, 520 Hart Senate Office Building, Washington, DC.*

DEAR SENATOR D'AMATO: We saw the letter that you and several of your colleagues in Congress sent President Clinton on 24 February 1993 urging him to intensify the embargo imposed on the Great Socialist People's Libyan Arab Jamahiriya.

We were astonished by your position and that of your colleagues in Congress regarding this request, and your insistence upon it, especially since the Great Socialist People's Libyan Arab Jamahiriya has taken numerous steps in response to Security Council Resolution 731, and what remains, before completing the response to the Security Council resolution, is the issue concerning the trial of the two suspects in the incident of the American airplane which crashed over Lockerbie in 1988.

Even though Libyan law prohibits the extradition of Libyan nationals for trial outside of Libyan territory, the Great Jamahiriya has suggested that the suspects be tried by a fair and unbiased court in a neutral state, upon which all parties could agree, in order to find the truth, which we believe to have been the main purpose of Security Council resolution 731.

The Secretary of the General People's Committee for the People's Bureau of Foreign Liaison and International Cooperation has transmitted to the Secretary-General of the United Nations all measures taken by the Great Socialist People's Libyan Arab Jamahiriya as well as its suggestions aimed at solving this dispute.

The unjust sanctions imposed against Libya have resulted in great losses to its people in various health, agricultural and developmental fields, and has led to tragic accidents, the latest of which was the destruction of a Libyan civilian airplane that killed 157 passengers. There has also been an increase in road accidents due to the dependency on land transportation. Among the victims of such accidents was the Secretary of the General People's Committee for Justice and Public Security in Libya.

These unjust sanctions imposed on the whole Arab Libyan population are not consistent with the principles of human rights, nor do they correspond to the noble human principles and ideals that the Founding Fathers of the United States of America called for.

The United States of America, as a great power, bears international responsibilities regarding peace and security in the world, and Libya still hopes that the American legislature will try to find a solution which will serve the interests of both our countries and spare the region any further tension.

Please accept our deepest respect.

Secretariat of the Basic People's Congress, Bab Akara.

Secretariat of the Basic People's Congress, Al Munshiya.

Secretariat of the Basic People's Congress, The Airport.

Secretariat of the Basic People's Congress, Airport Region.

Secretariat of the Basic People's Congress, Arramlah.

Secretariat of the Basic People's Congress, Alawaneau.

Secretariat of the Basic People's Congress, Abou Aljawaba.

Secretariat of the Basic People's Congress, Abdul Jalil Martyrs.

Secretariat of the Basic People's Congress, Al Salmani Martyrs.

Secretariat of the Basic People's Congress, Al Salawi.

Secretariat of the Basic People's Congress, Almansoura.

Secretariat of the Basic People's Congress, Ibrahim Bakkar.

Secretariat of the Basic People's Congress, Al Qods.

Secretariat of the Basic People's Congress, Ali Bin Abi Taleb.

Secretariat of the Basic People's Congress, Bunaina.

Secretariat of the Basic People's Congress, Alhira.

Secretariat of the Basic People's Congress, Alsabri Alsharqi.

Secretariat of the Basic People's Congress, Alsabri Algharbi.●

## COMMENDING TAIWAN ON PROTECTION OF INTELLECTUAL PROPERTY

● Mr. WALLOP. Mr. President, I rise today to recognize the achievement of Taiwan's legislative Yuan in passing the Republic of China-United States Copyright Agreement and revisions to the copyright law. Anyone who understands the importance of intellectual property—patents, trademarks, and copyrights—and that is probably all of this Chamber, recognizes the need to establish consistent international rules regarding their protection. Abuse of intellectual property rights is said to cost American manufacturers some $12 billion per year in lost revenue.

Anyone who has followed the evolution of trade negotiations on intellectual property protection also knows that Taiwan has been cited repeatedly as a priority watch country under the special 301 provision of the 1988 Trade Act. But just as we should be vocal in the need to protect intellectual property, we must be just as conscientious in recognizing the successes of those countries who have lived up to their commitments. In fact, Taiwan's executive was so committed to passing the Copyright Agreement, that no less than three Cabinet ministers pledged to resign if Washington were to proceed with trade sanctions even after the legislature ratified the copyright protection bill.

This is a big achievement on the part of Taiwan and I hope the administration will be evenhanded in recognizing progress as well as problems. I have never been a proponent of special 301 because it, like super 301, puts the executive branch in an automatic pilot mode from which it cannot retreat. Our trade relationships with other countries are but one part of the overall picture, which includes broader security and democratization issues. I oppose Government putting itself into a position where it cannot weigh objectives and reactions without the flexibility it needs to fulfill these broader initiatives. In closing, Mr. President, let me again commend Taiwan for its commitment to the protection of intellectual property rights, and more broadly, the bold steps it has taken over the last decade to provide a prosperous and secure life for its citizens.●

## HONORING THE CAREER OF DR. DAVID G. ASHBAUGH

● Mr. GORTON. Mr. President, I would like to take this opportunity today to honor a distinguished surgeon and edu-

cator who will shortly retire following a long and exemplary career.

Dr. David G. Ashbaugh, a native of Ohio and a graduate of the Ohio State University College of Medicine, completed his residency in surgery and thoracic surgery at the University of Colorado. He then joined the faculty of that renowned institution where, with Dr. Tom Petty, he described for the first time the clinical condition that has come to be known as the adult respiratory distress syndrome. This process, which confronted those who cared for combat casualties in Viet Nam, also faces clinicians in civilian practice. Although important new insights into the cause of this syndrome have been gained, it is still responsible for the deaths of more than 150,000 people in the United States each year. What is most remarkable, however, is that Dr. Ashbaugh's original observations about the nature of the syndrome are as pertinent today as they were a quarter century ago when he first described it.

Dr. Ashbaugh next entered private practice in Boise, ID, where he was an esteemed member of the medical community for more than 15 years. His leadership in areas of quality improvement, dealing with the problem of the impaired physician, and upgrading the practice of vascular and thoracic surgery are only a few of his accomplishments while in Boise.

In 1988, Dr. Ashbaugh joined the faculty of the School of Medicine at the University of Washington as professor of surgery and chief of thoracic surgery at Harborview Medical Center. He brought to those institutions his vast experience and keen insight, based on both his own observations and the critical examination of the literature. A revered teacher, skilled surgeon, and thoughtful writer, Dr. Ashbaugh further raised the level of surgical scholarship. He was deservedly honored by his peers by his election to the presidency of the Western Surgical Association and by his appointment as acting chairman of the department of surgery at the University of Washington from 1990 to 1992.

Mr. President, Dr. Ashbaugh will shortly retire from the faculty of the University of Washington and return to his beloved Lopez Island with his wife Shari. He will leave behind a legacy of high ethical standards, an exemplary role model for a whole generation of medical students, surgical residents, and other professionals whom he has inspired. He also leaves an enormous number of patients whose lives he has touched and improved. I am proud to honor this adopted son of Washington State, and wish him well in his retirement.●

## MEASURE PLACED ON THE CALENDAR—H.R. 1308

Mr. MITCHELL. Madam President, I ask unanimous consent that H.R. 1308, the Religious Freedom Restoration Act of 1993, just received from the House, be placed on the calendar.

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

## REFERRAL OF S. 851

Mr. MITCHELL. Madam President, I ask unanimous consent that the Environment and Public Works Committee be discharged from further consideration of S. 851, a bill to establish the Carl Garner Federal Lands Cleanup Day, and that the measure then be referred to the appropriate committee of jurisdiction, Energy and Natural Resources.

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

## ORDERS FOR FRIDAY, MAY 14, AND TUESDAY, MAY 18

Mr. MITCHELL. Madam President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 10 a.m. on Friday, May 14; that on Friday, May 14, the Senate meet in pro forma session only; that upon the close of the pro forma session the Senate then stand in recess until 9:30 a.m. on Tuesday, May 18; that on Tuesday, May 18, following the prayer, the Journal of proceedings be deemed approved to date, with the time for the two leaders reserved for their use later in the day; there then be a period for morning business not to extend beyond 10:45 a.m., with Senators permitted to speak therein for up to 5 minutes each; with Senator GRAMM, of Texas, recognized for up to 10 minutes; with the time from 9:45 a.m. to 10:45 a.m., under the control of Senator BYRD; that on Tuesday, the Senate stand in recess from 12:30 to 2:15 p.m., in order to accommodate the respective party luncheons.

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

## RECESS UNTIL TOMORROW AT 10 A.M.

Mr. MITCHELL. Madam President, if there is no further business to come before the Senate today, I now ask unanimous consent the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 6:11 p.m., recessed until Friday, May 14, 1993, at 10 a.m.

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