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PROCEEDINGS AND DEBATES OF THE 103d CONGRESS, SECOND SESSION

SENATE—*Friday, October 7, 1994*

(Legislative day of Monday, September 12, 1994)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable BARBARA BOXER, a Senator from the State of California.

PRAYER

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

Let us pray:

* * * *For there is no power but of God: the powers that be are ordained of God.*—Romans 13:1.

Eternal God, Father of us all, our hearts are filled with unspeakable gratitude for the many men and women who serve the Senate.

We thank Thee for the security people—plainclothes and uniformed. We thank Thee for the officers—the Secretary of the Senate, the Sergeant at Arms, the Secretary to the majority and the Secretary to the minority—and all who support them in their responsibilities. We thank Thee for the men and women whose work requires them to be in the Senate Chamber all or much of the time, and for those who support them in their labors. We thank You for the pages, for the doorkeepers, and floorkeepers. We thank You for the office staffs and committee staffs. We thank You for those who maintain buildings and grounds, for the food service people, and the many others, most of whom whose labors are hidden.

Thank You, God, for faithful people, unheralded, without whom the Senate could not function. May Thy blessing rest upon them all.

In the name of the Servant of servants we pray. 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 legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 7, 1994.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BARBARA BOXER, a Senator from the State of California, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mrs. BOXER 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 10:35 a.m.

Under a previous order, the Senator from Pennsylvania [Mr. SPECTER], is recognized to speak for up to 15 minutes.

The Senator from Pennsylvania.

Mr. SPECTER. I thank the Chair.

APPRECIATION FOR THE OUTSTANDING WORK OF REV. RICHARD C. HALVERSON

Mr. SPECTER. Madam President, at the outset, I express appreciation for the outstanding work of Reverend Halverson for the past 14 years. I know I speak for all of my colleagues in the U.S. Senate in commending him on his unique service to this institution and wishing him well for the future.

This may well be Reverend Halverson's last day to give the opening prayer, although the Senate schedule is always indefinite.

I am frequently asked when the Senate will be adjourning. My standard answer is: "The Senate adjourns when the last Senator stops talking," and that is a very indefinite standard.

But I have had the pleasure of working with Richard Halverson over the years in many ways. One way is a Bible class which I held in my office Wednesday afternoons at the request of a very, very distinguished Old Testament Biblical scholar, Mrs. Naomi Rosenblatt. Reverend Halverson was a regular participant and is a continuing regular participant, where we have gone over the Old Testament. He has made many very unique contributions to that study group.

I have also seen him, in addition to the Senate floor and the Senate environs, at our Wednesday morning prayer breakfast, where I had the honor the day before yesterday to give the final message for this year on the subject "Religion and Politics: Has the Far Right Gone Too Far?"

I salute you, Reverend Halverson. I know I speak for all of my colleagues and everybody in the Senate family, and beyond that, the congressional family, and beyond that, the country, for your service.

(The remarks of Mr. SPECTER pertaining to the introduction of Senate Resolution 277 and S. 2535 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. NICKLES. Madam President, I ask unanimous consent to proceed in morning business for 2 minutes.

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

REV. RICHARD HALVERSON, SENATE CHAPLAIN

Mr. NICKLES. Madam President, I rise today to congratulate Dr. Richard Halverson, who is Chaplain of the Senate. He has been Chaplain of the Senate for the last 14 years and has done one outstanding job, I think not only as Chaplain but as friend, as mentor, as counselor for all Senators, for our staffs, and for our families.

He has been an outstanding Chaplain of the Senate. As a writer—and he has

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

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written books that I would certainly encourage our colleagues and others to read—as a friend, as a pastor, his service to this body has been without equal. His health over the last couple of years has deteriorated to some extent, but his spirit is stronger than ever. His love for the Members and their families and their staffs and this institution is unequaled.

Certainly we wish him well in his retirement. He has been a real friend, and we wish him Godspeed. We thank him very much for the service he has given to all Members and to this body as well.

I yield the floor.

A CHANCE FOR PEACE IN NORTHERN IRELAND

Mr. LEAHY. Madam President, in the years since the fall of the Berlin Wall we have witnessed the end of some of the world's longest, bloodiest conflicts. In El Salvador and Nicaragua, brutal civil wars that polarized those countries for over a decade, were settled peacefully. In South Africa, we saw apartheid voted down and Nelson Mandela elected President. In the Middle East, Israel and the PLO have put aside years of hatred, and they are working together to transfer authority and support economic development in Gaza and Jericho.

In each instance, bitter enemies put aside their hatred and mistrust in recognition that years of violence had brought little but suffering, and in furtherance of the shared goal of a life of peace for their children.

And in each instance, I asked myself if Northern Ireland could be next. Was there a chance that this irrepressible desire for peace that had caused antagonists in so many troubled countries to find a way to live together would spill over to the Catholics and Protestants of Northern Ireland?

I especially remember thinking of Ireland as I watched Prime Minister Rabin and PLO Chairman Arafat shake hands at the White House a year ago. If those two bitterest of enemies could find it in themselves to put the past behind them, so could the Catholics and Protestants in Northern Ireland.

I was among those who urged President Clinton to grant a visa to Sinn Fein leader Gerry Adams earlier this year, and while I had no great expectations for his visit then, I felt, as the President did, that it was worth taking a chance for peace. I want to commend the President for his courage in taking that chance, and for the attention he has given to finding a solution to the Irish conflict.

Mr. President, with the announcement of a cessation of military activities by the IRA and Sinn Fein's commitment to seek a peaceful solution to the conflict, we are at the beginning of a new era in Ireland.

Today, I speak in support of this beginning, and to warn against a return to violence by either side. Violence has failed in Ireland. It should be universally condemned.

As John Hume, that passionate, reflective man of peace who is perhaps more responsible than anyone else for this breakthrough, told me in my office 2 weeks ago "since five British governments and 20,000 troops failed to stop the violence, I felt that if direct dialog could stop the killing, it was my duty to do so."

John Hume deserves the thanks of every citizen of Ireland, whether Catholic or Protestant, and I am honored to be able to call him a friend.

Last week I met with Ireland's Foreign Minister, Dick Spring, and he also stressed the great challenges that lie ahead. Each side, unionist and nationalist, has reason to be proud of their heritage. Each side has a legitimate stake in the outcome. But each side must also see that the time has come to let go of the belief that the only way to protect themselves is to concentrate power in their own hands to the exclusion of all others.

That approach will doom themselves as it will doom Ireland. Differences are inevitable, but the acceptance of diversity is the key to a strong, prosperous Ireland.

To the British, I say stop questioning whether the IRA meant what it said, and pay attention instead to what is happening on the ground. The question now should be when to bring Sinn Fein into the peace talks. The ceasefire was announced on August 31. If, after 3 months it is still holding, then let us see the British Government and Sinn Fein sitting together at the negotiating table.

I want to commend Gerry Adams for taking this chance for peace, and the IRA for its restraint in the face of attacks by loyalist extremists who would prefer to sabotage this effort. And I commend Prime Minister Major for his courage. I urge him to act quickly to suspend the implementation of the emergency laws, which have denied basic civil liberties to so many in Northern Ireland, and fueled the hatred.

The solution to the Irish conflict remains for the Irish people to decide. The key to a solution is tolerance, compromise and patience, which have been sorely lacking in Ireland over the years. As John Hume told me, he seeks "an agreed Ireland."

I do not forecast any particular outcome, but I do believe in the power of agreement, whether in Ireland or South Africa. And as a citizen of the oldest, most diverse democracy, I too believe that the future of Northern Ireland should be decided by a majority of its citizens.

As the son of an Irish father, I have long yearned for the day when the people of Belfast could walk the streets without fear. When the people of Ireland could work together to build their country economically, where unemployment in some areas exceeds 50 percent.

Mr. President, some weeks ago the European Parliament paid tribute to the more than 3,000 Irish citizens who have lost their lives since 1969, when political violence became a daily reality in Northern Ireland. Today, I and other Senators who will also speak during the coming days about the recent developments there, join with our European colleagues in remembrance and in hope for the future.

TRIBUTE TO ERNEST J. GERMAN

Mr. HARKIN. Madam President, I rise today in order to recognize the outstanding career of Mr. Ernest J. German of Virginia. On September 29, 1994, Mr. German retired after a long and distinguished career with the Federal Government, including over 30 years with the Department of Labor.

Mr. German began his Federal service in 1962 as a budget analyst for the Department's Office of Budget Administration. After a brief stint in a similar position at the Department of Health, Education, and Welfare, he returned to the Department of Labor in 1967. With the Manpower Administration from 1968 through 1972, he participated in the development and implementation of pre-CETA program decentralization activities. He was a Civil Service/American Political Science Association Congressional Fellow in 1973.

In 1974 he joined the Labor-Management Services Administration to direct its first planning and evaluation staff, later becoming Director of its Office of Planning, Evaluation, and Systems and its Office of Management.

In 1984, he joined the Office of Inspector General. As assistant inspector general for Resource Management and Legislative Assessment, Mr. German served as administrative and legislative officer. In this capacity, Mr. German worked closely and effectively with the Senate Appropriations Subcommittee on Labor. Mr. German will be sorely missed by his colleagues at the Department of Labor for his dedication and hard work.

On behalf of the Senate Appropriations Subcommittee on Labor, I would like to thank Mr. German for his many years of public service and wish him and his family the best in the years ahead.

STATEMENT ON THE CONFIRMATION OF JOHN E. ROUILLE TO BE U.S. MARSHAL FOR VERMONT

Mr. LEAHY. Madam President, it is with great pleasure that I rise to congratulate Jack Rouille on his appointment and confirmation to be the U.S.

marshal for Vermont. I have every confidence that the President has made a fine selection and that the people of Vermont will be well served by this dedicated public servant.

Jack Rouille is a veteran of the Burlington Police Department and the U.S. Marine Corps. He attended the Vermont Police Academy. He is a seasoned investigator and a person on whom I have relied since I had the privilege to serve as Chittenden County State's Attorney. I am proud to note that over the past 20 years, Jack has been a trusted member of my Vermont Senate staff and has gained extensive experience with veteran and military matters and a wide range of Federal Government activities. He and his wife Joyce are two of my family's closest friends.

Jack has been looking out for the interests of the people of Vermont for many years. It is just and fitting that he now do so as our U.S. marshal. His practical experience, background and training qualify him for the post.

More importantly, his dedication, fairness, integrity and common sense will ensure that he will carry out his duties with distinction.

I am proud to call Jack Rouille my friend. I am honored to have recommended his name to the President of the United States. I am delighted that the President saw fit to nominate him and that my Senate colleagues have acted so expeditiously to confirm this outstanding nomination.

TRIBUTE TO TENNESSEE GOVERNOR. NED McWHERTER

Mr. MATHEWS. Madam President, I rise today to pay tribute to a distinguished Tennessean who is one of the finest people and most dedicated public servants it has been my privilege to know. My remarks are especially appropriate now, because he is finishing the concluding weeks of his 8th year and final term as Governor of Tennessee.

Ned McWherter will be remembered as one of the greatest Governors in Tennessee history. Nothing I can say about Ned could be more significant than that fact. And little I could say would expand on what his many friends have said about him over the years. The best I can offer are my simple observations after watching him lead Tennessee over 20 years.

I have had the privilege of working in State government more than four decades, and over the past 20 months I have had the honor to serve Tennessee in the U.S. Senate. During that time, I have seen hundreds of men and women come and go in government. Some were motivated by ambition. Others were motivated by nothing more than a desire to make a contribution. Others floated in and out and never knew why they were there.

I thought about all these people, Madam President, and then I thought about Ned McWherter. Here is a man who dealt with the most controversial issues of our time. The changes he brought to education and health care will shape Tennessee for a generation. But despite all this change, he is as popular and respected as the day he was inaugurated in 1987.

I cannot explain that as a political scientist would. I can only explain it by saying Ned McWherter has a genuineness and concern for others which people respond to. I saw that in the way he always went back to the kitchen and spoke to the cooks after dinner. I saw it in the way he invited the security staff to sit at our table instead of waiting in the car outside. I saw humility in a man who was never too important to talk with staff and patients in Tennessee's mental care facilities. And I found compassion in a man who was never too busy to visit with inmates in maximum security cellblocks of Tennessee's prisons.

Time and again, I saw things in Ned McWherter that will not appear on the editorial pages or the 6 o'clock news. Things like the determination of a man who did more than talk about reducing the size of government, the vision of someone who never studied economics, but who knew we could restructure Tennessee's economy so every community would share in prosperity, the conviction that every child should have a good education and every citizen should have affordable health care, and especially a deep personal commitment to principles the Democratic Party has represented since Andrew Jackson.

No one every challenged Ned McWherter's honesty. Everyone knew that his political priorities rest squarely in serving what he called the thousands of Tennesseans who get up every morning, get their kids ready for school, and head out to work.

Mr. President, in a year when he could have eased into retirement by dedicating roads and cutting ribbons, he took on the greatest and most successful challenge of his career. And as a result, Tennessee is about to reach a goal few ever thought possible—providing every Tennessean with affordable, high-quality health care.

In a few weeks, the McWherter chapter of Tennessee history will close. It opened with a State that always had stood near the back of the line. It will end with a Tennessee that stands among the Nation's leaders in education reform, health care reform, and economic growth. All that happened because Ned McWherter kept the promises he made the day he was elected Governor—to stay close to the people of Tennessee and to be worthy of their trust. He always will have a special place in the heart and mind of the State he has served so well.

REMARKS TO RETIRING SENATORS

Mr. ROCKEFELLER. Madam President, Yogi Berra, a very underappreciated thinker, once said, "You can observe a lot by watching." As I wish a farewell to our retiring colleagues—Senators DANFORTH, METZENBAUM, WALLOP, DURENBERGER, DECONCINI, RIEGLE, MATHEWS, and of course our majority leader, Senator MITCHELL—I want to thank them for teaching us all so much. Just by watching these eight men, the rest of us in this Chamber learned the ways of Senatorial grace, excellence, and achievement.

If I can find one thing that unifies all of our retiring Senators, it is that none ever wore their office as a title. Across geographic and political and ideological lines, each and every one believed being a Senator meant carrying very real, very serious responsibilities. This is a trust to be earned and to be maintained, and well will miss the way these men made the entire institution look better for their conduct, their seriousness, and their integrity.

To Senator MITCHELL, my colleague and friend, I want to say no one has earned some private peace and quiet more than he has. His leadership in this Congress will serve as the standard by which all others will be measured. At a time when partisanship and gridlock seemed to be the U.S. Senate's middle names, he refused to stoop to that level or play those easy cards. I wish we could have delivered health care reform as his parting legacy to his own State and the Nation. But without his strong hand and patient guidance, health care would have withered long before reaching the floor of the Senate. So when the 104th Congress passes health care reform, it will do so because of GEORGE MITCHELL's beacon that lit our way.

I count myself lucky enough to have worked with Senator MITCHELL on two committees, Finance and Veterans' Affairs, and the standard of excellence he helped us set will be a challenge to match. His legislative legacy spans issues too numerous to mention, all important to the daily lives of Americans and the future of the country he has served with such devotion. Still, as much as he will be missed in those forums, GEORGE MITCHELL's move to a life outside the Senate walls is certain to be a journey to other forms of service.

Another Member I will miss working with is Senator DANFORTH. I have always respected his moderate, evenhanded leadership. His work on the Finance Committee will be, I hope, a lasting building block for the next steps on everything from trade with Japan to health care. His contributions to civil rights were invaluable.

My neighbor and colleague from Ohio, Senator METZENBAUM, will leave immense shoes to fill. He has been a leader in Ohio for 50 years, and generations have entered public life because

of the model he offered. If my party were to pick the Senators who served as our conscience, it would include HOWARD METZENBAUM. I will always think of him as being unshakable in his commitment to those too often overlooked in this system—those people forgotten or left behind by America's prosperity and achievement, who had few to defend their interests, had him in their corner. He kept the Senate from losing sight of the world beyond Capitol Hill, and he pushed us to have the courage to ignore political expediency because being a Senator was about hard work and hard decisions that sometimes had hard consequences.

Senator WALLOP gave nearly 20 years to the Senate and made Wyoming proud. We did not always agree, but he always dealt with me honestly and respectfully. If the Senate is supposed to be a place for America's differences to get aired, he maintained that practice with aplomb and directness.

I have enjoyed the privilege of working with Senator DURENBERGER on health care over the recent years. We have toiled together in the complexities and hard questions that define health care. Reform of our health care system—especially for rural Americans like those in Minnesota and in my home State—will happen because of his efforts and that is a proud legacy that will help his State for generations.

My colleague on the Veterans' Affairs Committee, Senator DECONCINI, also leaves after almost 20 years. Watching him, I have learned that the Western streak of independence is alive and well. He has followed his own sense of duty in the face of pressure, he has stood firm when he was sure yielding was just plain wrong, and he has never been outworked. America's veterans have been lucky to have him standing tough for them, and I have been lucky to have him on my committee to push us all harder to do just a little more for the people who depend on us. He has been one of our great warriors against drugs and crime, urging us to act long ago.

The sum of 28 years on both sides of the aisle, I think, explains Senator RIEGLE's span of knowledge and achievements. Michigan's working men and women know him as a friend and a fighter, and they have become the better for that. I have been enriched by our personal friendship. I have been impressed with his work in the Finance Committee, making endless contributions in trade, health care, Social Security, and the other issues in our purview.

Finally, Senator MATHEWS who came to Washington when AL GORE got a promotion 2 years ago. Recalling a Tennessee colloquialism, when you show someone how to do something, you "learn" them. Well, in 2 years I think HARLAN MATHEWS has "learned" many of us on how to go about our business with dignity and care. Since he arrived, he knew it would be a short stay; but he never dodged the tough issues or took his responsibilities lightly. Senator MATHEWS reminded us that the Senate is about duty not just to your home State, but to the Nation.

To my eight colleagues who retire from Senate service at the end of this session, I wish them a second lifetime of peace, contentment, joy, and future service through other avenues. They have given back to the Senate so much more than they asked of it. They have done themselves, their families, their States, and us all so very proud. And when the history of this era is written, it will surely reflect the fact that their time in the Senate made a real difference. That is what we all aspire to when we come to public life, and that is the finest legacy any of us can hope to leave.

THE 50TH ANNIVERSARY OF THE AUSCHWITZ-BIRKENAU UPRISING AND THE HEROISM OF ROSA ROBOTA

Mr. COATS. Madam. President 50 years ago today on October 7, 1944, a little-known but important event occurred.

On that day, a group of sonderkommands—prisoners who fueled the crematoria at Auschwitz with human corpses—rose up against their Nazi oppressors in open revolt. The crematorium was blown up, several Nazi guards were killed and, as a result, hundreds of prisoners managed to escape.

Madam President, while most people believe that the Jewish people in the camps of Nazi Germany went docilely to their deaths like lambs to the slaughter, truth is that many, including many heroic Jewish women, fought back courageously and, with great ingenuity, used every weapon at their disposal.

In this case, four courageous women, led by 20-year-old Rosa Robota, stole minute quantities of gunpowder over the course of many months from the camp factory where they worked as slave laborers. From these small pilferings, which were passed on to the camp underground, primitive grenades were constructed and used in the uprising.

For these acts, Rosa and her three companions, Ester Wajcblum, Ala Gertner, and Regina Safirztajn, were indescribably tortured for weeks by the camp Gestapo. Yet they revealed nothing about the other members of the underground.

On January 6, 1945, all four were murdered in the last public hanging to occur before the Nazi camps were liberated by the Allies.

Madam President, I wish to commemorate the heroism of Rosa Robota and her companions, and of all those who participated in the uprising at Auschwitz.

While the event happened 50 years ago, it is important that we remember, and our children recognize, the terrible evil that was the Holocaust, so that they will have the courage to counter malevolence wherever it appears.

Madam President, I thank the Chair and yield the floor.

PRIVATE SECTOR INITIATIVES IN JOB TRAINING

Mr. HATCH. Madam President, the debate regarding the prevention programs in the crime bill highlighted one very important error of omission that we frequently make here in Congress. We get so tied up in debating Federal solutions to the problems faced by disadvantaged youth that we fail to recognize the many creative solutions that have already been invented by the private sector.

Private sector involvement is absolutely essential in putting the educationally and economically disadvantaged Americans to work.

Not only is there not enough money to serve all of the at-risk youth who could conceivably benefit from a training program, but also the private sector can often provide training more effectively. After all, private employers know best what new employees need to be successful long-term employees.

Moreover, the Federal Government does not have a lock on the best ways to deliver job training. Fresh and innovative ideas are continually coming from the everyday citizens and private businesses throughout our communities. There are hundreds of examples.

In my home State of Utah, for example, private businesses throughout Salt Lake County help economically disadvantaged people through on-the-job training programs and internships.

One program in particular is known as the Single Parent Economic Independence Demonstration. This public-private sector partnership places individuals who are receiving Aid to Families with Dependent Children [AFDC]. A number of Utah companies have provided internship opportunities for participants in this program. The sponsoring companies are in diverse industries. They include U.S. Lighting and Electric, Olympus Management Corp., and Southwest Airlines. Southwest Airlines recently opened a branch in Utah, and I look forward to working with this growing company.

Another noteworthy example is a program begun in 1968 by the Coors Brewing Co. This program, the Golden Door, is open to exoffenders and welfare recipients. Participants receive the training and education needed to get and keep well-paying, full-time jobs. They are paid an hourly wage for meaningful and responsible work at Coors' investment recovery or salvage

yard facilities. They learn to operate forklift trucks, pallet nailers and denailers, cutting torches, grinders, and other industrial equipment. Their training comes at work and not in a classroom, but those without high school diplomas are required to complete GED certification through an on-site program.

Coors' Golden Door Program is self-supporting, with costs offset by the savings and income generated by the completed work. On graduation from Golden Door, participants are eligible to compete for open positions in the company. Since 1977, almost 80 percent of the trainees who entered the program have taken regular production and office jobs throughout Coors.

I believe such private efforts should be encouraged and recognized. The private sector commits billions of dollars every year to job training and employee education. While the cynics may say that such expenditures are in a company's own best interests, I believe we should give credit where credit is due. Without these private sector resources and without the new model programs they bring to the employment and training arena, far fewer individuals could be helped. Far fewer people would today be gainfully employed, contributing both to the productivity of an enterprise and to their own economic independence.

HEALTH CARE REFORM

Mr. HATCH. Madam President, there has been a lot of blame-saying recently regarding the demise of health care reform legislation. I think we need to get the record straight here.

Republicans are being blamed for killing health care reform this year.

Let me lay out the true scenario with which we were faced: We were given the choice to either kill the Clinton-Mitchell bill or kill our health care system. Guess which one we chose?

It is true we stood in firm opposition to the Clinton-Mitchell bill, but this was not because we do not want health care reform. It was because the Clinton-Mitchell bill was a bad bill. It would have killed our health care system. We do not want that to happen, and the American people do not want that to happen.

Those of us on this side of the aisle have been open and honest about our concerns with the cost of the bill, the extend to which Government would control our health care system under this bill, the negative impact the bill would have on the economy, and the massive new taxes it proposed.

Yet, even after all this, there was still no guarantee the bill would even work to accomplish its goals.

We share the same general goals as the proponents of the Clinton-Mitchell bill. We agree that some changes must be made to curb the rising costs of health care and to ensure that health care insurance is not easily taken away from individuals who have gotten sick or who have a preexisting condition.

There is also a great deal of support on this side of the aisle for other changes that would lower costs and improve access to care. For example, there is support for the idea of malpractice reform to curb the amount of health care dollars spent on litigation. Malpractice liability reform would permit us to spend less on lawyers and more on health care.

The difference between our approach to health care reform and that of the proponents of the Clinton-Mitchell bill is that we are confident we can accomplish the goals of health reform through the use of fundamentally sound market principles. Reform in this manner will not threaten to bring down our health care system and the freedom of those who use it.

I would like to continue the constructive dialog we have had concerning health care up to this point. I believe we have all learned a great deal and that we have arrived at some important conclusions. There are areas of agreement, and we are committed to building on this foundation next year.

Our distinguished Republican leader, Senator DOLE, has drafted a set of priorities for the 104th Congress. Health care reform is right up near the top of the list. We want health care reform, but we will not settle for health care proposals that destroy our health care system and our economy.

I have heard countless concerns and fears expressed about the detrimental effects of the Clinton-Mitchell bill. The American people are not fooled by the rhetoric of the bill's promoters. The American people have clearly discerned that the negatives of this bill far outweigh the positives.

Dr. Julian Whitaker, founder and director of the Whitaker Wellness Institute and a medical doctor for over 20 years, wrote an article to dispel any misconception that the Clinton-Mitchell bill is good for the health care system. His years of experience in surgery and preventive medicine as well as his heritage of being from a family of health care providers give him real, firsthand knowledge about the negative effects of Government intervention into the health care arena.

I encourage my colleagues to read this article. I ask unanimous consent that the entire text of Dr. Whitaker's article be placed in the RECORD.

I do not suggest that what Dr. Whitaker recommends is the ultimate solution to the health care problem. I do, however, believe that we should be looking for innovative ideas, like Dr. Whitaker's, which attack the heart of the problem, instead of the symptoms. The Clinton-Mitchell bill does nothing more than try to treat the symptoms of an ailing health care system, while the deeper problems continue to fester.

I am not alone in my opposition to the Clinton-Mitchell-type bills. There are millions of Americans who do not believe these types of bills are going to improve our health care system and will only make it worse. I am certain that if legislation like the Clinton-Mitchell bill is ever enacted, overall health care costs will rise. Our economy and health care system and the people they serve will be seriously injured.

I will continue my opposition to bills like the Clinton-Mitchell bill which threaten the viability of our health care system as long as my colleagues continue proposing them. I will, at the same time, give my full support to a health care reform bill that actually attacks the problems of our health care system and does something to improve health care without Government expansion or control.

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

[From Health & Healing, Sept. 1994]

HEALTH CARE REFORM: THE ONLY APPROACH THAT CAN WORK

(By Julian Whitaker, M.D.)

Folks, none of the so-called "health care reform" plans proposed so far will work. In fact, they will only make the problem we already have worse, because all of the proposals intend to use the cause of the problem as the solution. In this special supplement, I offer what is probably the only option for controlling the runaway costs of medical care and, at the same time, preserving your freedom to choose the best health care for your needs.

Besides its emphasis on drugs and surgery, American medicine has another problem: it costs too much. It has been on an inflationary spiral since the early 1960s, with no end in sight. In 1950, health care accounted for less than 5% of GNP; today it's at 13%. A semi-private room in a hospital costs up to $2,000 per day, and that is before they charge you $20 for a couple of aspirins!

Folks, this is ludicrous.

THE KIND OF HUMAN INTERACTION THAT DREW ME TO MEDICINE

My father, William G. Whitaker, Jr., is one of the best surgeons I know. Recently, a chair of surgery was established in his honor at Piedmont Hospital in Atlanta, Georgia. He isn't a "health care provider," he is a doctor. He solves patients' problems.

Back in the fifties, if he saw a patient with fever and a pain in the right lower quadrant of the abdomen, he would do a careful exam of the abdomen, likely finding sharp tenderness right over the appendix. He would order a few inexpensive tests to corroborate his focused, uncluttered judgment. Then he'd take the patient to surgery and cut out the infected appendix.

After three days the patient went home, a little sore, with a total bill of $500. Most—if not all of it—would be paid for "out of pocket," yet no bankruptcy notices went up. For the next ten years, the man's grateful family would send my father a Christmas present.

It was that sort of human interaction that drew me to medicine. It was simple—the family needed medical services. They got what they needed from one of the best. They paid for it. They were grateful.

Today, that same patient would "have" to get a barium enema, CAT scan, sonogram,

and MRI, plus all sorts of blood tests. The surgery would be performed and the patient would be hit with a bill for $32,000, of which his part would be over $6,000—unless he had some kind of insurance that covered where his other three policies left off!

WHAT IS DRIVING UP THE COST OF MEDICAL CARE

This is outrageous! This is not problem-solving, it is common wastefulness! But let's look at what could be driving up the cost of medical care.

Doctors are greedy and evil. Yes, today many doctors are obsessed with money and some are downright greedy. The more important issue is the source of the money that has enabled doctors to become so avaricious. Who is really paying these outlandish bills? You see, in order to have this kind of inflation, there has to be a big supply of money to fuel it.

Technology has caused medical costs to skyrocket. This is even more implausible. The technological advancements that have occurred in virtually every sector of society have had the net effect of lowering costs. A hand-held calculator was a $750 marvel only 30 years ago; now, a calculator is virtually free, and everybody owns one. No, technology itself can't be blamed for driving up the cost of medicine, because it has tended to drive prices down in every other sector. Well, then, why are medical costs out of control?

THE GOVERNMENT

It is because for decades, our government has been force-feeding all of us what I call "Poisonous Political Pablum" (PPP)—my name for "entitlements." Entitlements are goods and services received by Mr. Jones, for which not he, but the government, pays. For this discussion, I call the money used to pay for PPP or entitlements Free Money (FM)—money that is neither earned nor saved by Mr. Jones, but is spent on his behalf, even though Mr. Jones has no control over how much is spent, or for what it is used. In fact, Mr. Jones never gets his hands on the money at all. Simply put, Free Money is money that the government takes from someone to be spent as it sees fit on someone else.

Folks, the inflationary spiral is caused specifically by the FM that is used to pay for one of the largest and most popular PPPs, Medicare. Yes, I know that many of you feel you could not survive without Medicare—financially or otherwise—but I am going to try and convince you that it is a form of slavery. The fact is that neither you nor your doctor has any control at all over how Medicare funds are spent for your own health care.

Before we examine Medicare and specifically demonstrate how it and all government payments for medical care are the problem, certainly not the solution, let's "create" an entitlement for college students, and follow it through to its logical conclusion. We'll call it RESTACARE.

INSURANCE TO EAT WHEREVER YOU LIKE, WHATEVER YOU LIKE

College students are often poor and eat at inexpensive restaurants. This has been going on for centuries. Now, let's say someone comes up with the notion that college students should be "entitled" to eat in any restaurant they choose. After all, nutrition is important for learning, so with better food, college students will learn more, and, ultimately, be more productive, tax-paying citizens.

Voila: A Poisonous Political Pablum is issued by the government. "No college students should have to cut corners of food. Since they are in college, they are entitled to the US government's RESTACARE. From now on each college student will be given a RESTACARE credit card, good at any restaurant. All bills will be paid by the US Department of Poisonous Political Pablum."

With the passage of the RESTACARE law, suddenly billions of dollars are dumped into the restaurant industry, with the following consequences:

The eating habits of students change drastically. Since their RESTACARE card is fully backed by free money, students can now dine at Chez Louis for $150, instead of McDonalds for $7.50. Some students with RESTACARE cards run up bills of tens of thousands of dollars, bills that had never been seen in the restaurant industry before. Each week, another "record" bill is published until $60,000 dinner bills are commonplace, even accepted.

The cost of restaurant food skyrockets as restaurant owners begin to display obvious greed, and public perception of them begins to change. All the low-budget places that had once catered to students are forced to close and reopen with a slogan, "Better food for more money. Students with RESTACARE cards welcomed."

Restaurant prices become out of reach for the non-student population. A study discloses that 37 million people do not have a RESTACARE card and cannot afford a bowl of soup, much less the broiled salmon that is now priced at $7,500. They live in terror that some day they might have to go out to eat, knowing that they would be in financial ruin before they finish the salad. Students refuse to graduate for fear that they would lose RESTACARE. Eighty-year-olds enroll in college just to get a RESTACARE card.

THE GOVERNMENT ACTS: RESTACARE CARDS FOR ALL!

In response to the new super-inflated cost of restaurant dining, those with RESTACARE cards suddenly began to panic, knowing that the government could get rid of RESTACARE the same way they created it—with the stroke of pen. This thought is terrifying because, now, just walking by a restaurant would cause financial destitution. RESTACARE holders for a powerful group for the sole purpose of preserving RESTACARE.

Finally, things get so bad that the bureaucrats at the US Department of PPP are forced to start a crack-down. They put a few dozen restaurant owners in jail for "RESTACARE fraud"—some had overcharged for bread sticks, while others had billed millions for desserts that were never served. Of course, this never happened before RESTACARE, since the customers usually looked over the bill before paying, but it had become widespread since passage of the RESTACARE law and the use of FM to pay the bills. With Free Money, nobody looks at the bill or even cares, except the person who is making it out. Yes, Free Money will cause greed.

A new president is elected. He instructs his wife, Valerie, to work on a restaurant "reform" package, which is brought before Congress and states that now all citizens will be issued a RESTACARE card, and that the FM for this PPP will be extracted from employers. Valerie sets up regional rationing quotas for salmon, pasta, vegetarian, and meat dinners. There will be monthly allotments for iced tea and other beverages, and these will be strictly observed to control spiraling costs. Any "food care provider" that encourages seconds or provides more than one dessert a week will be investigated and, if found guilty, taken out back and shot.

Now let us examine what has happened, not just to the students but to society since passage of RESTACARE.

WHY I'M FOR GETTING RID OF MEDICARE AND MEDICAID

Before RESTACARE, the restaurant system worked. Restaurant owners were pleasant, liked their customers and were appreciated in return. There was a lot of choice and virtually no inflation. And most striking of all, virtually no one in the restaurant industry or society had any reason to interact with government.

Since RESTACARE, the cost of a restaurant meal is out of sight. Restaurant owners have grown to distrust their customers, and vice versa. Suits against restaurant owners for "bad food" have increased dramatically. The public is terrified of having to live without a RESTACARE card, and everyone is demanding one. Those with the cards are terrified that they will be taken away and are determined to keep them. The government is engaged in a big debate on how to "reform" the restaurant industry. Rationing of meals is a must because the cost is just too high. The greedy restaurant owners cannot be trusted at all, so a whole army of government bureaucrats dictate to the owners what they can and cannot do. Now virtually everyone in society is not only desperately involved in the machinations of government but is at its mercy.

Folks, this may not be a popular position, but I hope you can see from the RESTACARE example that the answer to our health care crisis is the same as the answer to the restaurant crisis: to achieve rapid and permanent deflation of medical costs, the government must stop throwing free money into the pot. The first step is to repeal Medicare and Medicaid and develop a plan for phasing it out.

THE POOR WOULD BE BETTER OFF WITHOUT MEDICAID

But this terrifies people. A few days ago I was discussing this with some friends. One countered with, "Okay, Julian, what about a two-year-old girl living in poverty who needs a $100,000 operation? What are you going to do, just let her die?" In her view, it is incomprehensible that I would recommend repeal of Medicaid because I am concerned that a two-year-old does not have access to a life-saving operation. Incredibly, and in spite of all evidence to the contrary, many believe that only government can take care of the poor. They also believe that those in the private sector sit around profiteering.

In reality, people in the private sector are usually honest, innovative and productive, and are constantly trying to figure out how to serve their fellow man more efficiently and cheaply. They do this because if they don't, someone else will, and they will be out of a job! You ought to know that because most of you are in the "private sector."

Now, let's go back to that sick baby.

The reason that the operation costs $100,000 is because of the inflation brought on by all the Free Money used to pay the Medicare bills! Without Medicare, there wouldn't be a $100,000 operation because no one could afford it. That operation would cost $5,000, maybe $7,000, within easy reach of the child's community, church, or even family.

And without Medicare and all the other sources of FM polluting the medical industry, there would be deflation of medical costs. Almost all essential medical care would be easily affordable as an out-of-pocket expense because there would be no more

money to inflate the bills! Not only that, there would be even greater strides in technology; and that technology would be far more available.

Folks, we can deflate medical costs and preserve your freedom of choice by getting all of the third-party payers who use Free Money out of the system—and fast.

There are reasonable and rational ways to phase out entitlements, and it can be done. If the Eastern Europeans and Russians can decide that centralized control doesn't work and simply walk away from it, then we can certainly find a way to roll back Medicare and Medicaid.

There is a little girl out there who needs an operation, but if you think the government is going to come up with a program that will help her, I ask you to think again. When has the government ever gotten any entitlement program right? That little girl could be your granddaughter. She is likely to die while her mother waits in line for the government's newest "hand-out" of Poisonous Political Pabulum.

NINETIETH BIRTHDAY TRIBUTE TO JOSEF MEIER

Mr. PRESSLER. Madam President, I wish to take a few moments to honor Josef Meier, one of the giants of South Dakota's tourism industry, on the occasion of his 90th birthday. To anyone familiar with tourism in the Black Hills, the Passion Play and Josef Meier are synonymous. South Dakotans do not think of one without the other.

Because the Passion Play and the Meier family have played a major role in South Dakota tourism and economic development the city of Spearfish and the State of South Dakota have jointly proclaimed October 9, 1994, as Josef Meier Day.

In 1938, after examining numerous possible sites throughout the United States, Josef Meier brought his Passion Play to the Black Hills of South Dakota. Since that time, he has been in the forefront in the development of the Northern Black Hills tourism industry. In 1954, Josef Meier and the citizens of Spearfish were presented the Freedoms Foundation Award, a reflection of their significant achievements in community development.

The beauty and powerful message of the Passion Play have attracted thousands to the Black Hills of South Dakota. For over 50 years, Josef Meier himself played the challenging role of Jesus Christ. Although health problems led to his retirement a few years ago, Josef's daughter and son-in-law have assumed the leadership reins, and the Passion Play performances continue.

Performed in an outdoor amphitheater with a cast of 250 and using live animals, the Passion Play's 22 scenes provide a truly memorable experience. Before his retirement, my wife, Harriet, and I had the opportunity to see Josef Meier's memorable performance.

I always have appreciated Josef's support and friendship over the years. His advice on tourism and other issues has been invaluable. Several years ago, Josef testified at a Senate Tourism Subcommittee field hearing I held at Mount Rushmore. His expertise and experience continue to provide valuable lessons for those who work in the tourism and service industries.

I congratulate Josef Meier on this joyous occasion marking his 90th birthday. His successful career has rewarded hundreds of thousands, if not millions, of South Dakotans, other Americans, and foreign tourists. He is truly a legendary pioneer of South Dakota's tourism industry.

BANKRUPTCY REFORM ACT OF 1994

Mr. METZENBAUM. Mr. President, I wish to commend Senators HEFLIN and GRASSLEY, and Congressmen BROOKS, FISH, and SYNAR, for their leadership on the enactment of the Bankruptcy Reform Act of 1994, one of the most important pieces of legislation to be considered by this Congress. They did yeoman's work in preparing this bankruptcy bill, and deserve tremendous credit for their efforts.

The Congress has considered the issue of bankruptcy reform for many years and we have debated every nuance, contemplated every scenario, and literally cited every statistic many times over. The legislation that has been enacted has been painstakingly crafted to address a wide variety and array of concerns that have been raised over the years and I want to thank the managers and sponsors of this legislation for their courtesy and cooperation in accepting my amendments which were offered in the spirit of solidifying consumer protections, promoting uniformity, and facilitating clearer treatment of many transactions under the Bankruptcy Code.

Mr. President, throughout the process of crafting a viable bankruptcy reform proposal, I have reiterated that there is one problem in particular that we must fix—professional fees in bankruptcy. I chaired a Judiciary Committee hearing on professional fees in bankruptcy that revealed a number of examples of how lawyers suck the financial life out of companies by charging exorbitant and often unnecessary fees. We learned that it is not uncommon for lawyers to engage in such tactics as overstaffing, superfluous conferencing, unnecessary research and duplication of work. Moreover, we learned that there is widespread disparity in the fees paid, in the standards and laws used to set them, and in the maneuvering lawyers use to get them. Just as recently as 2 weeks ago, the New York Times reported that a staff attorney for a U.S. trustee challenged what she believed to be excessive fees being rung up by the biggest bankruptcy department in this country. This firm's gross revenues had risen significantly since 1989, buoyed by at least $136.5 million in fees from a string of bankruptcies. That is right, almost $140 million in legal fees. As an arm of the Justice Department, the trustee's office is in a position to monitor fees in bankruptcy cases, and it occasionally makes objections in the public interest. Nonetheless, the New York Times reported, the attorney challenging the fees was removed from the case by her boss and later put back on the case on the condition that she not review the fees. The objection to the fees was withdrawn.

In light of these abuses, I am particularly pleased that my proposal relating to professional fees is included in the act. The legislation sets forth in clear and concise terms those factors that must be considered when deciding the appropriateness of a fee request. Some of the factors to be considered are: First, whether the services were beneficial at the time they were rendered toward the completion of the case; second, whether the services are reasonable and necessary; third, the customary rates charged for services; and fourth, whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem addressed. In addition, the U.S. trustees will be required to adopt uniform procedural guidelines for the review of fee applications and where appropriate, object to a fee request.

As omnibus bankruptcy fraud statute has been lacking in the Bankruptcy Code despite the dramatic increase over the past decade in the number of bankruptcy filings. Annual case filings have climbed from 300,000 in 1980 to 944,000 in 1991 and in excess of $26 billion is at stake in these filings. Commensurate with the rise in filings has been an increase in the number of fraudulent schemes that undermine the goals of Federal bankruptcy. For example, individuals have feigned bankruptcy to avoid debt collection and foreclosure by their creditors. Numerous bank officials and their customers have used the bankruptcy process to shield themselves from discovery or prosecution from fraud. Drug defendants are using bankruptcy filings to frustrate and delay drug asset forfeiture proceedings. Hundreds of typing mills are luring customers with vague promises of solving their credit problems, charging the customer hundreds of dollars while inducing them to sign bankruptcy petitions they often do not understand, and then improperly filing bankruptcy on their behalf.

The Bankruptcy Act contains my bankruptcy fraud proposal, which strengthens the Government's ability to prosecute bankruptcy fraud. The bankruptcy fraud section, which is modeled after the mail and wire fraud statutes, sets out criminal penalties for any person who knowingly uses the

filing of a bankruptcy petition or document to defraud others. While this provision is tough on white-collar crime, it does not overreach in its applications. Proof beyond a reasonable doubt of a specific intent to defraud is required, persons committing an alleged fraudulent act for a lawful purpose are not covered, and any act, to be deemed criminal, must be a part of a scheme to defraud involving a bankruptcy proceeding.

In addition, the law provides for injunctive relief, damages, and criminal penalties against bankruptcy petition preparers who are negligent or commit fraud in preparing petitions. It also sets forth criteria for supervising their fees. This provision, which I introduced as an amendment to S. 540 in April of this year, is critically needed and empowers the Government to confront the large scale fraudulent conduct of those who prey on the poor and unsophisticated. While not all so-called typing mills or petition mills are abusive, data show that they are most prominent in major metropolitan areas with poor and minority communities. For example, in the central district of California, approximately 70,000 petitions were filed in 1991 and the Department of Justice estimates that almost 20,000 petitions were filed as a result of entities who entice a debtor into believing that his/her credit problems will be cured and most significantly, that (s)he will be able to avoid eviction by filing a bankruptcy petition.

The Bankruptcy Act closes another gap that permitted white-collar crooks and others to hide behind bankruptcy protections to avoid payment of criminal fines. As individuals have misused the bankruptcy process to avoid debt collection and foreclosure, so have persons convicted of crimes sought to shield themselves from the payment of court-imposed fines triggered by criminal activity. My proposal, which is included as section 302 of the law, removes this shield and creates continued liability for the payment of criminal fines even if bankruptcy is pursued.

Mr. President, many will recall that I introduced an amendment in April of this year which would have resolved the debate over how rent-to-own contracts would be treated in bankruptcy cases. The rent-to-own companies attempt to avoid credit sales and usury laws by writing their agreements as leases. Courts that have adopted the lease interpretation have ruled that to keep their property, consumers must pay the entire remaining balance of the rent-to-own contract, amounts which the Pennsylvania Attorney General has found to be the equivalent of 100 to 200 percent in interest. Consumers argue that these agreements should be treated as credit sales in bankruptcy, and courts adopting this view have allowed the consumer to keep possession of the goods by paying the creditor no more than the amount the creditor would realize if the goods were repossessed.

My proposal would have clarified the law in a way that debtors with rent-to-own contracts would be treated in the same way the Bankruptcy Code treats those with installment sales contracts, but this proposal is not contained in H.R. 5116. This exclusion should not be interpreted as a congressional determination with regard to the treatment of rent-to-own contracts in bankruptcy cases one way or another. The exclusion will leave this determination in the hands of the court in a particular case, depending upon the facts and circumstances of that case.

I would like to again thank all of those who have played a role in developing and honing the Bankruptcy Reform Act of 1994. And I did in April of this year, when S. 540 was on the Senate floor, I must pay special tribute to Pam Banks who, although no longer with my staff, continued to work tirelessly on this proposal during these last 2 weeks, as she has done for the past 4 years. Pam's dedication has been constant and skillful and the consensus that has been reached with regard to my concerns is largely attributable to her involvement and assistance.

REGARDING THE HONORABLE F. TROY BRAILEY

Ms. MIKULSKI. Madam President, I rise today to pay tribute to a fallen hero, former Maryland State Senator F. Troy Brailey, from Baltimore's 40th Legislative District. Senator Brailey passed away yesterday at his Baltimore home.

I have had the distinct pleasure of knowing and working closely with Senator Brailey since my days as a community organizer in Baltimore in the 1960's. I would have to count him as one of my early mentors as he was never too busy to offer words of wisdom.

Senator Brailey is often remembered as a strong supporter of organized labor. He was president of the Baltimore division of the Brotherhood of Sleeping Car Porters in the early days of the union as well as being very active in the Negro American Labor Council which was formed by A. Philip Randolph.

It is through his efforts in the area of civil rights that Troy Brailey made perhaps his greatest mark on the lives of Marylanders, and indeed all Americans. A great deal of his work on labor issues was to secure rights for the African-American worker. He was truly tireless in those efforts as evidenced by his stewardship as the Maryland State chairman for the 1963 March on Washington.

Elected to the Maryland House of Delegates in 1966, he served there with distinction until his election to the State Senate in 1982, where he served 8 years. I know that his beloved family, his friends in Baltimore, in Annapolis, and throughout Maryland join me today in expressing our deep respect for Troy Brailey's long and distinguished career as a champion for working people, and our sadness at his passing.

Senator Troy Brailey will be missed but he will most definitely be remembered.

HONORING SENATOR RIEGLE

Mr. DURENBERGER. Madam President, I rise today to pay tribute to the retiring Senator from Michigan, my friend DON RIEGLE.

I am convinced that this is the only occasion on which the phrase "retiring DON RIEGLE" is not oxymoronic. As my colleagues will testify, he is one of the least retiring people who ever served in this body.

Unlike most in this Chamber, I can remember when DON used to be a Republican. I think he is a great example of someone who chose not to change his principles to suit his party, but rather to change his party over issues of principle.

It is one of the toughest decisions one can make in partisan politics. Speaking for myself, I think my political views are sufficiently in the Republican mainstream that I can exert a moderating influence in our party.

DON RIEGLE found himself too far out—too often—to make the kind of difference he knew himself capable of making. And so he did a very courageous thing, and switched parties.

So it is as a Democrat that the U.S. Senate will remember DON RIEGLE, as he rides off into the next chapter in his life. But I think of true appreciation of DON's career will call attention to the fact that he puts ideas over party.

He was a Republican against the Vietnam War. That was a really tough stand for him to take, and he has brought the same kind of passion to the other issues he has worked on.

We served together on the Finance Committee, and I know something about the strength of his convictions. Whether it is protecting the interests of autoworkers or protecting cost-of-living increases for Social Security recipients, DON RIEGLE has the kind of fiery commitment that makes you want him to be on your side in any debate.

Even when I have disagreed with him very intensely, I have always respected him as a sincere, committed, hard-working individual. He cares about the people of Michigan, and in losing him they are losing a very powerful voice.

I join all my colleagues in wishing him and his wife Lori Hansen a very happy future.

THE CONFIRMATION OF DR. CAROL KINSLEY TO THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Mr. KENNEDY. Madam President, I commend my colleagues in the Senate for confirming President Clinton's nomination of Dr. Carol Kinsley of Springfield, MA to serve on the Board of Directors of the Corporation for National and Community Service.

Dr. Kinsley is recognized as a leader in the field of service learning, and serves as executive director of the Community Service Learning Center in Springfield. Under her leadership, the center has grown to become one of the Nation's most influential forces for making service learning a part of education. Educators and administrators come to Springfield from around the country to attend the center's seminars and workshops, which teach them how to assess local needs and incorporate a responsive community service program into their school curricula.

I was proud to sponsor the legislation which established the Corporation for National and Community Service in the Senate last year, and which President Clinton signed into law. The real work, however, is being done by people like Dr. Kinsley around the country, who care about improving their own communities and who recognize that community service is an excellent opportunity to do so.

Individuals like Carol Kinsley have recognized that national and community service is one of the best investments we can make in America's future. Problems are addressed, needs are met, and people learn that they truly can make a difference. Everyone benefits—the volunteers, those who receive the service, and the community as a whole.

Massachusetts has long been recognized as a leader in the community service movement. I am confident that Dr. Kinsley's participation on the Board will help to ensure that our State continues in this fine tradition of service to others.

It is gratifying that President Clinton recognized Dr. Kinsley's outstanding work and leadership in Springfield, and that the Senate has agreed with the President's choice of Carol Kinsley to serve on the Board. I know her ability and experience will be a positive force at the Corporation for National and Community Service, and I look forward to working with her in the years ahead.

HONORING SENATOR MITCHELL

Mr. DURENBERGER. Madam President, like myself, the majority leader is retiring at the end of this session. I want to take this opportunity to offer a few comments about his tenure as a Senator, and as leader of his party.

GEORGE MITCHELL came to the Senate 1½ years after I did, so I feel pretty well qualified to give an assessment of his 14½ years as a U.S. Senator.

Our years in the Senate were a time of rising partisanship. So it should come as no surprise that Senator MITCHELL and I disagreed more often than we agreed on controversial issues of the day.

In spite of Senator MITCHELL's reputation as an absolutely ferocious partisan—I have never seen him obstruct the work of the Senate purely for partisan advantage.

In fact, I have been privileged to work with him in a very bipartisan manner on a number of important issues. This year, we worked together in the Finance Committee to put together mainstream health reform legislation. And that was just the culmination of long years of cooperation on health issues like Medicare catastrophic, long term care, and the AHCPR.

On the Environment and Public Works Committee, we were able to work together in a bipartisan way on the Clean Air Act and other major environmental issues.

So it would be wrong to depict Senator MITCHELL's career as one of unrelieved partisanship. Indeed, every single act of this Senator—even in his years as leader of his party—has been dedicated to a vision of the good of our country. Often, I will disagree with the particulars. But I cannot doubt the sincerity and the passion with Senator MITCHELL for that vision.

Too often, people play games in the Senate with a view to winning elections. Senator MITCHELL does the exact opposite. He fights elections because he wants to do things in the Senate.

I remember the great electoral battle of 1986, in which Senator MITCHELL was a major player in recapturing the Senate for the Democrats. I will not soon forget the great passion with which he led that fight—and the passion he brought to his next caucus role as Senate floor leader.

I am not alone in believing that GEORGE MITCHELL's background has a lot to do with that passion. I think that people whose roots are still close to foreign lands appreciate the greatness and the promise of our country a heck of a lot more than some whose ancestors have been here for hundreds of years.

When I see the majority leader forging ahead relentlessly on some controversial issue—beating back opponents like some inexorable force of parliamentary nature—I think of an orphan whose parents were Irish immigrants. I think of a Lebanese immigrant working the night shift in a factory for decades.

And as I think of these two Americans, I believe that I can understand their son, GEORGE MITCHELL. GEORGE MITCHELL understands that the future of America is in the hands of Americans. We have it in our power to create the kind of country we want it to be.

What a breathtaking power. What an awesome responsibility. And what a tribute to George and Mary Mitchell that their son, the leader of the majority in the U.S. Senate, will spare no effort to build the country that lived in their dreams. To the extent that America enjoys greatness today, it is because of people with the spirit and character and perseverance of GEORGE MITCHELL. We need more people like him.

IN SUPPORT OF THE AFRICAN-AMERICAN ART MUSEUM

Ms. MIKULSKI. Madam President, I am deeply disappointed in this legislative body. The politics of gridlock, obstructionism, and divisiveness have once again reared their ugly heads—this time to stop a project which would only enrich the lives of Americans, the African-American Museum.

What does it say for our country, Madam President, when we cannot establish a museum honoring historical diversity in a capital city symbolizing freedom and democracy?

What does it say for this body when one Senator obstructs the promotion of African-American art and culture? When cataclysmic change is occurring—peacefully—in countries around the world?

So many other nations have begun to come together in search of peace and democracy, empowerment and enrichment. What does it say for us when on one day Nelson Mandela, the first President of South Africa elected by all the people of South Africa, uplifts us with a message of such inspirational dignity, maturity, hope, peace, tolerance, humility, and diversity; and on the very same day we cannot even pass a bill to begin the collection and preservation of African-American history in our own Nation's Capitol?

I am appalled. I am angered. I am ashamed.

Our culture is based on diversity, the sharing of heritages and histories from all over the world.

We should be proud of the ethnic makeup of our country, proud of the diversity of our history.

We should want to preserve and share this cultural mosaic with each other, with our children and our children's children.

We should not have to fight the divisive efforts of one Senator to educate and empower the next generation with the knowledge and experience of our cultural heritage.

We have been enriched by diversity in the shaping of our Nation, and we should want to enrich others.

I am cosponsor of this bill. I support it, and I know many others do—Republicans and Democrats. The American

public deserves it. We cannot allow one Senator to stop it.

It is time to recognize that divisiveness and obstruction have no place here. It is time to act together in the spirit of hope and unity.

Let us show the American people and the world that we are not out of touch, that we care about people's day-to-day lives, and that we can act in recognition of the past, to promote a better future.

EXPRESSION OF APPRECIATION TO THE SENATE FLOOR STAFF

Mr. NUNN. Madam President, as the 103d Congress draws to a close, I want to say a special word of appreciation to our floor staff for all of their help to the members and staff of the Armed Services Committee during the past 2 years. It is a tribute to Senator MITCHELL's leadership that his staff is so supportive of the committee process and helps to insure that the work of the Senate is accomplished.

Our floor staff works under the capable direction of Abby Saffold, the secretary of the majority. Abby's thorough knowledge and attention to the details of the legislative process have made her indispensable in the U.S. Senate. Abby and Assistant Secretary to the Majority Marty Paone have always been available to provide counsel and assistance whenever they were needed. We especially appreciate their support in ensuring prompt Senate consideration of the thousands of nominations that the Armed Services Committee reports every year.

John Hilley, Senator MITCHELL's chief of staff and Ed King on the Democratic Policy Committee staff have worked very effectively with the Armed Services Committee members and staff on national security issues and legislation. They were particularly helpful this year in the difficult task of coordinating the work of the various Senate Committees who worked on the Federal Acquisition Streamlining Act of 1944.

Madam President, I cannot say enough about the excellent day-to-day support we have had from the Democratic floor staff of Lula Davis, Kelly Riordan, Arthur Cameron, Nancy Iacomini, and Brad Austin. It has not been easy passing the Defense authorization bills and other legislative items in this Congress. Lula, Kelly, Arthur and Nancy have always been very helpful in assisting us in moving our committee bills through the Senate.

I also want to thank our excellent Democratic cloakroom staff of Leonard Oursler, Gary Myrick, Paul Cloutier, and Cristina Kraswo for all their assistance during the past 2 years. They must get asked "When is the next vote and when will we adjourn?" hundreds of times a day—and they never fail to respond cheerfully. Their selfless and dedicated service has made all of our jobs easier.

I should also note that while not working with them on a day-to-day basis as we do with our own floor staff, the Republican floor staff has always tracked down and helped to resolve any problem areas associated with our committee's work.

Legislative clerk Scott Bates, bill clerk Kathleen Alvarez, enrolling clerk Brian Hallen and their staffs make a tremendous and indispensable contribution to the legislative process on the Senate floor. Executive clerks Gerry Hackett and Dave Marcos help all of us keep nominations on track. Gerry has been ill recently, and I know my colleagues join me in wishing him a speedy recovery.

I also want to express my appreciation to the Senate Parliamentarian, Alan Frumin, and his assistants Kevin Kayes, Beth Smerko, and Richard Buckley. Alan and his staff have consistently provided objective and timely answers to the many questions that our committee has directed to them.

Finally, I want to recognize the dedicated efforts of the people who take down every word that is said in this Chamber—the Official Reporter of Debates. Not only do they capture every word of debate in the Senate, but they also have the difficult task of incorporating all of the supporting material and documents that are inserted into the RECORD by Senators.

Madam President, on behalf of the members and staff of the Armed Services Committee, I want to say thanks to all of the Senate floor staff for a job well done during the 103d Congress.

HONORING SENATOR WALLOP

Mr. DURENBERGER. Madam President, I like to tell people that one of my favorite Senators was born in New York City, studied English at Yale, and was elected to the Senate three times from Wyoming. Then I like to watch their expressions of disbelief when I tell them I am referring to none other than MALCOLM WALLOP.

Many years ago, someone told Winston Churchill that one of his colleagues was modest. Sure, Churchill replied; but he has a lot to be modest about.

MALCOLM WALLOP is the exact opposite of Churchill's colleague. He is a man of true accomplishment and erudition who simply chooses to wear his achievements lightly.

He is perhaps best known for his work on defense policy. In the 1980's, he was a leader in the Senate for the peace-through-strength policies that led to the end of the cold war. He was particularly outspoken on the issue of the strategic defense initiative, which some historians believe was a major factor in the collapse of the Soviet Union.

I remember in particular his work on the Intelligence Committee in the 1980's. Since then, he has continued his national security crusade on the Armed Services Committee.

He was also key Republican on the Energy and Natural Resources Committee and a valued colleague on the Finance Committee. Few people disagree as often as do MALCOLM and I on the Finance Committee. But I have never met a person who is more agreeable in disagreement.

The people of Wyoming know MALCOLM as a fierce opponent of big government and high taxes. And he has been a very effective advocate on these issues.

But I will always remember him as one of the nicest guys on that finance panel. We were separated by a couple of seats; and while on some issues it felt like we were miles apart, I think that Congress would make a lot more progress if there were more people of MALCOLM WALLOP's disposition around.

I wish Senator WALLOP and French Wallop all the best as they move on to the next chapter in their lives.

HONORING SENATOR BOREN

Mr. DURENBERGER. Madam President, in these last days of the 103d Congress I would like to spend some time paying tribute to those of my colleagues who—like myself—are leaving the Senate to write a new chapter in their personal history.

I rise today for the purpose of thanking my colleague DAVE BOREN for the intelligence and independence with which he has contributed to the work of this Chamber.

Everybody in this town who has read Bob Woodward's book "The Agenda"—and if you know Washington, you know that means practically everybody in town—knows that DAVID BOREN is not going to give up on principles.

He will stand up for what he thinks is right—even against monumental pressure brought to bear by powerful forces in his own party.

At a time when Congress as a whole was moving in the wrong direction—toward greater partisanship and shallower sound bites—DAVID BOREN was valiantly, sometimes even single-handedly, pulling the Senate in the right direction.

Ever since his first term as Governor of Oklahoma back in the 1970's—he used a broom as his campaign symbol—DAVE BOREN has been helping to change the boundaries of what's politically possible.

DAVID BOREN and I came to the Senate together in 1978.

We have served together on the Senate Finance Committee all 16 years. During the Senate Intelligence Committee's critical 1985–86 period, I chaired the committee and he was a most valuable minority member—before assuming the Chair for a record 6 straight years.

I will always remember DAVID for his efforts to take politics out of national security and national economic policy. We differed occasionally, but he always sought to achieve shared goals.

In the last 2 years we committed ourselves to health care reform—and almost succeeded. From different parties, we worked the mainstream proposal in a shared effort to do reform right—without politics.

In losing DAVE BOREN, America will be losing a very important voice for legislative sanity and fiscal responsibility. But I envy the University of Oklahoma—because the Senate's loss will be the gain of everyone who cares about the future of higher education in the heartland of America.

DAVE BOREN will continue to be a leader in the public service for a very long time—and I join my colleagues in wishing DAVE and his wife Molly all the best as they undertake their exciting new public services.

HONORING SENATOR DANFORTH

Mr. DURENBERGER. Madam President, I rise today to honor one of the greatest Senators I have ever had the privilege to know—and one of the best friends I personally have had in my 16 years in the Senate.

JACK DANFORTH had already been here for 2 years when I became a Senator. The Senate GOP was about to make a major shift to the right, and I am grateful to JACK for his leadership of what became a steadily smaller moderate wing in our party.

JACK DANFORTH is a public figure whose every act is motivated by a deeply private faith. This is what accounts for so much of the authority with which he speaks on so many issues.

Having been in Washington for 16 years, I can tell you that far too many politicians are motivated by so-called "talking points" concocted by staffers. JACK DANFORTH is motivated by "thinking points" that are based on a deep personal value system and a lifetime of study of the major issues facing America.

As my colleague on the Finance Committee, JACK has blazed a major trail on trade, tax policy, and health care reform.

On trade especially, JACK has been in the forefront throughout my years in the Senate. It is thanks in large part to him that Congress plays a role alongside the executive branch in international trade policy—and his outspoken activism has made him very well known in the financial councils of Tokyo and other foreign capitals. Danforth alumna Susan Schwab—who served as head of the U.S. and Foreign Commercial Service—has been just one of JACK's legacies to U.S. trade policy.

JACK cares about trade because he cares about Missouri. His work on trade—as well as his activism on behalf of home-State companies—has made him a very valuable booster for the State. In this regard, I would like to remind my friend of an incident that I am sure he would rather forget. In his capacity as a Missouri booster, he was forced back in 1987 to eat Wheaties in front of the Minnesota Twins. In 1987, the Twins—and I am sure this fact is stamped forever on the memories of all my colleagues—had beaten JACK's St. Louis Cardinals in the World Series.

JACK has been an all-around effective Senator for the people of Missouri. But I would like to talk today about one part of JACK's history that I predict will still be talked about a century from now.

In October of 1991, the blood was in the water on Clarence Thomas. The mood had shifted—and we all know how Congress' mood can shift, with the suddenness of an earthquake—and people were starting to position themselves for a defeated nomination. It gets to a point when you're going to fail, and you have to do it with good grace.

Except for one thing: JACK DANFORTH believed in his friend. Furthermore, he believed that if you are here in the Senate only to cut and run when its starts getting tough, you do not deserve to be here in the first place.

And so JACK DANFORTH got up and blasted this Chamber. He almost singlehandedly put a stop to the rush to judgment that was taking place on the Senate floor. He made an appeal to the deeper conscience of each and every one of us—the part of ourselves that believes in the Golden Rule.

Do unto others as you yourself would be done.

With JACK DANFORTH's Horatio-at-the-bridge act of moral heroism, the attempted character assassination of Clarence Thomas was averted.

Madam President, even if Clarence Thomas is on the Supreme Court for decades to come, I believe that JACK DANFORTH's action will be remembered after Justice Thomas has left the Court. I believe that long after that controversy has faded from America's memory, JACK DANFORTH's example of loyalty to friends—and loyalty to moral values—will be taught to schoolchildren as an example of the highest virtue of which human beings are capable.

As a Senator—and as a human being—JACK DANFORTH has been a man for others. I am proud to have been his coworker—and his friend—for 16 years. I wish him and his wife Sally all happiness in the years ahead.

HONORING SENATOR DECONCINI

Mr. DURENBERGER. Madam President, I rise today to pay tribute to someone who, like myself, is writing the final chapter of his career in the U.S. Senate.

I have been here for 16 of DENNIS DECONCINI's 18 years in the Senate. For this reason, I feel that I have some standing to appreciate the contributions he has made to this body and to this counrty.

DENNIS and I have been Senators at a time when partisanship was on the rise in both Houses of Congress. I can testify to the fact that DENNIS DECONCINI always put his constituents, and America, first.

It is hard to imagine today how polarized this Chamber was at the height of the cold war. Remember what a warmonger Ronald Reagan was supposed to be? It is a far different world from the one we live in today. But DENNIS DECONCINI's thoughts and actions were not devoted to scoring political points off the President. He was concerned with the hard issues of defense and intelligence policy. What are the threats to this country? And what's the best way to defend ourselves?

Those were the questions DENNIS grappled with. And his spirit of free inquiry—his bipartisanship and strength of character—made progress possible on countless foreign policy issues.

It is no fault of DENNIS DECONCINI's that the same kind of progress did not happen on the Federal budget. I think if it had been up to people like me and Senator DECONCINI, we could have made the tough choices back in the 1980's, and made them stick. DENNIS' work as founder and co-chairman of the Senate Grace Commission caucus is just one testimony to his commitment to deficit reduction.

In DENNIS DECONCINI, the people of Arizona, and the people of America, are losing a forceful voice for the future. If we judge Members of Congress on how much they did to leave the next generation better off than the one preceding it, DENNIS DECONCINI can hold his head up high in the pages of Senate history.

HONORING SENATOR MATHEWS

Mr. DURENBERGER. Madam President, when AL GORE left us to become Vice President, the people of Tennessee faced a major problem. They may have gained an important voice in the new administration, but they lost a powerful and well-respected voice in the U.S. Senate.

That is why Governor Ned McWherter's decision was so important. Who would represent Tennessee for the next 2 years?

I rise today on behalf of many of my colleagues—joined, I am sure, by the people of Tennessee—to say how glad I am that it turned out to be HARLAN MATHEWS. HARLAN knew when he got here that he did not have time to make noise. He would have to concentrate on the real work of being a Senator. And this he has done on the Commerce Committee, on the Energy and Natural

Resources Committee, in the Foreign Relations Committee, and on the floor of the Senate.

He has viewed these places not as platforms for posturing, as regrettably so many do, but as a workbench for the creation of policies that will help Tennessee and America. He has acquitted himself with great distinction, and we are all glad to have known him, even for such a short time.

HARLAN had a very distinguished career in the State government in Tennessee before joining us here in the Senate. Patsy Mathews, too, has compiled an outstanding record in her service as Tennessee's assistant commissioner for rehabilitative services.

I think HARLAN and Patsy can look back on their couple of years here as a very fitting "victory lap," after many years of dedication to the public service.

HONORING SENATOR METZENBAUM

Mr. DURENBERGER. Madam President, for the last 16 years I have been privileged to work with one of the most sincere, outspoken, and effective advocates for liberalism in America.

A little over 3 months from now, HOWARD METZENBAUM will ride into Senator history—leaving behind a record of controversy and commitment.

My colleagues know that HOWARD and I were rarely on the same side of public policy issues. But there is a more important respect in which we were in perfect agreement: We both went to work every morning with the idea of making America a better place. And we both knew that being in the Senate gave us a wonderful opportunity to try to make that happen.

My colleague PAUL SIMON has called HOWARD "the Tiger of the Senate." And that is an accurate description. When you look around Washington, DC, you see a lot of paper tigers—big bundles of noisy press releases and not a lot of intellectual muscle-power to back them up.

Make no mistake: When it comes to being a tiger, HOWARD METZENBAUM is the real McCoy.

When he says something, he backs it up with the force of character of someone who sees the lives of real people—in Ohio and all over America—riding on the success of his efforts.

On issues ranging from consumer protection and civil rights to product liability and antitrust policy, HOWARD has blazed a fierce trail throughout his 18 years in the Senate. The new Senators—of all parties and all ideologies—who come here in January should learn from character and the example of HOWARD METZENBAUM.

The lesson of HOWARD's career is this: Politics is not about press releases. It is not about spin.

It is about the most important thing of all—the lives of real men, women, and children.

In an age of irony, HOWARD METZENBAUM has bucked the tide. He has continued to believe that it is OK to care—to care about people, and to care about your efforts to help them.

As Members of the Senate—and as Americans—we stand in his debt for this powerful example. And I join my colleagues in wishing him and Shirley all happiness in the years ahead.

URUGUAY ROUND AGREEMENT

Mr. LEVIN. Madam President, I ask unanimous consent to include in the CONGRESSIONAL RECORD a memo to me from Ambassador Rufus Yerxa which I received on Wednesday, October 5. This memo specifies those provisions in the implementing legislation of the Uruguay round that are required to implement the Uruguay round agreement.

The other section of the implementing legislation, the sections of the implementing legislation that he indicated were not strictly required by GATT, are:

Section 102. Relationship of the agreements to United States law and State law.

Section 115. Consultation and layover requirements for, and effective date of, proclaimed actions.

Section 116. Effective date.

Section 124. Annual report on the WTO.

Section 125. Review of participation in the WTO.

Section 126. Increased transparency.

Section 127. Access to the WTO dispute settlement process.

Section 128. Advisory committee participation.

Section 129. Administrative action following WTO panel reports.

Section 130. Effective Date.

Section 131. Working party on worker rights.

Section 133. Africa trade and development policy.

Section 135. Objectives for extended negotiations.

Section 218. Special rules for regional industries.

Section 226. Proprietary and nonproprietary information.

Section 227. Opportunity for comment by consumers and industrial users.

Section 228. Public notice and explanation of determinations.

Section 230. Anticircumvention.

Section 231. Evidence.

Section 234. Application to Canada and Mexico.

Section 281. Subsidies enforcement.

Section 282. Review of subsidies agreement.

Section 283. Amendments to title VII of the Tariff Act of 1930.

Section 291. Effective date.

All of title III, subtitle B—Foreign trade barriers and unfair trade practices: Sections 311.-316.

Section 332. Amendment to section 204 of the Agricultural Act of 1956.

Section 333. Textile transshipments.

Section 334. Rules of origin for textile and apparel productions.

Section 335. Effective date.

Section 411. Export programs.

Section 412. Other conforming amendments.

Section 424. Report to Congress on Access to Canadian dairy and poultry markets.

Section 425. Study of milk marketing order system.

Section 426. Additional program funding.

Section 512. Civil penalties for unauthorized fixation of and trafficking in sound recording and music videos of live music performances.

Section 513. Criminal penalties for unauthorized fixation of and trafficking in sound recordings and music videos or live musical performances.

Section 521. Definition of "abandoned."

All of title V, subtitle C—Patent provisions.

All of title VI—Related provisions.

All of title VII—Revenue provisions.

All of title VIII—Pioneer preferences.

As we study the implementing legislation of the Uruguay round agreement, I hope this information will be helpful to the Senate.

I ask unanimous consent that Mr. Yerxa's letter be printed in the RECORD.

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

To: Senator Levin.

From: Rufus Yerxa, Deputy USTR.

Senator, I am enclosing a highlighted table of contents of the bill which distinguishes as much as possible between those provisions strictly required by the Uruguay Round and those amendments deemed to be "appropriate". But you should be aware of a number of factors that render this comparison somewhat aribtrary:

1. A number of sections of the implementing, particularly in the antidumping title, contain language which is partially "necessary" and partially "appropriate" That is because where the agreement required a change we wanted to ensure that the change occurred in a manner that continued to make our law effective. Thus we made other changes not "required" by the agreement but permitted under its terms to preserve the effectiveness of our laws. Therefore, many sections of the bill are a mixture of "necessary" and "appropriate".

2. Many other sections of the bill were not required by the agreements but were *demanded* by our Congressional oversight committees to ensure that U.S. rights were enforced and to ensure the proper relationship of U.S. law to the agreement. These included:

A. Section 102 (Relationship of U.S. law and State law to the agreement).

B. Consultation provisions.

C. Provisions relating to review of the WTO.

D. Provisions ensuring access and transparency in WTO dispute settlement.

E. Section 131 (calling for a WTO Working Party on Labor Standards).

F. Trade negotiating objectives for future WTO negotiations.

G. Numerous Antidumping Amendments such as captive production, anti-circumvention and duty absorption.

H. The entire subtitle providing for enforcement of U.S. rights under the subsidies agreement.

I. All of our amendments to Super 301, Special 301 and regular 301 to ensure continued use of these laws.

J. Provisions prohibiting textiles transshipments and tightening rules of origin to prevent circumvention of quotas.

K. Numerous intellectual property amendments supported by the Judiciary Committee.

All of these sections were added during Committee considerations of the bill, at the behest of Committee members, and are designed to strengthen U.S. law in enforcing the new agreement.

Finally, Title VII, relating to revenues, is not "required" under the agreement. But it is "necessary" in the sense that it offsets the budget costs of the tariff revenue losses. These amendments are required to meet the paygo rules of the 1990 Budget Agreement, and without them CBO would score the bill a losing $12 billion over the first five years. They do not contain trade provisions.

KEN RUTHERFORD

Mr. LEAHY. Madam President, earlier this year I held a hearing in the Foreign Operations Subcommittee on the global landmine crisis. There are 100 million unexploded landmines in over 60 countries. Every month, over 1,200 people, mostly innocent civilians going about their daily lives, step on these weapons and are either killed or lose a leg, an arm or both. In countries like Cambodia, Afghanistan, and Nicaragua, where physical labor is a way of life for almost everyone, losing a limb can destroy a person's future. When you go to these countries you see amputees crawling or hobbling in the street, begging for food, shunned by passers by.

One of the witnesses at the hearing was Ken Rutherford, of Boulder, CO. Last year, Ken was working for the International Rescue Committee in Somalia, helping the Somali people rebuild their lives after the war and famine that devastated that country. On a day when Ken was riding in a jeep along a road that was regularly traveled on, his vehicle struck a landmine. When the dust settled, one of Ken's legs was gone and his other foot was practically destroyed. Fortunately, he was able to radio for help, and he was airlifted to a hospital.

Ken has never uttered a word of bitterness about his fate. When he testified, he spoke about how lucky he was to be able to get help, and to be alive. A Somali alone in the desert would almost certainly have died from loss of blood. If he or she were lucky enough to survive, they would have had no way to get an artificial limb, and no way to make a living.

At some point during the past year, between surgical operations and physical therapy, Ken made a pledge to himself. He was going to walk, unaided, down the aisle of the church when he and his fiance, Kim Schwers were married.

Madam President, on September 10, 1994, Ken and Kim were married in a church in Boulder, and knowing how determined Ken was to walk down that aisle without assistance I was not the least bit surprised to learn that that is exactly what he did. He walked with an artificial leg, and without a crutch.

Ken Rutherford is a source of hope for the hundreds of thousands of landmine victims all over the world. He has also become a powerful voice for outlawing these indiscriminate, cruel weapons. This is a goal I share, and which President Clinton, at the United Nations on September 26, embraced as a goal of the United States. I congratulate Ken and Kim, and wish them the very best. I ask unanimous consent that an article from the Denver Post about their wedding be printed in the RECORD.

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

[From the Denver Post, Sept. 11, 1994]

MAN STANDS ON HIS OWN FOR WEDDING

(By Mary George)

BOULDER.—Ken Rutherford, whose feet were destroyed by a land mine 10 months ago during a humanitarian mission in Somalia, walked tall yesterday.

Rutherford had some powerful motivation. When he returned to his hometown of Boulder, he and fiancee Kim Schwers set their wedding date for Sept. 10.

"I want to walk down the aisle," he resolved back then.

He did just that.

Aided by seven surgeries, nine months of physical therapy and an audience of about 250 family and friends, Rutherford greeted his bride yesterday at the altar of the First Presbyterian Church.

He stood on what remains of his left foot and the metal pylon that serves as his right.

"This is a wedding unlike any other I've taken part in in all my 42 years as a minister," said the Rev. Campbell Gillon, who ministers at the Georgetown University Presbyterian Church where Rutherford attended graduate school.

"Unlike most couples, they've had their love tested already," Gillon said. "And they've come through shining."

Though the couple took advantage of two strategically placed chairs during the sermon, readings and hymns, they stood for their vows, the ceremonial lighting of candles and their kiss.

Then they descended from the altar, greeted their parents and gracefully navigated the church aisle, their faces beaming and the church rollicking with applause.

"Kim—without her, I couldn't have made it," Rutherford said before the wedding. "Marrying her is the most natural thing in the world."

Walking is not.

On Dec. 16, Rutherford, a relief worker in Somalia with the International Rescue Committee, was riding in a vehicle that struck a land mine. When the dust cleared, he looked down at his feet.

"I saw a white bone sticking out where my right foot used to be . . ." he said. "My left foot was still attached. I had lost the fourth toe and (the) top part of my foot. Like an X-ray, I could see the bones going to the remaining toes."

Rutherford is campaigning for a proposal by Sen. Patrick Leahy, D-Vt., that would ban U.S. land mine production. Land mines kill or maim at least 1,200 people a month around the world.

"There are more unexploded land mines than people in places like Cambodia and Somalia," he said.

Rarely are victims as fortunate as he was. Rutherford had the best medical treatment and a job in which he uses his head, not his feet.

He still faces more surgery on what remains of his left foot, where 25 of the 26 bones were broken or are missing.

"But I'm way beyond where I thought I'd be," he said. "I'll never have a normal foot again, but it's no big deal. I can live with it."

THE SOCIAL SECURITY DOMESTIC EMPLOYMENT ACT OF 1994

Mr. DURENBERGER. Madam President, I rise to note with satisfaction that, late yesterday evening, the Senate unanimously approved the conference report on the Social Security Domestic Employment Act of 1994.

I am very pleased that this body has acted to remedy the problems associated with the payment of Social Security taxes on behalf of domestic workers.

We all know that the current system doesn't work. General ignorance of the present law, an absurdly low threshold for triggering liability for Social Security taxes, and overly burdensome quarterly reporting and payment obligations virtually ensure very low compliance.

As a result, many Americans who, in every other respect, are meticulously law-abiding are in violation of the law.

And tragically, many domestic workers are denied the Social Security benefits to which they are properly entitled. As Senator MOYNIHAN has eloquently noted, this tragedy is compounded by the fact that domestic workers are precisely the sort of men and women whom Frances Perkins sought to help when the Social Security Program was first conceived.

In the immediate aftermath of the doomed Zoe Baird nomination, I introduced—as primary sponsor—S. 402, the Occasional Employment Equity Act. The purpose of this bill was to remedy the most egregious shortcoming of current law—the absurdly low threshold for triggering Social Security tax obligations on wages paid to domestic workers.

Under current law, an employer must withhold Social Security taxes for a domestic worker who earns more than $50 per quarter. This threshold was established in 1954, and has never been adjusted for inflation. S. 402 would have raised this amount to $250, which the Congressional Budget Office estimates is roughly equivalent to $50 in 1954.

Madam President, I am pleased to note that the conference report adopted that $1,000 threshold

I believe the $1,000 threshold constitutes an improvement over the threshold included in the bill which initially passed this body. That figure, the amount required for one Social Security quarter of coverage—$620 in 1994—presented two problems.

First, it failed to reflect fully 30 years of inflation since the $50 figure was adopted in 1954. Second, it presented a less clear threshold than $1,000 per year. If we have learned nothing else in dealing with this issue, it is that the law must be easily understood if it is to be widely observed.

Like S. 402 would have done, the Social Security Domestic Employment Act of 1994 will help reduce the reporting burden on ordinary Americans—whether it's a parent who hires an occasional babysitter, or a senior citizen who needs occasional help in shoveling the sidewalk or running errands.

On the other hand, the legislation passed by the Senate will in no way relieve employers of their responsibility to pay Social Security taxes on behalf of those workers who perform a considerable amount of work for them.

I also applaud and endorse the other reforms included in the conference report.

Permitting employers to pay Social Security taxes on wages paid to domestic workers annually rather than quarterly—and to report those taxes on their Form 1040's—is simple common sense, something that has been missing from this area of law. Other reforms, such as exempting wages paid to domestic workers under age 18 from Social Security taxes, also make sense.

Finally, Madam President, I wish to congratulate Senator MOYNIHAN, chairman of the Finance Committee, on his leadership on this issue.

Acting on his deep concern for the men and women who work as domestic employees who do not yet benefit from Social Security coverage, Senator MOYNIHAN personally shepherded these reforms through the legislative process and fended off the addition of potentially damaging amendments.

Thanks to the efforts of Senator MOYNIHAN and others, many of the men and women most in need of Social Security will be covered for the first time. Frances Perkins would be pleased—and we also should be proud.

DEDICATED PUBLIC EMPLOYEES IN ALASKA

Mr. STEVENS. Madam President, today I would like to bring to the Senate's attention the valiant efforts of some dedicated public employees in the State of Alaska in arresting a dangerous drug dealer. Their efforts resulted in a guilty verdict on all 14 counts, including a life sentence for drug trafficking, the first time this has ever happened in Alaska. I ask that the text of the letter of commendation from the U.S. Department of Justice, Drug Enforcement Administration be printed as part of the permanent CONGRESSIONAL RECORD.

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

DEPARTMENT OF JUSTICE, DRUG ENFORCEMENT ADMINISTRATION,
Anchorage, AK, September 1, 1994.

FRANK PREWITT,
Commissioner, Department of Corrections, Anchorage, AK.

DEAR COMMISSIONER PREWITT, on December 24, 1993, defendant Jay Franklin Vought was arrested for being in possession of approximately three and a half kilograms of cocaine. At the time of his arrest Vought was on probation with the State of Alaska. Vought was subsequently indicted on fourteen counts of violating federal narcotic and money laundering laws, which included continuing criminal enterprise and conspiracy.

On December 22, 1993, this office advised Officers Allen and Tanner that Vought was travelling to Fairbanks, Alaska from Anchorage, Alaska. As a result of Officers Allen and Tanner conducting surveillance it was determined where Vought was staying in Fairbanks. Their efforts eventually led to the initial seizure of approximately one and a half kilograms of cocaine in Fairbanks from Vought during the late hours of December 24, 1993. A subsequent seizure of two kilograms of cocaine resulted from a cooperative effort between Officer Polhemus and agents of the DEA Anchorage Resident Office in the early morning hours of December 25, 1993 from Vought's residence in Anchorage, Alaska. Further investigation by this office and IRS revealed that Vought's organization had distributed and/or possessed an estimated eighteen kilograms of cocaine.

I would like to commend Probation and Parole Officers Michael Tanner, Donald Allen, and Kurt Polhemus for their initiative and dedication to duty. It is to their credit, that these officers unselfishly put forth time and hard work especially on the Christmas holiday.

Their professional attitude and spirit of cooperation throughout the investigation and testimony during the trial helped result in a guilty verdict on all fourteen counts by a jury in Fairbanks, Alaska. On August 31, 1994, Vought was sentenced to life on two counts; forty years on seven counts; twenty years on four counts; and ten years on one count. This is the first time in the history of Alaska that a defendant has been given a life sentence for drug trafficking. Due to his violent nature, Vought was a perfect candidate for life without parole.

It was a pleasure to have worked with these officers and we at DEA look forward to working in conjunction with the Alaska State Probation and Parole in the future.

Sincerely,

FRED B. THOMAS,
Resident Agent in Charge.

THE RETIREMENT OF GENERAL MERRILL A. MCPEAK, THE CHIEF OF STAFF OF THE AIR FORCE

Mr. THURMOND. Madam President, I rise today to recognize Gen. Merrill McPeak, the Chief of Staff of the Air Force, who will be retiring at the end of this month. General McPeak's career spanned over 36 years of distinguished service to our Nation including 4 years as the Chief of Staff of the Air Force.

The General's service is a reflection of the Nation's history during the era of the cold war. He entered service through the Reserve Officer Training Corps in 1957 and served as a fighter pilot in Great Britain at the height of East and West tension resulting from the construction of the Berlin Wall. He earned the Silver Star flying combat missions in the skies over Vietnam. Finally, he became the Chief of Staff of the Air Force in 1990, just as the Soviet Union collapsed.

General McPeak's legacy will be our Air Force's superb performance during Operation Desert Storm and his skillful management of the downsizing of the force during the past 4 years. He will be known for his deep concern for the welfare of the men and women who serve in the Air Force and for his efforts to provide them the technology and equipment to meet the challenges of the coming decades. As the Chief of Staff, he will be remembered for establishing the framework for an Air Force that will continue to provide for the defense of this Nation far into the next century.

Mr. President, on October 31, the Nation will lose one of its senior military leaders. I know I am joined by my colleagues in thanking General McPeak for his dedication and distinguished service to our Nation. I wish both the General and his wife, Elyna, the best in a well-deserved retirement.

TRIBUTE TO SENATOR DONALD W. RIEGLE

Mr. D'AMATO. Mr. President, I rise today to commend my friend and colleague, the Chairman of the Banking Committee, Senator DON RIEGLE.

Recently, the Banking Committee held the final hearing that DON RIEGLE will chair on the condition of the bank, thrift, and credit union industries. The regulators gave these depository institutions a clean bill of health. They told the committee that the banking industry is reporting record profits, the credit union industry and the National Credit Union Share Insurance Fund are in strong shape, and the thrift industry is stable and on the road to recovery.

Mr. President, this did not seem possible a few years ago as our financial system faced its greatest stress since the 1930's. The condition of all three of the depository industries was a matter of deep concern. But as a result of Chairman RIEGLE's legislative stewardship and hard work, assisted by stable economic conditions, these industries are again healthy, the most serious financial problems have been addressed, and public confidence in the stability of the financial system has been restored.

Mr. President, the hallmark of DON RIEGLE's tenure as chairman of the Banking Committee has been his dedication to improving the supervision and regulation of the banking, thrift, and credit union industries. FIRREA and FDICIA are the best examples of legislation that he sponsored to prevent a reoccurrence of the freewheeling and inappropriate use of federally insured deposits and ultimately, to protect U.S. taxpayers. Most recently, in the community development bill that President Clinton signed last month, Congress successfully pruned costly and antiquated regulatory and paperwork burdens.

Also, this year Chairman RIEGLE led the Banking Committee in the courageous, but unsuccessful effort, to consolidate the bank regulatory agencies. And he championed bills and amendments to make certain the bank and thrift regulators were truly independent—of both the Congress and the administration. Mr. President, Chairman RIEGLE's legislative accomplishments in this area are extensive and impressive.

Mr. President, for the past 14 years, I have had the honor and privilege to serve with DON RIEGLE on the Banking Committee. For the past 2 years, we have sat next to one another, as chairman and as ranking. During this entire period, he has been an exemplary member and then leader of the committee in the tradition of his immediate predecessors with whom I have also been privileged to serve, both Democrat and Republican. He has always been extremely fair. This is the tradition of our committee. As a matter of fact, since DON RIEGLE has occupied the chairman's seat, I can only remember one straight party vote. I don't think any other Senate committee can claim such a bipartisan record. One explanation for this is that the issues we deal with on the Banking Committee aren't cut and dry Republican versus Democrat—the differences are more regional, urban versus rural or big city versus small community. The more significant explanation is DON RIEGLE's approach to his responsibilities as chairman and his basic good nature. DON RIEGLE has been open minded and fair to all sides of the issues. He loves ideas but he is a pragmatist. He is a fierce debater but a reasonable decisionmaker. He is an articulate and passionate advocate and, at the same time, he is conciliatory and collegial.

Mr. President, I am especially proud of the Banking Committee's accomplishments this past Congress. As a result of the chairman's skills, we produced significant legislation with almost unanimous and bipartisan support on the committee—the community development bill, flood insurance reform, small business loan securitization, and interstate banking, to mention only a few highlights. At the same time, the committee conducted hearings on Whitewater and Madison. I know this was an assignment that Chairman RIEGLE did not volunteer for. Regardless of the potential for extreme partisanship, he played it right down the middle. Chairman RIEGLE conducted himself with objectivity, independence, and a judicious temperament. He was extremely fair in keeping the hearings within the guidelines established by Senate Resolution 229. Chairman RIEGLE gave equal and ample time to both the majority and minority. I think most importantly, Senator RIEGLE, along with his Democratic colleagues, did not shrink from asking tough questions. Chairman RIEGLE conducted the hearings, in the best traditions of the Senate, in a manner that has earned him accolades and respect from all of his Republican and Democratic colleagues on the committee and from seasoned observers in the press.

Mr. President, I am sincere in saying that with the retirement of DON RIEGLE the people of Michigan and the American people are losing a strong and steady voice. And the Banking Committee is losing a valuable member and a steady hand at the helm.

As DON RIEGLE casts his last votes in the Senate after a long career in public service, I want to take this moment to congratulate him.

In tribute to Chairman RIEGLE, the conference committee for the Community Development Banking Act titled the bill the "Riegle Community Development and Regulatory Improvement Act of 1994," and the conference committee for the Interstate Banking Efficiency Act titled the bill the "Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994." Both the bills were recently signed into law. Now, following nearly three decades of selfless devotion to his constituents, I hope DON follows through on his desire to spend more time with his wife and family and in his new home in his beloved State of Michigan.

Senator RIEGLE, I wish you well in whatever endeavors you decide to pursue.

REGARDING POSITIVE DEVELOPMENTS IN TUNISIA

Mr. REID. Mr. President, I rise today to bring to the attention of the Senate, Tunisia's efforts to bring peace and stability to Africa. On a continent wracked by inconceivable hardships, from widespread famine to genocidal civil wars, it is important for the United States to recognize and support those African nations actively working for peace. The Republic of Tunisia has consistently played just such a role over the years, promoting stability and cooperation on a continent in crisis.

Rwanda. Somalia. Ethiopia. Angola. The magnitude of the human suffering endured by these and other African countries boggles the mind. Though the United States has rightfully made efforts to ease this pain, the fact is, there is a limit on how much we can accomplish. That is why it is so important for there to be nations on the African Continent that can take care of their own. Tunisia has stepped forward to be one of those countries.

Surrounded by civil war, Islamic fundamentalism, and economic disaster, Tunisia has become an exception to the African rule. Since gaining independence from France in 1956, Tunisia has charted a course of openness and moderation in both its domestic and international affairs. Its President, Zine El Abidine Ben Ali, has welcomed Western friendship and embraced economic liberalization as a key element of progress. As a result, Tunisia has enjoyed average growth rates of over 4 percent since 1987, and over 1,500 foreign firms now have direct investments or joint ventures with Tunisian companies.

Tunisia also observes some of the most progressive cultural laws in the Moslem world, most prominent among them the Code of Personal Status [CPS]. The CPS, enacted shortly after independence in 1956, has been the driving force behind the emancipation of Tunisian women and the Arab world's most impressive example of enlightened tolerance. It abolished polygamy, allowed divorce, established minimum ages and requirements of consent before marriage, and codified the emancipation of women and their equality with men. Today, women in Tunisia enjoy the highest levels of independence in the Arab world, and in the world generally.

President Ben Ali has undertaken impressive reforms since taking office in 1987. For the first time in Tunisian history, the creation of new political parties was welcomed, the Presidency was limited to three 5-year terms, and political prisoners were freed. This year the first multiparty parliament in Tunisian history was elected, marking an important step toward full democracy. This was all done peacefully, unlike what happened after the aborted 1992 Algerian elections, when the army clashed with fundamentalists and thousands died.

Tunisia's domestic stability has allowed it to take the lead in African affairs, most recently as head of the Organization for African Unity. Together with South African President Nelson Mandela, President Ben Ali has produced a blueprint for a New African Order. Its ultimate objective is to make African nations abandon dictatorships and one-party rule, and to finally respect human rights. Some Africans already speak of a Tunis-Pretoria axis that could provide the battered continent with some effective leadership.

A driving force behind the progressive Tunisian foreign policy is the Foreign Minister, His Excellency Mr. Habib Ben Yahya. I first met Mr. Yahya during his service as Tunisian Ambassador to the United States, and developed a deep respect for his abilities. Today I consider him to be one of the premier Foreign Ministers in the world.

In June, Presidents Ben Ali and Mandela hosted a historic summit of African leaders in Tunis. For perhaps the first time, Africans realized that they must care for themselves, instead of waiting for outside intervention. Confronted with the horrific crisis in Rwanda, African leaders were forced to reassess their responsibility for ensuring stability on the continent. As a result, eight African countries sent military personnel to Rwanda, with Tunisia contributing 1,000 troops. Agreement was also reached to focus on domestic objectives, following the examples set by Tunisia and South Africa in the areas of democracy and economic development.

Assistant Secretary of State for Near Eastern Affairs, Robert Pelletreau, testified before the House Foreign Affairs Committee in March:

> In Tunisia we can see the fruits of our successful programs * * * it has now reached the point where it can offer training and assistance to less-developed countries.

As the former Ambassador to Tunisia, Mr. Pelletreau recognizes the strategic importance of having a tolerant, prowestern country bordering a volatile Algeria to the west and a hostile Libya to the south.

Mr. President, it is important for us to be aware of the fact that we have an important and valuable partner in Tunisia. As an oasis of tolerance and stability nestled between underdeveloped and unfriendly neighbors, Tunisia will play an important role in stabilizing and unifying Africa in the years to come.

STATEMENT ON THE APPROPRIATIONS PROCESS AND DEFICIT REDUCTION

Mr. BRADLEY. Mr. President, last week we finished with the last of the appropriations bills. The appropriations process is always a difficult one and this year has been certainly no exception to the rule. In many respects, it is very difficult for a Member of Congress to vote for these bills, For, with the passage of these bills, we, the Congress, guarantee another year of deficit spending, another year when the total national debt increases.

For some time, my concern has been growing about the deficit, about the overall level of national debt and the long-term liabilities that are created thereby. Not long ago, I commissioned a GAO report which articulated the dramatic implications of this debt. This GAO analysis predicted that continued deficits of the size experienced in the late 1980's would, within one generation, reduce all of our real incomes by 40 percent from what would be the case otherwise, 40 percent—an astounding figure.

It was in part this analysis which led me to support last year's budget package as a necessary step. I thought the package would reduce the deficit significantly, and I believe it has. However, I also concluded that we had to go further in our attempts to cut spending. This conclusion led me to offer a series of amendments to appropriations bills which actually identified programs that I believed to be ineffective, overfunded, or unworthy of Federal support.

Today, I would like to look briefly at the impact of that effort. I would use these experiences to make a point that our spending priorities are not locked in stone; that the Congress and the appropriations will respond to positive suggestions to cut spending; and that, sometimes, even when the votes are not there, the results are.

Last year, I offered a series of amendments to cut what I believed to be necessary Federal spending and which the Senate responded to in five votes. Only one of the amendments was adopted by the Senate. Only one other received more than 40 votes. Not one amendment was supported by a majority of Republican Senators. Most of these spending cuts were defeated handily.

While I might make the case that the single victory—which resulted in a savings of $10 million—made the overall effort worthwhile, few would normally conclude that this effort was a success. Indeed, most would interpret this experience as a cynical metaphor for a Congress that talks about restraint with no follow through, that reward a status quo of special interests and political pressure.

Let me say that I think that view would be a serious mistake. On the contrary, when considered from the vantage point of a year later, I believe these amendments had and continue to have a significant impact on these programs and their share of Federal spending. Furthermore, I hope that this history provides a partial response to those both inside and outside the Senate who have found it easy to conclude that big spending habits cannot be broken.

Mr. President, consider the amendments I proposed:

Last year, I challenged the rationale for the Selective Service System. I argued it was out of date, ineffective, and too expensive. Since only 40 other Senators agreed with me, my position was not adopted. But I believe the effort did not fail. Last year, the administration requested $29 million for Selective Service. We gave them $25 million. This year, the VA/HUD bill allocates $20 million. The trend is obvious. By identifying the obvious inefficiencies in the Selective Service System, I believe that my failed amendment will result in savings year after year, for as long as Selective Service System is maintained.

I also offered an amendment to delete $2.5 million in earmarked spending of Forest Service funding. The amendment lost badly. But that spending, which had been included year after year, is nowhere to be found in this year's appropriations bills. I think that is progress.

I offered an amendment to cut $150 million for tactical transport aircraft for the Army National Guard. At the time, I noted that I found the spending interesting and odd, since neither the Army nor the Army Reserve had any aircraft of this type. The amendment lost. But that amendment spawned several investigations, both public and inside the Department of Defense. And, more importantly, there is no funding for this equipment in this year's DOD bill.

Last year, my amendment to shut down the Department of Energy's High Temperature Gas Reactor Program was one of very few spending cut proposals adopted by the Senate. In conference, the House funding level was accepted, and the program has continued. However, when you consider this year's appropriations language, you will find that the funded amount is about half of what was proposed last year. Last summer's amendment did not kill the program as I wished, but I believe it resulted in savings last year and savings that continue to accrue.

My fifth amendment attempted to freeze spending on Federal water projects, saving some $300 million. This amendment never stood a chance. Nevertheless, in a year's time, the impossible becomes reality. This year's funding for these water projects is actually just below the spending level called for in my amendment.

Mr. President, we all know that the budget has to be controlled, that we need to spend less and make Government more efficient. We make the speeches. We promise to do more, but seldom follow through. One reason, I believe, that we do not try to cut programs is because of the perception—backed up by some experience—that these efforts are doomed.

I stand here today to refute that view. I urge my colleagues to look beyond the scoreboard and the win-loss percentage. We can adopt generic cut amendments such as the Exon-Grassley proposal to reduce discretionary spending. We need to pursue legislative reforms to the budget and appropriations process such as I have introduced this Congress. But, just as important, we cannot shy away from the need to create real, specific spending cut proposals to guide the Congress.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

LOBBYING DISCLOSURE ACT OF 1993—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of the conference report accompanying S. 349, which the clerk will report.

The legislative clerk read as follows:

Conference report to accompany S. 349, an act to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes.

The Senate resumed consideration of the conference report.

The ACTING PRESIDENT pro tempore. The hour prior to the cloture vote shall be equally divided and controlled by the majority and minority leaders.

Who yields time?

Mr. COHEN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Maine.

Does the Senator from Maine control the time for the minority?

Mr. COHEN. No. I am going to seek time from Senator LEVIN.

Mr. LEVIN. I will be happy to yield 5 minutes to the Senator from Maine.

The ACTING PRESIDENT pro tempore. The Senator from Michigan yields 5 minutes of his time to the Senator from Maine.

Mr. COHEN. Madam President, a great deal of time has been spent on the issue of lobbying disclosure and gift ban reform. A number of charges have been made by Democratic Members against Republican Members that their concerns with respect to the conference report are without reasonable basis.

I do not subscribe to the view that the Republican Members are without any merit in raising questions about the conference report.

Someone once said that no one is so compelling as the person who knows that he is right because he prefers irrational conviction to reasonable doubt. I think the opponents of the Lobbying Disclosure Act as drafted by the conference committee can raise some reasonable doubts. They raise reasonable doubts based upon the fact that there were provisions added in the conference, which is not unusual, which in their judgment created some ambiguity which could, in fact, result in persons who did not contemplate being covered by the act, being forced to have their names and addresses disclosed in reports filed by paid professional lobbyists.

So, I do not question the motivation on the part of any Republican challenges to this particular conference report. While I think that we covered the provisions in question adequately to reflect our intent. Nonetheless, as was pointed out in a New York Times article yesterday, a number of Justices are not guided by congressional intent but instead rely on the written word of statutory language. To the extent which that kind of division exists on the Supreme Court, and to the extent that the Court will be called upon on this or any other legislation to determine what Congress wrote into law as opposed to what Congress intended, then I think there is a responsibility on our part to do whatever we can to remove any ambiguous language, to remove any doubts, so that what we write reflects what we intend.

Yesterday, I suggested that perhaps we could accommodate the views of the opponents of this legislation by making a few simple word changes. Since that time I have conferred with my colleagues, Senator LEVIN, Senator MITCHELL, and to others to see if we could revise the legislation in a way to address the legitimate fears and arguments on the part of the opponents.

We are hopefully going to consider a concurrent resolution which I believe addresses the concerns raised yesterday by the opponents of this conference report. Specifically, the concurrent resolution will remove the provisions which require the disclosure of grassroots lobbying activity. The provisions dealing with grassroots lobbying which were added by the conference committee seemed to be a major concern of those who were opposed to the legislation yesterday. In addition, the resolution would remove all references to individual members of coalitions or associations, and emphasize that only the coalitions and associations need to be disclosed and not their individual members. This modification again was made to accommodate the concerns of a number of Senators opposed to the conference report.

The resolution also removes the disclosure requirement when someone other than the client pays for the lobbying activity. This provision was also dropped to accommodate a number of objections from Senators and public interest groups which thought the requirement would require them to disclose donor and membership lists.

These changes I believe largely restore the lobby disclosure bill to the original Senate version. I believe this concurrent resolution is a good-faith effort on our part to address the concerns that were raised by a number of groups. We believe these concerns have been addressed and we urge our colleagues to support the passage of this concurrent resolution.

Let me say to my friend on this side of the aisle that I have never questioned the motivation of those who have raised concerns about the language contained in this legislation. I do not for a moment question the motivation of those who have gone to the airwaves. I do not question the motives of those who have filled the hallways outside of this Chamber. And I must also note for the record that yesterday as we exited the Chamber doors there were a number of lobbyists cheering the objection and the objections raised to this legislation.

Madam President, the whole purpose of this 2-year-long legislative endeavor that Senator LEVIN and I have worked on was to deal with what we believe to be a rising tide in public cynicism. A great many people in this country have come to the conclusion that laws are being shaped by high-paid lobbyists who do not really reflect the views or indeed the needs of the American people; that the average person does not have an effective voice in the Halls of the House or the Senate; and that their interests were being forfeited for those who could afford to pay the highest prices for the best lobbyists in town.

What we were trying to do was address that public perception. People wanted to know who was being paid how much to lobby whom on what issues. Those simple questions were being asked. We tried to devise legislation to deal with that and to reassure the American people that we are doing their business.

Lobbyists play a very important role in congressional affairs. We depend upon them. Contrary to a popular misconception, lobbyists do perform a valuable service. They are experts. They are hired by interest groups in this country to put the most persuasive case they can make on behalf of those groups to us. We are basically generalists; we are not specialists. We cannot possibly be considered to be knowledgeable in all the various and multifarious issues that we are confronted with. We depend upon the expertise of lobbyists to inform our staffs and ourselves about their clients' interests and arguments. But we want to ensure that the American people are aware of exactly what activities are being carried on and cast as much sunshine as possible upon this process.

We have lobby disclosure laws on the books right now. As I said yesterday, they are completely ineffective. Most lobbyists do not register. Those who do register file information which is completely useless for our purposes or for the public's purposes. So this legislation was an effort on our part to say we want to know who the lobbyists are in this town. We want to make sure that we are not talking about volunteers, to be sure we are not talking about groups who want to lobby for their companies or their States or their interest who are not professionals, who are not paid, who do not do this for a living. So we tried to strike the balance. Only paid professional lobbyists are being required to register and to file periodic reports about how much they are paid to lobby on what issues, and which institutions they are in fact lobbying. It is that simple.

The grassroots lobby provisions were inserted by the House. They were accepted during the conference report. That is where the basis of the objections have come.

We have tried to respond positively and not to charge Republicans with being obstructionist. I think there are at least valid concerns, even though I might disagree with the interpretation placed upon them. I think there is a basis of reasonable doubt. So now we are trying to remove that reasonable doubt and say, all right, you have raised issues which we need to address. We have now addressed them. We have taken out all of the complaints that you may have against this legislation.

We are back to square one. We are back to the legislation that we passed by an overwhelming vote a year ago. There were very few dissents, four as I recall. So we are back to the Senate version, and we are asking our colleagues to support the legislation.

Madam President, I think we can drop the acrimony. I think we can drop the charges of who is trying to obstruct, delay, or protect lobbyists and simply deal with the issues as forthrightly as we can.

I believe the American people are entitled to this legislation. I think they want this legislation. The groups that felt that their first amendment rights were being threatened I think should take some comfort in the fact that we have tried to address that in a responsible fashion.

So I urge my colleagues at the appropriate time to support the proposed concurrent resolution that is sponsored by Senators LEVIN, MITCHELL, WELLSTONE, ROTH, and myself.

I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. NICKLES. Madam President, I yield 5 minutes to the Senator from Kentucky.

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

Mr. MCCONNELL. Madam President, the proponents of the conference report said yesterday that our objections were fictional, that we were wrong about the negative impact the bill would have on grassroots activity. Yet, last night, a new proposal was sent forward and it took four pages of amendments to deal with what was called yesterday our fictional objections.

The proponents want to vote on a concurrent resolution, which I gather they believe would solve the problems that we identified in the debate yesterday. But this road is full of potholes. First, it is not clear to me that their amendments do the job to correct the defects in the bill that we will be voting on at 11:30. We need to be able to go through that, to talk to some of the groups on the outside who are concerned about this bill—for example, the American Civil Liberties Union—about the new version that appeared at 11 o'clock last evening.

In addition, the concurrent resolution, if we went to that, which I am not sure we should, clearly would be amendable and become another vehicle or central problem as we move here toward the end of the session.

Madam President, I think it is important to understand—and I feel somewhat apologetic for not having focused on the lobbying portion of this proposal much earlier in the year—back in the spring, we had a vigorous discussion of the gift ban portion, which is a rules change which I strongly recommend we go ahead and adopt.

The Senate rules change could be adopted today. I hope that the majority leader will bring it up and give us a chance to vote on it. But with regard to the lobbying portion of this package, leaving aside the grassroots problem, which may or may not have been corrected by this new concurrent resolution which has been sent to the desk, there are lots of other problems with the lobbying proposal.

First, there is the matter of penalties. Lobbyists—remember who lobbyists are. Those are people who represent Americans out across the country, who have a constitutional right to petition the Government. Those folks would be subject to $200,000 fines for violating the additional registration requirements under this legislation. A $200,000 fine. A Member of Congress, however, who met with an unregistered lobbyist would not suffer any penalty at all.

So let us think that through. This American citizen here representing other Americans, whether he is being paid or not, I guess could be classified as a lobbyist, and he makes the mistake under this legislation, he does not adequately comply with the registration requirement, and he gets a $200,000 fine. The Senator with whom he has met would suffer no penalty at all. So one of the things the American public, I think, is clearly interested in is seeing us subjected to the same kinds of rules and regulations that everybody else in the country is subjected to.

For example, I think the Senate is prepared to pass the compliance legislation, so that a variety of different laws that we have passed that apply to everybody else in the country would now apply to us. Yet, there is a problem on that legislation on the other side of the aisle, with folks over there engaging in gridlock, who do not want that legislation to go forward. Here there is a proposal that a citizen that represents other citizens before the Congress, who does not adequately comply with the registration requirement, gets a $200,000 fine, and the Member of Congress with whom he meets gets nothing.

There is a second problem with the bill. We are talking about problems over and above the grassroots communication section of the bill, which may or may not have been cured in the midnight concurrent resolution that was sent up last night. The second problem with the bill is that nonprofit organizations will be burdened by having to comply with multiple and conflicting definitions of lobbying.

One definition they must pay attention to is that which exists under the Internal Revenue Code. That is one set of definitions. Attention to the Tax Code, of course, protects their tax-exempt status. If this bill passes, they will have to comply with the registration requirements under a new and different definition of lobbying. So you have one set of definitions over here in the Internal Revenue Code and another set over in this area defining lobbying.

This will continue, in my opinion, and here I am stating the opinion of the American Civil Liberties Union, "to chill protected speech for those who belong to nonprofit organizations."

What a terrific idea. We want to chill the speech of those who belong to nonprofit organizations. Just another flaw in this legislation, Madam President.

The third issue that I referred to earlier is the concurrent resolution proposed by Senator LEVIN at approximately 11 p.m. last night. It purports to strike the grassroots section. We are not absolutely certain of that, and as I indicated earlier, I think it is important for people who are concerned about this legislation to have an opportunity to take a look at it. The proponents of this bill have moved their grassroots restrictions right to the heart of the lobbying definitions.

Again, this is based on very preliminary review, because we have not had this new proposal very long. But it appears that they are including communications with Members as a part of lobbying.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. NICKLES. I yield an additional 2 minutes to the Senator.

Mr. MCCONNELL. I thank the Senator from Oklahoma. So Americans can join a group or organization not for the purpose of influencing legislation, just regular citizens joining a group, not for the purpose of influencing legislation. But if the group communicates with its Members, the group then becomes subject to the disclosure and registration requirements and the penalties of the act.

Finally, Madam President, there is the issue of time. The Lobby Disclosure Act is to take effect January 1, 1996. That is about 15 months from now. That was intended to give the director of this new bureaucracy a chance to write some regulations. Instead, I think it would be a good idea for us to revisit this legislation next year and get it right. Let us write a good law to

get lobbyists properly registered, let us put enforcement in the Department of Justice where it belongs, not in some new independent political agency.

Bear in mind, Madam President, in this legislation, there is a new agency set up, a new agency headed by a Presidential appointee with a 5-year term, who will oversee the activities of American citizens as they engage in the effort to petition the Congress—a constitutionally protected right.

In conclusion, it seems to me what we clearly ought to do here is to pass the gift ban rule. It is at the desk, and I believe it has 36 cosponsors. We can do that before we leave. Members have had vigorous debate on that last spring. I think we have all reached agreement that it is time to do that. I hope we will do it before we leave today.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Madam President, I thank my friend from Kentucky for his statement. I also wish to thank Senator COHEN and Senator LEVIN for moving, I think, to correct some serious problems that were raised yesterday.

Yesterday, Madam President, some people disputed—not Senator COHEN, and I appreciate his assessment and also some of the statements of Senator LEVIN. I indicated that obviously some changes needed to be made, including in the definition of "client," because individuals were included.

I have glanced at the changes. The proposed change in the concurrent resolution is to eliminate the confusion and the outreach of grassroots lobbyists and contributors and of groups of various causes to change or affect legislation. I know that both of the principals, Senators LEVIN and COHEN, said we do not want to do that. It was not in the Senate bill. It was added in the conference. Now they have introduced the concurrent resolution, several pages of which they believe would address the problem. I have not studied it, but section 103(b), the paragraph I quoted from yesterday about 10 times—an individual or members when lobbyist activities are conducted in behalf or financed by one or more individual members, and over and above individual coalition or associations dues.

I raised that yesterday. That has been deleted, and I thank my colleagues for doing that. I also noted yesterday in my speech—and other persons did as well—that on page 10, section 105(B)(5), that they eliminated the sections 5 and 6—the name, address, and principal place of business of any person or entity other than the client who paid the registrant to lobby—and also 6. I raised those significantly.

Other people said that was a fig leaf, a facade, that was not real, it was "fictional." The majority leader said that. I was irritated that he would use that. As I said, how could it be fictional when it is in the language? It was not in the report. It is in the legislative language.

Now there is a Senate concurrent resolution that deletes those three paragraphs. I thank the principals for doing that. I think that change has to be made.

I also do not know that you can just amend a conference report. Conference reports are not amendable. If they were, I would have offered an amendment to strike it yesterday. Conference reports are not amendable. So the sponsors, or principals, introduced a Senate concurrent resolution, which is not in order.

I might inquire of the Parliamentarian, is the Senate concurrent resolution now pending at the desk in order?

The ACTING PRESIDENT pro tempore. It is not on the calendar, so it would take consent to bring it up at this time.

Mr. NICKLES. I thank the Parliamentarian.

So it will take unanimous consent to even consider the Senate concurrent resolution.

I want to notify all colleagues on both sides of the aisle that to consider a Senate concurrent resolution takes unanimous consent, not to pass it, to consider it. To consider it, it is going to take unanimous consent to have that on the floor.

I might mention, then, even if it gets that far and one Senator can object, it is subject to amendments.

Last night at, I think, 10 o'clock or 10:30, whenever the Senator from Idaho had his bill, the unfunded mandates bill before the Senate, a bill that is sponsored I believe by two-thirds of this body, there were amendments coming from all over the place, amendments by the Senator from Illinois, an amendment by the Senator from Texas, not germane to his unfunded mandate bill.

But people are looking for vehicles. They are looking for a bill on the floor of the Senate that can be amended to pass whatever bill that they have not been able to get passed yet. I respect that. I have been there. That is part of the procedure.

But that Senate concurrent resolution if it is on the floor of the Senate is amendable, and for this fix to take care of the grassroots lobbying, and again I commend the principals for their acknowledgment of the problem, their willingness to address it, but it has a long way to go. It has to have unanimous consent to be considered on the floor, and then it is open to any amendment. And then it also has to pass the House. In other words, I am very skeptical. I think the chances or the likelihood of that happening in the last day of the session are very nil.

Mr. WALLOP. Madam President, will the Senator yield for a question?

Mr. NICKLES. I am happy to yield.

Mr. WALLOP. Is it the Senator's view that a concurrent resolution is a statute, or is it the Senator's view that a current resolution merely states that both the House and the Senate agree that we did not mean it when we passed it? Does it have the effect of a statute?

Mr. NICKLES. I will respond to my colleague in just looking—and maybe the Senator should address the principal instead of me—it says "to correct technical errors or enroll the bill S. 349," and then it is legislative language.

But I might mention this is more than technical so a point of order may be made. This is legislative language as drafted. Maybe the principals could try to correct it, but it is clearly more than technical. It is legislative language.

Again, I think we will have to have unanimous consent for it to be considered on the floor.

Would the authors of the amendment care to respond? I will ask them that same question.

Mr. LEVIN. I would be happy to.

It would take unanimous consent for this concurrent resolution to be in order. That is the reason that unanimous consent will be requested. But it does address the issues which have been raised.

Again, the Senator from Oklahoma points out that we felt there was no need to make these changes, but we do not have the votes, and that is what it comes down to. There are not two-thirds of the Senate that want to adopt the current language. There was some objection to the language that was in there because it was felt it was ambiguous.

So we decided we would therein ask unanimous consent to strike it through this method.

But the Senator is correct. It would take unanimous consent to pass this concurrent resolution because it is an instruction to the enrolling clerk to strike the language to which the objections were made yesterday.

Mr. NICKLES. If the Senator will yield further, because I want to make sure I understand the question of the Senator from Wyoming at the same time. So this is labeled a technical correction. I would have to take objection to that. I find this very substantive legislative language. I find this as basically an amendment to a conference report, and I do not think we can amend a conference report.

Mr. LEVIN. It is not uncommon. It is uncommon but not unprecedented that a concurrent resolution will be adopted to direct the enrolling clerk to strike language which is going to the President. The Congress can do that if it wants to.

If we want to do it, if we are serious about striking the language, in other

words, to which the objection was made yesterday, if we are serious about that, we can just simply pass this concurrent resolution directing the enrolling clerk to strike the language to which some raised an objection.

Mr. NICKLES. If the Senator will yield further, does the Senate concurrent resolution also have to pass the House?

Mr. LEVIN. It does indeed.

Mr. NICKLES. It is also amendable?

Mr. LEVIN. Of course.

Mr. NICKLES. Madam President, to continue, it has to pass, as my friend from Michigan stated.

Mr. LEVIN. If my friend will yield further on that last point just for a brief add-on, that is that you would not take it up. It is not the intent of the sponsors of this bill to take up the conference report unless and until a concurrent resolution passes both Houses. So we would know prior to taking up the conference report precisely what language had been stricken by agreement of both Houses.

Mr. NICKLES. I appreciate it.

Let me inquire further then of the sponsors of this bill. So it is their intention to try to pass the Senate concurrent resolution first, and I believe we have unanimous consent for a vote to occur at 11:35 a.m., so the Senator is hoping to be able to pass this through both Houses before 11:35 a.m. Or is the Senator going to vitiate the yeas and nays or postpone the yeas and nays?

Mr. LEVIN. The majority leader will be making a request relative to the yeas and nays on the conference report. I would let him do that. I think he is the proper person to state that.

But there will be a request made to take up and I believe pass this concurrent resolution prior to the yeas and nays on the conference report.

Mr. NICKLES. To inquire further of the sponsor, this Senate concurrent resolution, which I have just seen—actually I think our staff saw it last night—this morning, and again there are two or three things I call to the Senator's attention. I looked at the paragraphs. I spoke yesterday for 30 minutes on those three paragraphs that have been eliminated.

So I think that is a big step in the right direction. But a lot of people have not seen this. I expect that some Senators might want to amend it.

I am just kind of concerned about time. If nothing else, I think we should let our colleagues know there is a good chance we will not be voting at 11:35 a.m. I do not know. I should not say that because maybe there will be objection for waiving or postponing the vote.

But I would just say to my colleague from Michigan he has a big challenge to throw out a separate bill that is amendable that takes UC to even be considered and to hope that that is going to pass the Senate without amendment and then pass the House without amendment before we take up the conference report.

I compliment him on his ingenuity in trying to solve his problem with the conference report, which I believe is a very real problem dealing with grassroots lobbying, but I think the chances of this happening passing, taking up the Senate concurrent resolution without any objection, and all colleagues should know if they want to object they need to be ready to object, to taking up the Senate concurrent resolution because it is not in order, and then if colleagues have amendments, I know amendments were coming out of the woodwork on unfunded mandates. I want to pass the Congressional Accountability Act, but I also know there are amendments out there, and I know if any of them are adopted, or one or two adopted, it is going to kill that bill, too.

I am afraid if there are one or two amendments to this, this will go down. Conversely, if this goes down, then the conference report likewise will go down. I just mention that.

I compliment the sponsors for their ingenuity in trying to figure a legislative way out. I do not see this happening. I would be shocked if I did.

Mr. LEVIN. I thank the Senator from Oklahoma for yielding the additional time.

Mr. NICKLES. I yield the floor.

The PRESIDING OFFICER (Mr. DORGAN). The Chair recognizes the Senator from Michigan.

Mr. LEVIN. Mr. President, I will yield myself 5 minutes.

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

Mr. LEVIN. Mr. President, I thank my friend from Oklahoma. I think the Senate is up to the challenge. It is a challenge. We laid out the parameters yesterday. There were a number of people who raised some problems specifically with this conference report.

Some people felt they saw in that conference report language which would require, for instance, organizations to disclose their membership list, to disclose people who are contacted at the grassroots.

The sponsors of this bill assured everybody that that is not what the language says. Indeed I think it is very clear there is no such requirement in this conference report. It is surely not the intent to the extent that the intent is relevant, if there is any ambiguity. We made those assurances yesterday. We got 52 votes on the conference report. It took more than 52 votes to pass it. The votes are not there with this language in it.

So, we have a concurrent resolution to strike that language, to simply strike it, to address the concerns which were raised by the Senator from Oklahoma, and others.

Now, yes, it is a challenge to have a concurrent resolution pass, because obviously if everybody comes down here and offers a bunch of amendments to it, it is not going to get passed.

But if we are serious about passing bills that we have passed twice before by a vote of 95 Senators, we can do it. We are up to the challenge, if we want to do it. That is what it kind of comes down to.

So I would hope that, in fact, when that unanimous-consent agreement is proposed by the majority leader we will give unanimous consent so we can change the language that some found to be either ambiguous or to create issues which nobody wanted to create in this bill, and I think the Senate if it wants to do so can do it. I know the Senate, if it wants to do so, can do so.

So are we up to the challenge? We will find out in about 20 minutes. I hope the Senate is. And I hope we are serious about this bill, because over 3 years of effort was put into this lobbying registration bill. The lobbying registration bill passed with 95 votes in May 1993, by the way, 1 year before the gift ban was taken up. This was not like there were two big pieces of one bill just in May 1994. There are two different bills which have now been consolidated. The lobbying disclosure bill was passed in May 1993. This is not just a 3-year effort on our part, my part, Senator COHEN's part, Senator ROTH's part, a whole bunch of us on the Governmental Affairs Committee.

It is much more than a 3-year effort. It is a 30-year effort, 30 years of effort to close the lobbying loopholes in our disclosure law.

We have been trying to close those loopholes for 30 years, and the lobbyists have got us every time. They stymied it every time, one way or another. In the 1960's, an effort was made to close the loopholes; 1970's an effort was made to close the loopholes; and we are trying it again and we are close. And if we are serious about it, we can do it.

What are these loopholes? I will just give you one example. Under one major lobbying law, lawyers who lobby are not covered. Now, how is that one? If you are a nonlawyer lobbyist, under the law, you have to register. But if you are a lawyer lobbyist, paid to lobby on behalf of others, under that law, you do not have to register.

Under another law, foreign interests are not required to register. Holy cow, if we want anybody to register in this country, anybody who is paid to represent interests, surely it should be people paid to represent foreign interests who are lobbying this body. But, oh, no, we have loopholes there, too.

And then there is another big loophole, probably the biggest one of all, which says, well, unless you are paid to lobby and actually do lobby Members themselves personally, excluding their

staff, for 50 percent of your time, well, you do not have to register, either. There are more holes in the lobbying laws than there are in cheese. It is permeated with holes and loopholes, breeding disrespect for law.

We pretend that we have lobbying registration laws in this town. The public is told that we have lobbying registration laws and, again I emphasize, for people who are paid to lobby, who are paid professional lobbyists.

I yield myself an additional 5 minutes.

The PRESIDING OFFICER. The Senator is recognized for an additional 5 minutes.

Mr. LEVIN. I thank the Chair.

But the fact of the matter is that we do not. There are so many loopholes that probably three-quarters of the lobbyists in this town who are paid professional lobbyists, for whom the laws are intended, presumably, to require them to register, to disclose who is paying them and how much to lobby Congress on what issue, presumably, because in reality it does not work that way.

Mr. President, again, we argued yesterday that the issues which were raised about grassroots lobbying were not meritorious; in fact, the language did not require anybody—anybody—to register other than paid professional lobbyists. That is absolutely clear. Even the opponents of this legislation, I think, now will concede that that is absolutely clear.

Mr. NICKLES. Will the Senator yield?

Mr. LEVIN. I am happy to yield.

Mr. NICKLES. I just take issue with you on that. If you are talking about the definition of a client, the definition of a client was included under the Senate concurrent resolution to include individuals.

Mr. LEVIN. I was talking about the definition of a lobbyist. I specifically said "paid professional lobbyist." I was not referring to client.

Mr. NICKLES. If the Senator will yield for an additional second, to make sure there is no confusion, individuals listed as clients have their names disclosed under the concurrent resolution.

Mr. LEVIN. There was no requirement for clients to register at all, No. 1. It was only paid professional lobbyists. And because of the arguments made yesterday, whether or not they were correct—we think they were incorrect—nonetheless we could not get the votes to pass this.

So we have addressed the arguments. We have eliminated the language which raises the issue. So, yes, the concurrent resolution does strike the language that the Senator from Oklahoma found to create the ambiguity.

Mr. President, basically what remains and, hopefully, what we are going to be allowed to vote on after adopting the concurrent resolution will be a conference report that incorporates Senate bills on gift bans and on lobby disclosure which passed this Senate by a vote of 95 Senators. Now, that is what we basically have left.

I find it incomprehensible that this Senate will now ditch 3 years of effort, a bipartisan effort, to close the loopholes in our lobbying disclosure and to have a tough gift ban mainly aimed at lobbyists but which also covers others, because you just cannot cover lobbyists without covering the universe because of definitional problems. If you want to get at gifts from lobbyists, you have to cover everybody. And we do get at gifts from lobbyists.

Now there will be a proposal made that would just put into a UC a gift ban on other than lobbyists. It is totally unworkable. It is not even a quarter of a loaf, because the quarter of a loaf that it purports to leave is undigestible. It is a loaf which cannot function, because the definitions referred to in what will be proposed on the gift ban are definitions which are not going to be incorporated into law and which we cannot effectively incorporate in our rulings.

We must change the lobbying laws. We must clearly require people who are paid to lobby to register. We must define what is meant by lobbying. Otherwise, we cannot effectively adopt a gift ban that covers lobbyists. We again would be pretending to do something, purporting to do something, holding out a promise of doing something, suggesting we are doing something, and maybe even proclaiming we are doing something but, in reality, would be doing nothing effective unless we adopt the conference report which has a tough gift ban with a new loophole-free definition of lobbyist.

Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. The Senator from Michigan has 7½ minutes remaining.

Mr. LEVIN. I thank the Chair.

I yield the floor.

Mr. NICKLES. How much time do we have remaining?

The PRESIDING OFFICER. The Senator from Oklahoma has 7½ minutes remaining, as well.

Mr. LEVIN. I am happy to yield 2 minutes to the Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine is recognized for 2 minutes.

Mr. COHEN. Mr. President, we have heard a number of arguments addressed against the proposed concurrent resolution. One, which struck me as being entirely new, is that we are imposing fines upon lobbyists but not upon ourselves.

I would refer to the report itself on page 19. The only time there would be a fine imposed upon a lobbyist who violated the act would be if there are extensive and repeated violations where the individual had actual knowledge that the conduct constituted a violation, he acted in deliberate ignorance of the provisions, or he acted in reckless disregard of the provisions.

There has to be a very calculated disregard of the law.

The notion that we are setting ourselves up as a separate class once again, that we are going to impose a fine upon citizens but not on ourselves, is spurious.

The fact is that we have campaign laws that apply to us. We are required to file disclosures of those who contribute to us. If we fail to do so, we are the ones who pay the penalty, not the individuals who contributed to us.

The fact is that we have ethics laws that apply to us. If we violate those laws, the penalties apply to us and not the citizenry.

So the notion that somehow we are going to fine lobbyists but not ourselves, that we are setting ourselves up as a separate class, to me is an untenable argument.

I might point out what we are seeking to do is return this bill to its original form—the gift ban that passed 95 to 4 and the lobby reform that passed 95 to 2.

So if you want to maintain the status quo, what we have today, is, in effect, no law whatsoever. It is very clear that what is worse than having no laws on the books is having laws which go completely unenforced or are unenforceable. That is what we have today, laws which are ignored, which are unenforced, and which breed contempt for this institution and for the rule of law.

I believe the choice is clear. If you want the status quo, reject the concurrent resolution. If you want reform and what you voted for once before, then you support the concurrent resolution and not raise an objection to the unanimous-consent request

The PRESIDING OFFICER. Who yields time? The Chair recognizes the Senator from Oklahoma.

Mr. NICKLES. Mr. President, again I thank my colleagues from Michigan and Maine for their willingness to take out some of the language to which I objected yesterday. But I find it a little troublesome when I hear some statements that were alluded to that this is not really necessary, because I read the legislation pretty clearly and, if you look at page 10, it says "the name of the registrant, the name of the client." That is the reason why I raised so many objections yesterday, because the definition of "client" includes an individual who contributes over and above their dues.

This is in the bill. That is the reason why we had the debate yesterday and I am glad my colleagues now are willing to take it out. But then in the rhetoric—or in the campaign—you say it does not really need to happen because we told you that is not our intent. It is in the bill, so we need the fix.

The question is whether or not we can pass the Senate concurrent resolution, and I doubt that we can. It takes unanimous consent.

I notice the majority leader is on the floor and will probably propound the unanimous-consent request. So people who have an interest in this legislation should be here.

But likewise, once it is on the floor, unless the majority leader gets unanimous consent it is nonamendable, it is going to be open to amendment, and then it is going to have to pass the House. And I think the probability of that happening is pretty slim.

Mr. President, I yield to the Senator from Kentucky, 1 minute.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. MCCONNELL. Mr. President, I thank my friend from Oklahoma. I just wanted to reiterate, just so everybody understands, at a time when the American people would like us to shrink the Government, we are setting up a new Government agency called the Office of Lobbying Registration and Public Disclosure. It begins on page 13 of the conference report and it outlines the activities of the director of the office, and pages and pages of responsibilities and opportunities to hire new Federal employees; major penalties are outlined in here. There are 4 or 5 pages of new activities by a newly established Federal agency, "just what the American people are asking us to do—create another new Federal agency, hire lots of new employees, and harass lots of American citizens."

Frankly, we all know this responsibility ought to be located in the Department of Justice. I hope if we have a chance to fix this bill next year that it can—this responsibility and an appropriate amount of responsibility—be placed in the Department of Justice where it clearly belongs. I yield the floor.

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

Mr. LEVIN. I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 1 minute.

Mr. LEVIN. Mr. President, the objection to the creation of an Office of Lobbying Registration is perhaps the most extraordinary of all of the arguments that have been made. When this bill was passed, the Republican leaders complimented us on the creation of this office. Reading his words, where he strongly supported the passage of the lobbying disclosure bill in May 1993, on page 5579 of the CONGRESSIONAL RECORD, the Republican leader said that "The authority to assess a penalty would rest with the Director of the Office of Lobbying Registration, a new division in the Justice Department, created by this bill. The director will have the authority to determine the amount of the penalty, depending on the severity of the violation. This new approach," the Republican leader said, "should encourage compliance and make enforcement a reality."

That was a very strong speech by the Republican leader supporting this bill when it passed a-year-plus ago, May 1993. So of all the arguments, the newest straw man—grassroots man?—that this creates a new office, is one of the very reasons this bill was complimented by the Republican leader when it passed.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I am not as knowledgeable on the section the Senator from Michigan just alluded to, but staff informed me when this passed the Senate it was under the Justice Department and not an independent department.

I will yield a minute to the Senator from Maine.

Mr. LEVIN. Mr. President, if I can respond quickly, the office was made independent of the Department of Justice in conference at Republican requests to ensure the independence of the office.

Mr. NICKLES. I yield to the Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine is recognized for 1 minute.

Mr. COHEN. Mr. President, I want to indicate once again for the record, I thought the intent of the legislation as we proposed it was clear even though there may have been some ambiguity in the language itself. The Senator from Oklahoma and others who have raised objections have done so out of the best of motivations and are not doing it simply to be obstructionist in my judgment. But we have tried, likewise, to meet their reasonable requests. I believe the concurrent resolution that will be proposed momentarily by the majority leader is designed to do precisely that.

What the Senator from Oklahoma and others have done, by trying to correct something where there was a major misapprehension, is a credit to the institution. I think we corrected that and I hope we would have support for the concurrent resolution.

Mr. NICKLES. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Oklahoma controls 3½ minutes; the Senator from Michigan controls 5 minutes.

Mr. NICKLES. I yield to the Senator from Wyoming, 1 minute.

The PRESIDING OFFICER. Senator from Wyoming is recognized for 1 minute.

Mr. WALLOP. Mr. President, the concurrent resolution language before us was concocted without any negotiation with those of us who were in opposition to this legislation. A bill 3 years in the making has been drastically changed in a couple of hours of concocting a concurrent resolution. But let me suggest, none of us can know the full effects of what is in here. A cursory glance would indicate that the grassroots lobbying recordkeeping, the discussion of lobbying contacts, is not removed but merely moved, and in fact now is referenced in the Internal Revenue Code. It incorporates, by definition, lobbying of State and local government, and initiatives and referenda, vastly broadening the scope of the bill—contrary to the sponsors' claims.

We cannot know what has been done to us. This is no way to fix legislation that has alarmed so many of our colleagues for legitimate—not spurious—reasons, as was claimed yesterday.

I yield the remainder of my time.

Mr. COHEN. Mr. President, I yield myself 1 minute.

Mr. LEVIN. I yield my colleague 1 minute.

The PRESIDING OFFICER. The Senator from Maine has 1 minute on the Senator from Michigan's time.

Mr. COHEN. One of the issues raised is that establishing the Office of Lobbying Registration and Public Disclosure as an independent agency is an expansion of Government. This provision is a response to the objections raised by the House Republican Members who feared leaving the newly created office in the Justice Department, as proposed in the Senate-passed bill, because of a concern that it might be subject to political manipulation.

What we have tried to do on each and every occasion is to respond to the legitimate objections on the part of Members on both sides. The creation of this office as an independent office came about directly in response to Republican concerns about the politicalization of this office. That should be clear.

I would like to make one final point. This bill, as it will be proposed in the concurrent resolution, is simply a return to what we passed in the Senate by an overwhelming majority. There should be no mistake about it. We have tried to accommodate the interests of all in this. We have tried to really strike the balance of what is right and responsible for the Senate to do and I believe we should pass by unanimous consent the concurrent resolution offered by the majority leader.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. MITCHELL. Mr. President, I ask unanimous consent that I use my leader time.

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

Mr. MITCHELL. Mr. President, the Senate passed the lobbying disclosure bill by a vote of 95 to 2. Almost every single Member of the Senate voted for that bill, Democrat and Republican. And, as the Senator from Michigan has

noted by reading into the RECORD, it was praised by the Republican leader, by other Republican Senators.

Now, when we came back with this conference report, Republican Senators raised what I termed, and believe to be, fictional arguments; suddenly got a few phone calls that they themselves and their allies had organized, and then used the phone calls, which they solicited, as a rationale for reversing their positions.

But it was not reversal, they said, because this bill has something new and sinister that was not in the previous bill.

I said yesterday I thought that was a smokescreen to obscure other objections, and I still believe that to be the case. But there is one simple way to find out: Let us go back and take up the bill, basically, that they all voted for. Let us drop the provisions to which they say they have objected. So let us find out. Was this a smokescreen? Were these fictional arguments, or did they mean them?

So I am now going to ask unanimous consent that we proceed to a concurrent resolution that is basically the same bill that the Senate voted for 95 to 2 when it took the bill up, and anybody who objects to that, why, then we know it has been a smokescreen. If it is not a smokescreen, if these were not fictional arguments, then our colleagues should join us in passing the bill that we said that we wanted to do and we overwhelmingly passed by 95 to 2.

The argument has been raised, "Well, gee, we don't know what the House is going to do." I am going to propose that we delay the cloture vote and let us await action in the House. Let us adopt this to show that we really mean what we say about this; that all of these arguments were real and genuine and were not a smokescreen. And then let us send it over to the House and we will encourage the House to act and move right away, and we will postpone the cloture vote until after that.

So this is a good way to find out if people really mean what they have been saying for the past few days.

MOTION TO PROCEED

Mr. MITCHELL. So, Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the concurrent resolution, that I will send to the desk, making changes in the conference report in response to the concerns raised by our colleagues on the other side of the aisle; that the resolution be agreed to; that the motion to reconsider be laid on the table; that the cloture vote scheduled to occur this morning be delayed to occur at a time to be determined by the majority leader, after consultation with the Republican leader.

Mr. NICKLES. Reserving the right to object.

Mr. WALLOP. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, if I can ask the majority leader a question, under your unanimous-consent request, we do not get to amend the Senate concurrent resolution. I understand the leaders have said that this is the fix, but there are a lot of groups that have contacted us that have objections to the conference report. You mentioned that they were our allies. The American Civil Liberties Union, the Feminist Majority, and Planned Parenthood I am not sure would consider themselves allies with everybody on this side of the aisle. But they may not think this fix is satisfactory.

Is your UC open to where we could amend the Senate concurrent resolution if we find it lacking?

Mr. MITCHELL. Of course, Mr. President, the Senator knows the answer to that is no, because if we put it up and open it up for amendment, they will come up with a whole new bunch of amendments. I might just say, if I can conclude the answer, we passed this bill 95 to 2 in May 1993. We did not hear from the Senator from Oklahoma or from other Senators. We did not hear from all of these groups until just the last few days. So I think it is rather clear. The answer is no, we will adopt it. I am advised that it is basically the same bill that was passed in the Senate by a vote of 95 to 2.

Mr. NICKLES. If the majority leader will yield for another question, the Senate concurrent resolution which we have now seen, I guess our staffs received it last night at 11 o'clock. I was able to see it this morning for the last hour. It is several pages. It has 17 paragraphs, and it may be the perfect fix. If it is, I compliment the authors.

But some of us have worked on this particular section dealing with grassroots lobbying, and I offered to the Senator from Michigan, in the interest of trying to solve the problem, he may have the perfect fix. But the majority leader's request does not give us any opportunity to review this fix, to amend it if it is not perfect, and to make some suggested changes, as I understand it. I think that is a little dictatorial. We would like to have a chance to review the language. I know the Senator from Wyoming and the Senator from Kentucky have reviewed it, and they said they have some problems with it. I do not know. I know it makes some improvements, but I would like to have a chance to amend it.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine controls the time.

Mr. MITCHELL. This was put in the RECORD last night, and it does not try to fix the provision they complained about. It takes it out; it eliminates it. The Senator said he had objection to the provision—that is what they said the objection was—so we did not try to fix it; we eliminated it and we basically go back to the bill which the Senator voted on.

I have the concurrent resolution right here. It is 3½ pages long. It was put in the RECORD last night.

Mr. NICKLES. What time?

Mr. MITCHELL. I think, Mr. President, what we are seeing is a confirmation of what I said yesterday. This is a smokescreen. The objections raised were a smokescreen. They do not want to change the lobbying disclosure and gift provisions, but they do not want to stand up and say that. They made up an excuse, and now we have taken the excuse away. What else is there? Why do we not just get this agreement approved? By gosh, then, our colleagues will say, "It really was not a smokescreen. We really wanted to pass it, and we will all be happy."

The PRESIDING OFFICER. The Senator from Maine has made a unanimous-consent request.

Mr. WALLOP. Reserving the right to object, and I shall, there was at least one Senator—several of us—who saw this coming when we passed it. And there was at the time a moment in which we had sought to educate people as to what was really contained in it, and a lot of people I talked to said they did not know the provisions of it.

So, Mr. President, there is at the desk, as I understand it, a rules change upon which all the Senators could vote and, therefore, I object to this unanimous-consent request.

The PRESIDING OFFICER. Objection is heard.

Do both sides yield back their remaining time? The Senator from Oklahoma has 2 minutes remaining. The Senator from Michigan has 3½ minutes remaining.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I will yield back our time in just a moment. I have a couple comments.

The vote that we are going to have today is exactly on the same House-Senate conference report that we voted on yesterday. It has not been fixed. Maybe the proponents of the legislation said yesterday it did not need to be fixed, but clearly the legislative language said it did because it defines "client" as individuals, people who contributed over and above their dues.

I notice the majority leader and others said, "Well, yesterday that was not a problem, it was fictional." Today they said they would strike that one paragraph, and they came up with a 3½ page amendment which I have seen for about 2 hours. It may be the right fix. I do not know. Some people have said it is not. But the UC that the majority leader tried to propound did not give us a chance to amend it, did not give us a chance to really look at it. I do not think it solves all the problems.

Mr. President, as far as the timing, I heard my colleagues say we have been working on this for 3 years, and why all of a sudden change? The conference report came out September 26, and then once the groups found out about this—and not all conservative groups —but once groups like the American Civil Liberties Union, American Farm Bureau, groups like the Environmental Policy Task Force and the Feminist Majority, the Federation of American Scientists and the Family Research Council found out how intrusive this was, they said it needs to be changed.

I will just tell my colleagues, this is the same vote we had yesterday. I think this proposal is a step in the wrong direction. It does stifle free speech, and the cloture vote needs to be defeated.

The PRESIDING OFFICER. The time of the Senator from Oklahoma has expired. The Chair advises the Senator from Michigan that he has 3½ minutes remaining, and the majority leader has 2½ minutes of leader time remaining.

Mr. MITCHELL. I ask if the Senator will yield me his 3½ minutes?

Mr. LEVIN. I will be happy to.

Mr. MITCHELL. Mr. President, I come from Maine, where we get a lot of foggy days along the coast, and so when I came to the Senate and saw that it was regularly enveloped in fog, I felt at home.

Rarely, if ever, Mr. President—indeed, never—in my 15 years have I seen a fog more effectively pierced than it has been here this morning. We had a smokescreen laid out here yesterday by our Republican colleagues who said: Oh, we are for lobbying disclosure, and we are for gift reform, but we have this objection to this new provision that will have all of these disastrous effects.

It was, of course, a fiction, and I described it as such. It was a smokescreen, and we have now pierced that, because what we then proposed was to essentially go back to the bill that the Senate passed by a vote of 95 to 2. Almost every single Senator, Democratic and Republican, voted for it. We took out the provision that they said offended them, that is, we took out the smoke bomb, and they still object.

So, Mr. President, occasionally on the summer days in Maine there is a fog that rolls in off the coast and then with striking clarity the sun pierces through. And here and now in the Senate this morning the sun has strikingly and suddenly pierced through the fog of the other side and exposed for all Americans to see and laid bare what has occurred. They do not want lobbying disclosure and gift reform, and they are going to do anything to stop it, even if it means a complete reversal of the position they took when we passed this bill 95 to 2.

Mr. WALLOP. Mr. President, will the majority leader yield for a question?

I simply address the Senator that if the result on the cloture vote is the same as yesterday, is it the intention of majority leader to bring up the rules change that would solve the gift ban?

Mr. MITCHELL. If we have a rules change that will solve the gifts ban, we will certainly do it. But we are not going to be party to a rules change that will not solve the gift bans.

Mr. WALLOP. I think the majority leader knows that it would.

Mr. MITCHELL. I thank the Senator.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan has 45 seconds remaining.

Mr. LEVIN. There was an article in the paper the other day, the Wall Street Journal, that said, after that first vote, "Special interest representatives expressed delight with the filibuster. As a Senator left the Senate Chamber after an unsuccessful vote to break the filibuster, a group of lobbyists in the hallway outside began to cheer."

If we do not break this filibuster in this vote coming up, you are going to hear the loudest cheer in history in that hallway.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the minority leader.

Mr. DOLE. Was leader time reserved?

The PRESIDING OFFICER. It has been reserved, and if there is no objection the Senator may use it.

Mr. DOLE. Mr. President, I am sorry I did not speak before the majority leader, but I have been to the dentist—special interest.

I think this session is about to end. I hope so. I hope we could pass unfunded mandates, which is being blocked on the other side with amendments. I hope we could pass congressional coverage. We are willing to in effect do both of those, with one or two amendments or maybe without any amendments.

But I must say, notwithstanding the good work that both Senator LEVIN and Senator COHEN have done—and certainly I have the highest regard for both—somebody asked me at a press conference today what happened. We said that we read the bill.

We made a mistake when we let it go through there so quickly. I think we felt intimidated by the liberal press in this country who always define at least our party. I do not know; the Washington Post must have a good lobbyist; they got a good sweetheart deal in the GATT agreement. I do not know what this deal cost or whether it is going to be disclosed, but it is worth hundreds of millions of dollars, so we understand how these things operate.

But the more we looked at this bill and the fact that the disclosure requirements do not take effect until the beginning of 1996, we will have plenty of time now to study this bill very carefully and make the right decision.

As we have indicated earlier, as far as the gift provisions are concerned, that can be done by a rules change. It cannot be done by this Senator but it could be offered by the majority leader. And we have indicated that we are prepared to do that. No fruit baskets, no travel, no anything. That is not a problem, I do not think, with many Members of this body at all. It may be a problem with some on the other side.

So I just suggest that we ought to just forget about this bill. We ought to forget about this Congress as quickly as we can and go home. That is what the American people want us to do. They are not interested in more laws and a new bureaucracy.

So there are still a lot of things in this bill that we continue to discover that we probably should have discovered earlier. I will confess that we did not do our job as well as we should have. And I think there was a certain intimidation: Oh, we have to be for this or somehow these awful lobbyists, these men and women who are much like the rest of us, who try to make a living, we have to sort of cast some aspersions not only on them but on Members of Congress. If we are not viewed as suspect when we get here, we are the day after we are here because we have got to have all these laws that say we can do this and we cannot do this.

Now, I do not know anybody here—if he violates the law, he is subject to the Ethics Committee. And some have been. But before we pass something we are not certain of, let us just take it easy. This will be around next year. We will be back. There may be a different management, but we will still be back, and we will be dealing with all those issues at that time.

Mr. President, there are a number of other points I would like to make:

I suspect that most of the changes proposed by Senator LEVIN would probably improve the bill. The bottom line, however, is that we need to take some time to look at the changes with a fine-tooth comb and examine their practical effect. The concurrent resolution was unveiled at about 10 or 11 last night, and the vast majority of Members have not taken at look at it.

There should not be any ambiguities, any nuances that are subject to different interpretations. The courts are in no mood to read legislative history into a statute. The statute should be clear on its face.

And as Senator MCCONNELL pointed out yesterday, we also need to look at the First amendment implications of what we are trying to do here. Are we going overboard? Are we trying to regulate too much?

My colleagues on the other side of the aisle claimed yesterday that we were raising fictional objections, but the real fiction is this concurrent resolution. We have no assurances that the House of Representatives will ever pass it. We are relying on a wing and a prayer.

One proposed change would include under the definition of "lobbying activities" the phrase "communications with Members, as described in section 4711(d)(1)(A) and (3) of the Internal Revenue Code." What's this all about? Are we talking about Internal organizational newsletters? Conventions? Phone banks? Would these activities become subject to the reporting requirements?

The new and improved version of the conference report would still treat Members of Congress and the public differently. If you are a lobbyist and you knowingly violate the new registration requirements, you could face a maximum fine of $200,000. But if you are a Member of Congress and you knowingly accept a gift that is banned under the new rules, there are no maximum fines, no big-dollar penalties. Instead, you get hauled before the Ethics Committee.

When the Senate passed the bill last year, it created a new Office of Lobbying Disclosure within the Justice Department. The Conference Report, however, elevates the Office to the status of a separate Federal agency. The Director of the new office has a 5-year term, is appointed by the President, and is removable only for cause. We need to take a look at whether this is the best approach. Should the Office of Lobbying Disclosure be a separate Federal agency? Should it be within the Justice Department? Should the Director of the Office have a five-year term, or a shorter term? Should the Director be removable for reasons other than just "for cause," whatever that may mean?

It is important to remember that the new disclosure and registration rules do not take effect until January 1, 1996. So even if the conference report does not pass this Congress, we will still have time to pick up the pieces, figure out what was right and what was wrong with the conference report, and then pass strong legislation that will improve the disclosure process without taking a sledgehammer to the constitutional rights of ordinary Americans.

Again, we are prepared to pass a resolution today prohibiting Senators from receiving gifts from just about anyone—lobbyist or nonlobbyist. No free lunches. No travel. No entertainment. No charity golf tournaments.

Mr. LAUTENBERG. Mr. President, this is why people do not believe in government. This is why people are disgusted with the Congress. This is why "Washington" has become a dirty word.

As Members of Congress, we are often frustrated by our inability to solve problems. Some of us decided that a major reason for that inability was the structure of our own institution. So we decided to fix our own house, clean up our own act, and regain some of the public faith and support that Government has lost.

We may have made the problem worse.

We hoped to reform the campaign finance system. We did not.

We hoped to simplify and modernize the organization of the Congress. We did not.

We hoped to pass legislation bringing the Congress under the same laws as the rest of the country. We did not.

We hoped to reduce the influence of special interest lobbyists by requiring greater disclosure of their activities and eliminating their ability to ply Members with food and entertainment and trips. And now it looks like we will not.

There may be, Mr. President, there may be some who oppose this last reform on the list because they honestly have problems with the language of the legislation.

There may be.

But when we offer to fix the problems they have identified, we are told "oh, thanks * * * but I just found a few more."

Mr. President, here on the floor is Senator COHEN, a Republican, who is fighting to pass this bill. Yesterday, there were a number of Democrats who voted to defeat it.

I am not saying this is a partisan matter. It is a national problem.

Killing lobbying reform and gift ban legislation is simple. It's easy. And some may believe that it will give them a partisan advantage. They will be able to demonstrate that President Clinton cannot move a bill through the Congress. They will be able to demonstrate that Democrats cannot move a bill through Congress. They will prove that Government is incapable of acting. And they hope that this will persuade people to elect them or give their party more power.

But you cannot base power on a foundation which is crumbling.

And their effort to get power does involve weakening the foundation of government. It involves loosening the bonds which tie the people to the Government. It involves undermining faith in the institutions of Government themselves.

That, Mr. President, is a strategy which will destroy us all.

We promised over a year ago to adopt gift reform legislation. I offered the amendment; almost every Senator voted for it. For a time, it looked like we would not keep that promise, but Senator WELLSTONE and Senator FEINGOLD and I pushed for Senate action on this issue. When it was not popular. When it did not make my colleagues happy. Even when it made me uncomfortable. I did that, Mr. President, because I firmly believe the present system is wrong and that we needed to keep the promise we made to fix it.

Well we did. Senator LEVIN helped craft a stronger and sounder bill than I had introduced. The Senate adopted it. But it does not look like it will become law.

Because some people do not want us to fix problems. They want to make them worse.

My constituents do not want to listen to me tell them why we did not do something. They want me to listen to them and do something about their problems.

That is what the gift ban lobbying reform bill is all about. Making it easier to hear our constituents instead of the special interests who buy us dinner and give us tickets to events and take us on trips. Their voice, amplified by their power and access and wealth, make it hard for us to hear the voice of the people we were elected to represent.

Mr. President, let us pass these bills. We have offered to fix what may be the legitimate problems some have found in the legislation. Let them accept the offer and let us get on with our business. The business of building this country rather than tearing it down.

And let me, Mr. President, explain why a gift ban is so necessary.

Right now, our constituents do not believe we represent them. They think we are being influenced by the special interests. That they give us gifts in order to secure our support for their views.

And make no mistake about it, Mr. President, that is the motive for the gifts even if not their effect. We do not get free tickets to concerts or sporting events because we are charming companions. We do not get taken out to dinner or flown away for free vacations because people like us. We get those things not because of who we are but rather what we are: Members of Congress whose actions and votes influence public policy and can mean a difference of millions of dollars for a company and contracts for lobbyists.

Now Mr. President, I am not—not—claiming that my colleagues are being "bought and sold" for a dinner or a round of golf. That is not my argument at all. I do, however, make two other arguments. First, the public believes there is undue influence being exerted. It may be an example of post hoc reasoning; it may be a valid concern. But it is a fact. During House debate on this issue, one Member said "I cannot be bought for a cup of coffee." I agree. But why can he not buy his own cup of coffee? What kind of sacrifice would that involve? We accept other sacrifices as part of the price of being in public life. We surrender, for example, a lot of our privacy; we lose control of our own schedules and lives; we give up many things in order to serve. This gift ban does not ask us to give up anything. Let me repeat that: this gift ban does not ask us to give up anything. It

simply demands that we pay for everything. That is the sort of sacrifice people make in the private sector—it is the least we in public service can do.

But there is a second argument in favor of this bill, Mr. President. It is not just an appearance problem. Gifts do not buy our votes but they do influence our actions. Not because we got a gift. But because we spend an hour or two at a game or a restaurant with the lobbyist who uses that time to subtly make sure we are aware of the arguments which favor their position. There is nothing wrong with them making their case. What is wrong is giving them a special route of communication, an extended period of access, a unique opportunity to make their case. Most constituents are fortunate if they can get a 15-minute meeting to discuss their concerns directly with a Member of Congress. Lobbyists are paid to make sure they have a lot more time than that. Gifts which must be enjoyed together is one way to get the time, develop access, exercise influence.

Mr. President, I know that this bill will not cure everything that is wrong with the way Washington works. As others point out, we may be buying our own dinner, but we will still be getting checks for $10,000 from PAC's and $1,000 from individuals. I wish we had changed the campaign finance law, I really do. But our failure there does not mean that we ought to fail here. A gift ban will have an affect in and of itself. It will change the way business is done, alter the relationships which too often affect legislation, eliminate the excesses which so pollute the public perception of politics.

Let me make one final point: the gift ban and the lobby disclosure bill have been properly joined together. You cannot have one without the other. As Senators LEVIN and COHEN—a Democrat and a Republican—have demonstrated, current law designed to disclose lobbying activity is fatally flawed because most lobbyists are not required to register. We can't find out what they are doing and how much they are spending to get it done. I think that information is essential; it certainly would be interesting to know how much was spent on the lobbying effort designed to convince Senators that this bill would chill free speech. I think the people of this country would be interested in knowing that it was the very lobbyists they think have too much power who used that power to fool them and defeat this bill. There is an irony there which we ought to appreciate. And there is a lesson there we ought to learn.

Mr. President, I appreciate the efforts that Senator LEVIN and Senator MITCHELL have made to move this bill along. And I deplore and denounce—deplore and denounce—the tactics which opponents have used to mischaracterize the legislation and mislead the American people.

Mr. GORTON. Mr. President, when I voted yesterday against cloture on the Lobbying Disclosure Act, I did so because the final version of the bill contains onerous grassroots lobbying provisions. At that time, I made clear my desire to see those provisions dropped.

Today, the Senate had before it a unanimous consent agreement to consider a concurrent resolution to do just that. The concurrent resolution would strike the objectionable grassroots provisions from the bill, and move it closer to the version that had passed the Senate earlier—the version for which I had voted. I called for that course of action yesterday, and it is what I would have preferred.

However, there was an objection made to the unanimous consent request. The Senate therefore could not consider the concurrent resolution and could not strip the grassroots provisions from the present bill. I find that unfortunate and wish that objection had not been made.

But because an objection was lodged, the Senate voted again on the version of the conference report on which we voted yesterday. That conference report still includes the grassroots provisions that have my constituents in such an uproar. It is no better today than it was yesterday.

Because we are voting on the same conference report, I must again vote against cloture. Mr. President, I wish the Senate had chosen the other course of action and passed an amended version of the Lobbying Disclosure Act of 1994, absent the grassroots lobbying provisions.

Mr. BINGAMAN. Mr. President, I rise today to express my regret that the Senate did not approve Senate Concurrent Resolution 80.

Like many of my colleagues, I was concerned with certain provisions of the conference report and the potential impact that those provisions might have on grassroots organizations. My concerns included the fear of intimidating people from contributing by threatening them with public disclosure.

With the introduction of Senate Concurrent Resolution 80 by Senator LEVIN, which removed the offending provisions regarding grassroots organizations, I believe S. 349, the Lobbying Disclosure Act of 1994 should be passed. However, with the failure to approve the Resolution, my concerns for moving forward remain.

Mr. President, I commend my friend and colleague from Michigan for his tireless efforts to move lobby reform legislation through the Senate this year and especially for his willingness to work with members of both sides of the aisle at this late hour to fashion a bill which I believe sends a clear message to the American people that the days of business as usual are over.

Mr. President, I have supported and will continue to support lobbying reform and I hope we can have the opportunity to enact legislation at the beginning of the next Congress.

Mr. DURENBERGER. Mr. President, Washington—and particularly Congress—are held in contempt by the American people. Those are strong words and, some might say, an extreme statement of the case.

But when 83 percent of the American public do not trust the government to do the right thing most of the time, I think it is time to drop the rationalizations and the niceties and call it like it is. Wednesday morning the Washington Post quotes Oliver North saying that he will match his character against anyone in the U.S. Congress today. If Jay Leno delivered that line it would be met with peals of knowing laughter.

This institution is held in contempt by much of the American public. And who can blame them? In many places we are doing it to ourselves. I have watched the television ads this fall from around the country. I expect the challengers to run against the place that they all want to come to work. But many incumbents—freshmen and veterans alike—are out there criticizing the way we do business in Washington. How can we expect the American people to have any confidence in this place when so few of us are willing to defend it ourselves?

Jonathan Rauch, the author and commentator, said recently in the New York Times: "The government is well on its way to a crisis of legitimacy."

I urge my colleagues to think about that. What if it is true? What if our legitimacy as an institution is really in crisis? What does that mean about the ability of future Congresses to govern?

I know that it is easy for each of us to sit back and look at our own relationships with our own constituents and feel like we are loved, admired, and respected. But whatever the explanation for that, it is clear that as an institution we are literally despised by large numbers of Americans.

Mr. President, this week we were supposedly going to do something about that. But I have a profound feeling of ambivalence. As Jonathan Rauch said in the same New York Times essay: "Congress is riding to the rescue with an answer: banning fruit baskets."

Mr. President, as Mr. Rauch implies, that is not much. Compared to everything else that goes on around here, it is not really anything.

Right now the election laws allow lobbyists to give us $10,000 for our campaigns. The Democratic leadership offered last week to reduce that to $6,000 and thought they were making a big concession. In the face of the continuation of that system, we are kidding ourselves if we think that this ban of

other gifts is going to make a difference in the way we are perceived by the American people.

Mr. President, we are, once again, failing to focus on the real problem.

Since 1970 we have passed six major reforms of the campaign and lobbying laws. Each one was well-intentioned and each one was touted as the answer to the problem.

But each one also failed to stem the tide of mistrust that threatens to drown our representative democracy. That does not mean they were all bad bills. But it does mean that they did not address the real problem.

I am afraid this latest reform will have the same miserable result.

It is fine to cut back the gifts and the junkets and the favors that many of us have received from lobbyists and special interests. It at least serves the purpose of taking an issue away from those who use it to tear down the Congress and its Members. And if that is all we do, I will support it as a useful piece of window dressing.

Mr. President, I voted against cloture yesterday when this bill went beyond the gift ban. I am troubled by the regulation of lobbyists that is in the bill. I want to take this opportunity to talk about why I oppose that section of the bill.

Mr. President, as much as we decry lobbyists and special interests and their supposed influence in Washington, it is apparent that in today's America the people make their voice heard through the groups that they join. It is their way to petition the Government in a day when each Congressman represents hundreds of thousands of people and most Senators represent millions of people.

Sending Representatives to Washington, paid or otherwise, is not a sin—it is a good thing. And it is not a trivial matter. It is fundamental to our form of government. And I am not convinced that we can or should insert into that process a Government official who is going to regulate the way we hear from our constituents. Especially when we are doing it in response to a bunch of demagoguery about special interests.

Furthermore, Mr. President, this bill will do a disservice to the country if it allows us to ignore the deeper problems that infect our legislative process.

The problem is not really the money, perks, or favors that come from the special interest groups. The problem is not really the proliferation of interest groups in Washington, DC. The problem is the seeming inability of Members of Congress to distinguish between the interests of a few and the interests of the country as a whole.

My first real experience with this was all the way back in 1981. That year I was looking forward to running for reelection for the first time. Prior to the election campaign I had cosponsored a modest proposal that would introduce some means-testing in Social Security. It was not a radical measure and it did not affect any but the wealthiest Social Security recipients. At the time I thought it was a good idea and I thought it deserved debate in the U.S. Senate.

Mr. President, the opening salvo of the campaign against me in came in September 1981, more than a year before election day in 1982. It was a letter sent to every senior citizen in the State of Minnesota. In an envelope that was made to look like a Social Security check, the letter accused me of trying to kill Social Security. It incited needless anger and fear among seniors which was totally unjustified by the modest proposal I had supported. It spawned an organization called S.O.S.—Save our Social Security—dedicated to the proposition that I should be thrown out of the Senate.

By the way, that letter was designed and produced, and a half million copies mailed, by a mega-millionaire who ran a self-financed campaign against me thanks to the Buckley versus Valeo interpretation of the first amendment.

That was my first experience. Since then groups that represent every narrow little interest that can be described have sprouted in Minnesota and Washington. Some of them give gifts and some of them give campaign contributions, to be sure. But the most influential and effective ones are much more sophisticated than that.

Today the really effective special interests use the mail, the FAX, Internet, and the telephone to generate what appear to be groundswells in the grass roots. They promise favorable mention to their members or threaten to heap abuse on those who do not toe the line. I think most of my colleagues would agree with me that the power of the N.R.A. does not come from gifts or campaign contributions. It comes from their large membership and their impressive mailing list.

When we were debating motor-voter, my administrative assistant was talking to the representative of one of the interest groups that promoted that legislation. When he mentioned my reservations about it the response was immediate. The spokesperson said that they would start the "telephone tree." In other words, they would generate hundreds of calls to my office to convince me not of the rightness of their cause, but of their ability to simulate grass roots support.

Mr. President, this is worse than sticking a wet finger in the wind before every vote. Because of the sophistication and proliferation of interest groups, the wind is unreliable. We are all blown by the winds, first one way and then the other. The result should surprise no one. It is gridlock.

We were not paralyzed in the health care debate by the money of the interest groups. We were paralyzed by the noise of the interest groups. I hesitate to start naming them because I will leave someone out.

We all know that the AARP told us what they would settle for, the chiropractors told us, the children's advocates, the small businesses, the large businesses, the insurance companies, the health plans, the nurses, the doctors, the optometrists, the liberals, the conservatives, the drug companies, the cities, the counties, the farmers, the miners, big labor, small labor, and I have not even scratched the surface.

They all generated telephone campaigns and letter campaigns. They put tear-out postcards in their magazines, circulated petitions, jammed our fax machines, and otherwise generated public outcry. Of course, each of these groups was only opposed to one small part of the overall effort, or there was only one small part that they had to have. The problem is that what one demanded, the others were strongly opposed to, and vice versa.

As Robert Samuelson said in Newsweek this week, health care reform "self-destructed" in the effort to give all things to all people.

Mr. President, while we are tinkering with all these rules to improve the appearance of what we do, we are leaving the fundamental problem unchanged.

The explanation for this is apparent. Washington—and Congress in particular—has become overly fond of simple solutions to problems. But there is no simple solution to this problem. There is a whole host of interest groups with fax machines, copy machines, and telephones who can create a demand for this bill. Whatever their reasons for promoting this nonsolution, it is apparent that there is no simple solution.

We cannot restrict or regulate the right to petition the Government, though some would argue that this bill does just that.

We cannot tax the right to petition the Government, though the campaign finance reform compromise came close.

We cannot tell people not to write or call.

We cannot insulate ourselves from the cacophony of American public opinion, no matter how poorly expressed.

Jonathan Rauch thinks that the answer is to do away with subsidies and Government regulation. He argues that if there is nothing to gain, nothing to lose, and nothing to protect, the interest groups will go away.

Some suggest that term limits are the answer. If we were not all looking to protect our jobs in this body we would be free to ignore the noise of special interests and concentrate on the public interest.

Some would hark back to a day when Members of Congress were able to rise above special interests and stand for principles, come what may.

I don't know if such a day ever existed. Mark Twain once commented

that there was no professional criminal class in the United States excepting Congress. I am not sure there is a better day to look back on.

Senators BOREN and DOMENICI have looked into a series of reforms of the Senate that address some of these concerns. Neither I—nor Senator BOREN—will be around to implement any of them, but I recommend them to my colleagues.

Mr. President, the bill we are voting on today is not even a Band-Aid on the problem that this institution faces. It looks good, and it will take some of the ammunition out of the hands of demagogs who denounce the institution. But let's not kid ourselves or the American people, it solves nothing.

It will not end the crisis of legitimacy that this body and this Government now face. That is a more difficult problem. Credibility and legitimacy, once lost, are reacquired with great difficulty and years of work.

In my view that long, difficult job requires a commitment on the part of Senators to lead—as well as represent—their constituents.

It requires self-control on the part of those who see an opportunity to gain politically from tearing the institution down—especially those who would imply that Congress is for sale to special interests.

It requires a commitment on the part of partisans on both sides of the aisle, as well as at 1600 Pennsylvania Avenue, to put partisan interests aside after the election and work in good faith.

It requires that we not over-promise, that we not pretend to have answers to all the questions, that we acknowledge our limitations and the limitations of a Government already $5 trillion in debt.

It requires an ability to say no, even to good causes and friendly interest groups, when we think that their interest is not in the public interest.

And then it requires us to withstand the rhetoric of demagogs and their journalistic allies who will find fault in your FEC report, your speaking schedule, and your Christmas card list.

By my votes on this bill, I will simply produce more evidence for my case. I can predict that what I have said in this statement will be virtually ignored by the special interests. Common Cause or Citizen's Action or the Committee for Public Integrity will let their members know that I voted against their special interest. Their morally superior spokespersons will denounce me as a crook or as failing to live up to their standard for integrity. If I were running for re-election they would alert all their members that I had deviated from their version of the public interest.

I have already had a preview of what some of the press will say. Last week I spoke to the American League of Lobbyists. I suppose that some special interests see this group as the root of all evil in Washington. The League is a professional association whose members represent Planned Parenthood who were sent by some of my constituents to help me understand title X; the Corn Growers Association who were sent by some of my constituents to help me understand ethanol; the V.F.W. who were sent by some of my constituents to help me understand veterans health issues and military issues; And hundreds of others who bring messages to Washington from groups of Minnesotans.

I did not always vote their way. My view of the public interest was not always in accord with their special interest. But we have worked together for 16 years. They have each helped me understand the point of view of those Minnesotans who employ them in Washington. While I was invited there to talk to them about health reform I chose also to thank them for their representation of the special interests of my constituents. And I was sincere in my thanks.

Of course the next day a newspaper in Minnesota carried an article entitled "Durenberger Thanks Lobbyists." The reporter, in lock step with the Congress bashers, did not bother to find out what these people had done for my constituents over the years. She did not bother to ask me why I thanked them. Instead she wrote that the lobbyists have spent millions on me over the years. She implied that I was thanking them for their money, not for their representation of Minnesotans. She implied that I was thanking them like a store clerk thanks someone who just bought something over the counter.

Her story was sheer demagoguery. Her story was an unprincipled attack on me and on Congress. She wrote, and the Mankato Free Press published:

> In addressing the group, the senator highlighted "the positive contribution of people in your profession," saying that research and information provided on legislative issues is a valuable resource.
>
> "People at home can't be here day in and day out," Durenberger said of the groups that employ Washington lobbyists, "so they hire you to represent them."
>
> Durenberger is no stranger to special interest groups, which have spent millions on the senator over the years.

She missed the real story, because she was so intent on writing the half-truth/half-lie that she has probably come to believe.

Mr. President it is not my intention or my place to preach to my colleagues. I have never been associated in a common endeavor with a finer group of men and women and I am proud to have served with each of them.

But if I can impart some of the wisdom gained in 16 years of experience, I recommend to my colleagues that they not let this bill divert them from the important business of restoring the credibility and legitimacy of this body.

CLOTURE MOTION

The PRESIDING OFFICER. All time has expired. Under the previous order, the clerk will report the motion to invoke cloture.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the conference report to accompany S. 349, the Lobbying Disclosure Act:

Carl Levin, Daniel K. Akaka, D. Inouye, Byron L. Dorgan, Harry Reid, J. Lieberman, Patty Murray, Dianne Feinstein, Frank R. Lautenberg, Russel D. Feingold, Tom Harkin, Paul Simon, Paul Wellstone, Howard Metzenbaum, Claiborne Pell, Chris Dodd, and Herb Kohl.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, is it the sense of the Senate that debate on the conference report accompanying S. 349, the Lobbying Disclosure Act, shall be brought to a close? The yeas and nays are required. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Delaware [Mr. BIDEN] is necessarily absent.

I also announce that the Senator from New Jersey [Mr. BRADLEY] is absent because of attending a funeral.

Mr. SIMPSON. I announce that the Senator from Alaska [Mr. STEVENS] is necessarily absent.

The yeas and nays resulted—yeas 56, nays 41, as follows:

[Rollcall Vote No. 325 Leg.]

YEAS—56

Akaka	Ford	Mitchell
Baucus	Glenn	Moseley-Braun
Boren	Graham	Moynihan
Boxer	Harkin	Murray
Breaux	Hatfield	Nunn
Brown	Inouye	Pell
Bryan	Jeffords	Pryor
Bumpers	Johnston	Reid
Chafee	Kennedy	Riegle
Coats	Kerrey	Robb
Cohen	Kerry	Rockefeller
Conrad	Kohl	Roth
Daschle	Lautenberg	Sarbanes
DeConcini	Leahy	Sasser
Dodd	Levin	Simon
Dorgan	Lieberman	Specter
Exon	McCain	Wellstone
Feingold	Metzenbaum	Wofford
Feinstein	Mikulski	

NAYS—41

Bennett	Coverdell	Faircloth
Bingaman	Craig	Gorton
Bond	D'Amato	Gramm
Burns	Danforth	Grassley
Byrd	Dole	Gregg
Campbell	Domenici	Hatch
Cochran	Durenberger	Heflin

Helms	Mack	Shelby
Hollings	Mathews	Simpson
Hutchison	McConnell	Smith
Kassebaum	Murkowski	Thurmond
Kempthorne	Nickles	Wallop
Lott	Packwood	Warner
Lugar	Pressler	

NOT VOTING—3

Biden	Bradley	Stevens

The PRESIDING OFFICER (Mr. FEINGOLD). On this vote the yeas are 56, the nays are 41. Two-thirds of the Senators voting not having voted in the affirmative, the motion is rejected.

CALIFORNIA DESERT PROTECTION ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the conference report accompanying S. 21, the California Desert Protection Act.

The PRESIDING OFFICER. Is there objection?

Mr. WALLOP. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MITCHELL. Mr. President, I move to proceed to the conference report accompanying S. 21, the California Desert Protection Act.

Mr. WALLOP. I ask that the report be read, Mr. President.

The PRESIDING OFFICER. The clerk will read the conference report.

The legislative clerk proceeded to read the conference report.

Mr. MITCHELL. Mr. President, I ask unanimous consent that further reading of the conference report be dispensed with.

Mr. WALLOP. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue to read the conference report.

The legislative clerk continued with the reading of the conference report.

Mrs. FEINSTEIN. Mr. President, I move to suspend the reading.

Mr. SIMPSON. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue reading the conference report.

The legislative clerk continued with the reading of the conference report.

Mr. PRYOR. Mr. President, I ask unanimous consent that the reading of the conference report be dispensed with.

Mr. WALLOP. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue to read the report.

The bill clerk continued with the reading of the conference report.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the reading be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. HATCH. Mr. President, I have been asked to object and I do object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk continued with the reading of the conference report.

Mr. PRYOR. Mr. President, I ask unanimous consent that the reading of the conference report be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. HATCH. Mr. President, we object. I have to object on this side.

Mr. PRYOR. I thank the Chair.

The PRESIDING OFFICER (Mrs. MURRAY). The clerk will continue to read the conference report.

The legislative clerk continued with the reading of the conference report.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER (Mrs. MURRAY). The Senator from California.

Mrs. FEINSTEIN. Madam President, I ask unanimous consent that further reading of the conference report be suspended.

Mr. HATCH. I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk continued with the reading of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 4, 1994.)

The PRESIDING OFFICER. The question now occurs on the motion to proceed to the conference report.

Is there further debate?

The Senator from Arizona is recognized.

Mr. McCAIN. Thank you, Madam President.

I rise in opposition to the legislation. I hope we can get our differences resolved.

The PRESIDING OFFICER. The motion to proceed is not debatable.

The question is on agreeing to the motion to proceed.

The motion to proceed was agreed to.

CALIFORNIA DESERT PROTECTION ACT OF 1994—CONFERENCE REPORT

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

Conference report to accompany S. 21.

The Senate proceeded to consider the conference report.

ORDER OF PROCEDURE

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. McCAIN. Madam President, I ask unanimous consent to be recognized for 20 minutes as if in morning business.

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

Mr. McCAIN. Thank you, Madam President.

THE NUCLEAR AMBITIONS OF NORTH KOREA

Mr. McCAIN. Madam President, before the 103d Congress adjourns I want to return to an issue that has troubled me greatly for many months; an issue which surely represents the gravest threat to our national security interests that the United States has encountered in the post cold war world. While it may appear to some that this threat currently emanates from a small nation in the Caribbean, I have another larger problem on my mind: the nuclear ambitions of North Korea.

For a moment last Spring, North Korea's repeated and gross violations of the Nuclear Nonproliferation Treaty appeared to have brought a reluctant Clinton administration to the belated recognition that its concession-heavy diplomacy had failed to dissuade Pyongyang from the further pursuit of nuclear weapons. That moment, however, was brief.

Following former President Carter's discussions with Kim Il Song in June, and his public expressions of admiration for the previously under-appreciated personal charm of the late dictator, the administration abandoned its efforts in the United Nations Security Council to impose economic sanctions against North Korea. The administration had gone to the Security Council after North Korea rejected United States warnings that the further discharge of fuel rods from its Yongbyon reactor would constitute an unpardonable breach of its obligations under the NPT. But President Carter's subsequent proclamation of a breakthrough agreement, in which Kim Il Song agreed to freeze his nuclear program, refrain from further violating the NPT by expelling IAEA inspectors, and hold a summit meeting with South Korean President Kim Young Sam convinced the administration to reverse field yet again, cease its pursuit of sanctions and resume high level negotiations with North Korea.

While this breakthrough with North Korea was being celebrated in the media and in the offices of very relieved administration officials, I made the following observation on the Senate floor:

"What North Korea has done is withdraw a threatened stick regarding the expulsion of their inspectors and offered to refrain the expulsion of their inspectors and offered to refrain from utilizing a capacity that it presently does not have. For this, they received a celebration in the White House press office, and President Clinton's enthusiastic embrace of President Carter's diplomacy. While the talks drag on, the North Koreans will be granted sufficient time to reach a point when they can convert the fuel into weapons grade plutonium. During this time, they will not be constrained by economic sanctions or the build-up of U.S. military forces on the Korean peninsula. The most critical reinforcements necessary to diminish North Korea's ability to destroy Seoul with artillery fire will now be held in abeyance while the

U.S. finds itself trapped in negotiations with the North, leaving Seoul a hostage to Pyongyang's future belligerence.

I say we will be trapped because the Carter initiative is now the Clinton initiative. . . . This political reality, I suspect, will cause President Clinton to become a coconspirator with Kim Il Sung in dragging the talks out even if it becomes apparent that North Korea is only stalling until it can develop four to six additional weapons.

Madam President, it is edifying to recall what were the dimensions of the North Korean problem on the eve of former President Carter's visit. The North Koreans had discharged remaining fuel rods from their Yongbyon reactor without international supervision. This clear violation of the NPT seriously undermined the IAEA's ability to determine the amount of nuclear fuel diverted for weapons production in 1989. Although permissible under the terms of the NPT, special inspections of undisclosed nuclear sites in Korea, especially two nuclear waste sites, which offer the only other means of partially determining their past diversion of fuel, were denied by the North Koreans.

The discharged fuel rods were stored in a cooling pond because they were at that time too radioactive to be used for any other purpose. When they were sufficiently cooled near the end of summer, the fuel they contained could be converted into weapons grade plutonium in a nearby reprocessing plant and diverted for use in manufacturing four to six additional nuclear weapons.

Three miles west of their 5 megawatt reactor at Yongbyon, the North Koreans were constructing a new 50 megawatt reactor, intended to be operational in 1995. A 200 megawatt reactor was under construction at Sinpo, scheduled to come on line in 1996. A new reprocessing plant would also be operational next year.

North Korea had test launched a new ballistic missile, the NoDong 1, capable of carrying nuclear, biological and chemical warheads in 1993. The NoDong 2, with a range of 2000 kilometers, was in development. United States intelligence, as well as allied intelligence agencies, believed that North Korea intended to export these missiles to Iran, Syria and possibly, Libya. From Pyongyang, the NoDong 1 could strike Osaka; the NoDong 2, Tokyo. From Teheran, the former could reach Tel Aviv; the latter, Europe.

On the diplomatic front, North Korea had achieved an objective which it had pursued for 40 years—high level negotiations with the United States from which South Korea was, in effect, excluded.

After President Carter's intervention, the Clinton administration decided to include in its negotiations with North Korea, which began in August, offers to arrange for the supply of new light water reactors to replace North Korea's graphite reactors. Although the Yongbyon reactor is not, nor was it ever, connected to electrical power grids in North Korea, the administration accepted the North Koreans' argument that they could not shut down their plutonium producing graphite reactors unless they were supplied with alternative energy sources.

Additionally, the United States was prepared to offer North Korea substantial economic assistance as well as diplomatic relations. No sticks were to accompany the basket of carrots the administration's lead negotiator, Assistant Secretary Robert Gallucci, would carry to Geneva.

After the new negotiations were scheduled, I urged administration officials, publicly and privately, to compliment their offer of generous rewards for North Korea's compliance with the NPT with some indication of the seriousness with which we would respond to any further bad faith on their part. Specifically, I suggested that we open the negotiations by informing the North Koreans that while we welcome Kim Il Song's commitment to former President Carter, their past record of reneging on international commitments obliges us to take the purely precautionary action of denying Pyongyang the capital of South Korea as a hostage. Accordingly, we have deployed additional counter battery artillery—as requested by the American commander in Korea, General Luck—to our defenses north of Seoul. This development will be sufficient to greatly diminish North Korea's present ability to destroy Seoul in the event that their further violations of the NPT result in armed confrontation with the United States and South Korea.

Without evidence of our determination to resolve this crisis on our terms, I greatly feared that the North Koreans would not negotiate in good faith; make and break promises as frequently as they had in the past; and drag out the negotiations with the intention of delaying a favorable resolution of the crisis until such time as it became virtually impossible to resolve. While administration officials politely listened to my suggestions, they ultimately decided to dismiss them.

Despite the death of Kim Il Song, and the resulting uncertainties about the succession of Kim Jong Il, the North Koreans appeared in Geneva to be seriously considering the late leader's intimation that they would exchange their current nuclear program for light water reactors and economic assistance. On August 12, the United States and North Korea issued a joint statement that was interpreted by some as evidence that the Carter initiative had born fruit.

In the August 12 joint statement, North Korea agreed not to reprocess the discharged fuel rods; seal its reprocessing plant and allow the IAEA to monitor it; and freeze construction of its 50 megawatt and 200 megawatt reactors. Additionally, North Korea promised to remain a party to the NPT, which prohibits the transfer of nuclear weapons to non-nuclear states.

On the United States part, the administration promised to find funding and suppliers of our choosing for the light water reactors, to open diplomatic liaison offices in Pyongyang and Washington, and to provide various forms of economic assistance to North Korea.

One discordant note in the administration's upbeat assessment of the negotiations' progress was the disclosure that Pyongyang still refused to permit special inspections of the nuclear waste sites. But Assistant Secretary Gallucci made it abundantly clear that no deal would be finally concluded without an accounting for the 1989 diversion. At the press conference to announce the joint statement, he said:

I wish to leave no uncertainty on the point that there will be no overall settlement, there will be no ultimate settlement, there will be no provision of light water reactors, until the question of special inspections is settled, until the question of the past, as it is sometimes known, is settled.

Not dismayed by this remaining obstacle to a settlement, the administration pressed ahead with negotiations over economic and diplomatic carrots, even agreeing to discuss in Pyongyang the details of opening diplomatic liaison offices. Formal negotiations on the nuclear question resumed in September.

During this latest round of negotiations, to which Mr. Gallucci returned yesterday, North Korea's irritating habit of breaking its word manifested itself yet again. North Korean negotiators began making demands that Mr. Gallucci characterized as bizarre, including their insistence that Pyongyang select the countries which would provide them with the light water reactors and also outrageous demands for economic compensation that amounted to a $7 billion bribe. North Korea now insists that the construction and operation of the two new reactors should continue until the light water reactors are operational—some 8 to 10 years from now. Indeed, construction of the reactors, which our negotiators intimated was to be suspended last August, has continued to this day.

Last week, in the middle of these bizarre negotiations, what I believe was an unprecedented event occurred: The North Korean military issued a press release which stated emphatically that they would never allow special inspections of suspected nuclear sites—thereby rejecting Mr. Gallucci's apparent ultimatum that there would be no deal without access to the nuclear waste sites. Due to North Korea's intransigence, the negotiations were, in effect, suspended last week, and Mr. Gallucci returned to Washington for new instructions from his superiors.

Mr. Gallucci returned to Geneva yesterday and negotiations resumed earlier today. According to the Washington Post, the administration instructed Mr. Gallucci to remain firm in his negotiating position. Reportedly, the administration believes North Korea's recent hard line is only a temporary negotiating tactic which they will abandon if United States negotiators refuse to yield. Perhaps.

However, I cannot shake the suspicion that the administration's commitment to "staying the course" might be less steadfast than advertised. For over a year, North Korea's many broken promises have been mirrored by the administration's many abandoned negotiating principles. And I fear past trends are reasserting themselves in this instance. Adding to my concern, is the administration's apparent lack of any strategy to coerce the North Koreans' cooperation should they persist in making a mockery of these negotiations.

In the same Washington Post article, an anonymous administration official admitted that the administration's return to the bargaining table was intended to "avoid having this thing come to head" while the United States was busy running Haiti and the administration was busy trying to salvage the coming congressional elections. The source went on to observe that "Nobody is enthusiastic about Plan B," in other words, a return to the Security Council for sanctions.

What that sounds like to me, is that we may soon see previously nonnegotiable United States demands tossed out the window in Geneva, irrespective of the administration's publicly expressed determination to stand firm. Or we may see the administration acquiesce in prolonging these negotiations long past the point when they could have led to any acceptable resolution of this crisis. I assume they would participate in this increasingly obvious charade in the expectation that the dire economic circumstances in North Korea will force the regime's collapse before the United States has to face the very grave consequences of North Korea's arrival as a nuclear power.

However, there is a problem looming in the very near term which I believe will soon squarely confront the United States with the folly of its carrots-only approach to North Korea and prevent the administration from kicking this can much further down the road.

Let us take a look at the dimensions of the problem now that nearly four months have passed since President Carter declared that his visit with Kim Il Song had defused the crisis. The crisis has not improved. Indeed, for the most part, it has worsened.

The discharged fuel rods remain in their cooling pond still available for reprocessing. North Korea still denies IAEA inspectors access to suspected nuclear sites. Construction of the two new, much larger reactors and a new reprocessing facility continues. Ballistic missile development is further advanced. Our allies, the South Koreans, are still excluded from the negotiations. No one has even seen Kim Jong Il, much less observed him speaking to Kim Young Sam.

The military balance of power on the Korean peninsula has not changed significantly. North Korea's artillery advantage along the DMZ remains daunting. The Clinton administration fears that the deployment of desperately needed counter artillery batteries to South Korea would threaten the future of negotiations or even provoke the North Korean military to attack, thereby acquiescing in leaving Seoul a hostage to the North's future belligerence.

To the extent that I have just described the situation, it looks strikingly similar to the situation before the Carter visit. There are significant differences.

First, Kim Il Song died. Since his tearful appearance at his father's funeral, the Dear Leader has kept a rather low profile in public. Indeed, he has been virtually invisible. Earlier this week, Kim Jong Il's ascendancy to the status of Great Leader was proclaimed by his foreign minister at the United Nations. But his curious lack of public visibility; incidents like the unprecedented public intervention of the North Korean military in the negotiations in Geneva; and the occasional incoherence of the North Korean negotiating position indicates that either Kim has not consolidated power, or, if he has, he does not intend to seriously negotiate. In either case, the picture for a diplomatic resolution of the crisis while the Dear Leader purports to be the Great Leader is not bright.

The second change in the crisis concerns the status of the 8000 or more fuel rods. While they remain in the cooling pond, they long ago reached a point where they could be safely reprocessed. North Korea has refused every suggestion for ensuring that these rods not be reprocessed in a way that would easily permit the plutonium they hold to be diverted to weapons production. Dry storage—encasing the rods in steel and concrete where they could be easily monitored—was rejected. Transfering the rods to another country was rejected.

Now, Madam President, the rods' magnesium cladding is believed to have seriously corroded. The import of this development is that at any moment Pyongyang could credibly make the argument that the corrosion of the cladding is about to cause an ecological disaster of such immense proportions that the rods must be reprocessed immediately. Given the possibility that the rods could actually be very dangerous at that point, dry storage would no longer be an option. Nor would any other country likely welcome the arrival of an imminent ecological disaster.

Given the prevailing winds on the Korean peninsula, public alarm over the North Korean warning will be greatest in Seoul and Tokyo, thereby obliging our allies most directly affected by North Korea's nuclear ambitions to accept the warning as fact, and acquiesce to North Korea's insistence that it must reprocess. It is unlikely that the United States will have much of a say in the matter.

No doubt, North Korea will offer assurances that IAEA inspectors will be allowed to monitor the reprocessing to prevent the diversion of plutonium to other uses. But the unfortunate reality is that plutonium is often lost in reprocessing and cannot be accounted for. Plutonium is lost when reprocessed in the United States. If the North Koreans have a secret diversion line in their reprocessing plant—and I am certain they do—we will never detect it. If the Koreans claim that fuel which was diverted to weapons production was merely lost in reprocessing—we will never be able to prove the contrary. In short, we may have already lost our primary objective of preventing the North Koreans from obtaining the material to build four to six additional nuclear weapons.

Coupled with my suspicion that the administration may relent in its insistence that Pyongyang account for its 1989 diversion, this new concern leads me to believe that North Korea is on the verge of becoming a nuclear power. They will have enough plutonium to blackmail South Korea and Japan, and enough to export to Iran, Syria, and Libya. Such a development could undermine our most vital interests in Asia and beyond for a generation.

Let us not be mistaken about the cause of this calamity should it come to pass. The fault will lie with the Carter initiative and with the administration that allowed that initiative to deter it from dealing with this problem forcefully from a position of strength. By allowing ourselves to be drawn into extended and ultimately fruitless negotiations with North Korea, we let the clock run out, and allowed the crisis to become so acute that it lacks a remedy short of military action.

Of course, we have also avoided taking the necessary military precautions that would make a military option a less dangerous proposition than it is; no doubt ensuring that the administration will decline to take this step as well. And while we are still waiting for the bankrupt economy of North Korea to destroy the regime, North Korea will have changed the balance of power in Europe and the Middle East. That it will have changed for the worse is obvious. How bad it becomes will be determined by whether these new nuclear

powers use their weapons only to intimidate their neighbors or actually use them on their neighbors.

Madam President, I know that this very bleak scenario is not yet apparent. But I believe it is at least a 50-50 proposition that it will come to pass. I hope that I am as wrong about this as I have ever been wrong about anything. But in the event I am not wrong, I would suggest to the administration the following course of action.

The PRESIDING OFFICER. The time of the Senator from Arizona has expired.

Mr. MCCAIN. Madam President, I ask unanimous consent for 4 additional minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. WALLOP. Madam President, parliamentary inquiry. It is my understanding that we are in general debate and there is no time allocation.

The PRESIDING OFFICER. The Senator from Arizona had requested 20 minutes in morning business.

Mr. MCCAIN. Thank you, Madam President.

Mr. Gallucci should address his North Korean counterpart at their next meeting and inform him that because Pyongyang is evidently not serious about a negotiated resolution to this crisis, these discussions have come to an end. There will be no diplomatic relations, no economic aid, no lightwater reactors, and no further discussions until North Korea offers concrete evidence of its good faith—say, an immediate invitation to IAEA inspectors to visit two nuclear waste sites in North Korea, and an urgent request that another country relieve them of the burden of their discharged fuel rods.

In the meantime, the United States will seek in the Security Council a sanctions regime far more seriously than we sought it the last time. Simultaneously, we will seek an immediate interim agreement with Japan to curtail remittances to North Koreans from their relatives in Japan. Finally, Mr. Gallucci should inform the North Koreans that after consulting with President Kim Young Sam, President Clinton signed an order authorizing the dispatch of multiple rocket launch systems and various other artillery to South Korea. They will be in place within a few days.

Mr. Gallucci should then collect his papers, close his briefcase and return to the United States.

Short of persuading North Korea that they have reached the limit of our willingness to be played for fools, I am not sure there is anything else we can do to avert disaster. It is not a risk-free approach. I am not certain it will be successful. Whether we still possess sufficient influence and creditability to enlist other countries in this cause is uncertain. But since we have exhausted our supply of carrots without success, can't we at least make one attempt at pressuring the North Koreans to operate? Wasn't one of the rationales for occupying Haiti the restoration of credibility to the American threat of force?

Should this attempt to coerce North Korea into some semblance of responsible conduct prove unsuccessful we will at least have not made the situation any worse than it is already likely to become. Only the further reckless pursuit of accommodation with a regime that scorns our reasonableness and reviles our purpose could do that. Of that point, I am certain.

Mr. President, I yield the floor.

Mr. MITCHELL. I suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

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

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

CALIFORNIA DESERT PROTECTION ACT—CLOTURE MOTION

Mr. MITCHELL. Mr. President, the Senate is now debating the conference report on the California Desert Protection Act. I have been advised that it will be necessary to file a cloture motion to bring that debate to an end. And, accordingly, I now send a cloture motion to the desk and ask that it be stated.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the conference report to accompany S. 21, the California Desert Protection Act:

Barbara Boxer, Byron L. Dorgan, Paul Wellstone, Pat Leahy, George Mitchell, Paul Simon, Patty Murray, Tom Harkin, Richard Bryan, Barbara Mikulski, Jeff Bingaman, Don Riegle, Harris Wofford, John F. Kerry, Claiborne Pell, Joseph Lieberman, Carl Levin, Dianne Feinstein.

Mr. MITCHELL. Mr. President, I will return to this matter in just a moment, as I discussed the matter with the distinguished Senator from Wyoming, and we will have a colloquy on that in a moment.

In the meantime, however, I have also been advised by the Republican leader that it will be necessary to file cloture motions to bring to an end the debate on three nominations which are pending on the Executive Calendar. They all involve Air Force officers.

First is Calendar No. 1280, the nomination of Lt. Gen. Buster C. Glosson; Calendar No. 1281, the nomination of Col. Claude M. Bolton, Jr.; and Calendar No. 1282, the nomination of Lt. Gen. Edward P. Barry, Jr.

I note the presence on the floor of the distinguished Senator from Iowa, and I am advised that it will be necessary to file cloture motions to bring the debate on these nominations to an end, and I am prepared now to proceed to each of those nominations in order and file the cloture motions. Then I will be pleased to proceed to a colloquy with the Senator from Iowa immediately following my colloquy with the Senator from Wyoming, if that is agreeable to the Senator from Iowa.

Mr. GRASSLEY. Yes.

EXECUTIVE SESSION

AIR FORCE

Mr. MITCHELL. Mr. President, I move that the Senate proceed to executive session to consider the nomination of Lt. Gen. Buster Glosson, Executive Calendar No. 1280.

The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The bill clerk read the nomination of Lt. Gen. Buster C. Glosson, for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 1370.

CLOTURE MOTION

Mr. MITCHELL. Mr. President, I send a cloture motion to the desk and ask that it be stated.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of Lt. General Buster C. Glosson, USAF, for appointment to the grade of lieutenant general on the retired list pursuant to the provisions to title 10, United States Code, section 1370:

Trent Lott, Thad Cochran, Malcolm Wallop, Bob Smith, Kay Bailey Hutchison, Lauch Faircloth, Orrin G. Hatch, Sam Nunn, Dan Coats, Strom Thurmond, John McCain, Hank Brown, Jesse Helms, Larry Craig, Paul Coverdell, Al D'Amato.

LEGISLATIVE SESSION

Mr. MITCHELL. Mr. President, I move that the Senate return to legislative session.

The motion was agreed to.

EXECUTIVE SESSION

Mr. MITCHELL. Mr. President, I move that the Senate proceed to executive session to consider the nomination of Col. Claude Bolton.

The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The assistant legislative clerk read the nomination of Col. Claude M. Bolton, Jr., regular Air Force, to be retired at brigadier general.

CLOTURE MOTION

Mr. MITCHELL. Mr. President, I send a cloture motion to the desk and ask that it be stated.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with provisions of rule XXII of the Standing Rules of the Senate hereby move to bring to a close the debate on Executive Calendar 1281, Col. Claude M. Bolton, Jr., to be Brigadier General:

Harry Reid, John Glenn, Sam Nunn, D. Inouye, Tom Harkin, Daniel K. Akaka, Richard Shelby, Carl Levin, Howard Metzenbaum, Paul Wellstone, Byron L. Dorgan, Paul Simon, Richard Bryan, Strom Thurmond, Trent Lott, Bob Smith, Dirk Kempthorne.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. I move that the Senate return to legislative session.

The motion was agreed to.

EXECUTIVE SESSION

Mr. MITCHELL. Mr. President, I move that the Senate proceed to executive session to consider the nomination of Lt. Gen. Edward P. Barry, Jr.

The PRESIDING OFFICER. The clerk will report the nomination.

The bill clerk read the nomination of Lt. Gen. Edward P. Barry, Jr., United States Air Force, to be retired lieutenant general.

CLOTURE MOTION

Mr. MITCHELL. Mr. President, I send a cloture motion to the desk and I ask that it be stated.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators in accordance with provisions of rule XXII of the Standing Rules of the Senate hereby move to bring to a close the debate on Executive Calendar 1282, Lt. Gen. Edward P. Barry to be Lieutenant General.

Harry Reid, John Glenn, Sam Nunn, D. Inouye, Tom Harkin, Daniel K. Akaka, Richard Shelby, Carl Levin, Howard Metzenbaum, Paul Wellstone, Byron L. Dorgan, Paul Simon, Richard Bryan, Strom Thurmond, Trent Lott, Bob Smith, Dirk Kempthorne.

LEGISLATIVE SESSION

Mr. MITCHELL. Mr. President, I move that the Senate return to legislative session.

The motion was agreed to.

Mr. MITCHELL. Mr. President and Members of the Senate, we are attempting to bring this session of the Senate to a conclusion but for the matter of the GATT implementing legislation, which we will take up on November 30 and December 1. There are a number of nominations remaining on the Executive Calendar on which we hope to complete action, and there are a number of other matters on which we hope to complete action by unanimous consent.

The four matters which remain at this time known to me to be in dispute are those on which we have just filed cloture motions. The first deals with the California Desert Protection Act, and the other three deal with Air Force nominations. I am advised that the Senator from Wyoming opposes the California Desert Protection Act and notified us of the necessity to file cloture on that.

I note the presence of the Senator in the Chamber. We have discussed this privately prior to this time. Under the Senate's rules, the vote on the cloture motion would ripen on the second day of session following the day on which the motion is filed.

It has been my hope that the Senate could complete this session today, and I inquire of the Senator from Wyoming whether he would be willing to permit a vote on that cloture motion, assuming all other Senators agreed, since it would take unanimous consent today so that we would not have to keep the Senate in session over that period.

I have indicated to the Senator it is my intention that the Senate will remain in session for so long as is necessary to deal with the subject, and we have discussed it as I noted previously privately. I wanted to take this opportunity to make my inquiry of the Senator.

Mr. WALLOP. I would say to the majority leader that this is clearly not the way I had anticipated closing my, nor his, Senate career. I cannot deliver to the Senator an answer on that question at this time and do not consider it out of the question, but it is clearly not part of my current plans. Should it be, I would be only too delighted to notify the majority leader of that.

Mr. MITCHELL. I thank my colleague.

Mr. President, I earlier noted the presence in the Chamber of the distinguished Senator from Iowa, who we were advised would require the filing of cloture motions on the nominations, and I would like to direct a similar inquiry to the Senator from Iowa.

The rules would apply with equal force to the three cloture motions on the nominations. If the Senator from Wyoming were later willing to agree to permit a vote on the cloture motion on the California Desert Protection Act, I inquire through the Chair of the Senator from Iowa whether he would then be willing to permit cloture votes to occur on the nominations at that time as opposed to waiting for the full time to expire.

Mr. GRASSLEY. I cannot answer the Senator's question, but if I could comment further. I would like to say that just as a matter of record, I had been prepared to debate the Bolton nomination since last year. I have been prepared to debate the Barry nomination since very early this year. And I have been prepared to debate the Glosson promotion since April. So I very much regret that these are being brought up at such a late moment.

But to speak directly to what the floor leader, the majority leader, has asked me, I have a lot of material I wish to discuss on this. I would not pretend—it would be dishonest for me to say to the Senator that I know it is going to take all the time between now and 12:01 on Sunday morning to do it, and I would be happy to have a dialog with the Senator at a future time if it could be done sooner. But I would only want to do that after the things I have been waiting to say for well over a year on some of these nominations are stated.

Mr. MITCHELL. I thank my colleague. As he knows, I do not know the details of these nominations, nor of the reasons for the Senator's objections, but I will be pleased to do all I can to ensure that the Senator has full opportunity to say whatever he wants about these or any other matters.

Mr. GRASSLEY. Will the Senator yield for just a second——

Mr. MITCHELL. Sure.

Mr. GRASSLEY. On the point that the Senator made about which he did not know the details?

I do not expect the Senator to listen to my extensive remarks, but just for a short version of it. If I could just say that in the case of Colonel Bolton, it deals with his being a program manager and involves the mismanagement of the advanced cruise missile program. In the case of General Barry, it deals with his being involved with the mismanagement of the C–17. In the case of General Glosson, it involves his influencing the promotion process within the Department of Defense.

In each of these instances, in each of these instances, these people have been disciplined one way or another, are moved from one position to another or

been reprimanded one way or another well in advance of their names coming to the Senate.

And so the point that I would make to the Senator from Maine, our distinguished leader, is that should these people be promoted and have the ratification of their mismanagement or their wrongdoing, have the stamp of approval of the Senate on those nominations, I presume, knowing how the political process works here, they will get that stamp of approval. But I wish to make sure that my colleagues in this body know fully what is at stake and my understanding is that some people in this body, some of my colleagues, disagree with me.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. I thank the Senator for his comments. I listened to them carefully. And, of course, they are very serious allegations, and I will inform myself, and I believe and hope all Senators will therefore fully inform themselves, on these matters before the votes are cast and will also listen carefully and with attention to the remarks of the Senator from Iowa as he addresses these subjects more fully prior to the time the Senate votes.

Mr. BYRD. Mr. President, will the majority leader yield?

Mr. MITCHELL. Yes.

Mr. BYRD. Mr. President, I hope our friends will relent just a little bit because the way I hear this being played out, it means that the Senate will be in session on Sunday. It is my present inclination to vote against at least one of the nominations the Senator is talking about. But longer discussions concerning the nominations may not convince me any more than I might be convinced in 15 minutes or a half-hour.

I hope Senators will not prolong this situation so that we would have to be in on Sunday. There are some of us here who believe in trying to keep the Sabbath Day a little bit holy at least. We have other religious holidays around here. I have no objection to that. But there are some of us who feel Sundays ought to be a religious holiday. I hope our friends are not going to push us into Sunday and hold out that long. In my judgment, that is no way to pick up votes.

I just plead with my friends on the other side. Why hold out until 12:01 on Sunday morning? I am inclined to vote against cloture on some of these items, but not if we are going to do this. I can cast my vote right now on cloture. I can cast my vote right now on the nominations.

I hope Senators will not push us into Sunday, for Heaven's sake. And I am a leader who has had the Senate in on Sunday. But in those days I did not give the Senate entire days off for religious holidays. Lately, we have put the Senate out of session for religious holidays for other faiths. So why not those of us who would like to have Sunday as our Sabbath? Why not let us have that day off?

I hope our friends will not push the Senate like this. Let us have votes on cloture, and then vote up or down on nominations or on the California desert bill, or whatever.

Please consider what I am saying. In the long run, I do not think you will gain anything for your cause by pushing us into the Sabbath. The Senate looks bad enough as it is, without being in session on the Sabbath. We ought to get out and go to church on Sunday.

I thank the leader.

Mr. EXON. Mr. President, will the leader yield for a question?

Mr. MITCHELL. Yes, sir.

Mr. EXON. Mr. President, on another subject, while we are interrupting the business of the Senate, I would certainly advise the Senate and the majority leader that there are several measures that are going to have to be addressed early on today rather than midnight tonight that I think have the support and have been cleared on both sides of the aisle. The presumption is that the House of Representatives, as they have done before, are likely to adjourn sometime this afternoon or this evening and go home. I hope that there are a few matters that have been cleared on both sides so we could interrupt the proceedings at an early hour this afternoon to send those back to see if they could be acted upon. If not, they are going to die here by inaction. I just bring that to the attention of the leader. He may know about it. But I think he—and certainly the staff—knows there are some measures that I think, although there may not be total agreement, we have to move on.

Mr. MITCHELL. Mr. President, if I might respond, we are aware of it, and indeed a short time ago we requested that we be able to proceed with those. But we have been advised that they are not cleared by our colleagues. And, therefore, we have to wait until we get that clearance, which I hope will be coming soon.

Mr. EXON. Thank you.

Mr. MITCHELL. Mr. President, I yield the floor.

Mr. BREAUX addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

UNANIMOUS CONSENT TO CHANGE VOTE

Mr. BREAUX. Mr. President, I have a unanimous-consent request that has been cleared by the office of the distinguished Republican leader and the office of the distinguished majority leader; that on vote No. 325, the motion to invoke cloture on the conference report on S. 349, the Lobbying Disclosure Act, that I could be recorded as having voted "no." The change would not affect the outcome of the vote.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, if I could continue where our distinguished leader left off, and also because of the statements made by the Senator from West Virginia—obviously his opinions are important and carry a lot of weight with me, and I give them due consideration—but I do want to emphasize for every Member of this body that, once again, the nominations have been on the Hill, in the case of Colonel Bolton from last year; in the case of General Barry, late last year or early this year; in the case of General Glosson, late last year or early this year. I have been prepared to discuss the Bolton nomination since last year. I was prepared to discuss the Barry nomination last year. I was prepared to discuss the Glosson nomination earlier this year, in April.

The distinguished majority leader has stated that we will stay in session until we get the California desert bill out of the way and until we get these three nominations out of the way. I guess I feel badly, as a sponsor of legislation with Senator LIEBERMAN and myself, that somehow nominees from the Department of Defense—where there has been a tremendous mismanagement in the program, where people have already been disciplined for that mismanagement—that these nominations would have a higher priority than Congress being covered by the laws we have exempted ourselves from. That is the subject matter of the LIEBERMAN-GRASSLEY Congressional Accountability Act.

The people at the grassroots of America very much understand that we have exempted ourselves from a lot of major pieces of legislation. We are employers here in the Senate. Each individual Senator is an employer of staff with the right to hire and fire. The Senate as an institution has staff. A lot of subdivisions of Congress, like the Library of Congress and the General Accounting Office and other subagencies like that, are under Congress. They have been exempted from some of these laws, with 40,000 employees not having the protection of the law. There are two sets of laws in this country. One set is for Capitol Hill, the enclave here, and the other set of laws is for the rest of the Nation. There is one set of laws for Pennsylvania Avenue and another set of laws for Main Street America.

This is absolutely wrong. It comes up at every town meeting we have. A bill passed the House, 427 to 4, to end that last plantation mentality. It was brought up yesterday by the majority leader. There was an objection under a technicality that the report had not been filed on time. And so, now, it is not coming up.

Yet, we are told that the California desert and General Glosson, General

Barry, and Colonel Bolton—people who have been involved with mismanagement of programs or violations of rules on a promotion—are more important than to have Congress covered by the laws that cover the rest of the Nation, so that we have some appreciation of what the employers, particularly the small employers of America, go through. And they legitimately get very nervous that some bureaucrat might come into their place of business and, with the police power of the Federal Government, close them down. Those same people cannot come to our offices and close us down, because we are not covered by those laws.

How do we have an appreciation of the impact of Government regulation on the small businesses of America if we exempt ourselves? But somehow we are not going to go home until we do these other matters. Yet, congressional coverage, high on the list of our constituents, is held in abeyance. It is not so important. It may not be important at all.

We had a considerable debate last night on the unfunded liabilities bill that the Senator from Idaho, Mr. KEMPTHORNE, has put forth. When we pass regulations around this town, pass laws putting responsibilities on local government that cost local government money, we do not give them money. How terrible of a situation is that, that we are going to say that Butler County, IA, or Des Moines, IA, has to do something the Federal Government says they must do, which costs a lot of taxpayer money for the taxpayers of those States in the counties and cities? It is very easy and very irresponsible to pass laws that are applicable to the rest of the Nation and put the burden on the taxpayers at the local and State level and not give them money to do it.

So Senator KEMPTHORNE has come up with the legislation—I suppose he would describe it differently but, from my standpoint, it makes us either have the guts to pay something, put our money where our mouth is, put our checkbooks where our actions are, put our performance commensurate with our rhetoric, and either put up or shut up when we pass some sort of law applying to the rest of the Nation; and if we are not going to fund it, it is not going to apply. And the League of Cities; the Organization of Mayors; the Governors Association; the National Counties Association; the State Legislature Association, all these national organizations are pushing that legislation.

Yet, we are told that somehow the California desert and General Glosson and General Barry and Colonel Bolton, all people who have been involved in mismanagement of programs, and so cited by the General Accounting Office, or so cited by the inspector general, that these nominations are more important than the question of unfunded liability, or the question of the applicability of laws to the Congress of the United States so we have some appreciation of what other people are going through. I do not understand it.

I will bet if you go out even in downtown Washington, DC, as urban as that is, they would not understand it, and for sure, if you went to the grassroots of America, they would not understand it, because there is no justification for it. Yet, that is the situation we are in.

Do you think it is right for a general to unduly, or in any way, try to influence the promotion process within the Department of Defense? Why, that is such a serious challenge that our Armed Services Committee said in a report that we ought to make that a criminal offense. That legislation did not pass, but it is still contrary to the regulations of the department. We even had generals on the promotion board resign because of the undue influence. Yet, we are going to have debate on that subject at the last hour, when we could have had it last April.

I think we ought to have certain priorities, and those priorities ought to be not to wait until the midnight hour to bring up something that could have been brought up last year, in the case of Colonel Bolton; last year, in the case of General Barry; earlier this year, in the case of General Glosson—and then, legitimately, Senators plead with us not to debate these issues here at the last minute. And it is perfectly legitimate to plead that we not be in session on Sunday when, as Senator BYRD said, "We ought to be in church."

But it is not my side of the aisle that controls debate on these issues. It is the other side of the aisle. It is Senator BYRD's party that controls the agenda. There is nothing wrong with doing things more timely.

We are going to adjourn pretty soon, in a few days, and we will go home and come back with a new Congress on January 3. We will swear everybody in. And then we are so doggone tired from having 3 months at home that we will have to take a couple weeks off and rest up.

And then we will come back about January 20 or 25 to listen to the President's State of the Union message, and we will have one or two little minor items the first week in February, then we are going to be so tired that we are going to take the second week of February off. That ends on the President's holiday.

And then, around February 20, we are going to get serious about doing business. And then we are going to have Mondays and Fridays off through the month of March and probably April, and then in May and June and July, you can start not counting on having Mondays and Fridays out of session, but you will have several of them off. And then, all of a sudden, we will have late nights in July to get ready for the August recess. And we come back in September and work late nights in September because we have to finish up our appropriations bills by the end of the fiscal year.

So it seems to me like right now if you want to plan ahead the way to manage the business of the Senate, if you do not want to be in debating three generals who have already been reprimanded by their own superiors and debate whether or not they ought to have a promotion as a going away present, then we ought to be working harder during January, February, March, and April than what we generally do.

Then there will not be any problem that I am faced with now of having someone like Senator BYRD mad at me for the rest of my tenure in the Senate because I want to fully debate something that I have been waiting to debate for 12 months in some instances and at least 6 months in another instance.

Two years ago I think we adjourned on October 27. I think we are better off if we do adjourn and get out of here and go home. But the same leadership that kept us here until late October 2 years ago is now very anxious to get out of here very early now. I do not understand why, except just generally as a rule of thumb, the country is safer when we are not in session.

I hope that the discussion that occurred here in the last 48 hours about getting things done and doing them timely and not inconveniencing the entire institution, including a lot of people, more than the 100 Senators, will lead us to some thought about what we can do around here in the future to have better management of time so we do more in January, February, and March, and not have everything thrown into the last few days, particularly when the country is crying for us to do something about unfunded mandates, crying for us to do something about congressional accountability.

It seems to me like when more of our country was agrarian and there was a certain period of time to plant and there was a certain period of time to harvest, probably our forefathers who were a little closer to the soil had a much better outlook on the timeliness to do things.

The further you get away from the basics of nature, the more you get into a political environment that is separated from the realities of life, the more you become a society unto yourself as political leaders and public servants. The more you are losing touch with the grassroots, the more, it seems to me, these commonsense approaches to the running of an institution like this are left by the wayside.

The extent to which we can get back to the realities of life and put some of those simple principles into the formation of public policy, and we put those

principles into the actual mechanics of running a public institution, we would not have these situations, and we would have a situation in which things were done more timely, and we would not have to have these late weekend sessions and have tempers flair and have bitterness. It is a needless waste of energy. It is not something that we should have to have. It just does not need to be.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. GRAMM. Mr. President, I have several things I want to say today before we wrap up this session of Congress. So if I may, I will just tick them off in fairly rapid succession.

TRIBUTE TO SENATOR GEORGE MITCHELL

Mr. GRAMM. Mr. President, the first thing I want to do is talk about the majority leader, GEORGE MITCHELL.

It has been my special privilege for the last few years to serve with majority leader GEORGE MITCHELL of Maine. I do not think it will come as a surprise to anybody who has followed debate in the Senate to learn that GEORGE MITCHELL and I have been on opposite sides on many issues. But I would just like to make a couple of observations about the majority leader since he is retiring at the end of this term.

No. 1, I doubt that we will have as able an adversary again, at least speaking for Republicans, as we have had in GEORGE MITCHELL.

No. 2, I have often sat during long and boring debates in the Senate and thought about if you were going to put together Members of the Senate in an historical context who ought to be in that Senate. I have thought about which Members of the Senate serving today would rank among the Members of the Senate who are worthy of being remembered.

Those of us who have the privilege to sit here at these ancient desks from time to time pull out the drawers and look at the names of those who have written or carved their name into a desk drawer, which is a tradition here. And I do it to keep myself humble, because when I open the desk drawer and look at these names very few of them are people that I have ever even heard of. The world forgets very quickly most of those who serve in the U.S. Senate.

I have asked myself on occasion who, of those now serving in this Senate is worthy of being remembered, and as I have sat through long debates, often late at night, with nothing better to do at the moment, I have often tried to select five Members of the Senate who I think stand out as people who are worthy of being remembered. I can say that in the last few years I have never put that list together that GEORGE MITCHELL's name has not been on the list.

Finally, let me say that, at a time when so many people think of Congress as an organization which is separated from America, when it is conventional wisdom to try to present Members of the Senate as being some elite and remote group, I would just like to say that it is reassuring to me to know that a person born in Maine of very humble beginnings can rise to be majority leader of the U.S. Senate.

So I will not miss our distinguished majority leader as a tough and competitive adversary, I will not miss many of the votes he has cast, often on the winning side on many issues that I care deeply about, but as a human being and as a born leader, GEORGE MITCHELL is very hard to match. And I will be very proud someday to tell my grandchildren that I served in the Senate with GEORGE MITCHELL.

THE CHARGE OF GRIDLOCK

Mr. GRAMM. Mr. President, I would like also to say a few words in response to our President.

Our President today held a press conference and we, as Members of Congress, were apparently very much on his mind. In fact, the AP story says:

> President Clinton today ridiculed Republicans in Congress for blocking his legislative agenda, accusing them of embracing a policy of stop it, slow it, kill it, or just talk it to death.

He then accuses Republicans of wanting to take America back to the Reagan-Bush years.

Mr. President, I want to thank President Clinton for that advertisement. In truth, I would like to take America further than Presidents Reagan and Bush ever took it, but I think most Americans would like to go back to the Reagan years. I think if they had a choice between the Reagan years and the direction of the Clinton years they would choose the Reagan years.

And our President notes that his contract is with the American people for the future. I would say, Mr. President, not very long into the future.

I would like to respond very briefly to this charge of gridlock. I find it absolutely astounding that, in Washington, DC, progress is measured by how many bills you pass, by how many taxes you raise, by how much money you spend, by how many new agencies and bureaucracies you create.

I would imagine that if we could go out into America on Main Street in Mexia, Texas, that we would find that their idea of progress is exactly the opposite.

I hope that someday we have a Congress where a President will stand up and say: This Congress repealed 641 laws; this Congress terminated so many agencies; this Congress closed so many departments; this Congress cut so much spending; this Congress cut so much in the way of taxes.

I believe that this idea that seems fixed in the minds of Washington and, quite frankly, in the national media, that to say "no" is a bad thing is out of touch with reality.

I believe more than anything else that this Congress will be remembered for having killed the President's health care plan. I would like to remind my colleagues that the President's health care plan did not die because the President was not a great salesman. The President is a great salesman. The First Lady is even a better salesman. The President has the biggest megaphone in history.

The President's health care plan died because, try as he did, the President could never convince the American people that we ought to tear down the greatest health care system in history and rebuild it in the image of the Post Office. The American people wanted the President's health care plan stopped.

In my opinion, when this Congress is remembered—and I believe some elements of it will be—it is going to be remembered most as the Congress that, at the critical moment, when we were going down the wrong road at 100 miles an hour headed towards socialized medicine, we had a few Members who were willing to stand up and say "no."

I remember vividly 13 months ago we had a bunch of Republican pollsters come to Capitol Hill and say, "It's political suicide to stand up and say you're opposed to the President's health care plan. You can't take this thing on head-on. In some form it is going to pass and what you have got to try to do is to make marginal changes."

All three of the major auto makers were for the President's health care plan because they were being bought off by the taxpayer picking up health care for their early retirees. The American Medical Association could not make up its mind where it stood on a fundamental issue of our time: Do you believe in private medicine? The American Hospital Association was going to have the Government come in and solve all its problems. Big business was, at best, not helpful and in many cases was neutral in the whole debate.

But an interesting thing happened on the way to a Government takeover of the health care system. And the interesting thing that happened is the average American citizen got involved in the debate. People all over America

started to think about what it was going to be like when Government made health care decisions for them.

At the peak of that debate, I got 7,000 first-class letters a day. At the peak of that debate, from 6 in the morning to midnight, every phone in my office and every other office on Capitol Hill rang off the hook and people basically had one message—stop the Clinton health care plan.

And I am happy to say, Mr. President, that we stopped the President's health care plan.

So when the President is standing up and lamenting the death of his health care plan as being an evidence of lack of progress in this Congress, I do not believe that Bill Clinton is speaking for the American people. I believe when Americans go to bed at night and they get down on their knees and they thank the good Lord for good things that have happened to them, one of the things they thank him for is that we defeated the President's health care bill.

I can remember vividly, Mr. President, when President Clinton gave the speech that we all saw on television where he pounded the podium and said, "Whenever I want something done, all the Republicans can say is no, no, no, no, no."

Well, I think when the American people on November 8 go back and look at the list the President wanted us to say yes to—whether you are talking about taxing Social Security or taxing gasoline or taxing small business or a so-called stimulus package that would have built ice-skating rink warming huts in Connecticut and alpine slides in Puerto Rico, or whether you are talking about U.N. control of U.S. troops or invading Haiti—I think, when the American people look at that list of items, that their answer is remarkably similar to the answer that the President accuses Republicans of having given, and that answer is no, no, no, no, no.

We are going to have a vote on health care, but not in this Congress. In fact, yesterday, when we had the adoption of a motion to proceed, it formally killed the President's health care plan by taking it off the agenda of this Congress. But it had died a long time ago.

But the President is going to get his vote on health care and he is going to get that vote on November 8, because I think the American people understand that the President has not changed his mind and the President has not changed his heart on health care. The President still wants a Government-dominated health care plan. He still has a dream of Government running the health care system. And in the next Congress he is going to make a proposal that is going to be remarkably similar in everything but its name to the proposal that he made in this Congress.

If people are opposed to that plan, they have an opportunity to go out and vote on November 8. They have an opportunity to vote for people who will not vote for the President's health care plan, and they have an opportunity, it seems to me, to vote for a new approach in health care reform.

This criticism that somehow saying no to the President's plan—whether that plan is a tax increase or spending increase or is Government-dominated health care—this idea that that is a negative thing, it seems to me, is out of touch with reality and with the American people.

When you are on the wrong road going in the wrong direction, speeding up does not help you. The only thing that helps you is to stop, get directions, turn around, and get on the right road going in the right direction.

I believe that this Congress, more than anything else, has done a good job in stopping the President's proposal, stopping the President's ability to have the Government take over and run the health care system, stopping the President's ability to spend money on programs that we do not need, that we cannot afford. And I believe when people look back at this Congress, the best things we did were the things where we said no.

The President says today, which I guess is a recognition on his part that we are about to have a lot more Republicans in Congress, that he wants to work with Republicans. Let me assure the President that we want to work with him.

When the President supported NAFTA—and might I say that it was a delayed, beleaguered support to begin with, until the issue built up a head of steam—I am proud to say that it was Republicans who stood up and first supported the President on NAFTA. If the President will start doing what he said he would do in the campaign, with programs like truly reinventing Government, reducing the bureaucracy, expanding the freedom of the people, letting working Americans keep more of what they earn by passing a middle-class tax cut, being a new kind of Democrat—when the President does the things he promised to do in the campaign he is going to have a lot more Republican support than he has had. But the President has not had Republican support and will not have Republican support so long as the President is trying to do things that he told the American people that he would not do.

I believe the American people have become convinced that the President was elected under false pretenses; that the President told the American people that he was a new kind of Democrat but he has turned out to be not a new kind of Democrat; that the President told the American people he was going to cut middle-class taxes but he raised taxes on middle-class retirees by taxing Social Security, when he taxed gasoline, when he taxed small business. When the President said he was going to cut wasteful spending I do not think the American people had the so-called stimulus package, or the so-called crime package in mind.

When the President said he was going to get tough on criminals, I do not think the American people conceived that as meaning $5 billion more social spending, nor do I believe the American people thought that entailed overturning mandatory minimum sentencing for drug felons who, in many cases, are trying to sell drugs at the door of every junior high school in America.

So, if the President wants to work with Congress and wants to work with Republicans, it seems to me that the President needs to get back to the agenda that he outlined in the campaign. I am happy to say that when the President has moved away from that agenda he has had strong Republican opposition. And as long as Bill Clinton is trying to raise taxes, increase spending, tear down defense, use the American military as a police force in a foreign land, and have the Government take over and run the health care system, he is going to face the strong opposition of Republicans, and more importantly he is going to face the strong opposition of the American people.

One final point. I know many of my colleagues want to speak. But let me make this point. When the President sent his health care bill to Congress he and members of his administration said: If Republicans oppose this bill they are going to be held accountable at the polls.

We opposed the bill and we killed the bill. Hold us accountable. But hold accountable the people who were for the bill. Hold accountable the Democrats who wanted the Government to take over and run the health care system. Hold accountable those people who signed on to the bill who, today, all over the country, are running away from it. Health care is an issue in this campaign. It is a dominant issue. Because the only time the American people are going to have a vote on health care directly is when they go to the polls on November 8. If they do not want the Clinton health care plan they have an opportunity to go to the polls and vote for the people who opposed it and vote against the people who were for it. I just have a feeling that is exactly what the American people are going to do.

So, I am delighted to have had an opportunity to come down and respond to the President. I always try to work with the President when I support what he is doing. But I do not support most of the things that the President is trying to do. But, more important, the American people do not support it. All the President has to do to get more support from the American people and

more support from Republicans is to do more of the things he said he would do in the election and fewer of the things that he has done since he has been President.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

CHANGE AND GRIDLOCK

Mr. BIDEN. Mr. President, I always enjoy hearing my friend from Texas. After listening to him, I sometimes wonder what Government he is talking about.

I just want to make one broad point and then I will yield the floor.

The Senator says two things that many of his colleagues say these days. That is, first he says: You know, we are a party that wants to repeal. We are a party that does not want to add—meaning Republican Party. He went through this thing about how he looks forward to the day when there are 640-something laws eliminated or whatever.

Then he says: But I want to cooperate with this President. I want to work with him. I do not understand why he does not come to me and say why do you not work with me? Why do you not cooperate with me?

The issue is not whether the Clinton health care plan failed or succeeded. Very seldom does any major initiative any President puts forward end up being what is in fact the law. It is always the case where the agenda is set by the President and they start the debate. So the issue is not whether you should hold someone accountable or not accountable for killing the health care plan. The issue is, if you like health care just the way it is—those millions of Americans who do not have any, those tens of millions who are about to lose it, the rest of them who cannot leave their job in order to keep health insurance—if you like it exactly the way it is then, fine, no problem. You should vote to give Senator GRAMM a full measure of credit.

But if you think the system is not working very well, if you think we should get together and cooperate and work on something that is going to provide health insurance for the people who do not have it, if you think we should get together and make sure people who worked like the devil all their lives, middle-class Americans who live in fear of losing their jobs, live in fear of what will happen to their families if they get ill—also look to Senator GRAMM. He is going to run for President, I think. Look to him. Look to him and say: PHIL, it is great that you made sure my sister, who is making $18,000 a year, with three kids, cannot have any health insurance. I am proud of you. It is a good thing you did. Keep the system just the way it is.

I also find it fascinating to listen and hear about what gridlock is. Let us talk about what gridlock is—my definition of gridlock. My definition of gridlock is when you have a clear majority of the elected representatives of the American people who work in the U.S. Congress—Democrat and Republican, House and Senate—when a clear, undisputed majority want to do something and a minority repeatedly comes along and says we are not going to even let you vote on whether or not we are going to do that—that seems to me to be gridlock, or obstruction. The irony is, the things that have been opposed are things that I do not even understand why they opposed them, because they have voted for them in the past. I mean, it is like the crime bill. A vast majority voted for it. And when it came back from the House essentially the same bill, all of a sudden it was a bad bill, because some pollster said "By the way, if the crime bill passes, the President will get credit, so don't let it pass."

Now, that is gridlock. I am not taking issue with anybody's views on the floor. I am not taking issue with their views, if they believe them as a matter of principle and that is the only reason. There are a lot of crazy ideas that are reflected in the American public and the American psyche and the U.S. Senate. I have been the father of some of those crazy ideas. So, I respect that. But the gridlock here—a case in point—is the California desert bill, and it is, by the way, within the rights of Senators under the rules. I want to make it clear.

But the American people do not understand, nor should they have to understand, the technicalities—such as with the legal system and the complexities of the operation of the fifth amendment and the fourth amendment and the second amendment and the first amendment. They look at it and say, "Wait a minute now, this is right and this is wrong. Why are we doing this?"

For example, I heard comments about the attempt of lawyers to suppress evidence in the *O.J. Simpson* case. "Well, if he is not guilty, why would they try to suppress?" They are complicated notions.

One of the things the American people, I think, also understand and view the same way is their Government. We all in this body know any Senator is within his rights to engage in a filibuster, to use the parliamentary rules to his or her advantage to keep a majority from prevailing—and there is an underlying, solid rationale for that having been put in the Senate rules. Notwithstanding that, I think the American people have had to wonder a little bit: Why is it that when repeatedly, time after time after time, an overwhelming majority of Members of both Houses of the U.S. Congress say they want to do something, our Republican friends stand up and just say no. The party of no.

Now, is campaign reform a bad idea? I want the American people to go out and judge. If they, in fact, use the same standard that Senator GRAMM said, if you like the way we finance our elections now, give Senator GRAMM credit. Give him credit. Election day, walk up and say, "I like this idea that you can go out to these super wealthy people and get large amounts of money. I like it. That's why I'm for you, Senator."

Now, if you also like the fact that we cannot reform the system whereby we require lobbyists to be what most Americans would say in a mode of full disclosure, you like the idea that lobbyists permeate this place and this town the way it is, with very little regulation, thank him, thank the Republicans. Go tell them, "I like it. I like it the way it is." Give them credit.

Do you like the way that we are allowed to, under the rules go play golf or all the stuff you read about in the paper, which we tried to change?. You like that? Give them credit for killing reform, they deserve it. They deserve the credit. I do not want to be the one to deny them the credit. They deserve every bit of the credit that they should be given, because he stands up and says, "Give us credit for stopping this stuff."

How about the California desert bill? I believe my friend from Wyoming feels very strongly about this. He does. Under the rules, he can do whatever he wants. But if we adjourn here without the California desert bill passing, the environment being protected, give them credit, give credit where credit is due.

They have been exceptionally—exceptionally—good at stopping things. I acknowledge that. I have been here 22 years. I have never seen a more adept—more adept—group of individuals able to stop campaign reform, any change at all in the health care system. We are not just arguing about whether or not we have the Clinton health care bill. That was dead when it came here. Guys like me never supported it. A lot of people did. But everybody knew it was a starting point. There were three, four, five, seven other plans. What did we do? Nothing. Nothing. Nothing.

Maybe the Senator is correct, that the American people do not like the Clinton health care plan. I did not like it. So maybe I am with the American people. But I did not think the alternative was if I did not like that, we were not going to cooperate and not going to deal with the health care problem in America. I thought that is what we were supposed to do. We disagree, we negotiate, we debate, we compromise and we act, when there is a majority that wishes to do that.

Mr. President, again, I will make it clear. I have been here long enough to know, and my colleagues who have worked with me long enough should know, I am in no way denigrating, in

no way casting aspersions on or questioning whether or not they have the right under the rules to do this. They clearly have the right under the rules to do what has been going on this last year.

I thought the beautiful one was what we did on education. This is what I think I mean by gridlock. This is what my wife means by gridlock. That is what my mom means by gridlock. That is, we have an education bill. We are required to get cloture on the bill.

First of all, there is this long, drawn-out process whether there is a hold on the bill, whether the bill can be brought up, what we will do if it is brought up, are we going to bring things to a halt and all this kind of thing. And then when we finally bring it up they insist on cloture. A fancy word. For people who are listening, that means we are going to cut off debate. We have to get 60 people to say, "Stop the malarkey, let us vote," and then we have to get 50 people to pass. But you have to get 60 just to stop it so we can vote.

So they said on the education bill, we are not going to let that go forward. They did not quite say it that way. Everything dragged along and sputtered along and finally the leader said, "We are going to file cloture," meaning we are going to see if we have 60 votes, if there is any support for this bill.

We went through all this, wasted 3, 4 days, got cloture and 35 people voted for it. They even tried to slow down things they are for. Now, that is an unusual development. I have not seen that before. I have always thought the purpose of the filibuster and the unstated filibuster was to stop things you were against. Well, my Lord, we stop things on this floor that we are for.

So, anyway, that is what gridlock is. That is the frustrating part, I think, for all of us. It is not that we are saying, "Well, if you really oppose this bill, you should not fight to the death to stop it and use everything you can to stop it." But everything? Everything? A vote on a fellow named Sarokin. We kept trying to get a time agreement. This was repeated 100 times this year. What ordinarily would have taken a debate that would last 3 or 4 hours took a week. And so finally, I went to the majority leader and said we have to file a cloture motion to force everybody to the issue. We got a cloture motion. We get cloture and then over 70 people vote for the guy.

Now, in the past, people did not come in here and filibuster on things that they did not think they had at least a remote possibility—a remote possibility—of stopping. I am never as sure as to what the American people think as some of my colleagues are. Everybody always tells me what the American people think. I have enough trouble figuring out what my family thinks, and I am not sure I am good enough to know what the American people think. I think I know what the people of Delaware think, but as the Senator points out, in 2 years we will know whether or not I know, because I am up for reelection, if I run again. But I think what people are frustrated about is that there does not seem to be any sense of comity or good will to deal with problems everyone believes exist.

I did not sign on to any one of the health care bills because I was not enamored with any one of them, but I believe we have to have health care reform. I was ready to participate in the process of negotiation, compromise, and debate, in order to do something about the health care system.

I think the way we finance our campaigns is a disgrace. I have a way I think we should do it. Back as far as 1973, I introduced a bill saying we should publicly finance our campaigns so we are beholden to no one but our constituency. I do not expect people to accept my view, but I do expect us to say we should do something about the way we finance our campaigns.

I do not suggest that my way on how to deal with and reform the system of lobbying in this place is the only way, but I do think that most Americans and most people in this body think we should do something about it.

What has happened in the last couple of years is an all-or-nothing attitude; you do it exactly my way or it is not going to get done. And usually doing it exactly my way means you cannot get this done because, if you get it done, somebody is going to get credit for it and that will hurt my party.

That is a bad deal. That may be a short-term prescription for winning, but I truly believe it is a long-term prescription for disaster for a participatory democracy.

I truly believe that we are running ourselves into a circumstance where there is no win for any political party because the American people conclude that we cannot as institutions deal with things they know have to be fixed—campaign funding, gift bans, lobbying reform, health care, crime, which we finally did do after 6 years. It is no wonder people are frustrated.

I know that my friend from Texas is an able, able Senator. I know that he has a very coherent, cogent philosophy. I wish we could just debate straight up, his philosophy versus mine, how we should govern ourselves as people, the Democrats' versus the Republicans' philosophy on how to proceed. But then ultimately come to a resolution. When a majority of people in this body, in a representative Government, feel we should move in one direction, we should be allowed to move.

(Mrs. FEINSTEIN assumed the chair.)

Mr. BIDEN. Democracy is a very fragile thing, Madam President. It rests ultimately on the instinctive trust of the people—that the system that is designed to facilitate democratic principles is one that can work. My friends are going a long way to accomplish what some have publicly stated, that the only way to repair the system is to tear it down. If that is the objective, they are succeeding, I am afraid. If the objective is to see that there are fewer Democratic desks on this side of the aisle next time and the time after, and more Republican desks, that may be a very Pyrrhic victory, if it occurs, because ultimately what happens is fewer and fewer Americans believe any of us here make any difference in their lives.

I do not know how, in the most heterogeneous democracy in the history of mankind, you are able to make it function long term without instinctive trust in the institutions that are designed to allow it to function.

I think we are doing a great disservice to this country by refusing to act. I am optimistic, Madam President. For all of us, Democrats and Republicans, it is an occupational requirement. You must be an optimist to be in this business. I am optimistic that although there may be momentary lapses, the American people pretty well understand what is starting to happen.

I noticed a shift just in the last 3 days, Madam President. I am no political commentator, and I am not an analyst who has any claim on being able to tell you what trends are going on in the Nation. But I noticed one thing, just a very simple proposition. I commute back and forth to my home State every single day. I get on the train at 7:30 in the morning, thereabouts, 7:36, and I usually leave here at 8 o'clock at night and get home at 10. I do it every single day the Senate is in session.

It is my choice to do it that way. A lot of my colleagues would like to do it, too, but they live in Arkansas, California, Massachusetts, and Wyoming. There is no trick. I am just lucky. But it is an interesting thing. I do not want to make more of this than it is. But during the summer, no one had any appreciation or thought about anything having to do with gridlock. It was not that. The Democrats just could not get their act together. That is what this was all about. That is what I would hear on the platform. That is what I would hear when I would stop at the 7-Eleven, or when I would stop at a little pizza place—the best pizza in the country, Girardo's Pizza. I stop in there and they ask me—the woman who runs Girardo's Pizza—"Joe, why can't you get this going? What's the matter?"

Now what I am starting to hear is, "Why don't Republicans want anything to happen?" I may be wrong. We are going to find out soon. But I notice a shift in the paper in the last 3 or 4 days. For the first time, the papers are starting to write flat out what, as

Barry Goldwater would say, in their hearts they have known all along but have not written. That is, stopping everything between now and election day is part of a broad strategy. Whether it is good, bad, or indifferent, anything that passes is viewed as a success. Anything that is a success is viewed as a credit to a Democrat.

I do not believe that is how it works, by the way. But that is how I think they think. And any success diminishes the possibility of winning and increasing Republican majorities or minorities, and therefore they are shutting it all down.

Well, they may end with the result that is being sought. I have never been that good of a political prognosticator. So I cannot tell you what is going to happen. All I can tell you is that I truly believe it is not good for this country, for the political parties, either one, to decide that the road to success is to stop action on the problems that face America. I do not think that is a good thing.

I might conclude, Madam President, by pointing out how much I absolutely admire your forbearance. You have been working since you got here in the Senate to pass a bill that 73 U.S. Senators think is important, that Democrats and Republicans in your State think is critical—the California desert bill. She continues to evidence the grace and patience that she is known for. I admire it. But I would be mildly frustrated. That is not to suggest that my friend from Wyoming and others do not have a right to try to stop it. But I think that is what the American people mean by gridlock when 73 U.S. Senators and the House of Representatives have already acted on a matter that relates to putting aside a chunk of America into a system that guarantees its continued existence—and it is imperiled.

This is not a great ideological debate about whether or not we are going to have the Government run the health care system or whether or not we are going to invade Xanadu. There is no such country, I might add. This is about what an overwhelming number of people want in the region of the Senator from California. What an overwhelming number of U.S. Senators want, and what the House of Representatives already decided they want. And because we are getting down to the wire in time, it is imperiled. I think that is what people think gridlock is. At least that is what I think it is.

But then again, as I said, I am not nearly as certain as others what the American people think and know. All I know is that I think it is a shame the way in which we have operated over the last 9 months. We have been kept from being able to arrive at intelligent compromises on matters that are of great concern to me, my mother, my father, my wife, my family, the citizens of my State and I think the vast majority of Americans—reforming our campaign system, reforming the gift system, reforming the lobbying system, putting Americans back in control rather than special interests in control.

I cannot believe that they do not want us to do anything about those things. But, if they do, the real stark choice here is not whether you want the Clinton health care bill or any particular bill. At issue is, do you want anything done about these issues or do you want nothing done? If you want nothing done, give the Republicans credit because they have succeeded. Even though we have had a majority of people on almost all of these issues, they have succeeded. If you want something done and you believe there is a need for constructive change, then also give them the blame.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Madam President, I would like to congratulate and thank the Senator from Delaware for his comments. He has been here longer than many of us on our side of the aisle. He and I actually began our political careers from different angles some 20 or so years ago. But it is interesting. I think that both of us came into this process with the view that it was an honorable profession that people ought to aspire to, and with the goal of trying to do what is in the best interests of the country.

I have been sitting in the Chair presiding for the last hour, and had the opportunity, like my colleague from Delaware, to think about the U.S. Senate while I listened to my colleague from the other side of the aisle. During this time, I was reminded of the great story by Harry Truman who once, during the early years of his service in the U.S. Senate, used to at times sit over there in the back of this Chamber, and write letters home to his mother. One time he wrote her late at night during a debate. It was late at night and he was barely a freshman. He looked across this great Chamber, he pondered for a moment, and then he wrote.

> Dearest Mother: It is another late night in the Senate, and we are debating the great issues of our time. And I look across this great Chamber. And I look across the aisle, and I see the ghosts of great Senators past, and I pinch myself. And I say, "How the hell did I get here anyway?"

And then about 4 months later he was again on another late night debate out on the Senate floor and again he wrote a letter to his mother. He said:

> Dearest Mother: Again a late night in the Senate. Again, we are debating great issues of war and peace, and here I am in this night looking across this great Chamber. And I look across the aisle at my colleagues, and I pinch myself. And I say, "How the hell did they get here anyway?"

There really is, it seems to me, a very, very serious problem brewing in this institution—not just on the House side but on this side of the Capitol; if we do not understand that, if we really do not understand and connect to what the American people want us to do relative to and compared to what we are doing, then I suppose the American people are absolutely correct in saying "throw them out." It is our actions in the U.S. Senate and in the Congress that are fueling a term limit revolution in this country, which is rather silly when you think about it because we already have term limits. The last time I looked, the Constitution said our term was 6 years. The last time I looked at the Constitution it said the term limit in the House was 2 years.

But everybody suddenly is saying, my God, we have to have term limits. The reason is that the average person cannot connect to the American political process. The reason is that there is so much money in American politics that the average person cannot run for the U.S. Senate or Congress. You have to be like this fellow out in California who can pour millions and millions of dollars of his own money into his. Even Senator DOLE said the other day that the race in California is a strange one, because when he goes to one of Mr. HUFFINGTON's fundraisers, it is Mr. HUFFINGTON who gives him money.

I mean, this is out of proportion to anything that the Founding Fathers ever dreamed of. Money is separating the American people from their politicians, from the people who are supposed to represent them. I think most Americans understand that. Most Americans have said they want us to change that. Sixty-three U.S. Senators voted to change that. We passed legislation. But because you have to jump through hoops several times in this institution to get something done, when what had already passed came back to be passed again, a few, a very few Senators decided not to let the public have its way. And once again the filibuster reared its ugly head.

Our friend from Texas came to the floor and talked about health care and tried to pretend that what the Republicans have been doing is in fact preventing Americans from the harm that is going to be done to them by overzealous legislators, by a Congress that keeps mucking up their lives.

But when you measure that very appealing rhetoric, when you measure that against the reality of what we were in fact trying to do for people, it does not stand up. And he knows it. That is why he wants to dwell on health care because he wants all of these good people who listen to these debates and who try to analyze what is happening in Washington to say that what this election really ought to be framed on is the failure of the President and the Democrats to get health care. And that somehow the failure is due to those who worked for health

care reform, and not to those who prevented it.

What the Senator from Texas also wants to do is prevent America from understanding the real record of accomplishment of this Congress and of the President. And the truth sometimes is inescapable, even considering the power of negative media and advertisements. As Bobby Kennedy said, "It is the truth that sets us free."

The truth, Madam President, is that the record is inescapable on what has happened to this Congress and this Senate because of filibusters, obstructionism, and gridlock. And I know that some of my colleagues on other side of the aisle have raised this issue in caucuses and are nervous about the potential of this strategy because that is what it is—a conscious Republican strategy to benefit their party at the expense of the people. It is a strategy to forsake America just to impact the elections so that one political party can win; not so that America can win, not so that kids in our schools can win, not so that people who are subjected to violence in too many communities can win, but that one side, one party, can win.

And as we all know, one party has become particularly adept at holding onto the White House; one party always has a White House strategy. That, to them, is the only prize—not a good piece of legislation, not something better for the country, not to change something, improve something, to better the way we provide services, not to reduce the size of Government; but simply the ability to be able to destroy a sitting President and win back the White House.

Let the truth speak for itself. In 34 Congresses, from 1919 until 1986, there were a total of 217 votes on cloture motions. That is an average of three per year. From 1919 until 1986, an average of approximately three per year. Between 1987—when the politics of this country began to radically change in the 1980's—and 1992, there were 115 votes on cloture motions, which is an average of 19 votes per year. Suddenly, a meteoric rise in filibusters.

In the 100th Congress, there were 43 votes on cloture motions. In the 101st, there were 24; in the 102d, 48. And now we come to the grand 103d session. In the the 103d, there have been 72 cloture motions filed and 41 recorded cloture votes. A grand record number of cloture votes and cloture motions, a proud, recordbreaking amount of obstructionism.

What does that mean? What does it mean to an American when you translate that into what really goes on around here? It means that campaign finance reform, the effort to get the money out of American politics, was killed by filibuster. I will agree with my colleagues, sure, there were some problems in the bill. But Republicans didn't even let us get to a conference committee where you are supposed to work these problems out. They prevented the U.S. Senate from even doing its basic work of reaching a compromise. They simply killed it by filibuster.

The huge number of filibusters mean that health care dies. Stall tactics killed the Telecommunications Act. I serve on the Commerce Committee, and I know the effort Senator HOLLINGS, Senator DANFORTH, Senator PACKWOOD, and others—a bipartisan group—put into the effort to get a telecommunications bill. And we did it with good reason, because the communications industry is going crazy in development. This country has cable, video, and telephone systems, all of them struggling to be able to compete in an increasingly competitive world, and they are forced to operate under a system designed 60 years ago.

So you have a bipartisan bill that came out of committee, that came out of committee with a bipartisan vote of 18 to 2. It would have passed on the floor of the Senate. But at the last minute, in order to prevent another success, in order to stop another change, another piece of progress, it was killed by a demand for changes that were so onerous and contrary to the compromise that had been worked out, it augured filibuster. So it was a silent filibuster in effect. We never even had to file a cloture motion. It was just killed.

The clean water reauthorization. And the lobbying disclosure bill. We just had another vote on that here today. The Senator from Delaware was absolutely correct. I hope Americans will measure what those who stop things have accomplished versus what those who want to change things accomplish. Some people in the U.S. Senate—the majority until just recently—felt that in order to establish trust with the American people, it was our obligation to try to reduce the perception that everybody around here can get a free gift, free tickets, free everything simply because we are Senators and we vote on legislation. So there was a feeling that to try to reestablish trust that ought to be eliminated. But what happens?

There appears a phony kind of grassroots movement at the last moment, because some people just did not want a good bill to pass. So now, America, this system continues even though everybody in the country knows it stinks. So I hope, as the Senator from Delaware said, people will measure who is responsible for that.

The Safe Drinking Water Act. Most people here don't want our kids drinking lead or toxics and chemicals that seep into our drinking water. We want to do something about the quality of drinking water and continue helping communities that are hard pressed to be able to afford clean water. But, no, that too was killed.

Maritime reform. We are losing our maritime industry. We desperately need to help our ships, to keep them flying American flags, and keep shipbuilders in business in America. This is good for our future. But a few Republicans didn't care, so they killed it. It is not as if they came in and said: Hey, let's work this out. Here is a compromise, or here is a problem in your legislation that really makes a difference to my community, and if we were to approach it this way or that way—that is the normal thing you're supposed to do around here. But normality is not the order of the day here.

I have said it before and I say it again: There is a scorched Earth policy underway to try to prevent anything from happening in Congress so that the Congress will look bad so that, hopefully, the Republicans will be the beneficiaries, because they can go out to the country and they can say: You see, those Democrats are in the majority and they cannot run the show. Frankly, Republicans get away with this strategy because America does not understand that you have seven different cloture opportunities just to get one piece of legislation through here. And America does not understand that it takes 60 votes in order to break the logjam every time—not just a majority, which the Democrats have; not just 51, which the Democrats have—America just doesn't understand that a very few people can kill any bill in the Chamber. And Republicans can make people look silly and foul the whole process up and go out and claim victory.

The Roman historian Tacitus wrote about this when Carthage was pillaged. He said: "You know, they made a desert and they called it peace."

That is what is happening here—just ravaging this process, and when it is finished, we are going to call it peace, constructive, or something positive. I think America knows differently, I really do. I trust that and I hope it is true.

Let me tell you the other reason why the Senator from Texas spent so much time on health care. The Senator from Texas is the same Senator who came to the floor and told America that the Omnibus Budget Reconciliation Act—the budget, as we know it, or as Americans know it—was going to cost Americans jobs, put us into a depression, and was not going to lower the deficit, and was one of the worst economic programs in history. That is the same person America just heard telling you about gridlock. What is the truth of what happened when we passed the budget?

Well, they do not want to tell you, America, that for the first time in 3 years the deficit of the United States of America is going down, and this is the first time since Harry Truman was President of the United States that

you can say that in America. They do not want to tell you that.

So the Senator from Texas comes out here and he talks about health care. Republicans do not want to tell you what a great success it was for the President to pass NAFTA, to pass the Brady bill, to pass the crime bill, to pass interstate banking, to pass the Community Development Financial Institutions Act, to pass an increase in student loans, to get Goals 2000 through here so we finally begin to elevate the standards of our schools, to get the Elementary and Secondary Education Act through here so we are finally going to redress the impoverishment of many of our inner cities and try to equalize education for kids in America.

We hear a lot of talk about values from the very people who are stopping these very programs from going through here, and they just do not want to acknowledge to Americans that values are not transferred by rhetoric, values are not transferred by political party platforms, values are not transferred by speeches on the floor of the U.S. Senate. Values are taught. Values and morals are passed on by teachers in one form or another, a teacher as a parent, a teacher as a Sunday school instructor or synagogue instructor, a teacher in the context of life in a boys and girls school.

And our friends have filibustered us on every single effort, including the crime bill, that tries to deal with those kinds of problems, that tries to avoid rhetoric and instead to provide opportunities for kids to have prolonged exposure to responsible adults with values.

So, Madam President, that is why they talk about health care. I think, as the Senator from Delaware said, they have adopted a very, very dangerous strategy indeed, if not dangerous for them personally or politically or for a party, certainly dangerous for the country, because the bottom line is that we are on the same path today as a consequence of this avoidance of decisionmaking as we were a number of years ago when everything was avoidance and we were having happy talk for politics and no effort to try to choose a realistic set of choices for the problems of this country.

I am like my colleague from Delaware; I did not sign onto a health care bill. I thought there were problems in most of them. But I certainly was willing to sit down at anybody's table at any time to work them out. And the record is also very clear about the number of times the President of the United States met with our friends on the other side of the aisle, the number of times that Hillary Rodham Clinton met with the leadership or individually with Senators on the other side of the aisle. And every time Democrats got closer, Republicans moved away, moving away even from the very legislation that they themselves had introduced and had at one time championed.

So I think the record is about as clear as you can make a record. But for some reason it does not get through very easily in this country today.

The fact is we have created more jobs in the last 2 years than were created in the entire Bush administration. Republicans do not like to talk about that. The fact is that the deficit of this country has gone from 4.5 percent of gross domestic product down to 2.4 percent, one-half. They do not like to talk about that. The fact is that inflation remains low, unemployment is coming down, and we are on a deficit-reduction line. They do not want to talk about that.

Then you look at the record of their avoidance—filibustering the crime bill; filibustering the national service bill to put young people to work for their country; filibustering the Family and Medical Leave Act which we finally passed; filibustering the motor-voter bill, which we finally passed; trying to stop the Interior appropriations bill, which protects parks and forests, which we passed; trying to kill the Brady bill which makes it tougher for criminals to buy a gun; trying to halt the assault weapons ban which the distinguished Presiding Officer, the Senator from California, fought so hard and offered leadership here to get through. They filibustered that, too.

So America has a choice, and my prayer is that the truth is going to begin to get out in this country and people will begin to understand what the real choices are, and I hope in the next 4 weeks of this election people will really tell the true story of what has happened in the U.S. Senate in the course of this Congress.

I am not suggesting that there is not culpability to go around on some of the issues. There was procrastination in the House of Representatives. There was procrastination on our side of the aisle for months about proceeding forward with campaign finance reform. So there is certainly a share of blame to spread there, and there have been other individualistic efforts and lack of cohesion that we can certainly take some credit for.

But the bottom line is this: almost every Senator on this side of the aisle certainly is prepared to vote today, now, and usually has been prepared to vote almost immediately on most measures—not always, but usually. But on the other side, they'd rather make us look bad than vote on anything.

It is clear to me that if we do not break this process and prove to Americans we are willing to be adults and act a little more maturely in this process and come together and look for a larger legislative product and not just a political one, we are all going to suffer the results as a consequence.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

DEDUCTION FOR HEALTH CARE INSURANCE

Mr. DORGAN. Madam President, I wanted to make a couple of observations on this subject that has just been discussed, but I came to the floor really to discuss a colloquy that is being put in the RECORD between myself and Senator MOYNIHAN.

One of the issues that is left unresolved in this Congress is the tax deduction for health insurance costs for sole proprietors and other self-employed individuals in this country. Until last year, they were allowed to deduct 25-percent of their health insurance costs. Yet, across the street an incorporated business can deduct 100 percent of their health costs. In fact, the 25-percent deduction for the self-employed expired December 31, 1993, and must be extended. In my judgment, it must be increased to 100 percent.

Fairness would dictate that for every farmer, rancher, and self-employed small business owner in America be allowed to deduct 100 percent of their health costs just as large corporations are now allowed to do. To do otherwise, is a disincentive for them to acquire health coverage and is moving us in exactly the wrong direction.

This Congress will not have extended the 25-percent health insurance tax deduction. The chairman of the Finance Committee has indicated, in a colloquy that will be in the RECORD, the following. He said:

> I intend to work expeditiously next year to bring legislation to the Senate floor that would extend, on a retroactive basis, the 25-percent health insurance tax deduction that expired on December 31, 1993. In other words, I intend to make sure that the legislation reaches back to protect the deduction for all of 1993.

He continued:

> We have been working to solve the tax inequity for self-employed individuals for many years. The Finance Committee passed a bill in July of this year that would have raised the deduction from 25 percent to 100 percent of the health insurance costs of the self-employed. That continues to be my goal.

The chairman of the Finance Committee continues to say:

> Early next year I will work to reinstate the 25-percent deduction as a starting point to getting the full deduction for these costs.

"I consider this an urgent priority," he said. And he says "I want Senator DORGAN to know that I support the 25-percent deduction and support expanding it to 100 percent."

The reason this is important to say at this point is as Congress adjourns without extending this, small businesses should know, farmers should know, and self-employed individuals should know that the Congress will, in my judgment, and will at least by the commitment of the chairman of the

Senate Finance Committee, extend the 25-percent health insurance tax deduction retroactively back to January 1, 1994.

We need to do much more than that. This needs to be a 100-percent deduction. A health insurance deduction for the self-employed should be identical to the health insurance deduction for the incorporated businesses in this country and this must be a priority.

This is not some idle issue or unimportant issue. This is an issue about health care coverage for farmers and unincorporated businesses and the current disincentive for them to have that coverage; and we must not only extend the 25 percent, we must extend that to 100 percent permanently.

RESTORING THE 25-PERCENT HEALTH INSURANCE TAX DEDUCTION FOR THE SELF-EMPLOYED

Mr. DORGAN. Madam President, I would like to make a statement and ask the distinguished chairman of the Finance Committee a question regarding the 25-percent tax deduction for the health insurance costs of the self-employed.

I believe that saving and expanding the 25-percent deduction is critical to small business owners who conduct their businesses as sole proprietors. Their competitors, who are organized as C corporations, are still able to take advantage of full, 100 percent deductibility of these same health expenditures.

The health of a farm family or small business owner is no less important than the health of the president of a large corporation, and the Internal Revenue Code should reflect this simple fact. We cannot afford to wait while Washington debates broader health care reform to save this provision.

The outcry from small businesses will be deafening next April unless we move quickly next year to extend this provision. It is indefensible that our tax laws tell some businesses that they can deduct 100 percent of their health costs, while others, mostly smaller businesses, are told they can deduct none of their health care costs.

Madam President, my question to the distinguished chairman of the Finance Committee is: Are you prepared to work quickly next year to reinstate the health insurance tax deduction for our farmers, ranchers and other self-employed business owners.

Mr. MOYNIHAN. Madam President, I am pleased to assure the Senator from North Dakota that I intend to work expeditiously next year to bring legislation to the Senate floor that would extend, on a retroactive basis, the 25-percent health insurance tax deduction that expired on December 31, 1993. In other words, I intend to make sure that the legislation reaches back to protect the deduction for all of 1993.

We have been working to solve the tax inequity for self-employed individuals for many years. The Finance Committee passed a bill in July of this year that would have raised the deduction from 25 to 100 percent of the health insurance costs of the self-employed. That continues to be my goal. Early next year I will work to reinstate the 25-percent deduction as a starting point to getting a full deduction for these costs.

I consider this an urgent priority. I want Senator DORGAN to know that I support the 25-percent deduction and I support expanding it to 100 percent.

ON THE ISSUE OF GRIDLOCK

Mr. DORGAN. Madam President, I want to make a couple observations about what has just been discussed.

I, too, listened to my friend, the Senator from Texas, and I am always interested and sometimes probably even often entertained by the Senator from Texas. He certainly does not pull any punches. I sometimes think this is a rehearsal. These discussions on the floor of the Senate are sort of a rehearsal for a wider audience that he will take on the road in New Hampshire or Iowa, or wherever he may travel, and they are always interesting, always interesting discussions.

The thing that bothers me, the thing that continues to bother me is the caricature of those discussions about us as a political body and about politicians, especially politicians on the Democratic side of the aisle.

The suggestion is, and a frontal suggestion, that those on this side of the aisle and, incidentally, the occupant of the White House, have really a couple of goals. One, get as much money as you can from people in the form of taxes because Democrats like to do that, he seems to assert, and then spend it and preferably spend it unwisely if you get half a chance.

That is the caricature that is given by the Senator from Texas. He knows better than that.

Last year, we had a vote here in the U.S. Senate. It was a vote on a budget. It prevailed by one vote—one. It was not an easy vote. In fact, not one Member of the minority in the Senate voted yes—not even one. The vote was to try to reduce the Federal budget deficit, because we are mortgaging our kids' future. We are $4.5 trillion in debt. It is ratcheting up, largely because of health care, of course, and a number of other things.

The question is, are we going to do something? Are we going to try to deal with this deficit problem?

So constructed was a budget package that did a lot of things, some of them very unpopular. Yes, it raised some taxes, it raised gasoline taxes, did a number of things to cut some spending, for example, in areas that were not very popular. But in that combination of budget proposals, in taxes and spending, were some very tough choices.

Now, I wonder if the Senator from Texas or others thought it would be fun for anybody to vote yes for that. No. I would think everybody here would sooner vote against anything that is as difficult to swallow as were some of those proposals. But the question that confronted us was not: Is this a tough vote? Of course, it is a tough vote. The question is, are we going to do something? Are we going to address this deficit or not?

Yes, the possible judgment and, incidentally, the political judgment would have been for every single one of us to say, "Not me. I'm sorry. Just count me out. I can find two dozen things I don't like about this, so I vote no. And I will be popular back home. Nobody likes taxes. They do not like the deficit, but increased taxes, no one would want that. They want all the spending. So just count me out. I'm not going to vote for this sort of thing."

But enough people, fortunately, voted for that package to reduce the deficit and it passed. And the deficit was reduced not by a little, but by a lot. That deficit is coming down.

Now, did we do the right thing? Well, I think we did. Was it the popular thing? Of course not. Can we be attacked for it? I suppose.

I mean, that is what politics has become these days—draw a caricature, say those who voted for that are people who are gleeful at raising taxes or who love to take from the taxpayers and spend on some nonsensical thing. That is a caricature that I reject.

I did not get involved in public service because I want to have public debates that were thoughtless. I mean, there are plenty of things that we can debate in a thoughtful way between people here of differing philosophies and probably could come to a conclusion that strengthens the sides that are represented in the debate on both sides. But instead, we tend to lower the bar and lower the standard lower and lower and lower and lower.

In fact, I have mentioned on the floor before and I think I will mention again, there is one set of instructions that has been spread around Capitol Hill here by a prominent politician on Capitol Hill that says:

> Here is an instruction manual on how you should be involved in politics. When you talk about your opponent, use these words—these are the words you ought to use—use "liar." Use "pathetic." Use the word "sick." Yes, even use the word "treason."

And the list goes on and on and on. I am serious. I could bring it to the floor and read the whole thing. That is what politics, unfortunately, for some has become.

It is kind of a wrecking crew operation. Anybody that has ever watched a building crew and a wrecking crew knows that it takes eminently more skill to construct than it does to tear down. It takes more time, more skill.

And, it seems to me, the same is true in politics. The easiest thing in the world is to oppose and to obstruct.

Now this country faces some enormous challenges. We have accomplished some significant things in this country's history, but we face now some enormous challenges, as well.

It seems to me that we can dwell on the negative. And I certainly have talked about the negative in this country—23,000 murders, murder capital of the world; cocaine capital of the world; 110,000 rapes every year; 1.1 million aggravated assaults; one-quarter million babies born every year without a father; we have 9 million people out of work; we have 25 million people on food stamps; we have 40 million people living in poverty. I mean, we could talk about some pretty tough statistics about where this country is and all that relates to human misery.

It seems to me we can also talk in these contexts about what we can do together to try to address some of these things.

The fact is, some things that are wrong in this country cannot be addressed in the Congress, cannot be solved by Government, can only be solved at home, can only be solved by parents, and can only be solved in the neighborhood and in the community by people who care. So some things we cannot do much about.

And the American people who complain about those things have to decide that this is a matter of self-responsibility. We have to roll up our own sleeves and look in our own home and our own neighborhoods and figure out how they can help themselves.

There are other things that we can and we must address. Does anyone think that our education system is just fine? It is not fine. We have enormous challenges. The question is not whether, the question is how do we fix them.

Does anybody here really believe that our health care system is just fine the way it is? Well, if you believe that, then you also believe we ought to have a higher Federal deficit because, I guarantee you, next year the Federal deficit will be higher than this year—well, not next year.

My point is, health care spending as a part of the Federal budget will be higher than this year, not because some here said let us charge more for health care but because health care prices are rising and rising too fast and it costs not just us, not just the Federal Government, not just Medicaid and Medicare, not just State governments, but especially the American family and especially businesses, more and more and more for health care.

Now if we say that does not matter, that is one thing. Then let us do nothing. But if we believe it matters, if we believe it matters that this is going to increase Federal spending and put the pressure on the family structure, then let us try to construct a method by which we achieve quality health care and try to control in some responsible way the costs.

You know, it is interesting, when you look at health care, with the combination of disgruntlement these days about Government and the disconnection in our country with Government. I was in a town meeting one time and a fellow who was there was just awfully crabby. Nothing was right. He hated Government; the Government was awful. He was in his mid-seventies, I guess. During the whole town meeting, he was berating Government—Government was spending too much; the Government is just a wasteful spending institution.

Then I discovered this fellow had recently had open heart surgery, paid for with Medicare. I am thinking to myself: how was there a disconnect here? How would a person that just went through open heart surgery, paid for by Medicare, think that the program, which was a Government program, was such an awful system?

Is there not some connection by which we can look thoughtfully at these things and decide that, you know, there are some things we do well, let us keep doing them; some things we can do better, let us improve them.

But the point that I wanted to make that I think the Senator from Delaware and the Senator from Massachusetts have made better than I is that you really face a couple of choices. You can decide that none of these things matter.

Crime. Does anyone think that we do not have a problem with crime? The debate really ought to be over the solution, not whether there is a problem. Crime and schools and a whole range of those issues.

The question is not whether we do something in these areas. The question is, what do we do?

And what we have is a circumstance today where some people feel very self-fulfilled by virtue of being able to prevent anybody from doing anything, and then blaming later the institution because nothing got done. It might be self-fulfilling for some but it is very frustrating for others who feel we should make some progress.

I come from a town of about 300 people. In my hometown, like the hometown of virtually everyone here, we had some folks who would sit around and play cards every day. They were retired, and basically were commentators on what was going on in town, and also critics of what was going on in town, and, really, never wanted to do very much of anything. Every time somebody else would start something, they would look at it and say, "Oh, look at those people over there. This makes no sense."

While they were playing cards and criticizing all the things that were going on in town, the other folks in town were rolling up their sleeves and paving the main streets and doing the things that were important to do to build our hometown. I tell you, this institution is not very much different than my hometown. There are some powerful influences here who kind of like to sit around and bring everything to a halt. There are some others who get a lot done—probably too much, in some cases. And there maybe is a broad middle in which we ought to decide there is a whole range of good ideas between both sides of this aisle, and instead of preventing either from winning we ought to get the best of what each can give. Somehow, we just miss that connection.

I understand some others want to speak and are probably waiting for other business. Let me just finish by telling a story about one of the folks I served with in the U.S. House of Representatives that my colleagues will remember, a fellow named Claude Pepper. Claude was a wonderful man in a lot of ways. He served in the Senate and then served in the House. Claude was in his eighties when, one day, outside of the Cannon Office Building, he and Congressman JIMMY HAYES, who still serves over in the House, were standing visiting. And this fellow in his eighties, Congressman Pepper, and young JIMMY HAYES, a freshman Congressman, were just talking and apparently a Boy Scout leader with several scouts bustled up the sidewalk. He did not know who these two fellows were, and he stopped and said say, "Could you tell me where the Jefferson Monument is?"

Claude says, "Why, of course. You go right across the Capitol Plaza to the building with the flag on top and then go down one block to the second building, it will be right there."

And young JIMMY HAYES, freshman Congressman, after the Boy Scout leader profusely thanked them and rustled off with his Boy Scouts in tow, JIMMY looked with sort of a strange look on his face at Claude Pepper, this 84-year-old Congressman.

Claude said, "JIMMY, I see you think I have sent them in the wrong direction. I see you think that I have given them bad directions."

He said, "You know, that fellow asked where the Jefferson Monument was. Of course I know the Jefferson Memorial is down near the 14th Street Bridge, everyone knows that. He was asking where the Jefferson Monument was. Of course, Jefferson was not in the United States when the U.S. Constitution was written, he was in Europe, but he contributed much through writings, especially to the principle of the Bill of Rights and especially the principle of free speech."

He said, "I figured if they wanted to see a monument to Jefferson this morning, I would send them over to the

front of the Dirksen Building where there is a demonstration going on on the subject of abortion. Nowhere is there a better monument to free speech in Washington, DC than that monument to Jefferson's work."

All of us revere the ability of free speech and free exchange of ideas and the kind of political combat that we do on the floor of the Senate, the House, and in this country in elections. But I do worry, as others have suggested, that the engine of disaffection runs so deep and is so relentless these days, and the new language of politics crosses a threshold that is lower than in the past. And it does fray, I think, the trust of representative government.

One day, one way, soon we need to decide how we construct together the kinds of real solutions that address the real problems that people in this country know exist and know threaten their future. When we do that, I think we will once again restore trust. But as we do that, all of us, Republicans and Democrats, need to start using the language of debate that is thoughtful rather than thoughtless, and encouraging our constituents to do the same.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. REID). The Senator from Wyoming is recognized.

Mr. WALLOP. Mr. President, this is one of the more successful beginnings of a filibuster in my experience. Those of us who have an opposition to the bill in front of us have now spent a little better than 2 hours without hearing a word spoken on it—other than a peripheral patter from time to time from the Senator from Delaware. What we have heard is all the evening news speeches. All the politics are coming out. Certainly, I do not have any objection to all the politics. But it is interesting, one thing keeps raining in on me is I cannot figure out what it is that is on the Democratic Party's mind. Half the time you hear monumental speeches of all the successes of this Congress. They prattle on about NAFTA and the crime bill and everything else. The other half of the time you would think nothing had happened.

What is most interesting, I think, from the standpoint of the evening news, is that what has not happened may be more beneficial to Americans than what has happened. Nobody will know that until time proves it. But I would just say, those who have been prattling on cannot have it both ways. It either was a good Congress or it was not a good Congress; it was not both a good one and a bad one.

I think I also heard the Senator from Delaware make mention of the fact that the purpose of this filibuster was to make Congress look bad. I have not found that to be a challenge that anybody in the Senate had to rise to.

Let us, though, pay some attention to the issue before us. It has been said that the reason for the opposition to it is, somehow or another, a political argument that must be settled against the Senator from California. If it is the cause for some, it is not the cause of the Senator from Wyoming. It is of no concern to me that a bill of this nature costs jobs in the Senator from California's State. It is no concern to me that 12 percent of her State ends up in a no use land classification. And it is no concern to me that 15 percent of her State ends up in restricted use. That is an issue for California, and that does not trouble me.

What is not an issue for California, but is an issue for me, is what this does to the National Park Service and the National Park System. I have said before, there is not a Senator in here who would admit to reducing the budget of any park in America. There is not a Senator in here who would admit to reducing the personnel of the park system and the parks in America. Yet, practically speaking, there is not a Senator in here who has not done just that by adding parks without adding resources—but with obligations beyond comprehension and condemnations of private property beyond comprehension. And with chores for the National Park Service for which it has no resources whatsoever to deal with—just new tasks. New tasks.

Here we are considering putting in a park that is twice the size of Yellowstone Park without putting in the necessary resources. The Senator from California is saying that money is being assigned to it—but, from what? And she says personnel are being assigned to it—but from where?

The Secretary of the Interior, who goes around the country boasting of his commitment to the parks and the environment and everything else, stands in California and looks out over the ocean and says, "Before I leave as the Secretary, I am going to put another $4 billion worth of land at Point Reyes National Seashore into the park system."

In the land to be added to the park system in this bill is the property of a number of Americans whose property titles will be clouded for the rest of their living days because there is not money to take their land and pay for it. So we just take it by putting it under park management, and by making it certain that there are no other options available for that land. And we have done it all over America. In fact we even passed a law requiring the Park Service to come in and report to us their priorities. We asked them what they thought was the outstanding debt of America to buy from Americans that which we have placed in the hands of the National Park Service.

And this administration blithely ignores the law. They did not reply last Congress when we were doing the energy bill and they did not follow it this Congress. They refuse to give us this information. When I came to the Senate, the backlog was said to be around $2 billion. And every year for 18 years we have added and added and added to the backlog of Americans whose property has been put into the park system but for whom no money has been set aside.

Uncle Sam has become the worst kind of neighbor. And those of us who come from land backgrounds—I come from a ranching background—know precisely what kind of a neighbor that is. That is a land hungry, money grubbing neighbor who sees land and acquires it and leaves it for his neighbors to fix the fences and leaves his neighbors to look after his livestock because they do not have money enough to keep up their buildings or keep up their fences.

They just acquire more and more land. But in the instance of Uncle Sam, it is worse yet. Uncle Sam takes the land and does not pay for it. All over this country, there are backlogs. That figure must now be close to $6 billion or $7 billion worth of Americans' lands that have been put in the parks for which no money has been set aside and for which no intention to pay has ever been exhibited.

This is not the kind of country that I thought we grew up in. Most of us do not believe that it is the appropriate thing for the Government of the United States to condemn people's property and then not pay for it. We have no money to do it, even if we wanted to.

In this bill before us, I think the figure is something in the neighborhood of 500,000 acres of private and State land. Some of this will be traded for other public land in California. The most important of the private landowners will be accommodated, but the little people will not be. Those titles are going to be clouded. They will try to sell a piece of property. And the reason people will do it is because they cannot do anything with their own property. The Park Service will come along and deny them the ability to build on it or change the use of it or do anything else because it will spoil the park.

The people will say, "Pay me," and the reply will be there is no money. Who can they sell it to? Nobody. But they have the privilege of paying taxes to the Government of the United States and to the State of California on property whose use has been absolutely squeezed down to its current, present use. Notwithstanding the fact that somebody may be going broke, notwithstanding the fact that somebody may have another idea as to how to use it, notwithstanding all of these things, that is going to be taken from them.

The impact of S. 21 on the integrity of the National Park System is substantial. The bill increases the National Park System by over 4 million

acres without, as I said, any new funding for these additions.

Put in simple terms, the legislation adds the equivalent of two new Yellowstone National Parks to the system and pays for it by taking away from each of the other 367 units of the National Park System.

My State of Wyoming has the original national park, Yellowstone. This country has allowed the rangeland in Yellowstone Park to degrade due to overgrazing by wildlife to where it is in essentially the worst condition of any rangeland in the State. This country allows the rangers in this National Park to spend their winters there helping and protecting Americans and guiding them to their enjoyment in temporary summer housing. This country has allowed the road system of that park to degrade to such a point where $300 million is essential, not to improve the roads but just to bring them up to standard. No new roads, no road expansions, nothing else.

This country has allowed that and it has done it in Yosemite and it has done it in the Redwoods, and it has done it at Point Reyes, so they want more. It has done it in Chattahoochee, in Indiana Dunes, up here on Skyline Drive, and it has done it, and done it, and done it. And it is allowing, day after day, each of these parks of this great system to degrade.

But does that stop its appetite for new parks? Certainly not. Does that stop the appetite of Members of the Senate for new parks? Certainly not. Everybody professes their admiration for the National Park System, and so they put in things that are of political satisfaction, but they have nothing but detrimental effects on the American National Park System.

Mr. President, you could not get a Senator to stand up in this body and say, "I advocate reduction of the funds for any park in America." "I advocate a reduction in the personnel of the parks in America." But that is what they are doing, and that is what the Senator from California is doing, and that is what the Secretary of Interior is doing, who not only did not request enough money to even fund the pension obligations of the National Park System, but is taking 3,700 people out of the National Park Service, curiously enough, I think over 700 of which are going into the Office of the Secretary.

It is clear the bureaucracy of the Department of Interior is more important to him than the parks of America. But my point is this: Here we have an enormous new park with no funds and no personnel.

I know that the two Senators from California would wage a battle royal on this floor if there was legislation to reduce the funding or the number of rangers at Yosemite or Point Reyes or Santa Monica. I know that they would tell the papers and the press in their States that they would not do that, but they are. That is precisely what they are doing.

Mr. President, we all know that there is no new money for this park and there are no new ranger positions. In order to maintain and operate the equivalent of two new Yellowstones, other parks in the system will be raided to fund and operate them.

The alternative—and there is one—is to let the California desert lands remain under BLM management, where they are currently under protective management, a plan created by a negotiated settlement with the environmentalists, the users, and the land managers of America, for which the environmentalists only a couple of years ago stood and patted themselves on the back for its completeness and ingenuity and its success.

So the BLM has it in its budget. They are talking about transferring personnel. But that does not answer the problems that are created by this park. California environmentalists were so proud of themselves. They praised themselves in the Los Angeles Times; they praised themselves on television; they praised themselves in their magazines. They said that this was the means by which the desert would be and could be adequately protected in its great beauty.

They now have forgotten that. They now refuse to admit that they once had in mind a plan that worked, and still works. Had it not worked, it would not even have been possible to consider this for park status. Had it been abused and had it been threatened, it would not have been in condition to be considered for this status.

According to the National Park Service itself, in its 1992 self-appraisal called the Vale Agenda, Park Service employees concluded, and I quote:

> There is a wide and discouraging gap between the Service's potential and its current state, and the Service has arrived at a crossroads in its history.

That was 1992. That crossroads in its history is that since 1992, the Senate of the United States and the Energy and Natural Resources Committee and Senators and Members of the House of Representatives have been adding, and adding, and adding, obligations in the form of new parks, and new acreage, and new dimensions, and new interpretive requirements, and new building requirements, to the inventory of America's national parks.

It was just reported the other day that the famous old fighting ship, the U.S.S. *Constitution*, now under the care of the National Park Service, requires another $25 million in repairs to prevent it from sinking. Can you believe, Mr. President; to prevent it from sinking. This is the kind of care that America gives its park assets.

From the Grand Canyon to Acadia, back across the country to the 22 existing parks in California; infrastructure decay, accelerated by deferred maintenance, is clearly punishing not only the park system's roads but its trails, its septic systems, its employees' housing and its visitors' facilities as well, and Americans deserve better.

The Congressman from Minnesota has determined, in his wisdom, that there is no need to provide ranger housing, and because the bill contains my name, he is holding it up, punishing not the Senator from Wyoming, who is leaving the Senate with certain tacit regret, but punishing the rangers, the personnel of the park system. And that is what this bill does, too. That is what the Senators from California are doing, too. They are punishing the rangers and they are degrading the system of America's national parks.

According to the most recent edition of the National Geographic, the superintendent of Great Smokey Mountains speaks of the park's 800 miles of erodible back country trails. "We just can't keep up with it," but we can add new parks with new trails that will have to be maintained and kept up, new roads that will have to be maintained and kept up, and new obligations for personnel and new buildings and new interpretive centers and other things when we cannot keep up with 800 miles of trails in the Great Smokies.

The superintendent at Sleepy Bear Dunes states in the same article, "We have scores of 19th century buildings here and they're all just moldering into the ground." But we can add a new park, twice the size of Yellowstone.

Mr. President, the U.S.S. *Constitution*, the Great Smokey Mountains, Sleeping Bear Dunes, none of these is unique. The problem is nationwide. According to GAO, 60 percent of National Park Service housing, employee housing, needs repair at an estimated cost of $500 million. And we do not have it. But we are saying here that we have money enough for a new park, and we have money enough to load new obligations.

Now, if we cannot properly house rangers in the parks that we have because we do not have the money, how is it possible to stand here in any kind of good conscience and authorize millions of dollars for a new park? It is not right. Our priorities are completely out of order. The political benefit is what is sought and not the benefit to the park system of America.

According to information supplied to Congress by the National Park Service, the agency currently faces a 37-year backlog in construction funding and a 25-year backlog for land acquisition. But according to this bill, we have money enough to require 500,000 additional acres of private lands to be acquired and enough for a new park to be established. This is when that park is already under competent, negotiated management. Thirty-seven years backlog of funding, but we have money

enough to do this. Twenty-five years to acquire Americans' lands that we have condemned for our personal privileges to their detriment, but we have money enough and time enough to add to that backlog.

Mr. President, it is disgraceful. And no one argues, certainly not this Senator, that the cost of existing infrastructure repair is literally in the billions of dollars while the cost of authorized but unacquired land acquisition seems to mimic the national debt.

This bill adds another 500,000 acres to the list of the private property that the Federal Government must acquire. We do not have money enough to buy it from Americans who have been condemned to live in that State.

I see my friend and colleague from the Energy Committee here. We have talked about this problem, but we have done nothing.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. WALLOP. I will be happy to yield for a question.

Mr. JOHNSTON. Mr. President, I simply want to say, although the Senator from Wyoming and I happen to disagree on this particular bill, we do agree very much with one of the points that the Senator from Wyoming is strongly making, and that is that the National Park Service is being starved in its revenues; that we are, indeed, adding additional burdens on the Park Service and are not, in fact, giving the Park Service the sustenance, the increases which they need.

I would simply like to say to the Senator from Wyoming, who is, of course, my dear friend and for whom I have the highest regard, and whose service in this Senate, I think, has been really exemplary for this country, for what he has produced, for what he has done—and he knows I feel that way—I would simply like to say his point is a proper one. It is not a new one. It is not a point that he makes for the first time on this Desert Protection Act. He has made the point repeatedly not just in this Congress but in previous Congresses, and I hope, as he goes into retirement in some new incarnation, in which I know he will be extremely successful, I hope upon his departure that in the next Congress we will find a way to deal with this problem.

As he knows, the solution which I have had in the past is to increase the revenue stream of the Park Service. I believe even in a time of short resources this country is big enough, strong enough, rich enough, and that its citizenry is in favor of increasing the resources for the Park Service, which is the solution not only I have—after all, it is a very small amount percentagewise of the Federal budget. It is on the order of one-tenth of 1 percent, as I recall, the amount of money going to the Park Service.

So I say to the Senator from Wyoming that I commend him for raising the issue of starving the parks. I commend him for being consistent in that concern. Not just on this Desert Protection Act, but on a host of other bills and in other years and in other Congresses he has raised that question.

So while I disagree with him on this Desert Protection Act, I very much agree with his point, and he has, I think, spurred and pricked the conscience of at least this Senator, and I think the whole Committee on Energy and Natural Resources.

I hope, having made this point so eloquently, so strongly, and so consistently, we will rise to the occasion and find a solution for it. I guess my question is, does the Senator not agree?

I guess that would be an unfair question because, really, what I have is a commendation for the Senator for the contribution he has made on this issue, as well as others in this Senate. So in this what I hope will be our last evening—I do not wish it to be the last day of the Senator's service because, as he knows, I would like for him to have stayed on in the Senate because of my regard for him personally and for what he has contributed to this Senate. But I hope that it will be the last day of our service other than the lame duck in this session, and so in what I hope will be his last day, I simply did not want the day to go by without giving my personal salute to the Senator from Wyoming for what he has done and to say that in the next Congress we will be aware of this issue.

Speaking at least for the senior Senator from Louisiana, we will search for solutions to this question of starvation of the Park Service in terms of revenues. Even if we created no new park in this Congress, that issue would be with us because we have already starved the Park Service. And I wish to tell the Senator from Wyoming I will be searching for ways to help solve that problem. And I know he knows that I am aware of that, and so I salute him for his service and for what he has done on this issue as well.

I thank the Senator for yielding.

Mr. WALLOP. Mr. President, I thank the Senator from Louisiana for pointing out—and I hope the Senator from California heard—that this is not a new issue with us. Nor have I singled out her park. I have stood in the breach over the course of half a dozen years on this issue.

My problem is that we have developed a fine stream of rhetoric but no priorities. If we honestly believe what the Senator from Louisiana said, we would not make it partisan. It is not threatened land. It is under good and competent management under an agreement that was negotiated by California environmentalists. We cannot gain the attention of this body if there is no penalty for proposing a park except that you have a few extra hours at the end of a closing session by the Senator from Wyoming, or somebody like that, and the rhetoric gets well placed and ever more eloquent to no avail, to no end.

I have been doing this for 16 of my 18 years, and since the backlog is 37 years, I have been here while half of that backlog has been developed. We have been doing it more and more in recent years because everybody seems to think that it is politically important for them to go home with a park.

I say to my friend from Louisiana, who would remember, that there have been a number of parks that were critical to people's reelection which we have authorized, and they get reelected—the Senator from Illinois, Mr. Percy, on the Illinois Canal and a couple of other ones come to mind. It has not been a great success as a tool. But it does not stop the erosion of the capacity of the Nation to deal with its problems. If this were terribly threatened, it would be a different story, but it is not. It is not threatened. It can be made a park anyway. The land is not going to go to Japan or Mexico or to Argentina. The land is there under a management plan that people have found sufficiently good to praise themselves and it innumerable times. They have said how good they were in the negotiation of it.

As I said, there is now another 500,000 acres that we have to acquire; that the Federal Government must acquire. But to add insult to injury, the House added yet another 6,000 acres of private property when they included the Bodie Bowl provisions in their version of it.

So, Mr. President, many of America's national parks are—many of them are—and indeed, the National Park Service itself is now in serious trouble. There is no money to repair or replace the broken pieces. There is certainly no money to add huge new units to the System without further raiding and in the process degrading the existing units.

This measure, many Senators may not realize, constitutes the largest land withdrawal since the Alaska National Interest Lands Conservation Act of 1980. If this becomes law, California will have the most wilderness ever designated in any State except Alaska. So much of California will be designated Federal parks and wilderness that there is not enough public land in that State left to trade off for the private inholdings created by this bill. There is not enough left, so much of it is condemned. And if there is not enough money and not enough land to trade, what will happen to the private property condemned by the Federal Government? They simply have to wait in line for the $3 billion to $4 billion to $6 billion backlog of authorized, but not acquired, inholdings throughout the Nation. And the private citizens of America will be the ones who wait while we and those with the political whimsy

create a park that is not necessary to protect it, and certainly is detrimental to the service to which it is added.

Our appetite for parks is absolutely boundless. But our stomach for paying for them is nonexistent. That is why the backlog grows every year. In addition to our refusing to pay, and in addition to our adding to the obligations, the price of land generally rises and we still do not do anything with it.

So to live up to its promise to restore the original vision of the parks which Congress makes routinely, annually—this is not the first time the Senator from Wyoming has been on the floor doing this—Congress needs to act in a responsible fashion, and it has not. And it will not.

California has a tremendous appetite for parks. We have yet to pay for Santa Monica Mountains National Recreation Area. Members of the California congressional delegation have legislation referred to here as the "Headwater bill," the buyout of private landowners in northern California to the tune of $1.5 billion. This is not the 500,000 acres that are new into this bill. This is yet another piece of California's desire to spend Americans' money to protect its land.

They have also introduced legislation which would extend Point Reyes National Seashore to Bodega Bay; cost, $4 billion. This is not the 500,000 acres that we have added. These are new acquisitions. These bills were introduced before we have even disposed of this very expensive piece of business.

It is not only irresponsible, Mr. President, it is outrageous. It is unfair to say that anybody has affection for or admiration for the National Park Service or System and do this. It is simply not honest to say that you have an affection for this kind of service and this kind of tradition in America, and then do this to it.

I am disturbed, I am even angry, that we are apparently willing to assist in the destruction—this body is about to—of what used to be described as the best National Park System in the world. It was the model for the world. It was designed and invented here. It was the place where the rest of the world visited. Now some of the parks we would rather not show because of the condition into which they have fallen.

Throughout my Senate career, I have been one of the strongest advocates for the System. There have been times when I have disagreed with certain actions taken by the Service because I have been supportive of the concept and the vision that was created back in 1872.

This year, I tried to worked with the Senators from California—sad to say, because of problems on their side of the aisle—in advancing the Presidio legislation, not because it adds a new park to an overburdened System, but because the legislation, with the cooperation of the Senator from California, as we wrote it, would reduce the expenditures that would have otherwise been required of the National Park Service and given us a model by which we might have traveled and to which we might yet travel in future years. But, unfortunately, this piece of legislation, S. 21, serves only to increase the National Park Service's expenditures of funds and increase demands on its personnel. But it does nothing to enhance the System.

I am further troubled by the fact that Secretary Babbitt, who explained to us during his confirmation hearing that he was going to listen to the professionals in the field, has not. When you ask the professionals in the field privately, they will tell you that the Park Service cannot afford legislation of this magnitude. The Secretary may be listening, but he does not hear. We have had that trouble with him in other instances. He has ignored the advice of his professionals.

The bill places the National Park Service in the position of managing a multiple-use unit. Think of that, managing a multiple-use unit. The park personnel are not prepared to do that. That is not their order. That is not their mission. That is not what they were trained to do. But in our rush to do this, we are providing them with a series of obligations that are not in any way consistent with the obligations of the National Park Service.

Given our experience in another Park Service-managed preserve, the Big Cypress Reserve, the Park Service has had just a terrible time. They are incompetent at managing such an area. They simply cannot philosophically adjust to multiple-use activities. In a way, there is no reason why they should, except that we are obliging them knowing that they cannot, and knowing it is inconsistent with the philosophy and mission of the National Park Service. The Secretary knows this. Secretary Babbitt knows this and has chosen to ignore the advice.

This legislation is unfortunate for the National Park Service, for the Bureau of Land Management and, I might say, for the people of California, who believe that being in a preserve will protect their property rights and lifestyles.

Mr. President, mark my words now: The opposite will be true. Every instance in which the National Park Service has had such a challenge, they have gone back on their word to America, every single instance. The National Park Service will impose all sorts of limits on the multiple-use activities. They always have. There is no instance in which they have not. The National Park Service does not like multiple use and, in fact, there is a growing cadre within them that does not like human use. It wants these all to be put into some sort of far-off viewing bowl. The limitation on the inholders will place the service—I promise you, Senators from California—in constant conflict with its neighbors, and they will have been placed in that conflict by this action.

The administration's agenda is clear, and only the users of the public lands will become endangered in this administration's war on the West. The California desert consists of about 12 million acres of public lands, of which more than 7 million—12 percent of California—will be made into parks and wilderness. Over 3 million other acres will be set aside as critical desert tortoise habitat, which leaves but 1 million acres available for multiple use activity. And over 25 percent of California will have constrained activity on it as a result of this legislation.

I have to ask the indulgence of my colleagues on all these acreage figures. The truth is that nobody knows how many acres are involved. We know that the totals are huge, even beyond simple comprehension. When my staff approached the majority and the California Senators' staffs for exact figures, they were told that the numbers might be available later but, for now, they were still adding them up. We have the bill on the floor, but they are still adding them up.

We do know that the 1 million acres is all that remains of multiple-use land, and those acres are not contiguous. They are scattered throughout the world of the desert. Most are surrounded by wilderness, making those parcels of land inaccessible anyway. Furthermore, thousands of miles of established roadways have been included in wilderness, and they will be closed. The people of California are thinking they are having protection, and they will find they are the ones that are protected out of the traditional uses that they thought they had and that they thought would be protected.

The Federal Government currently owns more than half the land in the 12 western States. Unfortunately, the actions taken by the Clinton administration have made it clear that the Federal Government is managing these lands for the specific political interest groups, with little regard for the legitimate interests of western citizens and their businesses.

The Secretary has said as much—that multiple use is a concept whose time has passed. The Secretary now believes that there are only two fundamental uses—wildlife and watershed. And America's citizens in the West be damned. As a result, our citizens in the western States have increasingly less control over the vast land areas that at the time of statehood were contemplated to be available as a source of their livelihoods. In effect, another 12

million acres will be added to the Federal Reserve if this legislation is enacted. I say this because this legislation takes so much of the five-county area into the most restrictive forms of Federal control that the whole area will be considered a Federal reserve. The people of Inyo, San Bernardino, Kern, Riverside, and Imperial Counties must be thrilled to death. The bill will withdraw over 8 million acres of land from any further mineral exploration and development, affecting the jobs and future economy of California forever—not for the moment, but forever.

While the senior Senator from California eliminated a few of the larger mining companies from getting entrapped in the wilderness, hundreds of other businesses were less fortunate. Golden Quail Resources, for example, is just one. According to their prospectus, they have proven reserves of approximately 200,000 ounces of gold, having a market value of $80 million—pretty small peanuts for the Secretary of the Interior. To date, they have spent over $3 million on their project, including over $200,000 in claim fees to the BLM. They also pay local taxes.

Mr. President, if this bill passes, that is all gone; it is simply taken from them—their investment, their resources, their ingenuity, and their future. The company has 2,000 American stockholders, 500 of whom are Californians. All of them invested in the project with certain ground rules, and now their Government is changing those rules to their detriment. That project will close. Their Government has walked out on its ground rules.

There are many other similar cases in the parade of horribles, and they all have the same bottom line. They will be out of business. After all, the California desert produces 97 percent of America's rare Earth metals—97 percent; 43 percent of the Nation's pumice; 11 percent of its gold; 100 percent of borates; 12 percent of the sand and gravel. The existing mineral rights that would have to be purchased by the United States runs into billions and billions of dollars. The 1992 Bureau of Mines study estimated that the value of 701 mines and mineral prospects in private ownership in the Mojave National Preserve alone is $7.7 billion. There are 10,000 mining claims in the Mojave. Each will have to be reviewed, evaluated, and resolved with the owner. At what cost?

It is not just California's business. It is the business of the taxpayers of the United States, I say to my friends, ordinarily knowing that the tradition of this body has been that when two people agree on the land use treatment of their State, the rest of us agree. And I would, but the rest of us are going to be faced with paying this bill and having our park systems taxed and our park personnel reduced.

So in enacting it, we would be handing the National Park Service a one-way ticket to further mediocrity, and sentencing thousands of private landowners to a generation of injustice. If we continue these ill-considered ideas, historians will look back at these days as the demise of this great park system and characterize it as the death by a thousand hugs, all of us professing our admiration and affection, each of us contributing to its demise.

It will be reported that everyone loved it and wanted more of it but would not and could not pay for it. No Senator will admit to having done that, but each Senator who supports this bill is guilty.

(Mr. MATHEWS assumed the chair.)

Mr. WALLOP. Mr. President, we are today discussing the California desert issue and its implications to public land emancipation and management. What do I mean by emancipation? I mean the realization that there is an overwhelming Federal influence in the West and the need to greatly limit the ponderous Federal influence on the West exists. We are not diminishing it, but we are adding to it should we pass this bill.

In the West today, we are faced with an administration that is reaching unprecedented levels of Government intervention into every single aspect of each of our lives, using the terms "ecosystems," "environmentalism" and "fair market value" as spears which they chuck at every perceived public resource management problem.

Increasingly, the role of the Federal Government has become one of ruling Americans, not serving them. They are the masters, and we have become their servants. And if you listen to the rhetoric of the Secretary of the Interior, you have to know that that is what is on his mind when he said "the worst mistake that this country ever made was giving the States control over their own waters." Guess what? Because if you control the water of California, or of Wyoming, or of any State, you control that economy and its people. They are subservient. And he wishes to have us be just that, subservient. The Secretary of the Interior wishes to be king of the West, the emperor of all of us that we have to pay to and say, "Can I have my water, sir? Can I use this piece of land, sir, for just one more day?

"No, I am sorry. We have a better use for it than your traditional use."

I do not often agree with the Clinton administration, nor its spokesmen, but no one has expressed the problem in a more articulate manner than the man who I just quoted, Secretary Babbitt.

But the quotes I am about to give now were when he was a Governor, when he actually was not the emperor but when he was one of us, before he assumed this mantle of power that is so heavily resting on his shoulders that he thinks he must control and rule us. Let me quote to you what he said when he was one of us.

I share the concerns of my fellow Governors. My sense of alarm is perhaps a little more extreme. A lot of observers in this country feel that, taken on a historic scale, the States are obsolete, they are headed the way of the passenger pigeon and the Edsel.

Even the optimist, I think, would say the States at best are in dire danger of becoming administrative agents of Washington * * * it didn't begin that way.

He went on to say.

The proper role between the States and the Federal Government * * * was the centerpiece * * * of the most brilliant debate in the history of western institutions.

That debate * * * has gone neglected. The result is a Federal system * * * in total disarray.

The United States Congress has lost all sense of restraint. It no longer asks the question that Hamilton, Madison, and Jefferson considered to be the central question * * * Is this an appropriate function of the Federal system?

* * * Hamilton and Jefferson would certainly ask * * * how have we allowed their creation, a carefully layered construction of Federal, State, and local responsibilities, to become scrambled into one great undifferentiated, amorphous omelet by a cook in Washington?

Mr. President, that cook in Washington was a pale, pale, pale chef when Babbitt spoke those words compared to the Julia Childs the Government is now that Babbitt rules. What he once fretted over as a Governor, he now recklessly imposes as an emperor.

Fourteen years have passed since Bruce Babbitt spoke those words in the last year of the Carter administration. Today the current administration's concept of the "New West" has rapidly degenerated into a war on the West. Government officials have been transformed from environmental problem solvers to environmental storm troopers with the power to punish, to prohibit and to take.

Virtually all Federal agencies are making decisions on the use of land and resources in unquestioning response to an ill-conceived environmental agenda which ignores the human side of the equation and disregards the concept of private property rights. In this instance, we are disregarding the concept of private property rights. Worse still, it ignores Governor Babbitt's concern that the Federal Government, as Governor Babbitt—note I did not say Secretary Babbitt—his concern that the Federal Government has lost all sense of restraint and the concepts of Jefferson and Madison.

Listen to how different this man has become, I say to my friend from California.

In 1994, this year, in a speech to the Sierra Club's annual dinner, Bruce Babbitt, now Secretary Babbitt, said:

We need a new western land ethic for nonwilderness. The old concept of multiple use no longer fits the reality of the new West.

Let me inject here to my friends from California when they are making the National Park Service a multiple

use management area that is contrary to its mission and its philosophy, and they have this man as their Secretary. The Senator's plans, however honorable those intentions may be, will not be delivered to her or her citizens. They will not.

Let me go back to Babbitt's words.

The old concept of multiple use no longer fits the reality of the new West. It must be a concept of public use. From this day on, we must recognize the new reality that the highest and best, most productive use, of western land will usually be for public purposes, watershed, wildlife, and recreation.

Typically, this man made no distinction in this speech between public and private land, because he does not believe in private property.

Unlike his views in 1980 as a western Governor, he now feels that the Federal Government deserves to be omnipotent, and he deserves to be the plenipotentiary of the operation.

The Clinton administration's agenda is clear, and only the users of the public lands will become endangered in the war on the West. Citizens have been threatened with rules and regulations denying them access to guns, rock collecting, and other forms of recreation. And now the chief of the Forest Service is talking about having a Federal hunting license when the Federal Government takes over the management of the game that the States once felt was not only their obligation but which they have done better at managing than has the Federal Government.

In order to pay for increased control by that big Government, we see increasingly the proposals to increase our fees. Hunters, outfitters, radio broadcast users, commercial air tour operators, ski area operators, concessioners, and any other use that requires a Federal permit are being asked to shoulder a bigger and bigger burden. Not all these permit holders will be able to stay in business after paying the new fees on top of their existing expenses, and their existing expenses are being daily added to by an administration which provides for them obligations of compliance that they never had before. So not only do they have new fees, but they have new compliance obligations, and these will all be part, I say to my friend, the Senator from California, of the obligations of the citizens whose lives are encompassed by these areas.

In addition, many of us have traditionally enjoyed a cooperative partnership with the Federal Government over the years, including counties and municipalities, and they are now being asked to help pay the costs for more Federal control. In a conversation with the Senator from California a little while ago, she said "Why do they increase?" I reply that one of the reasons why is to try to keep up with the new demands that the Federal Government is putting on our local communities to exist not cooperatively but subjectively to the Federal Government. So what we might have once had where we private lands as taxable resources, we are now begrudged the payment in lieu of taxes to them and yet we are having new obligations daily descending upon our local areas of government to try to live with and under the Federal Government.

Have we forgotten in this Senate that the original concepts of Jefferson and Madison were really very simple, that the Federal Government derived its power from the States. And guess what? The States are now begging the Federal Government for the authority to exist.

It has taken power from the States, taken power from its citizens. This bill S. 21 takes power from citizens to own property and rights to which their Government had promised them. This bill by producing the National Park Service as the administrative agency will take rights of usage that the Senators believe they have assured but will not be there when the administration is in place and fully operational.

Recently, the Secretary of the Interior was forced by the courts to obey the law. What a terrible statement that is on the arrogance of power that has become Washington—forced by the courts to obey the law. He had to issue patents on a Nevada gold mine. He had the nerve to characterize this as a steal and giveaway of land and minerals.

He had the nerve to characterize obeying the law as a giveaway of land and minerals. And it made good press for the uninformed, and the press is uninformed and it used it as good press.

But the Secretary failed to state that the Barrick Goldstrike Mines in Nevada have developed over 1,700 jobs that did not exist before. They were not there. The Federal Government did not provide those jobs. Those jobs would not have existed had it not been for the steal that he was required by law to accomplish. It means millions of dollars in tax revenues to the counties and States and, yes, even the Federal Government. But it is a steal because he was forced to obey the law.

The Secretary failed to mention $1 billion, Mr. President, that that company spent on developing the technologies to extract that mineral. The Federal Government would not have spent $1 billion. Can you imagine? We cannot even buy the land that is going into inholdings under S. 21 or any other lands. Can you imagine us spending $1 billion to develop an unknown technology on a gold mine? Who would appropriate it? The Senator from California sits on the Appropriations Committee; never would she do that. And should she do it, she would be criticized by the press. Nobody would know there was an outside edge.

So Government could not have done any of this that Secretary Babbitt calls a steal—could not have done it, would not have done it. The jobs would not have existed. The $1 billion that was spent and provided other jobs in upstream technology—science and technology and other kinds of things—would never have been spent, but it is a steal. The taxes that the Federal Government now receives in income taxes from those 1,700 high-paying jobs, and the counties and cities of Nevada, never would have existed. But that is a steal, according to the Secretary of the Interior.

He also forgot to mention that the land he was conveying was worth nothing. They could not sell it. It was the private sector, by settling it, that gave the Nation wealth and gave the Nation revenue. Washington does not know how to mine a damn thing, Mr. President; never will know how to mine minerals. And Congress will not ever pay $1 billion. And you know it and I know it and America knows it.

What was created from these lands was wealth and jobs for Americans. And it was realized by the private sector's willingness to commit capital and technology to a plan that it had no way of knowing was going to be successful.

And now I refer you back to the acreage that is withdrawn forever from access to this kind of creativity and wealth and jobs and future for America.

The battle in the war on the West, if won by this administration, will only serve to send the private mining sector to foreign countries—the jobs Americans might have had—to Colombia, to Uruguay, to the Pacific rim, to Russia. And the wealth that was derived from it will also be in Uruguay and Colombia and Chile, and the Pacific rim. Those riches will not belong to Americans, nor will the environment have been taken care of in anything like the detail and care that would be taken care of were it possible in this country. But here we are taking 7 million acres forever out of America's riches or ability to do it.

So, Mr. President, this is an example of the arrogance of which I speak. During the grazing debate, for example, we were told by the then Director of the Bureau of Land Management: It does not matter if Congress acts. If they do, well and good; if they do not, we will do it administratively.

Democracy is an inconvenience for this Secretary of the Interior. And democracy, I suggest, is an inconvenience for those who live on this land whose lives, livelihood, and flexibility will be greatly constrained by it.

Mr. President, this arrogance continues unabated. More recently, the Secretary seriously missed the point when he claimed that a Federal judge's recent decision to take the gnatcatcher off the endangered species list—again in the Senator's State—was a procedural error. This man does not wish to

follow the law. This man mocks the law. And when he is called to account, he calls it a steal or a procedural error.

Any observer can see that Judge Stanley Sporkin's detailed analysis of that case of administrative arrogance on the part of the Secretary and the administration is a road map to the serious shortcomings of environmental actions under the Endangered Species Act and under other pieces of management legislation. It highlights abuses that Emperor Babbitt has tolerated in his eagerness to show that he can make the Endangered Species Act work and his reluctance to follow the law of the land in other areas.

How different from the man of 1980 when he was a Governor and one of us, a citizen of the West, not its new ruling master. How sad that this man does not view his job as Secretary of the Interior, but as the water master, the land master of the West and still the advocate of the League of Conservation Voters.

Mr. President, this bill is a travesty.

I do not quarrel with the interests of the two California Senators in protecting that land. I make the case to the Senate that the land is protected. And to put this further protection on it, Mr. President, I am saying that the rights of Americans are being simply ignored; that jobs will be lost in California, revenues will be lost to America; obligations to the taxpayers of the United States that we have no means of or intention of shouldering will be laid in place, 500,000 new acres, billions of dollars of new obligations. And nowhere, nowhere, nowhere has there been even the most remote attempt to identify where these revenues would come from. To do what?

It will not be to save it—it is saved; not to manage it better—it is going to be managed worse. The Park Service does not know how to do multiple use management. It will not be to protect it forever—because it has been protected and it can be protected. It is not going to go overseas. It is not going to go to Japan or Hong Kong.

This is being done for political purposes. It is not for the land. The land is well taken care of. But the problem is that the taxpayer of America will be the one whose obligation it is to pick up the bill for this exercise. And rights in the Constitution of America will be flouted under this exercise. And the people of America whose lives and property will be affected will be the ones who bear the brunt of this exercise. But not for a new and protected piece of property; quite the contrary. The property will be the same property and the protection will be less. Just the new obligations to the taxpayer and new constraints on the citizens of California who reside in that area.

I say again, California does not now have the land to trade for what it is taking in this. It does not exist in that State. And we do not have the money. We have already been through that. Even the Senator from Louisiana, the chairman of the committee, and on the Appropriations Committee, has said the same thing.

There can be only one conclusion out of that and that is citizens' property is going to be taken to satisfy a need that does not exist. I hope that Senators join me in voting against cloture on this legislation and putting the priorities of this Congress where they belong.

It is one thing to say we will do it next year. But it is a statement that has been made annually for at least the 16 years upon which I have sat on that committee.

It is one thing to say that we will just add this one and we understand there is a problem—but we will add to the problem. You do not begin to solve a problem by constantly adding to it and never addressing it, and that is what this exercise is all about.

It is not about people's elections. It is nothing new to the Senator from Wyoming. It is my deep concern that this Congress, this Senate, those two Senators from California are degrading a park system beyond the point at which we can go back and rescue it.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I rise to respond to the distinguished Senator from Wyoming and I accept his remarks at face value. I think our citizens should really feel fortunate to have an advocate for our parks like the Senator from Wyoming.

As a matter of fact, I had the opportunity not very long ago to fly over Wyoming. And what I saw was a magnificent State where about a half a million people can live in the outdoors with freedom, with beauty, with mountains, with grass, with pasture—an incredible State. And I go home to my State, also a beautiful State, but instead of a half a million people, there are almost 32 million people.

I was thinking, as I was listening to the Senator from Wyoming, about just the city, San Francisco, which has about 750,000 people in it. I grew up in a park there called Golden Gate Park, one of our great municipal parks. When I was young there were very few people in the park. It was something you looked at and that was all. Today, they have to close the drives, there are so many people.

I will never forget walking in that park one day and I saw a small youngster bending over a daffodil. And the child was in wonder. I asked the mother, and the mother said, "My son has never seen a daffodil, and that is why we come to the park."

Well, our national parks are truly the jewels in the crown of America. It is difficult because there are many great national parks—the Senator from Wyoming has at least two of them in his State, the Grand Tetons and Yellowstone—magnificent parks.

In this situation it is a different situation than Yosemite or Yellowstone or any other park. It is a desert unlike any desert—not like the Sahara, where winds blow and there are huge dunes. This is a desert where there are precious resources: extinct volcanoes, cinder cones, Indian hieroglyphics on the walls, and 90 mountain ranges. It is also a desert which has been scarred by mining operations that have left open pits and sheds and broken-down equipment just there. It is also a desert where tens of thousands of people come.

Mrs. BOXER. Mr. President, the Senate is really not in order. I think the Senator from California, who has worked so long on this, deserves to have the Senate in order.

The PRESIDING OFFICER. The Senator is correct. The Senate will be in order.

Mrs. FEINSTEIN. Mr. President, it is also a desert where literally tens of thousands of people come with off-road vehicles and motorbikes and ride across the dunes. I have flown over every part of it at low altitude and the soil does not replace itself. The scaring is enormous.

I have seen petroglyphs where people come and chip out of canyon walls with Indian hieroglyphics to take them home and put them on their coffee table. I have seen the carcasses of desert tortoises, just unnecessarily shot. I have seen the herds of wild burros as they move through the desert, and bighorn sheep. It is an unusual place. And the largest number of people who view it today are wildlife viewers and those who want to see an incredible sunset and incredible carpet of flowers of all colors that bloom in the spring.

I have tried very hard with this bill to make it a bipartisan bill. I knew it had been gridlocked in the Senate long before I got here. I knew that my predecessors, as Senators, had problems with it, so I tried to find out what those problems were. And in many respects I went to the other side of the aisle to find out what people's concerns were about the bill, because I had a deep feeling that the resources somehow, some way, had to be protected and yet the private property owners, who are sparse, who are very rural, also have to be protected. This is not the traditional national park.

In the course of making amendments, 19 of the amendments in this bill have been offered by Republican Senators and Congressmen and incorporated in the bill. From the Argus Range; Bright Star; Piper Mountain; law enforcement; wildlife management; water, the Wallop amendment, the Death Valley

Advisory Commission, the Joshua Tree Advisory Commission, hunting, the Mojave Advisory Commission, a general management plan, no adverse effect on private property; Volco mining claims, the Quillen amendment, the Death Valley Wilderness, the Craig amendment, access to private property, the Wallop amendment, State exchanges, military overflights, limitations on appropriations, and so on.

And I have worked with Democratic Members to see what it was they needed in the bill. About 60 amendments were made to the original legislation.

Every active mine is protected in this legislation. All law enforcement needs are protected in this legislation. We worked with the Armed Services Committee to see to it that all military rights, obligations, and needs are protected in this bill. And we drafted language to protect private property: No taking of private property.

Recently, I went back to Secretary Babbitt, because I was talking with some of the private property owners and they said to me: Well, we are concerned. We have a house. We are concerned that the Secretary, who would control rights of way for electrical power and water and utilities, might not allow us to string the necessary lines to develop our property.

And so I went to the Secretary and got a letter from him dated September 30, which I ask unanimous consent be printed in the RECORD.

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

THE SECRETARY OF THE INTERIOR,
Washington, September 30, 1994.

Hon. DIANNE FEINSTEIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR FEINSTEIN: Thank you for your call concerning rights-of-way for utility lines to private lands in the proposed Mojave unit of the National Park System.

We appreciate that private land owners in the East Mojave National Scenic Area may be apprehensive that the proposed transfer of federal lands to National Park Service (NPS) jurisdiction may limit their ability to obtain rights-of-way for utilities to their property. I want to assure you that if S. 21 is enacted, the Secretary still possesses the authority to grant rights-of-way across NPS administered lands to serve the utility needs of these property owners.

Currently, the Bureau of Land Management (BLM) has the discretion, under title 5 of the Federal Land Policy and Management Act, to grant rights of way for utility lines after considering congressionally prescribed standards. Like the BLM, the National Park Service has similar authorities, regulations and procedures for granting rights-of-way for utilities across federal lands. The issuance of rights-of-way over lands administered by the Park Service is governed by statutory authorities in 16 USC 5 (electrical power transmission and distribution, radio and TV, and other forms of communications facilities) and 16 USC 79 (certain other public utilities and water conduits).

Under 16 USC 5 and 79, the National Park Service regularly issues rights-of-way for utilities, such as electricity, water and telephone, necessary to serve the needs of private property owners. Issuance of a right-of-way under 16 USC 5 or 79 is discretionary and contingent upon a finding by the Park Service that the installation of such utility is compatible with the public interest.

I want to assure you that the Department understands the concerns of private land owners in the Mojave. Upon enactment of S. 21, the Department and the National Park Service will work closely with affected land owners to accommodate their utility rights-of-way needs.

Sincerely,

BRUCE BABBITT.

Mrs. FEINSTEIN. Mr. President, this letter says:

Thank you for your call concerning rights of way for utility lines to private lands in the proposed Mojave unit of the National Park System.

And it goes on to say that the park system will work with all private property owners to see to it that they are adequately served.

Mr. President, grazing is protected. It was not in the Cranston bill. I went out and visited with ranchers. I was on their ranches. I traveled around. I looked. One of these families drives their youngster to school 100 miles every day to the nearest school. It is fifty miles to the nearest store. This is the Blair family. Yet, they have an active grazing operation that they inherited from their parents, and their parents inherited from their parents. It was part of the Old West and it should continue. We provide for that right, as well.

We allow activities to maintain or restore fish and wildlife populations and their habitats, including the use of motorized vehicles. Senator MURKOWSKI indicated to me today that that was one of his concerns. We took that into consideration, and that is in this bill.

This bill was debated in April. We debated the concerns of the Senator from Wyoming about the National Park Service. In April, we pointed out and I introduced into the RECORD a letter from Secretary Babbitt on the financing of the park which points out that the lands were already targeted for acquisition in BLM plans; the land acquisition envisioned in this bill is less—is less—than that originally planned by the BLM. Thus, these acquisition costs are not new and the potential cost to the Federal Treasury will actually be less. They are discretionary to the extent that they can be spread over a long period of time.

The comment was made that there is a streamlining within the National Park Service, and 3,700 National Park Service personnel will be removed from parks and, therefore, to add a new park is wrong because it will stretch resources even thinner than thin.

I called Secretary Babbitt about this and put it in the RECORD in April. What he told me was all of these 3,700 people—Senator BOXER will be interested in this—are not coming from the parks. They are coming from the Washington office and they are going into the parks. So the streamlining that is being done will actually result in more park rangers and park personnel where they should be: In the national parks of this great country and not in the office buildings of Washington, DC.

I believe, and the Secretary has confirmed, that this present 1995 budget, if this bill is passed, has adequate resources in it to begin this park. As a matter of fact, in comparing it with the Presidio, the costs of operating this are less than one-fifth of what this body is willing to appropriate for the Presidio. It is not a high-cost national park. No taking of private property is required. No land acquisition is mandated.

It is a huge area which will simply change dimensions away from one where you can put mines anywhere, leave them to spoil the land, and chip out hieroglyphs. Do you know the last remaining dinosaur tracks in California have to be hidden because they are afraid that people are going to desecrate them? This bill protects those dinosaur tracks so that our children can come and look at where there was actually a dinosaur trackway, right through a certain area of this park.

The big issue of contention—the big issue of contention—was the East Mojave. As the bill left this Senate with 69 votes, the East Mojave was scheduled to be a national park. It went over to the House and the House saw differently, and the East Mojave became a preserve.

We have accepted the House language on the preserve. This was the major point of difference—the major point of difference—and we have accepted the language. The language in the conference bill provides a preserve in the East Mojave.

This was what, when I negotiated with the Republican Congressman from the district, he wanted and he won it in the House of Representatives, and the bill passed the House of Representatives handily.

When it came back, it survived a cloture motion in this body with 73 votes. I am very proud to say that there are a number of Republican Senators supporting this act. I am grateful to them. We have tried to work with them. I have tried to respect their needs. Senator HATFIELD in particular had certain concerns. We took care of those concerns. They are still in this bill, as he desired.

So I have tried to be true as the author of the bill to the needs of both sides of the aisle in crafting a bill. That is one of the reasons I find it so difficult to understand. If it is not politics, if it is not the fact that I am in a close election, what is it? Because we had 69 votes going out and we can have that many at this point in time.

Mrs. BOXER. Will the Senator yield on that point for a couple of questions?

Mrs. FEINSTEIN. I certainly will.

Mrs. BOXER. I do not want to interrupt the Senator because she is so eloquent on this. But I feel, sitting here listening to you, having listened to the Senator from Wyoming, I would just like to get some questions on the Record and answered.

Is the Senator aware that the San Diego Tribune says:

The bill achieves a balance between environmental and economic concerns.

That is a recent editorial on the bill in San Diego. Has the Senator seen that editorial?

Mrs. FEINSTEIN. Yes, I have, and I thank the Senator.

Mrs. BOXER. And has the Senator seen the San Diego Sun? These are newspapers that I would call conservative newspapers. They say about the bill: "It aims to protect jobs." Has the Senator seen that particular comment?

Mrs. FEINSTEIN. Yes, and I believe it protects every active job in the area, and I believe it will generate between 1,000 and 2,000 additional private-sector jobs, based on Park Service estimates.

Mrs. BOXER. I say to the Senator that I could not agree with her more. We know that this is going to become another jewel, and we know people are going to travel there, and that will create jobs.

I compliment my friend for her tenacity and her courage. I feel that if democracy is going to work, we are going to have a bill.

Let me ask a couple of questions.

How many years has it taken to bring this desert bill to this point?

Mrs. FEINSTEIN. Seven years.

Mrs. BOXER. Has it ever gotten this far before?

Mrs. FEINSTEIN. No; it has not.

Mrs. BOXER. And, again, what was the vote the last time this bill passed the U.S. Senate?

Mrs. FEINSTEIN. Sixty-nine to twenty-nine.

Mrs. BOXER. Sixty-nine votes in favor of the desert bill in this very body. I would say—the last question—I know that the Senator and I are very concerned about working here for the will of the people of California. In the last poll that was taken on this, what was the result of that poll? What percentage of the people of California supported this desert bill?

Mrs. FEINSTEIN. There was a California poll, which is an independent poll, conducted by Mervin Field, which said that 75 percent of the people in the area supported it and over 70 percent of the people up and down the State supported the bill.

Mrs. BOXER. I thank the senior Senator from California. I am very, very proud to be one of her helpers on this legislation, and I really appreciate her answers to these questions because I think these answers, the way that she answered the questions, would say to every Senator, please stick with us on this bill and on this vote.

Mrs. FEINSTEIN. I thank the Senator very much. She has been quite a helper and I am grateful for it. I thank the Senator.

While the Senator is on that point, I would also like to comment that this bill is supported by the southern California Association of Governments, which includes Los Angeles County, Riverside County, Orange, Ventura, San Bernardino, and Imperial Counties. It is supported by resolutions passed by 16 California boards of supervisors representing 16 counties, 36 city councils representing 36 cities, including the 8 largest cities in California; and 15 California newspapers have endorsed the bill, 118 conservation groups have endorsed the bill.

There are 47 cosponsors of the desert bill. When we came into this, we had 22. It built up in the course of the past 15 months to 47. I might say that the House version passed by a vote of 298 to 128. This is a balanced bill. It has Republican concerns as well as Democratic concerns met. I believe, given all of the accommodations that have been made and the breadth and depth of the support for the bill, Senators might ask the question: Why are we debating the bill again today?

I was somewhat chagrined to read this morning an editorial in the Los Angeles Times which began:

Beset by raw, mean-spirited politics, the proposed California Desert Protection Act stands at the precipice. Its fate now rests in the hands of Senator GEORGE MITCHELL of Maine.

It goes on to say:

The only way it can be law is for him to hold the Senate in session over the weekend to allow for a final cloture vote and passage.

Indeed, I am grateful to the leader for doing that. It goes on to say:

A few Republicans, motivated solely by the determination to undermine Senator DIANNE FEINSTEIN's bid for reelection, have resorted to every possible stalling tactic. By thwarting the clear bipartisan will of both Houses of Congress and the people of California, they hope to deny the California Democrat a key legislative victory to use in her race against Representative MIKE HUFFINGTON.

That is a direct quote. I ask unanimous consent that the entire editorial be printed in the RECORD.

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

[From the Los Angeles Times, Oct. 7, 1994]

CHANCE FOR A NOBLE FAREWELL

THE RETIRING MITCHELL CAN SAVE DESERT BILL BY DELAYING SENATE ADJOURNMENT

Beset by raw, mean-spirited politics, the proposed California Desert Protection Act stands at the precipice. Its fate now rests in the hands of Sen. George J. Mitchell of Maine, the Democratic majority leader. The only way it can become law is for him to hold the Senate in session over this weekend to allow for a final cloture vote and passage.

A few Republicans, motivated solely by the determination to undermine Sen. Dianne Feinstein's bid for reelection, have resorted to every possible stalling tactic. By thwarting the clear bipartisan will of both Houses of Congress and the people of California they hope to deny the California Democrat a key legislative victory to tout in her race against Rep. Mike Huffington. The House Rules Committee Thursday sent the final conference report on the bill to the House floor, and final passage there is assured.

However, a handful of Republicans in the Senate have filibustered the bill at every juncture. On the last vote, they lost 73 to 20, with 15 Republicans joining the majority. Only one more cloture vote remains. But Senate rules require a 24-hour notice before such a vote, meaning that the final ballot cannot come before Saturday or Sunday, depending on when the House votes.

The Senate is scheduled to adjourn today. Mitchell has the opportunity to perform one last, noble act before retiring from the Senate. He can keep that body in session for another day or two to salvage the eight years of work that have gone into preserving California's rich desert heritage.

The searing desert is far from the rocky down east coast of Maine, but it is important to all of the nation. We implore Mitchell to do what is right in his final days, by helping defeat the crude partisanship that has gridlocked Congress this year.

Mrs. FEINSTEIN. Mr. President, I have done everything one is supposed to do when one seeks legislation. There is a broad consensus of support for it by the people. It is supported by the administration. It is supported by both bodies of this Congress by a substantial majority. It is thoughtful. It is well crafted. It takes no one's private property. And I believe the Secretary of the Interior will sustain my concerns that the Interior Department worked with the private property owners to show that this is a bill that is not going to stultify. It is going to beautify and enrich and enable people to really utilize the desert. It will produce jobs. There will be more visitors. They will need overnight accommodations. They will need restaurants. They will need a place to stay because the area is large. And that development is all permitted within the confines of this bill.

Mr. President, this is the most important environmental and wilderness bill since the passage of the Alaska Lands Act. It is a bill that has a majority of support. I earnestly beseech the Members of this Senate to let it come into law. I won my victory. I got it through the Senate before. This bill now is a victory for the people of the State of California, 70 percent of whom, by independent poll, want this bill. They want this resource protected.

In a sense, it goes back to that small child I saw in Golden Gate Park while I was mayor who had no garden at home, had no ability to know what the outdoors looked like but could come to a public park and smell a flower. To those who will have no idea of the vast hidden treasures of the California desert, this will open that experience

to them. It will be an ennobling experience, an enriching experience, and I believe that every Member of these two bodies and every resident and worker within the desert community will be proud of the dream that can be built upon it and the lives that can be enriched.

I implore this body, let this bill come into law. Do not let a few people with their own agenda stop the overwhelming will of the people, of the National Government and of the State of California.

I thank the Chair. I yield the floor.

Mr. WALLOP. Will the Senator yield for a parliamentary inquiry, or point of order?

Mrs. FEINSTEIN. Yes, I will.

Mr. WALLOP. Mr. President, I make a point of order that there is a person on the floor not authorized to be here, not among the listed people authorized to be in the Chamber of the Senate.

I make a point of order that the Secretary of the Interior is not entitled to be in the Chamber.

The PRESIDING OFFICER. The Chair would instruct the Sergeant at Arms to follow out the Senator's point.

Mrs. BOXER. Mr. President, I rise today in strong support of the California Desert Protection Act. When we finally pass this bill, we will protect the California desert and prove once and for all that strong environmental policy makes good economic sense.

The Senate first passed this bill by an overwhelming majority last April. the House likewise passed very similar legislation in August. So why is the Senate only dealing with the conference of this important bill on the last scheduled day of the 103d Congress?

It is not because this bill is unpopular. Over three-quarters of the people of California support this legislation.

It is not because this bill will hurt California's economy. When passed, the California Desert Protection Act will bring in an estimated $200 million in new revenue to the Desert, and create up to 2,000 new jobs.

It's not because this bill is bad for California's environment. The California Desert Protection Act will protect a unique and magnificent desert landscape for my grandchildren's grandchildren's grandchildren.

And it is not because this bill lacks bipartisan support. When we voted in April 16 of my Republican colleagues joined 53 Democrats to pass this legislation by a vote of 69 to 29.

Mr. President, we are here on what was planned to be the last day of the session because there is a small minority of those who simply believe that new national parks have no value. Well, I am here to say that they do have value and that the arguments of delay; that the Desert Protection Act will harm California's economy; that we can't afford this bill, and that it will lock up the desert for the people of California and the Nation, are absolutely false.

They argue that this bill will cost California jobs. On the contrary, this bill will create jobs and help shatter a myth—the myth that says you can't have a healthy environment and a strong economy. This bill will protect current mining claims and allow all existing mining operations to continue. And as I said earlier, creating two new national parks and a new national preserve will help increase tourism, create roughly 2,000 new jobs and generate up to $200 million in revenue.

They argue that this bill will stretch the resources of the National Parks system to the breaking point. Nothing could be farther from the truth. The Joshua Tree and the Death Valley National Monuments, which will be elevated to national park status under the bill, are already managed by the National Parks Service. Likewise, the Mojave National Scenic Area, which will become a National Parks Service Preserve, is already federally managed by the Bureau of Land Management.

The CBO estimates that initial start up costs for this bill will run about $6–$9 million in each of the first 5 years of this bill. After that initial 5-year period, CBO estimates that increased Parks Service management costs under this bill at only $2.5 million per year. Since the lands encompassed by this bill are already under Federal management, much of these costs must already be met.

Finally, they argue that the California Desert Act will lock up the desert and that people will no longer have access. They say that this legislation will hurt the recreational vehicle users. This is untrue. Almost 500,000 acres of public land—an area ten times the size of Washington, DC—will remain open for trail bikes, for all-terrain vehicles and for other types of off-road vehicles. Likewise, as I noted above, existing mining claims and allow all existing mining operations to continue.

Mr. President, this legislation strikes the critical balance between protecting our fragile desert ecosystems, creating economic growth and preserving the legitimate uses of our public and private lands. Listen to the San Diego Union Tribune. They say that this bill achieves a "balance between environmental and economic concerns." The San Bernardino Sun agreed, explaining that the bill not only protects natural habitat, but "also aims to protect jobs."

After 8 years of hard work—first by Senator ALAN CRANSTON and now by my talented and hardworking colleague, Senator DIANNE FEINSTEIN—we finally have an opportunity to pass meaningful desert protection. When we pass the Desert Protection Act, we will give a healthy shot of adrenalin to the California economy and preserve our desert for generations to come. I urge my colleagues to support this important legislation and I yield the floor.

NOMINATION OF BUSTER C. GLOSSON

Mr. GRASSLEY. Mr. President, there is one advantage to being in the Chamber to listen to debate on other issues than on what a Member might be speaking because I probably had an opportunity to hear more of the pros and cons on the California desert issue than I would have watching it on television in my office. So I think that there have been good presentations on that issue.

Of course, I am not speaking on that issue. I wish to speak on these nominations, and to start out with I wish to concentrate on Lieutenant General Glosson.

Some of my colleagues have wondered why the Senate needs to be spending this weekend considering nominations of three Air Force officers, and I think it is very legitimate for that to be asked. Of course, I share their wonderment because in my view the Senate should not be considering these nominations at this very late date. Of course, the majority leader sets the agenda around here.

If he wanted to not bring these nominations up, he would not have to and we could all go home. Wasting the Senate's time on these tainted nominations is a very interesting reflection of the priorities that people have placed on this institution. Earlier I mentioned how we should be debating the issues that are important to the American people like congressional coverage or unfunded mandates. I only mentioned those two because those were the ones that we were dealing with last night as we closed business. Well, there are other items as well.

What about the 25-percent health care deduction for the self-employed? That deduction has been available to people for I believe 10 or more years and it ran out last year. We are going to have self-employed people of America who have traditionally wanted to deduct their health care from their taxes, their health care insurance from their taxes, or at least up to that 25-percent. They are not going to be able to do that. They are going to get hit with a big, huge tax increase this year because Congress has failed to act on that tax problem. But that is an issue that everyone agrees on. But for some reason or other, it is not the same priority as these tainted nominations that we are going to be dealing with. Just try to figure it out. It is very difficult to figure it out.

I along with many others have been pushing for renewing the 25 percent deduction ever since we failed on the health care reform issue. I have even offered an amendment in the Finance Committee that I serve on and was told

by Chairman MOYNIHAN that the issue was a priority. When asked yesterday if the Senate would deal with the health care deduction issue, apparently there was not enough time left to deal with that issue. But of course, we have 2 or 3 days here at the end of the session to spend time on tainted Air Force nominations. Just try to figure it out. I cannot.

This is a prime example of why Congress might be held in low esteem by the people when we could be dealing with the important issues of the day. In our limited time we fritter it away on tainted nominations that would never be approved if the American people were able to vote on them.

Well, I hope that will change in future years. I do not know whether it will or not. But people this November are going to have an opportunity to speak to that point.

As I said earlier in this day, there are games that can be played in this process of legislation. We have waited on these nominations which I am interested in speaking on until the 11th hour. I said on one of these how I was ready to speak last October, another one in January or February of this year, another one in April. But here they come at the 11th hour. There is some intimidation with that. I do not know whether it is meant or not, or maybe I am intimidated. I do not know. But it does seem like it is putting off to the last minute things that could have been done before. But I hope that I will not be intimidated in this process because I think that we need to explore these nominations very thoroughly. I think we need to get the entire record out on the table. We need to debate such matters at the 11th hour if that is the way the game is going to be played.

I would like to suggest to my colleagues why I am here today discussing the nomination of Gen. Buster Glosson, and that he should not be promoted by the U.S. Senate to retire with a third star. And I want my colleagues to understand that this is indeed a promotion. The general officer announcement put out by the Department of Defense on this nomination announces that Gen. Glosson has been nominated "for advancement." It is up to the Senate now to determine if General Glosson's record since his last promotion warrants one final promotion.

It has been our tradition here in the Senate to show deference to departments and administrations for nominations and for promotions. I am second to no one in showing such deference. My record squarely reflects that. When questions about nominees arise it is the burden of Senators or committees to persuade our colleagues that the nominee is not fit for confirmation. But all things being equal, the Senate does show deference in the confirmation process.

In this case, Mr. President, the case of General Buster Glosson, all things are not equal. The circumstances make this a unique case. There is a record on General Glosson resulting from a criminal investigation by the independent office of the inspector general of the Department of Defense. That record says the general tampered with the promotion board and that he lied under oath about what he did; period. That is potentially a court-martial offense. Subsequent panels examined the same evidence as the inspector general. These subsequent panels came away with the same conclusion for the same reasons.

Some who support General Glosson might have hoped that the panel's report would overturn what the IG said. But it did not. It actually reinforced the IG's conclusions. The panel concluded that General Glosson tampered with the promotion board. That in and of itself is potentially a court-martial offense under the Uniform Code of Military Justice. The only difference between the IG report and the panel's report was that the panel did not conclude that the general had lied. But the panel, Mr. President, is not persuasive on this issue.

First, the IG interviewed the general a couple of weeks after the alleged activity when his memory was and should have been very fresh. The panel did not interview him until an entire year after the fact. The panel is therefore in a weak position to be able to test the credibility of the IG's conclusions on this point.

In addition, the panel said that the three complainants against General Glosson had told the truth. While the panel said General Glosson did not lie, it said that he was mistaken. It also did not say that he was truthful. Let me emphasize that. It did not say that he was truthful. And it said that he was evasive and it said that he was misleading. It says that what he said versus what the three generals said were irreconcilable. In other words, the panel all but said the general lied.

Of course, this is a game of semantics. This panel made a political judgment, not an investigative one like the IG did. The IG did it like a criminal investigation. In my view, the panel "Steinerized" the investigation. Let me explain what that means. The "Steinerizing" of this investigation. You remember Josh Steiner, do you not? He is the young Treasury staffer who testified on the Whitewater matter before the committees of Congress. He was the one with the diary, if you remember. When he testified he denied, if you remember, what he had written in his very own diary. Instead, Josh Steiner danced and he bobbed and he weaved around the issue. In short, he denied the obvious. And that is what this panel did. It denied the obvious.

When the panel concludes that the general was evasive and that the general was misleading when it says that the three generals told the truth, when it says their testimony versus his are irreconcilable, when it never says that Buster Glosson told the truth, when it says he ultimately remembered a version of events that was favorable to him but substantially inaccurate, and when it resorts to saying "we believe he never deliberately lied but is simply mistaken," then, Mr. President, that panel is denying the obvious and so it "Steinerized" the issue.

There is an old Malaysian saying. "Anything with scales counts as a fish." Mr. President, what we have here is a fish.

Regardless of this game of semantics, the fact still remains that the panel agreed with the IG on virtually all accounts. In fact, in some instances it went even further. And so the panel does not overturn what the IG did, in which case deference must be shown to the independent IG's investigation. I will say more about that shortly.

Given the record on General Glosson, which is the result of a criminal investigation, and which criminal investigation was signed off on by the Air Force judge advocate and by the Air Force general counsel; and given, two, that the subsequent panel review substantiated the IG report and failed to sufficiently overturn the IG's findings of lying under oath, the burden of proof should be on those of my colleagues who are pushing this general's nomination.

A dark cloud still hangs over General Glosson's name. He tampered with a promotion board, and he was not truthful about what he did.

Let me, Mr. President, just go back a little bit and remind my colleagues that they will read letters from members of the Armed Services Committee that General Glosson should be promoted because he has had an outstanding military record as an F-4 pilot in Vietnam; had primary responsibility for planning and implementing an air campaign in Operation Desert Storm; had service as an Air Force Deputy Chief of Staff for plans and operations.

There is not a thing in this letter that is not absolutely true about General Glosson. General Glosson has a record as a military person that he can be proud of and that his backers can be proud of, and I do not want to detract from that. But we are talking about a General Glosson who, after this, after he had been promoted because of past service, was interfering with the promotion board for an Air Force promotion. That is so serious that three generals resigned from the promotion board. As I stated, what the DOD general counsel had to say about it, and what the Air Force judge advocate had to say about it—it was wrong. Also, the Secretary of the Air Force took action against General Glosson. These generals resigned because there was tampering by General Glosson with the

promotion board that was considering promotions of other people in the Air Force. That is a very, very serious offense.

The Senate Armed Services Committee found the Department of Defense's consideration of General Glosson so questionable in the first stage that they sent it back to the Department of Defense for reconsideration, and that is where this panel was set up. So you have the panel saying that he may have been mistaken. But the point is that the inspector general said that he lied. The inspector general said he lied under oath. The panel did not say that he did not lie. The panel did not say that he was truthful. The panel spoke about "mistake," or "mistaken notions," or maybe "too far away to understand." Now, you are comparing an inspector general's investigation and questioning of General Glosson 2 weeks after he supposedly tried to impact the decision of the promotion panel. And then you have the review of it a year later by a panel set up just to do that. And I would ask you, where should the most weight be? On what the IG says, or what the panel says?

I think the issue here, Mr. President, is all about integrity. Debating against General Glosson is not easy for me. I do not delight in this. But it is important enough that I cannot turn away from the obligation we have to all those who proudly wear the uniforms of each of our military services, and that obligation is to demand the preservation of integrity in the promotion process of military officers.

I would like to describe the importance of maintaining integrity in this process, Mr. President, and I begin with the most appropriate commentary on this issue that I have heard anywhere.

The distinguished President pro tempore of the Senate, ROBERT BYRD, recently spoke eloquently and persuasively about this issue. He was speaking at a hearing on February 3 of this year before the Armed Services Subcommittee of Force Requirement and Personnel. That was the hearing on the cheating scandal at the U.S. Naval Academy. Again, Senator BYRD was involved in a hearing about a cheating scandal at the U.S. Naval Academy. During the hearing, Senator BYRD spoke about the importance of leadership, of integrity. Every one of us Senators ought to be proud of the approach that Senator BYRD took. He spoke about setting a good example, and he spoke about sending the right signal. He said the following:

> A good commander must have two qualities: He or she must be able to direct the battle successfully. That is a requirement.

But a good commander must also have what Senator BYRD describes as "clean hands."

A commander must have clean hands or he or she should not pass.

Of course, the Senator from West Virginia credits this principle to a conversation between two soldier statesmen in ancient Athens as recounted by Plutarch. Mr. President, having clean hands is synonymous with honesty and with integrity. That should be as lucid to us today as it was to Greek statesmen 2,500 years ago.

Integrity is the foundation, integrity is the cornerstone of leadership.

When a military commander's integrity has been called into question, then those who would follow him or her into battle may not follow when the going gets rough and tough.

This issue and this nomination is all about integrity. Integrity as it applies to General Glosson and integrity as it relates to our responsibilities in the U.S. Senate. There is a saying about leadership, that a leader is only as good as the people he or she serves.

With that in mind, I suggest to my colleagues that we are in the leadership role on this nomination as Members of the U.S. Senate giving a stamp of approval to this nomination. If we are not in a leadership role in this decisionmaking process, I do not know who is or what our function is.

And, of course, then, we as leaders are only as good as those we confirm. If we confirm someone, especially a military officer, with a dark cloud still lingering, then that dark cloud reflects on us as well.

No doubt General Glosson deserves great credit for his outstanding achievements. Indeed, he has been rewarded for them over the years by a string of promotions. His performance during the gulf war earned him a second star.

But we are here, Mr. President, debating not that second star, or any of the general's previous promotions, we are debating his performance since his outstanding work in the Persian Gulf and after he was given a second star.

The findings of the IG—this cloud over the general's head —that he interfered with the promotion board, the findings of the IG that he lied under oath involves activity after his last promotion.

The question is does his recent record warrant this promotion? In my view, this confirmation comes down to one thing: it is an issue of integrity versus friendship. I know that he has made lots of friends here in the Senate. I know that he facilitated a tremendous amount of access for people up here while he was at the Pentagon and over at the Pentagon.

But friendship should not be the No. 1 concern of this body in carrying out its responsibilities in this confirmation process. If we are to be the leaders in the confirmation process, if we are to demand integrity in this process, if we are trying to change business as usual here in the Senate, and if we are trying to tell the voters every day that we are trying to do that and especially trying to tell them how we are going to change business as usual before the election, then we ourselves must put integrity at the top. Integrity is the cornerstone of leadership. Putting friendship above integrity is business as usual.

I am not going to sit idly by while this happens again and again. If there were ever a nominee who warrants a refusal by this body it is this one. This nomination is not being pushed even by the Air Force. The Secretary of the Air Force came to my office the other day and spoke on behalf of the other Air Force nominees, Colonel Bolton and General Barry, but she did not speak on behalf of General Glosson. Why?

You know why. Because this is an issue of integrity. Every single member of the U.S. Air Force, from the lowliest private to the highest general, is watching this vote.

Here is a general whose integrity is in question and they see a small group of Senators who are friends of his securing to protect him trying to whisk him through the confirmation process. The heck with demoralizing the troops. They are saying they are putting friendship over integrity without any consideration of the impact this will have throughout the ranks.

I have received countless letters and countless phone calls about this nomination from officers all around the country. They cannot believe the spectacle, believe me, Mr. President. What we do on this vote will send a powerful message to those men and women who serve our country.

It will tell our troops that having friends in high places is more important than having unquestioned integrity.

In Federalist Paper No. 77, Alexander Hamilton explained that to add advice-and-consent function was designed to maintain public accountability. Presidents have the sole power to nominate. Responsibility for poor nominees belongs solely to the White House.

But Alexander Hamilton said that the Senate was accountable for its role as well, that the Senate would have to answer to the public for rejecting good nominees or for passing bad ones.

Our function is to screen bad nominees or we will have to answer to the public. The more bad nominees we pass, the more cynical the public has become. And the result is not only taken out on us at the polling booths but our constituents' cynicism helps erode democracy detracting from the approximate process of representative government.

In the simplest terms, General Glosson monkeyed with the promotion process.

Now, you know there might be some things in this whole issue about lying or remembering or whether he was truthful or whether he was not that

might be in dispute. It is not, as far as I am concerned, but some people might legitimately dispute that. But there is no dispute that he monkeyed with the promotion process.

He was cited by the DOD and by the Air Force IG's—not one, two—as having lied about it. To confirm General Glosson with such a record still standing would set a terrible example. It would serve as a blemish on the military promotion process. It would demoralize the military men and women across America and it would give the U.S. Senate a blemish on its record.

Now, in regard to my position, first, let me state what my position is on this matter. Some in the press corps has chosen to characterize my position as opposition to the retirement of General Glosson. This is not correct. From the beginning, my position has been to resolve the questions raised by some in light of the findings of the joint DOD Air Force IG investigation.

Thus far, in my view, the findings of the joint IG report still stand on solid ground, and that being the case, then we cannot move ahead with this nomination.

If some new information were to be brought forth to question the IG finding with credibility, I would say fine. It would make a big difference to me.

No one has successfully done that. In seeking to resolve these questions, I have pursued numerous questions of my own about the underlying facts of this case with the Air Force and also with the Defense Department, also with the White House, and with the chairman of the Armed Services Committee. I have done this over an entire year. I have tried to ensure that the issues outlined in the IG report and any doubts about them be thoroughly addressed.

But, after all the investigating had been done, it turns out that the questions raised about the IG report are groundless. I will speak more about this in awhile. That conclusion, though, is inescapable. If all the documents are reviewed, you cannot come to any other conclusion. And yet, we are moving ahead with this nomination.

The DOD and the Air Force IGs found that General Glosson lied under oath and that he improperly tampered with the promotion board. The Air Force JAG and the Air Force general counsel reviewed the IG's findings and, based on the evidence of the record, concluded that there were problems.

Let me emphasize that both concurred with the report of the DOD and the Air Force IGs; not one position, two positions. In other words, these two Air Force counsels agreed, after thorough review of the case, that General Glosson lied under oath and that he improperly tampered with a promotion board. That is powerful stuff, Mr. President. That is indeed powerful stuff.

What is more compelling is the fact that this is the first time ever—let me emphasize ever—that the DOD IGs have accused a high-ranking official of lying under oath. This is the first time ever that DOD IGs have accused a high-ranking official of lying under oath.

So what that means, Mr. President, is that the IG cannot justly be accused of being overly aggressive on this point. It is perhaps an understatement to say that the IGs have been judicious in the past of making such accusations.

Again, Mr. President, it seems to me that these are powerful facts that cannot be denied and ought to be persuasive in and of themselves.

Now what is it that would cause the IG's findings to be superseded? Because if they could be superseded, all of us in the Senate should be open to that.

Well, the obvious answer is, if subsequent investigation turned up new facts that countervail the original investigation, then it would warrant a new look. But that has not been the case, Mr. President. The three-member panel confirmed the facts put forth by the joint IG report. Remember, that is the panel set up after the Armed Services Committee sent it back to the department for review. This three-member panel that met sometime during August and reported back to the Senate in early September, this panel confirmed these facts. These are facts that the IG found. In fact, in some areas, it went even further. It differed only in its judgment as to whether General Glosson lied under oath.

This panel, that met a year later trying to determine whether General Glosson lied, the only difference whether the interview was anything other than what the IG a year before found wrong with General Glosson tampering with the promotion process, it differed only whether General Glosson lied under oath. But, at the same time, Mr. President, it did not say that he told the truth. And it stated that the three members—now, these are the three generals who resigned from the promotion board when it is being tampered with—it stated that these three generals who testified against General Glosson, that these three generals all told the truth.

The result: One, there is no disputing that General Glosson tampered with the promotion board; and, two, the three-member panel has not been persuasive that the charge of lying leveled by the IGs is inaccurate.

I want to go into further depth about the IG report and the panel's report, on the issue of lying.

Mr. President, our distinguished President pro tempore would like to have the floor. I would like to yield him the floor at this point, without losing my right to the floor. He said he would take about 10 minutes. I would be very happy to yield that 10 minutes at this point.

Is that permissible under the rules?

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The President pro tempore is recognized.

Mr. BYRD. Mr. President, I thank the distinguished Senator. I will not consume more than 10 minutes, at least that is my intention.

THE 103D CONGRESS

Mr. BYRD. Mr. President, we verge toward the final moments of the 103d Congress. Our work here is nearly finished. The good that we have achieved, and the efforts that have failed, will both become paragraphs in the history of this institution and in the unfinished biographies of us all. Even with the sincerest of regrets, that which we have done, cannot be undone; and even with the most impassioned of yearnings, that which we have left undone, cannot now be accomplished.

For ere the glass that now begins to run
Finish the process of his sandy hour,
These eyes, that see thee now well coloured,
Shall see thee wither'd, bloody, pale, and dead.—

HAITI

Mr. BYRD. Mr. President, yesterday, the Congress voted for a nonbinding legislation that places no limits on the mission in Haiti. I know that nothing succeeds like success, and I acknowledge that there is no appetite in the Congress today for placing any limits on the thus far successful operation in Haiti. But although the Congress will return on November 30 and December 1, those days are dedicated to addressing only the GATT agreement. Therefore, there is no further opportunity to address the United States mission in Haiti until the 104th Congress convenes in January 1995. While I fervently hope that the operation in Haiti continues to be relatively trouble-free, remains limited in scope, and a downward glidepath is followed toward handing the operation over to the United Nations, I remain deeply concerned about the potential for the mission to balloon into nation-building and about the safety of our troops.

One drop of blood drawn from thy country's bosom, should grieve thee more than streams of foreign gore* * *

"PORK" FOR THE WASHINGTON POST?

Mr. BYRD. On another matter, Mr. President, I have been the object of some very derogatory editorial writing on the part of the Washington Post recently. On September 21, 1994, the editorial page of the Washington Post labeled as mere "pork" certain provisions in the fiscal year 1995 Transportation appropriations bill. In trying to

create a mountain out of a molehill, the Post's editors called me "the King of Pork." Now, the shoe is on the other foot, and dirt of another molehill is creating muddy going for the editors of the Post.

The Washington Post is now, apparently, guilty of using the same editorial page to urge the speedy passage of the GATT world trade agreement, although time for further inspection of this lengthy piece of legislation reveals a $900 million loophole that favors—whom? The Post's parent company, a fact that the Washington Post editorials failed to acknowledge. A provision inserted into the GATT implementing legislation—which is not subject to amendment or changes in conference, as are provisions in the appropriations bills—requires companies to pay only 85 percent of the average price of wireless telephone licenses in upcoming auctions, and no less than $400 million. But this is a far cry from the estimated $1.3 billion than those licenses might fetch in a free market. And the Washington Post was not even happy with that compromise. They had argued that those licenses should be given away, with no payment at all to the Government. Is this, then, "Pork" for the Post?

Mr. President, I ask unanimous consent that two articles from the Washington Post dated October 5 and October 7, 1994, be printed in the RECORD.

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

[From the Washington Post, Oct. 5, 1994]

THE TRADE BILL * * * AND THE POST

The House remains scheduled to take up the trade bill today, and vote on it possibly tonight. That's what it ought to do. Some members have urged that the vote be put off until after the election, as was done in the Senate. They ask why the House should have to cast in advance a hard vote that the Senate won't cast until afterward. But the vote won't be any easier then. Nor will it be any less necessary.

The bill incorporates into U.S. law the terms of the new world trade agreement. Through worldwide tariff cuts—the largest tax cut in history—and various other means, the agreement is expected to generate a strong expansion of the U.S. and world economies. The fear among some is that it will cost the United States jobs; in fact it will have the opposite effect. Nor will it lead to the erosion of U.S. sovereignty they profess to foresee, a weakening of health and safety, labor or environmental standards or a higher deficit. In the long run, the growth will likely reduce the deficit.

This newspaper has been attacked in recent days from several quarters on grounds that our editorial support for the trade bill masks and is the result of a provision that would benefit The Washington Post Co. That's just plain false, as some of those making the charge best know. The paper has been a strong and tireless, if not actually tiresome, supporter through three administrations and eight years of the international negotiations that have now given rise to this bill. More than 400 editorials have been published in that period on the subject of trade. Virtually every one has been tilted in the direction of freer trade; many have endorsed provisions now part of the trade agreement; all but a few of these several hundred appeared before the bill and the revenue provision in question were even drafted.

We on the editorial page try to keep abreast of provisions in which The Post Co. has a commercial interest so that we can acknowledge them when they arise. Usually we do so and we failed to do so here; it was a mistake. What we should have known and said about the trade bill provision is as follows:

It involves the price that will have to be paid for a license to provide advanced cellular telephone service by a company in which The Post is a major investor and 70 percent limited partner. The critics describe the price as a deep discount; The Post Co. looks at it as anything but. The license was originally supposed to be free. It was one of three awarded by the Federal Communications Commission in a national competition meant to encourage companies to invest in new wireless technology. After the company in which The Post has its interest won the competition, the FCC changed its mind and said it would charge for the license. The possible proceeds were then seized upon by the administration and others looking for future revenues to offset the tariff losses under the trade bill. The license fee in the bill will be less than the fee would have been as proposed by the FCC. But the provision that officials of rival companies are calling a gift, Post company officials regard instead as a breaking of the government's word and a dunning.

But break or dunning, the revenue provision was not a basis for the editorial. Nor does it seem to us to be a basis for voting either way on the bill. We continue to think, as we have all along and for the same reasons, that the trade bill ought to pass.

[From the Washington Post, October 7, 1994]

POST TAKEN TO THE PILLORY—PAPER CRITICIZED ON TRADE PACT PROVISION

(By Howard Kurtz)

The Washington Post, which delights in exposing secret deals on Capitol Hill, suddenly finds itself accused of participating in one.

A media furor has developed over a provision involving the GATT world trade agreement that would provide what critics call a windfall for three firms, including a Post Co. subsidiary, that are seeking wireless telephone licenses from the government. The Post became the primary target of criticism after running editorials backing the trade pact without mentioning the company's financial interest.

"We did make a mistake and we really feel awful about it," Meg Greenfield, the paper's editorial page editor, said yesterday. "Of course we should have known. We wished we'd known. There's a system for information on these things, and it just broke down."

Opponents of the General Agreement on Tariffs and Trade have gleefully seized on the disclosure that The Post and the corporate parent of the Atlanta Constitution would benefit from the provision, which was inserted by the Clinton White House and House Energy and Commerce Chairman John Dingell (D-Mich.) into legislation implementing GATT. The ensuing controversy has helped temporarily derail a U.S. vote on GATT.

Former presidential candidate Ross Perot charged on "Larry King Live" that "the White House cut a deal with The Washington Post and the Atlanta Constitution that is going to cost the taxpayers $2 billion.

* * * It is the ultimate corruption of our system * * * the biggest piece of pork ever. * * * I mean this makes Whitewater look small."

Conservative commentator Pat Buchanan, also a former presidential contender, said on CNN's "Crossfire": "Somebody snuck that thing in there, and it is an outrage. . . .Let me give you a little sound bite: The Washington Post got a $200 million bailout in the GATT treaty. Did your congressman vote for it?

Executives at The Post Co. and American Personal Communications (APC), which is 70 percent owned by The Post, say the provision actually saves the taxpayers money and was hardly a back-room deal. In fact, they say, The Post disclosed the first legislative move in this direction last July, before it became part of the GATT bill.

"The idea that these terms would be put in GATT was emphatically not APC's idea," said Donald Graham, The Post's publisher and chief executive officer. "It was Chairman Dingell's idea."

Scott Schelle, APC vice president, said GATT opponents are using The Post's involvement as the "excuse dujour" to help sink the treaty. "There is no aspect of a give-away here at all," he said.

One man who helped broker the deal is former Democratic congressman Thomas Downey, now a lobbyist for APC. "My role has been useful but marginal," Downey said. "APC made their case both to Mr. Dingell and the White House. So did The Post. Both sides had big interests in explaining their side."

GOP critics take a more jaundiced view. "The Washington Post had no business editorializing and saying this was a good deal for the free world, and all of a sudden you see in the bowels of this legislation there's a little item they overlooked," said Rep. Robert Livingston (R-La). "That to me is appalling."

How a provision affecting The Post came to be added to the controversial GATT measure in the waning days of a congressional session is a tangled tale. In 1992, APC and two other firms won a federal competition to develop "pioneer" technology for wireless telephones. The licenses were awarded for free, which was standard practice at the time. The three companies spent tens of millions of dollars developing the technology, which is to compete with cellular phones.

Last year, however, Congress ordered the Federal Communications Commission to start auctioning off such licenses in the future. The chief rivals of the "pioneer" firms, Bell Atlantic and Pacific Telesis, argued vociferously that the newcomers should pay for their lucrative franchises.

PacTel, which tried to win one of the free licenses, is no slouch in the lobbying department. The company has contributed more than $1.3 million to congressional candidates over the past decade.

"Yes, we competed. Yes, we lost," said PacTel spokesman Robert Stewart. But he said the proposed deal is "too much of a give-away" and "would create a tremendous distortion in the marketplace."

In July, the FCC went further and decided to charge the three companies a total of more than $1 billion for their existing licenses. The Post subsidiary cried foul, suing the government for changing the rules in midstream.

Graham said, "There is no question whatsoever that the pioneer awards were supposed to be free of licenses. . . The pioneers

feel this promise is being broken because of ferocious and successful lobbying" by corporate rivals. Graham said he too had "done some lobbying" with the administration and Congress.

Dingell, for one, was persuaded. In a letter to colleagues, he said the FCC does not have the legal authority to charge for phone licenses and that its effort could be "quite possibly overturned in court," leaving the government with "nothing." So the White House and Dingell struck a deal with the companies that the congressman defended as "a good deal for the taxpayers."

The compromise requires the companies to pay 85 percent of the average price of licenses in upcoming auctions, and no less than $400 million. While this is far less than the estimated $1.3 billion the licenses might fetch today, Graham said it is "grossly worse" than the deal the companies originally struck. Had The Post known the eventual cost, he said, "we would not have competed."

The GATT legislation suddenly loomed as a very attractive vehicle. Not only was it on a "fast track," meaning it could not be amended, but the administration was required to find some money to offset the revenue lost by lowering tariffs. The pot of cash to be raised from the three companies was ideal for this purpose, and the Dingell language was quietly added to the thousands of pages of GATT legislation.

PacTel officials discovered the move Sept. 21, and in the next two days the Associated Press and Wall Street Journal carried stories on the deal. Still, the issue remained muted.

That changed on Tuesday, when PacTel bought full-page ads in The Post and Washington Times. "The Washington Post and two other corporations have slipped in a billion-dollar loophole—and the Post forgot to mention its own special interest in two editorials urging quick passage of the trade pact," the ad said.

"We ran the ads because we'd had no success getting the attention of the administration," Stewart said. Dingell dismissed the ad as "misleading" and part of a "corporate cat fight."

Asked why he sold space to a business rival, Graham said: "The Post tries to give extraordinary freedom to advertisers to say what they wish. We've run many ads criticizing the newspaper and its policies."

While acknowledging its mistake in an editorial Wednesday, The Post said it has run more than 400 editorials in favor of free trade. Greenfield said the notion that her editorial page was secretly trying to advance corporate interests was "a bit nutty." But the political damage had been done: House Republicans succeeded that day in delaying a scheduled vote on GATT until after the November elections.

The disclosure of The Post's role was "explosive" and "dynamited support within the Republican Party," Buchanan said. "It's an insider's deal, and the fact that it's The Washington Post is icing on the cake. The Washington Post is not a beloved institution in the Republican Party."

All this has left the paper in the awkward position of reporting on a Capitol Hill struggle in which it has become central player.

"It's always hard to make sure you're having the same arm's-length relationship that you have with any other story," said Executive Editor Leonard Downie Jr. "Probably it's difficult to convince readers that we are treating it the same way as any other institution."

FAREWELL TO A GREAT AMERICAN

Mr. BYRD. Mr. President, I was officially sworn in as a Member of the United States Senate in 1959, January—more than 35 years ago.

During these almost 36 years of service in this institution, I have been privileged to know, and to count as personal friends, many men and women who tread the pages of American history—brilliant Senators, dedicated Senators, patriotic Senators, prophetic Senators, and many Senators who might rank among some of the outstanding legislators of this or any country.

With some still serving here today, I can rightly say that I have suffered sincerely from the departures and retirements of many of those Senators from our past, and as long as I live, I shall never forget my personal association with the long parade of Senators who have served with me here and who have gone into retirement and some who have gone to await their summons to the Eternal Roll Call.

I was the 1,579th Senator to be sworn in. From the beginning in 1789 to the present, there have been 1,814 men and women, who have graced the Senate Chamber and who have answered the rollcalls of this body.

Having said that, Mr. President, I cannot recall the departure from the Senate of anyone whose departure I regret more than the impending departure of Senator GEORGE MITCHELL from Maine, our Majority Leader and a man whom I admire deeply and sincerely, both as a colleague and a friend.

As I contemplate Senator MITCHELL's retirement from our midst, my unstudied initial reaction is, "Say it is not so!"

Like so many of our colleagues, I have benefited by the brilliance of Senator MITCHELL's mind, and from Senator MITCHELL's leadership and comradeship here in our parliamentary struggles.

Indeed, when the 104th Congress assembles next year, no matter who among us is no longer here, the vacuum left by GEORGE MITCHELL will be difficult to fill.

The basic outlines of Senator MITCHELL's career are a matter of public record. I shall not revisit that record here.

But I do remind our colleagues that Senator MITCHELL is the son of an immigrant mother who worked in a textile factory and of a father who was the orphaned son of Irish immigrants and who worked as a laborer and a janitor.

I recount those realities in order to underline the higher reality of GEORGE MITCHELL's life and career.

Contemporaneously, some cynics find amusement in ridiculing the Horatio Alger story—in asserting that the classic "American Dream" is a fantasy fit only for the gullible and weak-minded—a fantasy with no foundation in life and no realization in human experience.

To such cynics, I say, "look at GEORGE MITCHELL!"

Both Senator MITCHELL and I rose from less than auspicious origins to find our places in the life of a nation that rewards hard work and real effort.

Senator MITCHELL and I have lived out biographies as dramatic, perhaps, as one could ever find—lives of Americans not born to privilege, but lives presented with opportunities and rewards undreamt of by most Americans and impossible to the people of most other lands around the world.

As I stand before you, Mr. President, in the recesses of my imagination, I entertain a genuine fantasy—a fantasy of the Founding Fathers—Washington, Jefferson, Madison, and others—beaming down on us from on high, as this Congress moves toward adjournment and as Senator MITCHELL steps down from his Majority Leadership position.

And in my imagination I can see those Founding Fathers congratulating one another and saying to one another, "See! It works! That is what we intended when we made merit and ability the keystones to our American system of Self-Government, instead of artificial pedigrees, titles, and rigid class origins!"

Mr. President, I commend Senator MITCHELL for the reasoned passion that he brought to his responsibilities as Senate Majority Leader. I commend him further for his infinite patience in helping to guide this mighty institution through the stormy straits of partisanship and wrangling for, lo, these several years. If he has a fault, it is the fault of being too accommodating. I have said that before to him personally, and I have stated it on the floor.

I commend Senator MITCHELL for the incomparable dignity that he has brought to his duties and the grace with which he has carried us so often through the legislative rapids. I commend him further for his keen and incisive and discerning intellect and the logic of his thinking—attributes at which I more than once have marveled as I have watched him pilot the Senate so often.

This past Wednesday evening, Senator MITCHELL delivered a speech at a fundraiser for the George J. Mitchell Scholarship Fund—an endeavor by Senator MITCHELL to encourage and undergird scholastic achievement and education—causes in which both Senator MITCHELL and I have matching concerns.

Senator MITCHELL's remarks on that occasion on this past Wednesday evening, are far more revealing than the comments on his life and career that another might make, even in the sincerest effort to capsulize the values of Senator GEORGE MITCHELL.

For the benefit of all of our colleagues, and for the benefit of posterity, those who will read the CONGRESSIONAL RECORD 100 years from now, I ask unanimous consent that Senator MITCHELL's remarks at his scholarship fund dinner be printed in the RECORD.

And to Senator MITCHELL, I say, fare thee well, colleague and friend. Depart if you must, but never forget your friends here in the Senate, and take with you into the years ahead and into Eternity the assurance that you have made a difference in our work together and the life of this country which we both love so dearly.

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

STATEMENT OF SENATE MAJORITY LEADER GEORGE J. MITCHELL—OCTOBER 5, 1994

GEORGE J. MITCHELL SCHOLARSHIP FUND DINNER

I'm grateful to President Clinton, to my colleagues from the Congress, and to all of you for your support for this scholarship fund. This is as important to me as anything I've done since I entered public service.

Before I entered the Senate, I had the privilege of serving as a Federal judge. In that position, I had great power. The one I most enjoyed exercising was when I presided over what are called naturalization ceremonies. They're citizenship ceremonies. A group of people gathered before me in a federal courtroom. They'd come from every part of the world. They'd gone through the required procedures.

Now in the final act, I administered to them the oath of allegiance to the United States. And then I made them Americans.

It was always emotional for me because my mother was an immigrant, my father the orphan son of immigrants. They had no education and they lived hard lives. But because of their efforts, and more importantly, because of the openness of American society, I, their son, am today the Majority Leader of the United States Senate.

After every ceremony I spoke personally with each of the new Americans. I asked where they came from, how they came, why they came. Their stories were as different as their countries of origin, but all were infused with a tangible and inspiring love for this, the country of their choice.

The answers of the new Americans to my question of why they came were different. But a common theme ran through them. It was best expressed by a young Asian man who replied, in slow, broken English: "I came because here in America everyone has a chance."

A young man who'd been an American for five minutes summed up the meaning of America in a single sentence. Here, everyone has a chance.

But in the twenty-first century, and the third century of American history, everyone will not have a chance to succeed unless they first have a chance to learn. The competition will be fierce and unforgiving. Those who lack knowledge and skill will not succeed.

I consider myself to be especially fortunate. I had a chance. I got an education.

My mother spent her entire working life on the night shift in textile mills. She was a woman of strength and substance, the most influential person in my life. My father was a laborer and a janitor. Like many in their generation, they devoted their lives to providing for their children the education they never had. They had a profound, perhaps even exaggerated sense of the value of formal education. Although they died without property of prominence, my parents had rich and fulfilling lives by their standards—and mine.

I experienced early in life the value of learning. In my junior year at High School, I met an English teacher named Elvira Whitten.

I was fifteen years old, naive, totally lacking in self awareness or self-confidence. I had never read a book, other than what was required to move from one grade in school to the next.

She was elderly, intelligent and kind. One day she asked me to come back to class after school. I did, not knowing what to expect. She talked for a few minutes, then she asked me what and how much I read. I told her. She picked a book up off her desk and handed it to me, and said she thought I would find it interesting.

She made it clear I didn't have to read it, but she asked if I would, for her, and, if I did, to come back and tell her what I though of it. I agreed to read the book because I respected her and knew that it would please her. That night, I got into bed, opened the book and began reading.

It was "The Moon is Down," a short novel by John Steinbeck about a wartime military occupation—presumably the Nazi occupation of Norway. I stayed up most of the night reading it, and could hardly wait to tell Mrs. Whitten about it. She smiled, handed me another book and said, "I thought you'd like it. Here's another one you might like."

It went that way for a few months, and then she gently suggested that I start picking out my own books. I did so, and felt the first stirring of self-worth. It was my exposure to the world of books, to the excitement of knowledge, and it was my first step to adulthood.

I've often wondered what would have become of me if I had not met Mrs. Whitten, or if she had not taken an interest in me. I will always regret that before her death I never went back to tell her what a difference she made in my life. This is my way of doing so, and through her, all of the other teachers who hold the wondrous power to open young minds and inspire young lives.

Earlier this year, when I announced that I would not seek reelection, I received hundreds of requests from groups who wanted to honor me in some way.

I asked that all such offers be concentrated into this one effort. The money raised tonight will be combined with the remainder of my campaign fund to set up a scholarship foundation to help needy and deserving students get a college education.

Nothing is more important to success in American life than a good education. I believe that, because of my own experience and because of what I expect to be the rising demands of the next century.

I once needed help and got it.

Now, fate has provided me the opportunity to help others. I'm grateful for that opportunity. And I'm grateful to you for helping to make it possible.

I've been proud to serve the people of Maine in the United States Senate. It's a great honor, the greatest of my life. But when the 104th Congress convenes in January, I will not be there to take the oath of office as a United States Senator.

My decision not to seek reelection was based solely on my personal concept of public service. I will miss the Senate. I will miss my colleagues. Most of all, I will miss public service.

I've been in the private sector and then in the public sector, and I'm now returning to the private sector. I take nothing away from private life when I say that nothing can ever give the deep and meaningful satisfaction that comes from public service.

Public service gives work a value and meaning greater than mere personal ambition and private goals.

Public service must be and is its own reward, for it does not guarantee wealth, popularity, or respect.

It's often frustrating. But when you do something that will change the lives of people for the better, then it's worth all the frustrations.

We are the most fortunate people ever to have lived, to be Americans, citizens of the most free, the most open, the most just society in human history. Ours is virtually the only government in history dedicated to opening doors, not closing them.

In America today, I believe anyone can go as far and reach as high as work, talent, and education allow. We can't equalize effort or talent and we shouldn't. But we can provide equal opportunity—the promise to everyone of a fair chance to succeed.

It's because of the promise of America that I was able to become the Majority Leader of the United States Senate.

Whatever new problems arise, whatever unforeseeable challenges come, if we can keep that promise alive for our children and theirs, America will never lose her way. For me, that's the purpose of public service, its inspiration and finally, its reward.

Thank you for your support, your trust, and your friendship.

Mr. BYRD. Mr. President, how many minutes do I have remaining?

The PRESIDING OFFICER. The Senator has 2 minutes.

Mr. BYRD. Mr. President, I ask unanimous consent that I may proceed for perhaps 3 minutes.

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

HIS MISSION IS COMPLETED * * *

Mr. BYRD. Mr. President, as we near the end of the work of the 103d Congress, I am mindful that a number of our colleagues are retiring from their responsibilities here in the Senate, and will not be regularly among us when the 104th Congress convenes in January.

But one among the United States Senate family deserves particular notice here as he retires from his responsibilities and departs for a new phase of his life.

In this instance, I have particularly in mind our incomparable Senate Chaplain, Dr. Richard C. Halverson.

Dr. Halverson came to his duties as Senate Chaplain from a distinguished career in the Presbyterian ministry—most recently, from the Fourth Presbyterian Church, on River Road, in nearby Bethesda, Maryland.

There, through a committed pastorate and an enviable and unpretentious pulpit style, Dr. Halverson had built up one of the Washington

area's most dynamic churches, with a vibrant and active congregation that is still, in itself, perhaps one of the most vivid monuments that any pastor might leave behind him.

Barely missing a beat, Dr. Halverson became a pastor to a new flock here in the Senate, and with touching dedication has moved among us as a living witness to his faith since he took up his duties in the Senate.

He has visited with us in the hospitals. He has visited with our wives and our families in their sick rooms. He has attended memorial services for our friends and our loved ones, and we shall never forget these good deeds.

I know that I speak for all of our colleagues as I express my own appreciation to Dr. Halverson for his ministry in the Senate, and as I voice my own admiration to him for the unquenched spirit and the deep compassion that he has shared with us over the years in the name of a common faith that cuts across the denominations and traditions represented among us.

We shall indeed miss Dr. Halverson, but we shall not soon forget the unequalled dedication that Dr. Halverson demonstrated as "a man of God among us" and as one who touched our lives with the Truth of Eternity.

Mr. President, I thank my friend, Mr. GRASSLEY, for his characteristic courtesy and kindness in yielding the floor temporarily. And now I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

NOMINATION OF BUSTER C. GLOSSON

The Senate continued with the consideration of the nomination.

Mr. GRASSLEY. Mr. President, as you know, I am discussing the reasons that I believe General Glosson should not be confirmed in his promotion recommended by the Department of Defense and by the President.

As I have tried to make clear, the sequence of events is that there was a panel, which is traditionally done in our military services for promotion, set up to promote some members of the Air Force. That promotion process is not to be interfered with. The integrity of it must be maintained.

The inspector general of the Air Force, backed up by the Department of Defense inspector general, said that General Glosson tampered with that process, and the evidence of it was given out by three generals who were on the board who knew that these communications by General Glosson were not only morally and ethically wrong, but they violated the regulations of the Air Force. They resigned. That was the basis for the inspector general investigation.

Those facts were supported by the investigations of the inspector general, and then further, when questioned about it, the inspector general said that General Glosson lied under oath. Made aware of this, the Secretary of the Air Force, although she would say it was on General Glosson's initiative, withdrew from consideration for other higher up positions within the Air Force.

Somehow it was surmised that a consolation prize for this process would be that General Glosson would retire at a three-star rank. So the nomination went through the Department of Defense, Secretary of Defense, the White House and came up here. It was up here for several months. Finally, the Armed Services Committee decided that it ought to go back to the Department of Defense for some review.

There was a special panel set up to go back and look at everything to see if General Glosson lied and these generals that resigned that said that General Glosson was tampering in the process, whether all that was accurate.

And so the panel reported back—and I discussed that—and that is why, because of the panel report, our own Armed Services Committee felt they could move ahead and bring General Glosson to the floor of the Senate for final confirmation at retirement rank of lieutenant general.

And so we are dealing with whether or not General Glosson, interfering in this process, should be rewarded by a three-star rank and the stamp of approval that Senate confirmation gives to that.

So I wish to speak a little about the inspector general's activity in this area versus what the panel had to say as it relates specifically to whether or not Glosson lied. As far as the panel is concerned, as far as the IG is concerned, there is no dispute that Glosson interfered in the process, and the three generals who resigned from the panel and said he did interfere, there is no dispute that they were telling the truth. The only dispute is did Glosson lie about it under oath.

But even if he only interfered in the process, that is a very, very serious matter and subject to all sorts of action that can be taken against anybody so doing.

But I want to just focus on this lying issue. Again, the joint IG investigation concurred in by the Air Force JAG and the Air Force general counsel found that General Glosson did lie under oath. The inspectors general conducted a criminal investigation into the allegations against General Glosson. It was conducted as a criminal investigation on the advice of the Air Force judge advocate after he was made aware of these allegations.

This was not an administrative inquiry. Had it been, the IG could have compelled General Glosson's testimony. But General Glosson did not fully cooperate in the way that reflected an administrative inquiry. For instance, he required the presence of a personal attorney, and he disallowed a transcript of the interview by the IG personnel. According even to the committee report, General Glosson was evasive and misleading in his responses.

The IG is duly authorized to conduct such investigations as was the case in this matter. It hires experienced investigators to conduct such investigations. These investigators make judgments based on weighing the facts against criminal standards. And when their judgments are signed off on by counsel, which it was in this case, it then makes a very powerful case.

The review panel, on the other hand—I am talking about the panel that was set up after the Armed Services Committee sent this back to the Defense Department for reconsideration—this review panel, on the other hand, made a political judgment about whether General Glosson lied, and it did not have criminal investigative expertise.

As a member of the Judiciary Committee, I have become familiar with the investigative process. In legal proceedings, facts are determined by skilled factfinders, the trial courts. In ensuing appeals, the appellate courts are to provide deference to the factfinding of the trial court. This deference is especially strong when the district court's factual findings were based on live testimony, where the district court was able to evaluate the credibility of the witnesses based on the testimony.

The IG's heard all the witnesses, and their findings on credibility should not be dismissed lightly. Because the parties often disagree about the facts and because anyone can testify in a self-serving way, the processes of cross-examination and observing credibility are extremely important in resolving the factual inconsistencies in litigation generally. The three-member panel, again, set up just a few weeks ago after the Armed Services Committee sent it back to DOD, did hear live testimony. They also concluded that the three generals testifying against General Glosson were telling the truth.

They did not say the same thing about General Glosson. However, the panel's live testimony was taken long after the IG's heard the testimony—nearly 1 year later, when witnesses' memories, except apparently General Glosson's, were fresher.

In my view, therefore, and for reasons I mentioned earlier, the three-member panel's review does little to persuade me that the finding of lying by the IG's on the part of General Glosson was wrong. This is especially true since the panel's factfinders said that General Glosson's testimony to them was evasive and misleading. Mind you, this is not the IG's talking. It is the review panel talking.

Couple this with the fact that the panel did not state that General Glosson told the truth. Let me repeat that: Couple that with the fact that the panel did not state that General Glosson told the truth and that is hardly, then, I think a ringing reversal of the findings of the IG's. So again, I say that that argument simply is not persuasive.

Mr. President, there are three main arguments used over the last year by those who want to push through the Glosson nomination. Each one of these arguments is flawed. I wish to review the three. The first argument is as follows: Yes, General Glosson improperly tried to influence the promotion board. However, you have to look at this in light of his entire military career.

General Glosson, indeed, had a distinguished military career.

It is punishment enough, the argument goes, that General Glosson's career was prematurely cut short. I wish to address this argument. First of all, General Glosson had been promoted often to reflect his distinguished career. He rose all the way to major general without a single blemish on his record. That was his last promotion. Since that promotion, General Glosson engaged in activity in question, and so this confirmation relates only to what he did since his last promotion.

The argument that he should get his promotion based on his entire career is simply not a persuasive one, particularly when you deal with something that is potentially a court martial offense, interfering with the promotions board processes and, for sure, lying under oath.

The second argument that I think can be discredited is that if the U.S. Senate confirms General Glosson, here is what it is saying, here is the signal we are sending, not just to other flag officers but the entire military and to cadets and to plebes and those who are at the bottom of the ladder. We are saying to them, you can have a distinguished military career, and near the end of that career, you can do something improper and we will overlook it. If you have an unblemished career, you are allowed one big foulup and we will look the other way, because one major foulup will be looked at in the context of your entire career.

That, Mr. President, is unacceptable because it is a political solution. It violates the very rigorous standards that we as an institution have fought hard to establish; namely, to make the promotion system like Tylenol—tamper proof.

A second argument I heard was the conspiracy argument. The conspiracy was that it was not General Glosson who lied, it was the other three generals who were influenced. They ganged up on General Glosson and conspired against him. It was they who lied to stop his career dead in its tracks.

Mr. President, none of the investigating bodies found one scintilla of evidence to support this conspiracy theory. To the contrary, at every turn, the three generals were found to be telling the truth—the Air Force IG, the DOD IG, the Air Force JAG, the Air Force general counsel, the Secretary of the Air Force, the three-member review panel, and the Armed Services Committee. Yet, this argument was used to get me to take a sympathetic view of General Glosson. Let me just say parenthetically the way to get me or anyone else to take a sympathetic view of General Glosson is to win the case on the merit of the findings in the joint IG report that these findings of the joint IG report are unfounded. So this argument of conspiracy is also a nonstart.

(Mr. AKAKA assumed the chair.)

Mr. GRASSLEY. Mr. President, a third key argument was that the joint IG report was biased. That argument said that the Air Force IG LTG Eugene H. Fischer held a bias against General Glosson and that, therefore, the joint IG report was tainted. This argument was not only wafting behind closed doors around here but the Armed Services Committee considered the issue in its deliberations as well.

In response to this argument, let me say first that the Air Force IG was merely a participant in the investigation invited by the DOD IG. It was the DOD IG that conducted the investigation and called all the shots.

Second, the three-member panel reviewed this allegation and found absolutely no basis for such allegations. In fact, the panel's findings even directly shot down these allegations. It said "We adduced no evidence establishing that Lieutenant General Fischer had serious personal conflicts with LTG Glosson." Again, this was one of those arguments wafting around the halls of this institution. Let me be very clear about it. There is no factual basis for these arguments.

I might say, Mr. President, at this point, all of these different arguments that I just alluded to were used back in the spring and the early summer of why this should go through. In recent weeks, I think that the people have come to the conclusion that these arguments do not hold water, and I have not been hearing them on the personal appeals that have been made to me by my friends in this body who have asked me to just look another way and let this go through.

Mr. President, the image and the integrity of the U.S. Navy has suffered greatly in recent years. Incidents like the Navy cheating scandal at the Naval Academy, also things like Tailhook, and other scandals have given the Navy much more than just a black eye. As a result of all of this, at the Naval Academy they talk about the new Navy—the new Navy now. What that means is that the Navy is trying to clean up its image. It is trying to instill in its lower ranks a new ethical standard. But if this new ethic is to take hold, what happens at the lower ranks must also take hold at the upper ranks. And the Senate is very much a part of that process.

It seems to me we need to follow the Navy's lead. We, in the Senate, have been trying to clean up our own act. We are passing laws restricting gifts and lobbying. We will soon pass a law to subject Congress to the new laws that we pass for the rest of the country that we have exempted ourselves from, although I doubt now if we are going to get this done this year. But this will be done by February next year. The new Senate needs to instill a new ethic. By eliminating the appearance of double standards, we build up our credibility and our integrity as an institution. We are trying to become the new Senate just like the Navy is trying to become the new Navy.

Mr. President, we would be taking a giant step backward if we let this nomination go forward having failed to resolve these very serious issues. There is no question that General Glosson tampered with the promotion board. And it is not disputed that he did not tell the truth about what he did. Meanwhile, all agree that the three generals who testified against General Glosson were truthful.

Advocates of General Glosson say the following: That despite this blemish, you have to look at his overall career. But the problem with this argument is, as I have said, that if we do that, it is business as usual. That certainly then would not be the new Senate speaking. That argument says it is all right to do something untoward at the end of a brilliant career and you will get away with it. What they are really doing is asking the entire Senate to just look the other way.

I do not know of one rule, I do not know of one guideline, one anything, Mr. President, that makes an exception for bad conduct if you have a brilliant career. That argument simply does not wash.

Do my colleagues really want to make that argument to the public? They look at that argument and they would say, yes, it is business as usual, business as usual here in the Nation's Capital. And I, for one, am just one Senator, but for one Senator, I would agree with that. This is such a clear case.

If we let this nominee go through, then who would ever stop? What would it take to put an end to business as usual? What would it take to put an end to placing political connections over integrity? What would it take for the U.S. Senate to rise up and finally say enough is enough?

The integrity of the nomination process is too important to be compromised for the benefit of one officer

regardless of his or her military achievements and his or her friends in Congress.

Unless and until some new evidence is brought forward to alter the unanimous conclusions regarding General Glosson's conduct, the Senate must reject his nomination. To do otherwise elevates form over substance.

We saw how the Navy cracked down on the Naval Academy at the time of cheating. In a large part, the Senate played a major role in that, and I think they did it under the leadership of Senator BYRD and others. I have already referred to the fine arguments that Senator BYRD made in those hearings. Are we going to discipline those at the bottom but not discipline those at the top? Are we going to discipline the plebes but not discipline the lieutenant generals who influence the process?

I want to borrow an analogy. In the 6th century B.C., the Athenian lawmaker Solon spoke about the sometimes selective effectiveness of law. His observation is on all fours with today's experience. Solon said, "Laws are like spider webs in that if anything small falls into them, they ensnare it. But large things break through and escape."

Mr. President, Solon in 6th century B.C. could easily have been describing our confirmation process rather than laws. But it applies to both.

In other words, this is business as usual. This is what we have had all too often in this body, and all too often in this town. That is what is involved in the Glosson case. It is all right to punish the plebes and the cadets, but do not hold the generals to the same tough standards.

We are the leaders in the confirmation process. Do you not know that every officer and every enlisted man and woman in the military is watching how we vote on this nomination? We are about to send a clarion signal to those military men and women watching. In the context of their culture, the outcome of this debate is as big a deal as the Gore/Perot debate on NAFTA and what it was to most of us on that issue. It is pivotal, defining, and it will greatly affect the morale at all ranks in the military if we turn our heads on this issue.

The question is: How will we in the U.S. Senate respond? I suggest to my colleagues, Mr. President, that the Senate is on the spot here, perhaps even more so than General Glosson. Will we set the example needed to reflect a new sentiment? Or will it be business as usual, and will we allow General Glosson to bust through the spider's web?

In my view, this is a key vote on the credibility of our institution. This integrity issue, I think, is central to a lot of people in the bureaucracy. I was asked to meet with the Secretary of the Air Force on these nominations. But, you know, when they came to talk to me, they said they came to talk about the Colonel Bolton promotion and the General Barry promotion. They did not want to visit about General Glosson. They did not say they did not want to visit about it; they just said they came to speak about those other two.

Why, in my suspicion, they do not want to talk about it is that this integrity issue is pretty doggone important and central to the whole issue, and people in the Air Force do not want to have to be dealing with that integrity issue because it is very difficult to support and justify.

Let me read now from a letter from the DOD inspector general to Deputy Secretary Deutch responding to the panel report. Again, remember, there are these promotion panels which the three generals resigned from when Glosson tried to influence them. But the panel report that I am talking about refers to the three-member panel that was set out to go over the Glosson nomination a second time after our Armed Services Committee sent it back to the Defense Department. And so when that panel report came back, the Armed Services Committee felt that it gave them enough room to bring this to the Senate floor.

The inspector general had an opportunity to respond to that, and so this letter is from the inspector general to Deputy Secretary of Defense Deutch. This letter addresses how the panel dealt with the issue of General Glosson's lying. It is entitled "Memorandum for Deputy Secretary of Defense. Subject: Nomination, Lieutenant General Buster Glosson:

I have reviewed the report on issues relating to the nomination of Lieutenant General Buster Glosson for retirement in grade, which was forwarded to this office by deputy general counsel on September 15, 1994. I believe the fact finders correctly concluded that Lieutenant General Fisher was not biased in any way with respect to his participation in the inquiry conducted by this office regarding the allegations against Lieutenant General Glosson.

Further, the fact finders and the investigators who conducted the inspector general inquiry reached the same conclusion, based on the same rationale, that the conversations between Lt. General Glosson and the three complainants conformed more closely to the recollections of the complainants and that Lt. General Glosson's communications were highly improper.

The inspector general says:

I disagree, however, with the fact finders' criticism of the manner in which the inspector general inquiry was conducted. The report asserts that the lead investigator concluded early in the investigation that Lt. General Glosson was lying and then attempted to gather evidence to prove that conclusion. However, the report cites not a single instance in which the investigators failed to pursue a material fact or were deficient in their evaluation or presentation of the evidence. In fact, the fact finders did not uncover any significant new information in the course of their own inquiry.

The report also characterizes the approach to the investigation as too prosecutorial and aggressive. That characterization is based on anecdotal examples that do not withstand scrutiny. For instance, the report contends that the interview of General McPeak was combative and contains a small excerpt from the transcript of the interview.

Then the inspector says:

I have reviewed the entire transcript and believe the investigators acted properly throughout the entire interview. The investigators did not badger the Air Force Chief of Staff. Rather, they brought him back to the issues when he sought to avoid tough questions by providing nonresponsive answers. Similarly, the report characterizes an interview by Major General

The name is redacted.

A "grilling" because of questions the investigator asked about the details surrounding the telephone conversation which Major General

So and so.

Overheard, including whether he recalled if Lt. General Glosson was wearing a long-sleeved or short-sleeved shirt that day, because the Air Force switches uniforms in the fall. The question was intended to help fix the date on which the conversation occurred. As such, it was completely proper and probative.

I find it especially perplexing that the fact finders would criticize the investigators for a too-aggressive and prosecutorial approach in view of their acknowledgement that Lt. General Glosson was evasive and misleading in his initial interview with the investigator. Were it not for the investigators' determination to pursue the matter in spite of the dissimulation, we would have failed in our duty to uncover the truth.

Finally, I feel compelled to disagree with the conclusion in the report that Lieutenant General Glosson did not lie during the investigation and that his testimony resulted merely from inaccurate recollection.

I find it inconceivable that any senior Air Force officer could have gone through the crisis of the past several years relating to promotion boards, including one instance where an Air Force general officer was retired at a lower grade, without being cognizant both at the time and later recollections of any conversations he had with three board members relating to a fellow officer's potential promotion.

It should also be noted that the entire report, including that important conclusion, was reviewed by the Air Force deputy general counsel and the Air Force judge advocate general. Those legal officials' initial concurrence was that the findings of the report were supported by the evidence of the record.

The factfinders make no reference whatever to the legal review. I believe the legal review is further testimony to the fairness of the report and its conclusions, and I continue to stand on it. I request that you forward this memorandum to the chairman and ranking member of the Senate Committee on Armed Services.

Signed Derek J. Vander Schaaf, Deputy Inspector General.

Mr. President, from day one, I have argued that the Senate should not confirm General Glosson's nomination until the dark cloud hanging over his name is somehow lifted.

Well, Mr. President, that dark, ominous cloud still hangs over the Glosson

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name. A reinvestigation did not succeed in washing away the evidence. An independent panel of three judges took a fresh look at all the evidence, but it was unable to break free of the facts and to lift the cloud.

The evidence against General Glosson is compelling. It is impossible to reconcile General Glosson's story with the testimony of three senior Air Force officers. That is the problem we have to wrestle with today. That is the issue. The Glosson nomination has been a very difficult and contentious issue for the Armed Services Committee. The committee has been agonizing over it for months. It is kind of like a festering thorn in the committee's side.

The complaints that were lodged against General Glosson go right to the heart of the integrity of the military promotion boards.

This nomination poses a real dilemma for the committee since General Glosson was accused of breaking the rules that the committee has worked so hard over the past 5 years to put in place.

All the committee's hard work had one goal in mind, and that goal was to insulate the promotion board from improper influences and communications. The whole idea is to strengthen the officer corps by promoting the most qualified, based on skill, on performance and on integrity, and, let me say, not on political pull.

Those are the rules that General Glosson broke. The inspector general of the Department of Defense and the inspector general of the Air Force accused General Glosson of tampering with a promotion board and then lying about what he did when questioned by investigators. The accusations by the inspectors general are laid out in a joint report dated November 8, 1993.

The inspectors general's accusations rest primarily on the testimony of three senior Air Force officers. The three officers who filed complaints against General Glosson are as follows: Lt. Gen. John W. Nowak, Deputy Chief of Staff for Air Force Logistics; Lt. Michael Ryan, Assistant to the Chairman of the Joint Chiefs of Staff; and Maj. Gen. Richard Myers, Director of Fighter Weapons Programs for the Assistant Secretary of the Air Force for Acquisition. These are the ranks and the positions they held at the time of the investigation.

These three senior Air Force officers were members of the 1993 major general selection board. These three general officers, Nowak, Ryan and Myers, formally complained that General Glosson had communicated with each of them separately regarding the integrity of a fellow officer whose name was under consideration by the board.

I will refer to the person whose integrity Glosson questioned as General X to protect his privacy.

Communications with a promotion board regarding a particular officer are "expressly forbidden." They are "prohibited" by paragraph 11–d of Air Force regulation 36–9. A failure to obey this regulation could be a court-martial offense under the Uniform Code of Military Justice. Officers who are assigned to serve on these boards must take a solemn oath to "act without prejudice or partiality," and they have a duty to request relief if they think the board's proceedings have been compromised "by improper influence of superior military authority."

Mr. NUNN. Will the Senator yield for a brief question?

Mr. GRASSLEY. Yes. If I do not lose my right to the floor, I will yield.

Mr. NUNN. Mr. President, I would like to have our colleagues be able to hear both sides of this debate. I know the Senator has spoken now for I do not know how long and it is within his rights as long as he chooses to. But I think the other side of the issue should be heard so people can make a decision with both sides having been heard.

I would like to inquire of the Senator at what stage would he be willing to have others speak on this subject?

Mr. GRASSLEY. If the Senator can give me some information, I could answer that question. If the Senator can find out how many hours we are going to be in session tomorrow, because we will be voting on cloture sometime on the second day, and if we are just going to be in session a few hours tomorrow so I cannot discuss this, then I want to make sure we discuss it before we go home tonight.

And then I know—see, the reason I am concerned about this, I say to my friend from Georgia, is because we are involved in four debates all at one time. We are involved in the Glosson debate, the Barry debate, the Bolton debate, and then the California National Park debate, and we had 3 or 4 hours on the national park debate.

If we get into the national park debate tomorrow and they spend all the time on that, then cloture is going to come, and I will not have the opportunity to present the case that I want to present to the Senate. If we are going to have a long period of time for debate tomorrow, I would be glad to yield without losing my right to the floor to the Senator for what time he might want right now.

Mr. NUNN. I have no way of telling the Senator that. I will certainly inquire of the leadership what their intentions are.

I think most people would be able to speak if we vote on all these matters sometime tonight or in the morning. But if the Senator from Iowa is saying we really are going to be here until Sunday to debate these, I think the Senator would have plenty of time to debate, because if I know the Senate, and I think I do, there is nobody going to be here to speak after 11 o'clock anyway. I think we will have ample time to debate. I imagine if this is going to be stretched out to Sunday, there will be a number of hours that all of us would.

I defer to the Senator. I inquire of him how long does he think it will take him to present this case. Let us say in any circumstance does he anticipate he will take another 2 or 3 hours, 30 or 40 minutes, or another 5 or 6 hours?

I am trying to get a general idea on this. We have a number of speakers on the Armed Services Committee. Two of the nominations passed, as the Senator knows, by unanimous consent, all Republicans and Democrats. The Glosson nomination, I believe, was a 14-to-7 vote. So we will have other people who want to talk on the nomination on really both sides.

So I guess my question really is: If the Senator has all the time he needs to present his case on all of these, would he give us some general range of that so we can inform other Senators who may want to speak on this?

Mr. GRASSLEY. First of all, I would like to be cooperative and intersperse what I have to say with what the Senator has to say and others have to say on the other side, if that does not close me out of saying what I want to say in the whole process.

So the Senator asked a very legitimate part of the process. I would even benefit from hearing what the Senator has to say about it before I am done. I just want to make sure that we have an opportunity to do this. But do not forget that the issue before the Senate that is going to determine whether or not we vote tomorrow is not necessarily on these nominations, because the first vote on cloture is going to be on the national park bill.

Mr. NUNN. I understand.

Mr. GRASSLEY. So I do not want and I am not going to have that yoke around my neck. I am not responsible for extending debate until someone on the national park debate says they are going to vote sooner than the usual ripened time.

Mr. NUNN. I understand the Senator's point. I will also inquire into that and perhaps come back in an hour or so and at that stage determine when the remarks can be made.

Mr. GRASSLEY. If the Senator wants to come back before the hour is up, I am happy to cooperate with him and let him speak.

Mr. NUNN. I thank the Senator.

Mr. JOHNSTON. Will the Senator yield?

Mr. GRASSLEY. I will be glad to yield for a question if it is not for a long period of time and if I do not lose my right to the floor.

Mr. JOHNSTON. It is for a question.

Mr. President, my question is part question and part plea.

I ask the Senator to please let Senators know whether or not we should

cancel some very important things. My whole family is together for the first time in over a year and a half. The Senator has it within his power to cancel my weekend. That lies within the Senator's power.

I would tell him that if it is really important to do so, I understand he can exercise his prerogative. I ask him not to do that lightly. It is very important to me. And there are many other personal stories like this.

If the Senator wants to keep us here through the whole time, please tell us so. I plead with the Senator. Do not play cat and mouse and say, "Well, it depends on what you say and how the debate goes." I think the Senator knows what he is going to do.

I would personally appreciate it if I could call my wife and my children and their wives who are accompanied by their grandchildren and say, "I will not be coming tonight. Please proceed with the weekend without me."

You know, as the Nation goes, that is not an important issue. As my personal life goes, that is an important issue. And it is important enough so that the Senator from Iowa who is a friend can give me a straight answer. And I ask for one now.

Mr. GRASSLEY Mr. President, for reasons before said, I cannot answer the Senator's question, because the issues that I am debating will not be voted upon until there is a determination of when we are going to vote on the California national park bill.

Mr. JOHNSTON. Well, Mr. President, we do not get to that until we finish this. If the Senator could give us an idea on what his intentions are.

Mr. GRASSLEY. Is the Senator from Louisiana telling me that the debate on the national park bill is all done?

Mr. JOHNSTON. No. But you cannot get to that. I mean, I had good hopes that we would move to that vote as soon as we finish this.

Look, if the Senator wants to keep us here until Sunday, you know, I can accept that as an answer. But what I find difficult to accept is the vagueness of it all. Like, "Well, you know, it depends on them." And they say," No, it depends on you." You know, the old rope-a-dope.

The United States Senate, when I came 22 years ago, never operated like this. Senators were sensitive to the personal lives of other Senators. They were aware of what they were doing and they talked straight with one another. I think that is what we ought to do now. I mean, tell us. You have it within your power.

Mr. GRASSLEY. Mr. President, I am telling the Senator and any other Senator that is interested in the question that the Senator from Louisiana asked as forthright and as honest as I can.

Mr. JOHNSTON. That I should cancel the weekend?

Mr. GRASSLEY. I cannot answer for you or anybody else on that point. I can only tell you that I am going to present my case. I was prepared to debate one of these nominations last fall, I was prepared to debate the other in February, and I was prepared to debate another one as early as last April.

Mr. JOHNSTON. Would the Senator mind telling me how long he is prepared to debate tonight and tomorrow?

Mr. GRASSLEY. I would say 2 or 3 hours.

Now, when you are asking me, am I prepared to debate and stop at that point, then you get back still to the other question. It does not matter whether Chuck GRASSLEY stops right now or not, if the debate on the national park bill is not done, you are not going to go home, anyway. And I have nothing to do with that debate.

Mr. JOHNSTON. I fully understand.

Mr. GRASSLEY. I would resume my discussion.

A failure to obey the regulation that I was talking about could be a court-martial offense under the Uniform Code of Military Justice.

Officers, who are assigned to serve on these boards, must take a solemn oath to act "without prejudice or partiality."

And they have a duty to request relief if they think the board's proceedings have been compromised by improper influence of superior military authority.

After considerable anguish, the three generals stepped forward, asking to be excused.

Each then related the substance of their individual conversations with General Glosson to Air Force Secretary Widnall, and she subsequently excused them from the board.

Their complaints then triggered a criminal investigation.

The complaints were directed at General Glosson but they potentially involved the Chief of Staff of the Air Force, Gen. Merrill A. McPeak. That set off alarm bells.

Because of the serious nature of the complaints, a joint investigation was launched by the Inspectors General of the Department of Defense and the Air Force.

The Department of Defense Inspector General was in charge of the investigation. The Defense Department Inspector General made all the key decisions regarding the scope and direction of the investigation.

The Air Force Inspector General at the time, Lieut. Eugence H. Fischer, came along for the ride. He was invited to participate in the investigation—mainly as an afterthought—and at the urging of senior Air Force officials, including Secretary Widnall.

The DOD Inspector General overruled the Air Force IG when disagreements arose.

All the parties involved were questioned under oath.

Mr. President, I would like to review the principal evidence in the case—the testimony of the three senior Air Force generals—the complainants.

This is the key to the Glosson nomination.

It is important to note at this point that the testimony was gathered 2 to 3 weeks after the alleged communications occurred. So it's fresh material. The investigators were on a fresh trail.

I will take General Ryan's testimony first.

I will briefly hit the main points covered by General Ryan's testimony.

General Ryan testified that about 1 month after he was officially notified that he was designated as a member of the 1993 major general selection board in early October 1993, General Glosson called him on the telephone.

This is how General Ryan described the telephone conversation. I quote:

> I got a call from LTG Glosson, who related to me the following: That General X had lied to the Chief of Staff and that the Chief of Staff didn't want him promoted. I asked Gen. Glosson, I said, let me see if I got this right. I was kind of taken aback. General X lied to the Chief of Staff, and the Chief of Staff does not want General X promoted. And he says, that's it. And I said, I understand the message. And that was the end of the conversation. It was a very short conversation.

The investigators then asked General Ryan a very crucial question.

Do you think General Glosson knew you were a member of the promotion board when he called?

I quote: "In your mind, were you convinced that he knew you were a board member?" General Ryan's answer: "Oh, yeah, I'm sure." The IG followed up: "No doubt about that?" General Ryan: "No doubt * * * In fact, there was no question in the tenor and tone * * *"

After the conversation with General Glosson, General Ryan testified that he felt "disturbed." He said and I quote: "After a point, it started festering in me again * * * It really started bugging me * * * I don't think I can get through it. I can't sign that piece of paper at the end of the board and swear you know of no attempt to influence the outcome of the board."

Mr. President, those are the important points raised in General Ryan's testimony.

Now, I would like to turn to General Nowak.

General Nowak's testimony is almost identical to General Ryan's testimony.

Now, I would like to briefly summarize the key points raised in General Nowak's testimony.

On or about October 6, 1993, after he had been appointed to the board, General Ryan telephoned General Glosson to discuss a program of mutual interest.

After the business at hand was concluded, General Glosson then made these remarks to General Nowak. I quote:

> I want to tell you something, but you cannot check with the Chief to verify this or anything about it. I need you to know that

General X lied to the Chief. The Chief caught him and knows he lied, and he should not be promoted. If, in the course of your activities over the next few days, his name and record should pop up on your radar screen, you need to make sure that you do what's necessary.

General Nowak said "that was the total extent of the conversation. We hung up."

General Nowark, like Ryan, was "somewhat taken aback" by what General Glosson had said to him.

"My honest assessment," at that point was "I was not influenced by General Glosson," but "I thought it was a poor thing to do."

General Nowak, like Ryan, was convinced that General Glosson knew he was a member of the board.

"It was clear to me," General Nowak said, "that he wanted to affect my evaluation of General X."

To General Nowak, Glosson's intent was crystal clear.

General Myers' testimony tracks exactly with the testimony given by Generals Ryan and Nowak.

Now. Mr. President, I would like to briefly summarize the high points in General Myers' testimony.

On or about October 6, 1993, General Myers was notified that he would serve on the 1993 major general board.

The next morning General Myers received a call from General Glosson, who asked him to come to his office for a visit. General Myers agreed.

This is how General Myers remembers the substance of his conversation with General Glosson.

General Glosson asked me: "Have you been notified you're on a board? And I said, yes sir, I talked with General Boles yesterday and he told me I was on a board. And he said Well * * * that seemed to concern him a little bit. And then he said, Well, I'm going to tell you this, anyway. Then General Glosson said General X has lied to the Chief, and words to the effect that the Chief doesn't want him to get promoted."

In reply, General Myers asked: "So what do you want me to do about this?"

General Glosson replied: "Well, there may not be much you can do * * * Maybe you ought to just rate the record fairly low and hope it comes up in discussion, comes up in the gray area, and then you, you know, take it from there."

General Myers testified that he told General Glosson: "You put me in a heck of a position here." Glosson agreed, saying "yes, I know."

And that was it. The conversation lasted no more than 5 minutes.

Like Generals Nowak and Ryan, Myers too was upset by what had transpired.

For Myers, one of the most disturbing aspects of the conversation was General Glosson's close personal relationship with the Chief of Staff, General McPeak. Glosson was considered a "confidant" and member of the Chief's "inner circle."

This thought might have passed through Myers' mind: could this be a "black channel" communication from the Chief designed to torpedo a candidate?

Myers thought it was "really a strange conversation and probably not proper." He concluded that the Chief of Staff of the Air Force would not attempt to influence a promotion board. The whole idea "was repugnant to me * * * The more I thought about it, it became ludicrous."

General Glosson's testimony presents a somewhat different picture of what happened.

To briefly summarize, here are the important points raised during the interview with General Glosson.

General Glosson admitted he had conversations with Generals Ryan, Nowak, and Myers.

General Glosson admits he questioned the integrity of General X during those conversations.

General Glosson admits telling them: "that General X had lied to him on more than one occasion" in the past.

General Glosson even admits saying General X "can't be truthful with the Chief and the Chief didn't trust him," complaining General X would be promoted anyway.

While the two versions of what happened bear many similarities, there are crucial differences.

First, General Glosson denied telling Generals Ryan, Nowak, and Myers that Chief of Staff did not want General X promoted.

Second, General Glosson denied knowing that Generals Ryan, Nowak, and Myers were members of the promotion board.

General McPeak's testimony did not help General Glosson, not by a long shot.

Mr. President, I would like to take a moment to summarize the key points raised by General McPeak's testimony.

General McPeak denied telling General Glosson that General X had lied to him.

And General McPeak also denied telling General Glosson, or anyone else, that General X should not be promoted.

But the most damaging part of General McPeak's testimony was the part about General Glosson's knowledge and awareness of promotion board membership.

General McPeak's testimony clearly indicates that General Glosson had access to this kind of information on a routine basis.

General McPeak testified that he would not be surprised or bothered if General Glosson had obtained board members' names from the "Personnel Office."

McPeak said: "lots of people know who's on the board. All the 4 stars do. And as I said, I've always put Glosson in a special category * * * I can think of no issues that I haven't been willing to discuss fully with Buster Glosson."

Mr. President, as I said a moment ago, the principal evidence in the case is the testimony of those involved.

What does the testimony tell us?

Does the testimony answer four critical questions?

First, did General Glosson tell Generals Ryan, Nowak, and Myers that General X was unfit for promotion to higher rank?

Second, did General Glosson tell them that General X had lied to the Chief of Staff and the Chief did not want him promoted?

Third, did General Glosson know that Generals Ryan, Nowak, and Myers were members of a promotion board when he spoke to them?

Fourth, did General Glosson attempt to influence the outcome of the promotion board?

We should not confirm General Glosson unless the answers to these four questions are a clear, unambiguous "no."

Now, let us revisit the testimony, the principal evidence in the case.

Does it support resounding "no" answers on those four questions?

Not quite.

What does the evidence show?

It tells us that General Glosson contacted three board members and made very unfavorable remarks about the integrity of a fellow officer whose name was before the board for promotion.

Now, why would General Glosson do such a thing?

You do not have to be a rocket scientist to figure it out.

General McPeak's testimony suggests that there is a high probability that Glosson knew at least one or all three generals was on the board. Glosson was trying to block General X's promotion.

The testimony of Generals Ryan, Nowak, and Myers is almost identical about what General Glosson supposedly said.

General Glosson, by comparison, gives a somewhat different version of what was said.

Mr. President, it comes down to this: His word against their word.

There is no room for miscommunication or misunderstanding. There is no way to resolve the conflicting testimony.

What we have here are irreconcilable accounts of what happened. There is just one inescapable conclusion: Somebody is lying.

The stories given by Generals Ryan, Nowak, and Myers are almost identical. The consistency in their individual accounts lends credibility to their testimony. But the consistency may not be absolute.

Generals Myers and Ryan discussed their separate communications with

General Glosson before the board met and before being questioned by investigators. That is significant.

Did they huddle to get their stories straight? Was this an act of conspirators?

The conspiracy theory does not stand up to much scrutiny.

Neither General Ryan nor General Myers spoke with General Nowak, yet his story is identical to theirs.

Moreover, Generals Ryan and Myers voluntarily disclosed their discussions about the Glosson communications.

Conspirators do not freely acknowledge their discussions.

In sum, there is not one shred of evidence to suggest that three generals conspired to fabricate the allegations against General Glosson.

What benefit could they possibly derive from doing that?

Quite to the contrary, Generals Ryan, Nowak, and Myers came forward at great personal risk and with no certainty about what the final outcome would be. Theirs was an act of moral courage. Their action could have blown up in their faces and ended their careers. It was very risky business.

So what is the bottom line?

The inspectors general concluded that Generals Ryan, Nowak, and Myers are telling the truth. Everything points in that direction.

The accounts given by Generals Ryan and Myers were corroborated by the testimony of General Nowak, who testified that Glosson made identical statements to him.

And if the three generals are telling the truth, then that leads to one inescapable and difficult conclusion: General Glosson is not being truthful.

Mr. President, I would now like to take a moment to read the IG's important findings regarding General Glosson's conduct.

I will quote directly from the inspectors' general report. These are the inspectors' general findings on General Glosson's conduct. I quote from page 18 of the report.

> We make the following findings based upon a preponderance of the evidence:
>
> A. Lt. Gen. Glosson improperly communicated with the complainants and did so with the intent to influence their consideration of General X for promotion during the Calendar Year 1993 Major General Selection Board.
>
> B. Lt. Gen. Glosson lied under oath during our interview in describing the nature and circumstances of his communications to the complainants.
>
> C. Lt. General Glosson lied in his comments to the complainants regarding General X.
>
> D. Gen. McPeak played no role in Lt. Gen. Glosson's misconduct.

There is an important issue that needs clarification.

The inspectors general are saying that there are two sets of lies.

First, the substance or guts of General Glosson's communications with the three complainants was the first set of lies. Those lies were told in early October 1993.

Second, General Glosson lied when interrogated by investigators. That is the second set of lies. Those lies were told in late October 1993.

Mr. President, that is strong medicine, I know, but that is the conclusion.

It is the first time the inspectors general have ever accused a high official of lying under oath.

And I know the inspectors general only reached this conclusion after long and careful deliberation. They stuck to the facts, and the facts led them to those conclusions. It is as simple as that.

Now, the inspectors general did not present those conclusions without first clearing them through the Department's legal counsel. That was done.

The department's lawyers put their stamp of approval on the report.

The joint inspectors general report was reviewed and approved by the General Counsel, Sheila Cheston and Judge Advocate General of the Air Force, Major General Sklute.

I repeat, this is what the lawyers said:

> We have reviewed this report and concluded that its findings are supported by the evidence of record.

Their signatures appear on the letter transmitting the report to the Secretary of the Air Force.

Those signatures are dated November 8, 1993.

The DOD General Counsel was neutral.

After reviewing the inspector general's report, Secretary of the Air Force Sheila Widnall issued a formal letter of admonishment to General Glosson for communicating with three designated members of the 1993 major general promotion board. She continued: "this communication called into question the integrity of a promotion candidate."

That is the Secretary of the Air Force making those accusations against the general.

Mr. President, from the start, I felt the inspectors general had presented a solid case against General Glosson.

I had no reason to disbelieve the evidence. It was a credible report.

But the Armed Services Committee took a different view.

The Armed Services Committee has been struggling with the Glosson nomination for months. Until now, it had been unable to reconcile all the conflicting evidence.

The Glosson nomination has been like festering thorn in the Committee's side.

So, in frustration, in August the Committee turned to the Defense Department for help.

The Committee asked the Department to form an objective panel to take a fresh look at all the evidence.

That was done, and I will not dwell on that process, since it will be covered in detail, I am sure, by the chairman of the committee Senator NUNN.

The independent panel's report is dated September 13, 1994.

For the most part, the panel's report is an excellent piece of work.

The panel examined the same evidence as the inspectors general did and came to the same conclusions for the very same reasons. Only the very bottom line is different. That is it.

The panel was less decisive on the question of lying under oath. But, of course, that is a difficult question for anyone to wrestle with—especially when a high-ranking official is involved.

But whether you go to the IG's report, ratified all the way up the line, or whether you see the panel's report, except or that one issue, everything else is the same.

The panel concluded that General Glosson did not tell a deliberate lie. His recollection was inaccurate. He was, quite simply, mistaken.

In my mind, these are semantic differences.

General Glosson does not now remember things as they really happened.

Mr. President, the panel report does not clear General Glosson's name.

It does not cast reasonable doubt over the IG's finding that Glosson lied.

The panel report merely suggests that things may not—and I say may not—be quite as bad as we thought they were, but they are still pretty bad.

Maybe he did lie. Maybe he did not lie. We will never know for sure.

But there is no doubt about it, he tampered with the promotion board, because here are the panels findings.

Here are the panel's main findings.

First, the panel concluded that preponderance of the evidence suggests that the testimony given by Generals Ryan, Nowak, and Myers was truthful and accurate.

Second, the panel concluded that General Glosson improperly attempted to influence General X's promotion.

Third, the panel concluded that General Glosson's testimony was inaccurate—but not because he was lying but because his memory was foggy.

And forth, the panel concluded that the conflicts in evidential material were irreconcilable.

The differences were simply too vast to be reconciled.

The panel report does not get General Glosson out of hot water.

It is difficult to believe that General Glosson's mind could fog up so quickly.

He was first questioned by the inspectors general just 3 weeks after the alleged conversations took place. How did he suffer memory loss in such a short span of time.

While the panel report concludes that General Glosson did not lie, it does not say that Glosson was truthful, either.

It does not say that General Glosson told the truth. That is an open question—at least for the panel.

For the inspector general, General Glosson lied under oath when questioned by investigators.

The IG is sticking to his guns. He is not backing off. He stands behind his report: General Glosson lied under oath.

In a memorandum to the Under Secretary of Defense on September 21, 1994, the Deputy DOD Inspector General Vander Schaaf states:

I feel compelled to disagree with the conclusion in the report that Lt. Gen. Glosson did not lie during the investigation and that his testimony resulted merely from inaccurate recollection.

Mr. President, the inspectors general believe that Glosson told two distinct and separate sets of lies:

No. 1, the guts of his communications with the three complainants in early October.

No. 2, his statements to investigators in late October.

My reading of the DOD panel report suggests the panel only addressed the second set of lies.

The panel dodged the question of set No. 1.

Mr. Vander Schaaf, the inspector general, said it was inconceivable, that a senior officer like Glosson could not remember what he had said to the three complainants.

For a skilled fighter pilot and the mastermind of the air campaign against Iraq, it is hard to understand how he could so easily forget what he said to three members of the promotion about a fellow officer's suitability for advancement.

The three complainants did not suffer from memory loss. They did not have any trouble remembering what was said.

Mr. President, I just read Mr. Vander Schaaf's memo in its entirety.

The Deputy IG says that General Glosson is lying, and he said that barely 1 week ago.

While the panel concludes that Glosson suffered from inaccurate recollection, the panel is unambiguous about the truthfulness of the complainants. These are the three generals that resigned from the promotion board.

The panel concludes that the testimony given by Generals Ryan, Nowak, and Myers was truthful. It seems to me that that is the single most important finding and that in and of itself is devastating for Glosson. If the three generals are telling the truth, and the differences are irreconcilable, then a reasonable mind might conclude that General Glosson is lying.

Mr. President, it is important to revisit exactly the testimony given by the complainants. The three generals testified that General Glosson contacted each of them separately after they were appointed to the board and told them that general X had lied to the chief, meaning the chief of staff, and that the chief did not want general X promoted. The panel says all of that is true. That is what Glosson said.

Glosson denies saying those things, and the panel concludes that General Glosson improperly attempted to block the promotion of general X.

These two conclusions, when coupled together, tell me that General Glosson engaged in improper communications with members of a promotion board. Such communications are expressly forbidden and prohibited by paragraph 11 of the Air Force Regulations 36-9. A violation of those regulations could be a court-martial offense under the Uniform Code of Military Justice.

I asked the American Law Division at the Library of Congress to examine this question: would an attempt to influence the major-general selection board conceivably be subject to criminal prosecution? In response to my request, an excellent memo was prepared by Mr. Bob Burdette, legislative attorney within the division. I think he did a good job. The short answer to my question is, yes, a prosecution under articles 92, 133, and 134 could conceivably be undertaken.

I ask unanimous consent to print that memo in the RECORD.

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

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC, June 29, 1994.

Subject: Whether An Attempt To Influence a Major-General Selection Board Could Conceivably Be Subject To Criminal Prosecution.

To: Hon. Charles E. Grassley.
(Attention of Charlie Murphy).
From: American Law Division.

This memorandum responds to your request for an assessment of whether a possible attempt to influence the deliberations of a major-general selection board could conceivably be subject to criminal prosecution. You have indicated that the individual concerned spoke to persons who had been appointed as members of a major-general selection board, made negative comments concerning a particular individual who was under consideration by that board for promotion to the grade of major general, and represented his remarks as reflecting the views of the Chief of Staff of the uniformed service concerned. You have also indicated that the Inspector General of the uniformed service concerned and the Inspector General of the Department of Defense conducted a joint investigation of the matter and concluded, in relevant part, that the individual concerned had in fact "improperly communicated" with the members of the selection board "with the intent to influence their consideration" and had lied under oath to the investigators concerning the matter. Several distinct charges described in the Manual for Courts Martial (1984) could be implicated by such a set of circumstances. They are discussed separately below.

VIOLATION OF OR FAILURE TO OBEY A REGULATION (ART. 92, UCMJ)

The stated purpose of a relevant regulation of the uniformed service concerned[1] is to set out "objectives, policies, and procedures for promoting officers to and evaluating officers in the grades of brigadier and major general." Article 92 of the Uniform Code of Military Justice denominates "failure to obey any lawful . . . regulation" to be a punishable offense. Paragraph 16b(1) of the Manual for Courts Martial describes the elements of the offense, in relevant part, as follows:

Violation of or failure to obey a lawful . . . regulation.

(a) That there was in effect a certain lawful . . . regulation;

(b) That the accused had a duty to obey it; and

(c) That the accused violated or failed to obey the . . . regulation.

As part of the Manual's explanation of what constitutes a punishable violation, two items seem especially noteworthy for present purposes. Paragraph 16c(1)(d), relating to "*knowledge*," points out that: "Knowledge of a . . . regulation need not be alleged or proved, as knowledge is not an element of this offense and a lack of knowledge does not constitute a defense." Paragraph 16c(1)(e), relating to "enforceability," states that:

Not all provisions in . . . regulations can be enforced under Article 92(1). Regulations which only supply general guidelines or advice for conducting military functions may not be enforceable under Article 92(1).

In this regard, it might be observed that, far from supplying only "general guidelines," the regulation at issue in the instant context is one which, *inter alia*, sets out two relevant rules with considerable specificity. Part 11 of the regulation is captioned "communications with selection boards." The very first (which is to say, the most prominent) sentence of paragraph a. thereof states, as follows:

All communications intended to express the views of . . . the Chief of Staff of the Air Force . . . must be in writing, furnished to each member, and made a part of the board record.

Use of the command "must" and the detailed duties specified, taken together, imply a mandatory obligation rather than a merely directive general guideline. The second sentence of this same paragraph then explicitly declares that:

Communications regarding particular officers are expressly forbidden, unless unusual circumstances exist that would preclude an officer's performance from being documented in the official record (i.e., sensitive classified mission, etc.).

A declaration that certain conduct is "expressly forbidden" clearly seems to be a mandatory prohibition rather than a mere general guideline.

In light of the foregoing, if the facts are as alleged, a prosecution under Article 92 could conceivably be undertaken.

CONDUCT UNBECOMING A GENTLEMAN (ART. 133, UCMJ)

Paragraph 59c(2) of the Manual for Courts Martial describes the nature of the offense of conduct unbecoming a gentleman, in relevant part, as follows:

Conduct violative of this article is action or behavior in an official capacity which, in dishonoring or disgracing the person as an officer, seriously compromises the officer's character as a gentleman, or action or behavior in an unofficial or private capacity

[1] AF Regulation 36-9.

which, in dishonoring or disgracing the officer personally, seriously compromises the person's standing as an officer.

Paragraph 59c(3) then offers, *inter alia*, examples of offenses, as follows:

Instances of violation of this article include knowingly making a false official statement; . . . [and] using insulting or defamatory language to another officer in that officer's presence or about that officer to other military persons . . . .

If the facts are as alleged, a prosecution under Article 133 could conceivably be undertaken.

FALSE SWEARING (ART. 134, UCMJ)

Paragraph 79b of the Manual for Courts Martial sets out the elements of the offense of false swearing, in violation of the so-called General Article (Art. 134), as follows:

(1) That the accused took an oath or equivalent;

(2) That the oath or equivalent was administered to the accused in a manner in which such oath or equivalent was required or authorized by law;

(3) That the oath or equivalent was administered by a person having authority to do so;

(4) That upon this oath or equivalent the accused made or subscribed a certain statement;

(5) That the statement was false;

(6) That the accused did not then believe the statement to be true; and

(7) That, under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

By way of explaining the nature of the offense, paragraph 79c(1) states, in relevant part, that:

False swearing is the making under a lawful oath or equivalent of any false statement, oral or written, not believing the statement to be true.

* * * * *

Unlike a false official statement under Article 107 . . . there is no requirement that the statement be made with an intent to deceive or that the statement be official.

If the facts are as alleged, a prosecution under Article 134 for false swearing could conceivably be undertaken.

CONCLUSIONS

The foregoing discussion has identified three distinct criminal charges which could conceivably be brought against an individual who attempted to influence the deliberations of a major-general selection board in the manner you have described.

ROBERT B. BURDETTE,
Legislative Attorney.

Mr. GRASSLEY. In sum, Mr. President, a dark cloud still hangs over General Glosson's name. General Glosson may have had a distinguished career. I respect that. He may have been masterful in the way he planned and directed air campaigns. That is very much to his credit. But that was 3 years ago when Glosson was a brigadier general.

A distinguished military record cannot become a license for misconduct. A good commander must be able to run the battle successfully, and General Glosson has demonstrated his capacity to do that. But as Senator BYRD has pointed out in another context, but I think applicable to this, a good commander must have two qualities. He or she must be able to defeat the enemy. That is a requirement. But a good commander must also have "clean hands." In other words, a military commander must be of unquestioned integrity. In Senator BYRD's mind a commander must have clean hands or the commander does not pass.

Mr. President, General Glosson does not have clean hands.

If a military commander's integrity has been called into question, then those who must follow him or her into battle may not follow when the going really gets tough. Integrity is the cornerstone, it is the very foundation of leadership.

Mr. President, General Glosson did in fact monkey with the promotion board, and he may or may not have lied about it. He is suspected of lying about it. That sets a terrible example if you are trying to clean up the military promotion process. If we reject the nomination, that will send a stern warning to military officers that if you tamper with the promotion board, you will get nailed.

In other words, I think it means that we have to have zero tolerance. We must demand accountability, both from within the ranks and at the top. That is the signal that the Senate should send. Senate confirmation of General Glosson would send the wrong signal. If we confirm General Glosson, we would be saying, so long as you have a great military career, it is OK to engage in misconduct. Anything goes. Do not worry. The Senate will confirm you. So I urge all my colleagues to vote against General Glosson's nomination.

Early in the debate I spoke about the Armed Services Committee's persistent, continuing effort to clean up the military promotion system. Over the past 5 years or more, the committee has worked very hard to bring some integrity to the process. General Glosson's alleged conduct is a step backward. Glosson's behavior threatens the integrity of the military promotion boards. His communication with three members of the 1993 major-general selection board pose a direct threat to the integrity of the board. That threat was very real. It threatened to compromise the impartiality of that board. Because of Glosson's behavior, three sitting board members felt honor bound to resign and did. General Glosson's communication also poses a threat to future promotion boards, unless, that is, General Glosson is disciplined in appropriate ways; others will follow General Glosson's example. And if they see the Senate ignoring what General Glosson did, they will say that it is a stamp of approval on this sort of undue influence on a promotion process. General Glosson's alleged conduct goes right to the heart of the problem. How do you protect the integrity of the military promotion process?

He is accused of violating the rules that the committee has worked so hard over the last 5 years to put in place. The goal of the committee's work in this area is clear—to insulate promotion boards from improper communication and improper influence. The whole idea is to make sure that the best, the very most qualified officers are selected for promotion and rise to the top.

Mr. President, there is a direct link between integrity of the promotion process and the integrity of the whole officer corps. This point was brought home by testimony of former Chief of Staff of the Army, General Gordon R. Sullivan. I wish to quote from General Sullivan's testimony before the Armed Services Committee. His thoughts on this important subject are presented on page 213 of the committee report on the fiscal year 1992 defense authorization bill, and that is report 102–113. General Sullivan said this, and I quote:

There is a direct link between the integrity of the selection board process and the integrity of our officer corps. The link lies in the confidence our officer corps has in the objectivity and the professional ethic of the board. Our selection must be fair and must be impartial and based upon demonstrated potential instead of subjective criteria, and they must be seen as such by our officer corps.

General Sullivan's thoughts should tell us something about the Glosson nomination. It carries an important lesson. If General Glosson's improper communications with the 1993 major-general promotion board are tolerated by the Department of Defense and the Senate, then we could be undermining the integrity of the promotion process as well as the integrity of the officer corps.

I wish to take a moment to review some of the committee's most important work in this field. I think that will help put the Glosson nomination in better perspective.

Back in November 1991, the committee issued a report entitled, "The Conduct of Proceedings for the Selection of Officers for Promotion in the U.S. Air Force." That is Senate report No. 102–54. The guts of that report was subsequently reprinted in another committee document on the same topic, report No. 102–4892 dated September 1992.

This report contains the results of numerous investigations. The findings presented in the committee report in turn became the basis for legislative remedies proposed in the fiscal year 1992 defense authorization. These documents, reports issued by the Armed Services Committee, contain very important information. They tell us what is wrong with the military promotion process.

One of the most serious deficiencies identified by the committee is this: Improper communications between senior

officials and promotion boards over specific candidates. That is the key problem identified by the committee. Improper communication.

Does that not sound familiar? That very same problem was created when General Glosson contacted 3 members of the 13-member board about general X. It is the same old problem that the Armed Services Committee studied and felt that something must be done about it back there in 1987. In 1987, the committee uncovered serious irregularities with the 1987 Marine Corps major general promotion list. I want to quote from page 213 of that committee report numbered 102–113:

One of the key problems arising out of the 1987 inquiry involved verbal inquiry communication about specific candidates by senior officials to the president of the selection board.

That sounds very much like the Glosson case again, only Glosson did not contact the president of the board—at least we do not know of that. But he did contact at least three other members of the board. So when the committee found out about improper communication with the 1987 Marine Corps major generals board, the committee took the issue straight to the top. They took it straight to the Deputy Secretary of Defense. At that time, that was Secretary Cap Weinberger. In his usual way, Weinberger assured the committee that the problem was under control.

On June 13, 1987, the promise of Weinberger's directive was given ordering the military departments to issue regulations to "ensure the integrity of the promotion process by regulating the flow of information to the selection board."

The committee thought the departments would finally develop and implement a new set of rules designed to insulate promotion boards from improper influence and communications from senior officials.

The committee thought that those rules were in operation. But I think the committee soon found out otherwise. After reviewing a number of the nominations in 1991 and 1992, the committee quickly realized that the military departments had failed to comply with the Weinberger directive. The committee discovered that the Air Force was the worst offender. The Air Force was just flat out ignoring the Weinberger order. The committee was correctly angered by the Air Force's defiance.

I would like to quote from page 214 of that same report:

The failure of the military departments to implement a DOD directive on a timely basis is inexcusable.

This is the Armed Services Committee of the Senate speaking.

When it involves a directive that the Secretary has issued to address problems of abuse in the promotion selection process, the failure is intolerable. The failure to implement applicable laws and regulations undermines the integrity of the selection board process.

Mr. President, I do not care if anybody in this body listens to me, but I would like to be able not to hear a buzz behind me.

The PRESIDING OFFICER. The Senator is correct. We will have order in the Chamber so the Senator can be heard.

The Senator from Iowa.

Mr. GRASSLEY. Again, I am not asking so I can be heard. I am only asking so I am not disturbed.

The committee was furious. I think this statement states that. The hammer fell on a man named Thomas J. Hickey. He was Deputy Chief of Staff for Personnel from 1981 to 1991. In that post, he held rank of lieutenant general. Hickey got axed. He was held accountable. General Hickey was blamed for failing to comply with Secretary Weinberger's directive. And he was blamed for the "existence and continuation of irregular and improper Air Force officer promotion policies and procedures."

General Hickey was nominated for retirement in grade of lieutenant general just like the Glosson situation. But do you know what the committee refused to do? The committee refused to act on the Hickey nomination for retirement as lieutenant general unlike Glosson. So General Hickey did not retire in grade. He was forced to retire a lower grade as major general. The committee came down hard on General Hickey. Why? Because the committee was ticked off. They had been told that things were going to change. Secretary Weinberger sends out a memo. But 4 years later, the same old business—business as usual.

The committee was ticked off because General Hickey failed to comply with these directives and for allowing improper promotion policies and procedures to continue undiminished.

Mr. President, Mr. Bob Goldich of the National Defense Division of CRS has prepared an excellent background memo on the Hickey case.

I ask unanimous consent to place that CRS memo on General Hickey in the RECORD.

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

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC, June 27, 1994.

To: Hon. Charles E. Grassley, Attention: Charlie Murphy.

From: Robert L. Goldich, Specialist in National Defense, Foreign Affairs and National Defense Division.

Subject: Retirement of Maj. Gen. Thomas J. Hickey, U.S. Air Force, in the grade of major general.

This memorandum is provided in response to your request of June 24, 1994, regarding the retirement of Major General Thomas J. Hickey, U.S. Air Force, in the grade of major general. Prior to his retirement, General Hickey had been serving as Deputy Chief of Staff for Personnel of the Air Force in the grade of lieutenant general. General Hickey was nominated by the President for retirement in the grade of lieutenant general on September 11, 1990. However, on November 27, 1991, the Senate Armed Services Committee announced that it would not act on the nomination.[1] By statute [10 USC 601(b)(4], this required General Hickey to be automatically retired in his permanent grade of major general within 90 days of relinquishing his post as Deputy Chief of Staff for Personnel of the Air Force on October 7, 1991.[2]

Press reports state that the Senate did not act on General Hickey's nomination for retirement in the grade of lieutenant general because of his responsibility, as Deputy Chief of Staff for Personnel of the Air Force during 1986–1991, for the existence and continuation of irregular and improper Air Force officer promotion policies and procedures.[3]

In a committee print published in late 1991 and a report published in late 1992, the Senate Armed Services Committee "identified the following systemic deficiencies in the Air Force officer selection process:

(1) Failure to issue implementing regulations required by applicable statutes and Department of Defense directives to ensure the fair operation of the selection board process.

(2) Use of a preselection process that improperly excluded ninety percent or more of the eligible officers from consideration by statutory selection boards.

(3) Improper communication to selection boards of "priority list" [of officers under consideration for promotion to the next higher grade] prepared by senior officers.

(4) Improper communication between the Air Force leadership and selection board members."[4]

Press reports appeared to suggest that of these four types of irregularities, that which generated the most concern was number (2), the preselection process.

The Committee was particularly concerned that these procedures had continued after a 1987 Committee investigation into Department of Defense (DOD) officer promotion procedures. This latter investigation was prompted by irregularities in the 1987 consideration of Marine Corps brigadier generals for promotion to the grade of major general. The specific issue that led to the 1987 investigation involved item (4), above—improper communications between senior uniformed leadership of a service and selection board members. However, the corrective action taken by the Secretary of Defense in both 1987 and 1989 involved the issuance of revised DOD directives which had broader aims of insuring "the integrity of the promotion process by regulating the flow of information to a selection board," not only improper communications by senior officers.[5]

There is no indication in the press reports that General Hickey was directly implicated in actively instigating any of these irregularities. However, although the two Senate Armed Services Committee documents do not mention General Hickey by name, they do discuss at length the participation of the Air Force Deputy Chief of Staff for Personnel (a position occupied by General Hickey during the time in question) in the continuation of improper procedures after the 1987 incident—and the corrective actions which should have prevented their recurrence. The Senate Armed Services Committee apparently believed that, because General Hickey had been the Air Force's senior uniformed

Footnotes at end of article.

personnel manager when the 1987 incidents and investigations occurred, and presided over the continuation of these irregularities into the early 1990s, he should be held responsible.

If we can be of further assistance, please call me at extension 77633.

[1] Joe West, "Hickey Forced to Retire with 2 Stars, Not 3," *Air Force Times*, Dec. 9, 1991: 3.

[2] At the time of General Hickey's retirement, the statute provided for a 90-day maximum in which a general or flag officer appointed under its provisions could retain his or her three- or four-star grade while "awaiting retirement." Subsequent legislation, effective April 1, 1992, reduced the maximum to 60 days. Section 502(b), P.L. 102-190, December 5, 1991, 105 Stat. 1354, the National Defense Authorization Act for Fiscal Year 1992.

[3] Joe West, "Hickey Forced to Retire with 2 Stars, Not 3," *Air Force Times*, Dec. 9, 1991: 3.

[4] U.S. Congress. Senate. Committee on Armed Services. *Report on the Conduct of Proceedings for the Selection of Officers for Promotion in the U.S. Air Force*. October 8, 1992. Washington, U.S. Govt. Print. Off., 1992 (102nd Congress, 2nd session. Senate, Report no. 102-482): 2 (hereafter cited as SASC Report). Also cited in U.S. Congress, Senate. Committee on Armed Services. *The Conduct of Proceedings for the Selection of Officers for Promotion in the U.S. Air Force*. November 26, 1991. Washington, U.S. Govt. Print. Off., 1991 (102nd Congress, 1st session. Senate. Committee Print No. 102-54): iii (hereafter cited as SASC Print).

[5] *SASC Report*: 3-4; *SASC Print*: 4-5.

Mr. GRASSLEY. The committee was angry about certain improper promotion policies and procedures that blossomed under General Hickey. What did the committee find most troublesome? Guess what? It is still the same old story—improper communication between the Air Force leadership and the selection board members; same old business.

The committee was also disturbed about the existence of the preselection processes. These are the things the committee disliked about the Hickey operation. The committee also was disturbed about the continuation of these abusive practices that it recommended putting strict remedies into law.

The committee recommended establishing a statutory requirement for regulations to govern the flow of information to selection boards. The purpose of this legislation the committee said was to "ensure the independence of the selection boards and to eliminate improper communication with and improper pressure on promotion selection boards."

This legislation was proposed in the fiscal year 1992 defense authorization bill. It consisted of eight separate statutory requirements. These are summarized on pages 214 through 216 of the report No. 102-113.

I want to revisit one provision of particular importance. The key provision is summarized in paragraph 6. Provision No. 6 was tough. It was harsh. It was designed to curb improper influence on board members. Attempting to influence a board's proceedings was going to be a criminal offense, if the committee got its way.

This is the what Armed Services Committee was recommending in July 1991. That was just 3 years ago. That is what the committee wanted. They wanted criminal sanctions for monkeying with the promotion board process.

I would like to reread what the committee said on making improper influence a criminal offense on page 215.

Improper influence on the board would be prohibited. In violation of regulations implementing this section would constitute a criminal violation of the Uniform Code of Military Justice. If a senior leadership of a service disagrees with the selections recommended by the board, the leadership's recourse is not to discuss the matter with the members of the board. The leadership was to use the statutory procedure for recommending that the President not approve the list in whole or in part.

And those are the words directly from the committee report. As I understand it, this provision never became law, but it speaks very clearly to the committee's attitude on improper influence of promotion boards. The committee's position was clear: Zero tolerance for board tampering. Such conduct was not to be tolerated. So why is the committee now willing to tolerate such behavior on General Glosson's part?

I hope the committee or the chairman sometime can answer two questions: Was it the committee's intention in July 1991 to make improper influence of the promotion board a criminal offense under the Criminal Code of Military Justice, and exactly what was intended in that suggestion? And then I ask: Did General Glosson attempt to improperly influence the 1993 major general promotion board?

After the Hickey affair, the committee thought the new rules were finally in operation. The new rules are embodied in Air Force regulation 36-9. The new rules may indeed be working, but they are not followed by everyone, because General Glosson came along and took it upon himself to break the rules. General Glosson contacted three members of the promotion board, questioning the integrity of a fellow officer who was before that board. General Glosson told them General "X" could not be trusted, that he had lied to the chief of staff, and the chief of staff did not want him promoted. That was improper communication, just as it is now, when Secretary Weinberger issued those regulations. It is an improper communication, if there is such a thing.

Communications of this nature about a particular officer are expressly prohibited by paragraph 11 of these Air Force regs. General Glosson violated paragraph 11 of the Air Force regs. If judged by the standard proposed by the committee in 1991, it seems to me that General Glosson might have engaged in criminal activity. If judged by paragraph 11, he could first face a court-martial.

There may be an inconsistency between the committee's action on the Hickey nomination and the proposed action on the Glosson nomination. General Hickey was hammered for failing to implement policies and procedures designed to insulate promotion boards from improper communications from senior officials. General Glosson, by comparison, violated the very same rules that General Hickey failed to implement. Yet, the committee is allowing him to skate.

I do not know which is worse, failing to implement rules or violating those same rules. You will have to answer that for yourself.

There seems to be an inconsistency, however, in the way that the committee handled these two nominations. It could be a double standard. Does General Glosson have more friends in Congress than General Hickey did? We have essentially the same problem, but we have different people. I do not understand the difference. The committee needs to explain why the Hickey and Glosson nominations have been handled in such different ways. I want to understand why the two were handled in these different ways.

As I said in the beginning, the Armed Services Committee worked very hard over the past 5 years to clean up the military promotion system. If the committee's efforts are to be effective, it needs to hold the Department's feet to the fire. But we will never really clean up the military promotion process if we let guys like Glosson off the hook.

The Armed Services Committee's persistent and continuing efforts to bring integrity to the promotion system are working. Progress has been achieved.

Mr. EXON. Will the Senator yield for a question?

Mr. GRASSLEY. Yes.

Mr. EXON. I will ask a question of my friend. But, first, I compliment my colleague from Iowa, with whom I have worked on many cases. I compliment him for his very comprehensive and thorough study he has done in this matter. As the senior Member of the Armed Services Committee who generally supports what that committee has done, I am particularly impressed with the recitation of the case you have made against General Glosson. We have devoted a lot of attention to him in the Armed Services Committee, as you can imagine.

I appreciate some of the good things you have said about the work of the committee in this regard. I was one of those Senators who voted against sending the Glosson matter to the floor favorably. Although earlier I intended to support him, the more I looked into it, notwithstanding his outstanding service in the past, I happened to come down basically on the side of the points that have been made by the Senator from Iowa on this whole matter.

So when this comes to a vote, I will be supporting the Senator from Iowa on the Glosson matter, not on the other. My question is simply this, and it is twofold: No. 1, we have some wrap-up matters that this Senator is interested in, as is probably the Senator

from Iowa, that need to be addressed very promptly so that we can get those matters over to the House of Representatives for their action before they adjourn.

I would also, at an appropriate time, ask the Senator from Iowa about how long he intends to continue in this discussion, for the benefit of all. But I ask the Senator, possibly, if he can work out something to not lose his right to the floor, to give the managers a chance to move some matters that have to be moved, that have been unanimously approved by both sides of the aisle, and get those to the House. Timeliness is a key factor here.

Mr. GRASSLEY. I will interrupt here. I think the point the Senator raises is a good one. I have already had discussions with our Republican whip, as it is his desire to take up some of these important measures. He has assured me that if I yield the floor momentarily, I will not lose my right to the floor, and that he would go through the business as he has to, and I will get the floor back.

(Mr. CONRAD assumed the chair.)

Mr. BREAUX. If the Senator will yield for a question, we plan to ask unanimous consent that the Senate be allowed to proceed as in morning business to do exactly that, without affecting the right of the Senator to retain the floor as soon as this business is concluded.

Mr. GRASSLEY. Then, Mr. President, for that purpose, I will yield.

MORNING BUSINESS

Mr. BREAUX. Mr. President, with that understanding, I ask unanimous consent that the Senate proceed into morning business for the purpose of doing some wrap-up, and that the Senator not lose his right to the floor.

The PRESIDING OFFICER. Without objection, the Senate will then proceed as in morning business.

TELECOMMUNICATION CARRIER DUTIES TO LAW ENFORCEMENT

Mr. BREAUX. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of bill H.R. 4922, a bill related to telecommunication carrier duties to law enforcement, just received from the House; that the bill be deemed read the third time, passed; that the motion to reconsider be laid upon the table, and any statements appear at the appropriate place in the RECORD.

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

So the bill (H.R. 4922) was deemed read the third time, and passed.

THE COASTAL BARRIER RESOURCES SYSTEM TECHNICAL CORRECTIONS ACT OF 1994

Mr. BREAUX. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 712, H.R. 4598, the coastal barrier technical corrections bill.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 4598) to direct the Secretary of the Interior to make technical corrections to maps relating to the Coastal Barrier Resources System.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Environment and Public Works, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. CORRECTION TO MAPS.

(a) IN GENERAL.—The Secretary of the Interior shall, no later than 30 days after the date of enactment of this Act, make such corrections to the maps described in subsection (b) as are necessary to ensure that—

(1) depictions of areas on the maps are consistent with the depictions of areas appearing on the maps entitled "Coastal Barrier Resources System", dated September 27, 1994, and on file with the Secretary of the Interior; and

(2) the Coastal Barrier Resources System does not include any area that, on the day before the date of the enactment of this Act, was part of unit FL-05P of the System.

(b) MAPS DESCRIBED.—The maps described in this subsection are maps that—

(1) are included in a set of maps entitled "Coastal Barrier Resources System", dated October 24, 1990; and

(2) related to the following units of the Coastal Barrier Resources System: AL-15P, FL-05P; P11A, P17, P17A, P18P, P19P, FL-15, FL-95P, FL-36P, P31P, FL-72P, MI21, NY75, and VA62P.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 12 of the Coastal Barrier Resources Act (16 U.S.C. 3510) is amended to read as follows:

"SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Secretary for carrying out this Act $2,000,000 for each of fiscal years 1995 to 1998.".

Mr. BREAUX. Mr. President, I ask unanimous consent that the committee amendment be agreed to; that the bill, as amended, be deemed read three times, passed and the motion to reconsider be laid upon the table; further that any statements appear in the RECORD as if read.

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

The committee amendment was agreed to.

So the bill (H.R. 4598), as amended, was deemed read three times and passed.

MEASURE READ FOR THE FIRST TIME

Mr. BREAUX. Mr. President, I understand that S. 2536, the Charitable Medical Care Act of 1994, introduced earlier today by Senators DANFORTH and MOSELEY-BRAUN is at the desk.

The PRESIDING OFFICER. The Senator is correct.

Mr. BREAUX. Mr. President, I ask for the bill's first reading.

The PRESIDING OFFICER. The clerk will read the bill.

The bill clerk read as follows:

A bill (S. 2546) to encourage health care services, and other purposes.

Mr. BREAUX. Mr. President, I ask for the second reading of the bill.

Mr. SIMPSON. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The bill will lay over and will receive its second reading on the next legislative day.

MEASURE READ FOR THE FIRST TIME

Mr. BREAUX. Mr. President, I understand that S. 2545, the Home and Community-Based Services for Individuals With Disabilities Act, introduced earlier today by Senator FEINGOLD, is at the desk.

The PRESIDING OFFICER. The Senator is correct.

Mr. BREAUX. Mr. President, I ask for that bill's first reading.

The PRESIDING OFFICER. The clerk will read the bill.

The assistant legislative clerk read as follows:

A bill (S. 2545) to provide for home and community-based services for individuals with disabilities.

Mr. BREAUX. Mr. President, I ask for its second reading.

Mr. SIMPSON. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The bill will lay over and will receive its second reading on the next legislative day.

THE TELECOMMUNICATIONS CARRIER'S DUTY ACT OF 1994

Mr. BREAUX. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 684, S. 2375, a bill relating to a telecommunications carrier's duty to assist law enforcement.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2375) to amend title 18, United States Code, to make clear a telecommunications carrier's duty to cooperate in the interception of communications for law enforcement purposes, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. INTERCEPTION OF DIGITAL AND OTHER COMMUNICATIONS.

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 119 the following new chapter:

"CHAPTER 120—TELECOMMUNICATIONS CARRIER ASSISTANCE TO THE GOVERNMENT

"Sec.
"2601. Definitions.
"2602. Assistance capability requirements.
"2603. Notices of capacity requirements.
"2604. Systems security and integrity.
"2605. Cooperation of equipment manufacturers and providers of telecommunications support services.
"2606. Technical requirements and standards; extension of compliance date.
"2607. Enforcement orders.
"2608. Payment of costs of telecommunications carriers.

"§2601. Definitions

"(a) DEFINITIONS.—In this chapter—

"the terms defined in section 2510 have, respectively, the meanings stated in that section.

"'call-identifying information'—

"(A) means all dialing or signalling information that identifies the origin, direction, destination, or termination of each communication generated or received by the subscriber equipment, facility, or service of a telecommunications carrier that is the subject of a court order or lawful authorization; but

"(B) does not include any information that may disclose the physical location of the subscriber (except to the extent that the location may be determined from the telephone number).

"'Commission' means the Federal Communications Commission.

"'government' means the government of the United States and any agency or instrumentality thereof, the District of Columbia, any commonwealth, territory, or possession of the United States, and any State or political subdivision thereof authorized by law to conduct electronic surveillance.

"'information services'—

"(A) means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications; and

"(B) includes electronic publishing and electronic messaging services; but

"(C) does not include any capability for a telecommunications carrier's internal management, control, or operation of its telecommunications network.

"'telecommunications support services'" means a product, software, or service used by a telecommunications carrier for the internal signaling or switching functions of its telecommunications network.

"'telecommunications carrier'—

"(A) means a person or entity engaged in the transmission or switching of wire or electronic communications as a common carrier for hire (within the meaning of section 3(h) of the Communications Act of 1934 (47 U.S.C. 153(h)));

"(B) includes—

"(i) a person or entity engaged in providing commercial mobile service (as defined in section 332(d) of the Communications Act of 1934 (47 U.S.C. 332(d))); or

"(ii) a person or entity engaged in providing wire or electronic communication switching or transmission service to the extent that the Commission finds that such service is a replacement for a substantial portion of the local telephone exchange service and that it is in the public interest to deem such a person or entity to be a telecommunications carrier for purposes of this chapter; but

"(C) does not include persons or entities insofar as they are engaged in providing information services.

"§2602. Assistance capability requirements

"(a) CAPABILITY REQUIREMENTS.—Except as provided in subsections (b), (c), and (d) of this section, and subject to section 2607(c), a telecommunications carrier shall ensure that its services or facilities that provide a customer or subscriber with the ability to originate, terminate, or direct communications are capable of—

"(1) expeditiously isolating and enabling the government to intercept, to the exclusion of any other communications, all wire and electronic communications carried by the carrier within a service area to or from equipment, facilities, or services of a subscriber of such carrier concurrently with their transmission to or from the subscriber's service, facility, or equipment or at such later time as may be acceptable to the government;

"(2) expeditiously isolating and enabling the government to access call-identifying information that is reasonably available to the carrier—

"(A) before, during, or immediately after the transmission of a wire or electronic communication (or at such later time as may be acceptable to the government); and

"(B) in a manner that allows it to be associated with the communication to which it pertains,

except that, with regard to information acquired solely pursuant to the authority for pen registers and trap and trace devices (as defined in section 3127), such call-identifying information shall not include any information that may disclose the physical location of the subscriber (except to the extent that the location may be determined from the telephone number);

"(3) delivering intercepted communications and call-identifying information to the government in a format such that they may be transmitted by means of facilities or services procured by the government to a location other than the premises of the carrier; and

"(4) facilitating authorized communications interceptions and access to call-identifying information unobtrusively and with a minimum of interference with any subscriber's telecommunications service and in a manner that protects—

"(A) the privacy and security of communications and call-identifying information not authorized to be intercepted; and

"(B) information regarding the government's interception of communications and access to call-identifying information.

"(b) LIMITATIONS.—

"(1) DESIGN OF FEATURES AND SYSTEMS CONFIGURATIONS.—This chapter does not authorize any law enforcement agency or officer—

"(A) to require any specific design of features or system configurations to be adopted by providers of wire or electronic communication service, manufacturers of telecommunications equipment, or providers of telecommunications support services; or

"(B) to prohibit the adoption of any feature or service by providers of wire or electronic communication service, manufacturers of telecommunications equipment, or providers of telecommunications support services.

"(2) INFORMATION SERVICES; PRIVATE NETWORKS AND INTERCONNECTION SERVICES AND FACILITIES.—The requirements of subsection (a) do not apply to—

"(A) information services; or

"(B) services or facilities that support the transport or switching of communications for private networks or for the sole purpose of interconnecting telecommunications carriers.

"(3) ENCRYPTION.—A telecommunications carrier shall not be responsible for decrypting, or ensuring the government's ability to decrypt, any communication encrypted by a subscriber or customer, unless the encryption was provided by the carrier and the carrier possesses the information necessary to decrypt the communication.

"(c) EMERGENCY OR EXIGENT CIRCUMSTANCES.—In emergency or exigent circumstances (including those described in sections 2518 (7) or (11)(b) and 3125 of this title and section 1805(e) of title 50), a carrier at its discretion may fulfill its responsibilities under subsection (a)(3) by allowing monitoring at its premises if that is the only means of accomplishing the interception or access.

"(d) MOBILE SERVICE ASSISTANCE REQUIREMENTS.—A telecommunications carrier offering a feature or service that allows subscribers to redirect, hand off, or assign their wire or electronic communications to another service area or another service provider or to utilize facilities in another service area or of another service provider shall ensure that, when the carrier that had been providing assistance for the interception of wire or electronic communications or access to call-identifying information pursuant to a court order or lawful authorization no longer has access to the content of such communications or call-identifying information within the service area in which interception has been occurring as a result of the subscriber's use of such a feature or service, information is made available to the government (before, during, or immediately after the transfer of such communications) identifying the provider of wire or electronic communication service that has acquired access to the communications.

"§2603. Notices of capacity requirements

"(a) NOTICES OF MAXIMUM AND ACTUAL CAPACITY REQUIREMENTS.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this chapter, after consulting with State and local law enforcement agencies, telecommunications carriers, providers of telecommunications support services, and manufacturers of telecommunications equipment and after notice and comment, the Attorney General shall publish in the Federal Register and provide to appropriate telecommunications carrier associations, standard-setting organizations, and for a—

"(A) notice of the maximum capacity required to accommodate all of the communication interceptions, pen registers, and trap and trace devices that the Attorney General estimates that government agencies authorized to conduct electronic surveillance may conduct and use simultaneously; and

"(B) notice of the number of communication interceptions, pen registers, and trap and trace devices, representing a portion of the maximum capacity set forth under subparagraph (A), that the Attorney General estimates that government agencies authorized to conduct electronic surveillance may conduct and use simultaneously after the date that is 4 years after the date of enactment of this chapter.

"(2) BASIS OF NOTICES.—The notices issued under paragraph (1) may be based upon the type of equipment, type of service, number of subscribers, geographic location, or other measure.

"(b) COMPLIANCE WITH CAPACITY NOTICES.—

"(1) INITIAL CAPACITY.—Within 3 years after the publication by the Attorney General of a notice of capacity requirements or within 4 years after the date of enactment of this chapter, whichever is longer, a telecommunications carrier shall ensure that its systems are capable of—

"(A) expanding to the maximum capacity set forth in the notice under subsection (a)(1)(A); and

"(B) accommodating simultaneously the number of interceptions, pen registers, and trap and trace devices set forth in the notice under subsection (a)(1)(B).

"(2) EXPANSION TO MAXIMUM CAPACITY.—After the date described in paragraph (1), a telecommunications carrier shall ensure that it can

accommodate expeditiously any increase in the number of communication interceptions, pen registers, and trap and trace devices that authorized agencies may seek to conduct and use, up to the maximum capacity requirement set forth in the notice under subsection (a)(1)(A).

"(c) NOTICES OF INCREASED MAXIMUM CAPACITY REQUIREMENTS.—

"(1) The Attorney General shall periodically provide to telecommunications carriers written notice of any necessary increases in the maximum capacity requirement set forth in the notice under subsection (a)(1)(A).

"(2) Within 3 years after receiving written notice of increased capacity requirements under paragraph (1), or within such longer time period as the Attorney General may specify, a telecommunications carrier shall ensure that its systems are capable of expanding to the increased maximum capacity set forth in the notice.

"§2604. Systems security and integrity

"A telecommunications carrier shall ensure that any court ordered or lawfully authorized interception of communications or access to call-identifying information effected within its switching premises can be activated only with the affirmative intervention of an individual officer or employee of the carrier.

"§2605. Cooperation of equipment manufacturers and providers of telecommunications support services

"(a) CONSULTATION.—A telecommunications carrier shall consult, as necessary, in a timely fashion with manufacturers of its telecommunications transmission and switching equipment and its providers of telecommunications support services for the purpose of identifying any service or equipment, including hardware and software, that may require modification so as to permit compliance with this chapter.

"(b) MODIFICATION OF EQUIPMENT AND SERVICES.—Subject to section 2607(c), a manufacturer of telecommunications transmission or switching equipment and a provider of telecommunications support services shall, on a reasonably timely basis and at a reasonable charge, make available to the telecommunications carriers using its equipment or services such modifications as are necessary to permit such carriers to comply with this chapter.

"§2606. Technical requirements and standards; extension of compliance date

"(a) SAFE HARBOR.—

"(1) CONSULTATION.—To ensure the efficient and industry-wide implementation of the assistance capability requirements under section 2602, the Attorney General, in coordination with other Federal, State, and local law enforcement agencies, shall consult with appropriate associations and standard-setting organizations of the telecommunications industry and with representatives of users of telecommunications services and facilities.

"(2) COMPLIANCE UNDER ACCEPTED STANDARDS.—A telecommunications carrier shall be found to be in compliance with the assistance capability requirements under section 2602, and a manufacturer of telecommunications transmission or switching equipment or a provider of telecommunications support services shall be found to be in compliance with section 2605, if the carrier, manufacturer, or support service provider is in compliance with publicly available technical requirements or standards adopted by an industry association or standard-setting organization or by the Commission under subsection (b) to meet the requirements of section 2602.

"(3) ABSENCE OF STANDARDS.—The absence of technical requirements or standards for implementing the assistance capability requirements of section 2602 shall not—

"(A) preclude a carrier, manufacturer, or services provider from deploying a technology or service; or

"(B) relieve a carrier, manufacturer, or service provider of the obligations imposed by section 2602 or 2605, as applicable.

"(b) FCC AUTHORITY.—

"(1) IN GENERAL.—If industry associations or standard-setting organizations fail to issue technical requirements or standards or if a government agency or any other person believes that such requirements or standards are deficient, the agency or person may petition the Commission to establish, by notice and comment rulemaking or such other proceedings as the Commission may be authorized to conduct, technical requirements or standards that—

"(A) meet the assistance capability requirements of section 2602;

"(B) protect the privacy and security of communications not authorized to be intercepted; and

"(C) serve the policy of the United States to encourage the provision of new technologies and services to the public.

"(2) TRANSITION PERIOD.—If an industry technical requirement or standard is set aside or supplanted as a result of Commission action under this section, the Commission, after consultation with the Attorney General, shall establish a reasonable time and conditions for compliance with and the transition to any new standard, including defining the obligations of telecommunications carriers under section 2602 during any transition period.

"(c) EXTENSION OF COMPLIANCE DATE FOR FEATURES AND SERVICES.—

"(1) PETITION.—A telecommunications carrier proposing to deploy, or having deployed, a feature or service within 4 years after the date of enactment of this chapter may petition the Commission for 1 or more extensions of the deadline for complying with the assistance capability requirements under section 2602.

"(2) GROUND FOR EXTENSION.—The Commission may, after affording a full opportunity for hearing and after consultation with the Attorney General, grant an extension under this paragraph, if the Commission determines that compliance with the assistance capability requirements under section 2602 is not reasonably achievable through application of technology available within the compliance period.

"(3) LENGTH OF EXTENSION.—An extension under this paragraph shall extend for no longer than the earlier of—

"(A) the date determined by the Commission as necessary for the carrier to comply with the assistance capability requirements under section 2602; or

"(B) the date that is 2 years after the date on which the extension is granted.

"(4) APPLICABILITY OF EXTENSION.—An extension under this subsection shall apply to only that part of the carrier's business on which the new feature or service is used.

"§2607. Enforcement orders

"(a) ENFORCEMENT BY COURT ISSUING SURVEILLANCE ORDER.—If a court authorizing an interception under chapter 119, a State statute, or the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) or authorizing use of a pen register or a trap and trace device under chapter 206 or a State statute finds that a telecommunications carrier has failed to comply with the requirements in this chapter, the court may direct that the carrier comply forthwith and may direct that a provider of support services to the carrier or the manufacturer of the carrier's transmission or switching equipment furnish forthwith modifications necessary for the carrier to comply.

"(b) ENFORCEMENT UPON APPLICATION BY ATTORNEY GENERAL.—The Attorney General may apply to the appropriate United States district court for, and the United States district courts shall have jurisdiction to issue, an order directing that a telecommunications carrier, a manufacturer of telecommunications transmission or switching equipment, or a provider of telecommunications support services comply with this chapter.

"(c) GROUNDS FOR ISSUANCE.—A court shall issue an order under subsection (a) or (b) only if the court finds that—

"(1) alternative technologies or capabilities or the facilities of another carrier are not reasonably available to law enforcement for implementing the interception of communications or access to call-identifying information; and

"(2) compliance with the requirements of this chapter is reasonably achievable through the application of available technology to the feature or service at issue or would have been reasonably achievable if timely action had been taken.

"(d) TIME FOR COMPLIANCE.—Upon issuance of an enforcement order under this section, the court shall specify a reasonable time and conditions for complying with its order, considering the good faith efforts to comply in a timely manner, any effect on the carrier's, manufacturer's, or service provider's ability to continue to do business, the degree of culpability or delay in undertaking efforts to comply, and such other matters as justice may require.

"(e) LIMITATION.—An order under this section may not require a telecommunications carrier to meet the government's demand for interception of communications and acquisition of call-identifying information to any extent in excess of the capacity for which notice has been provided under section 2603.

"(f) CIVIL PENALTY.—

"(1) IN GENERAL.—A court issuing an order under this section against a telecommunications carrier, a manufacturer of telecommunications transmission or switching equipment, or a provider of telecommunications support services may impose a civil penalty of up to $10,000 per day for each day in violation after the issuance of the order or after such future date as the court may specify.

"(2) CONSIDERATIONS.—In determining whether to impose a fine and in determining its amount, the court shall take into account—

"(A) the nature, circumstances, and extent of the violation;

"(B) the violator's ability to pay, the violator's good faith efforts to comply in a timely manner, any effect on the violator's ability to continue to do business, the degree of culpability, and the length of any delay in undertaking efforts to comply; and

"(C) such other matters as justice may require.

"(3) CIVIL ACTION.—The Attorney General may file a civil action in the appropriate United States district court to collect, and the United States district courts shall have jurisdiction to impose, such fines.

"§2608. Payment of costs of telecommunications carriers

"(a) EQUIPMENT, FEATURES, AND SERVICES DEPLOYED BEFORE DATE OF ENACTMENT; CAPACITY COSTS.—The Attorney General shall, subject to the availability of appropriations, pay telecommunications carriers for all reasonable costs directly associated with—

"(1) the modifications performed by carriers prior to the effective date of section 2602 or prior to the expiration of any extension granted under section 2606(c) to establish, with respect to equipment, features, and services deployed before the date of enactment of this chapter, the capabilities necessary to comply with section 2602;

"(2) meeting the maximum capacity requirements set forth in the notice under section 2603(a)(1)(A); and

"(3) expanding existing facilities to accommodate simultaneously the number of interceptions, pen registers and trap and trace devices for which notice has been provided under section 2603(a)(1)(B).

"(b) EQUIPMENT, FEATURES, AND SERVICES DEPLOYED ON OR AFTER DATE OF ENACTMENT.—

"(1) IN GENERAL.—If compliance with the assistance capability requirements of section 2602 is not reasonably achievable with respect to equipment, features, or services deployed on or after the date of enactment of this chapter, the Attorney General, on application of a telecommunications carrier, may pay the telecommunications carrier reasonable costs directly associated with achieving compliance.

"(2) CONSIDERATION.—In determining whether compliance with the assistance capability requirements of section 2602 is reasonably achievable with respect to any equipment, feature, or service deployed the date of enactment of this chapter, consideration shall be given to the time when the equipment, feature, or service was deployed.

"(c) ALLOCATION OF FUNDS FOR PAYMENT.—The Attorney General shall allocate funds appropriated to carry out this chapter in accordance with law enforcement priorities determined by the Attorney General.

"(d) FAILURE TO MAKE PAYMENT WITH RESPECT TO EQUIPMENT, FEATURES, AND SERVICES DEPLOYED BEFORE DATE OF ENACTMENT.—

"(1) CONSIDERED TO BE IN COMPLIANCE.—Unless the Attorney General has agreed to pay the telecommunications carrier for all reasonable costs directly associated with modifications necessary to bring the equipment, feature, or service into actual compliance with those requirements, provided the carrier has requested payment in accordance with procedures promulgated pursuant to subsection (e), any equipment, feature, or service of a telecommunications carrier deployed before the date of enactment of this chapter shall be considered to be in compliance with the assistance capability requirements of section 2602 unless the equipment, feature, or service is replaced or significantly upgraded or otherwise undergoes major modification.

"(2) LIMITATION ON ORDER.—An order under section 2607 shall not require a telecommunications carrier to modify, for the purpose of complying with the assistance capability requirements of section 2602, any equipment, feature, or service deployed before the date of enactment of this chapter unless the Attorney General has agreed to pay the telecommunications carrier for all reasonable costs directly associated with modifications necessary to bring the equipment, feature, or service into actual compliance with those requirements.

"(e) PROCEDURES AND REGULATIONS.—Notwithstanding any other law, the Attorney General shall, after notice and comment, establish any procedures and regulations deemed necessary to effectuate timely and cost-efficient payment to telecommunications carriers for compensable costs incurred under this chapter, under chapters 119 and 121, and under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

"(f) DISPUTE RESOLUTION.—If there is a dispute between the Attorney General and a telecommunications carrier regarding the amount of reasonable costs to be paid under subsection (a), the dispute shall be resolved and the amount determined in a proceeding initiated at the Commission or by the court from which an enforcement order is sought under section 2607.".

(b) TECHNICAL AMENDMENT.—The part analysis for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 119 the following new item:

"120. Telecommunications carrier assistance to the Government ..... 2601".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out section 2608 of title 18, United States Code, as added by section 1—

(1) a total of $500,000,000 for fiscal years 1995, 1996, and 1997; and

(2) such sums as are necessary for each fiscal year thereafter,

such sums to remain available until expended.

SEC. 3. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in paragraph (2), chapter 120 of title 18, United States Code, as added by section 1, shall take effect on the date of enactment of this Act.

(b) ASSISTANCE CAPABILITY AND SYSTEMS SECURITY AND INTEGRITY REQUIREMENTS.—Sections 2602 and 2604 of title 18, United States Code, as added by section 1, shall take effect on the date that is 4 years after the date of enactment of this Act.

SEC. 4. REPORTS.

(a) REPORTS BY THE ATTORNEY GENERAL.—

(1) IN GENERAL.—On or before November 30, 1995, and on or before November 30 of each year for 5 years thereafter, the Attorney General shall submit to Congress and make available to the public a report on the amounts paid during the preceding fiscal year in payment to telecommunications carriers under section 2608 of title 18, United States Code, as added by section 1.

(2) CONTENTS.—A report under paragraph (1) shall include—

(A) a detailed accounting of the amounts paid to each carrier and the technology, equipment, feature or service for which the amounts were paid; and

(B) projections of the amounts expected to be paid in the current fiscal year, the carriers to which payment is expected to be made, and the technologies, equipment, features or services for which payment is expected to be made.

(b) REPORTS BY THE COMPTROLLER GENERAL.—

(1) PAYMENTS FOR MODIFICATIONS.—On or before April 1, 1996, and April 1, 1998, the Comptroller General of the United States, after consultation with the Attorney General and the telecommunications industry, shall submit to the Congress a report reflecting its analysis of the reasonableness and cost-effectiveness of the payments made by the Attorney General to telecommunications carriers for modifications necessary to ensure compliance with chapter 120 of title 18, United States Code, as added by section 1.

(2) COMPLIANCE COST ESTIMATES.—A report under paragraph (1) shall include the findings and conclusions of the Comptroller General on the costs to be incurred after the compliance date, including projections of the amounts expected to be incurred and the technologies, equipment, features or services for which expenses are expected to be incurred by telecommunications carriers to comply with the assistance capability requirements in the first 5 years after the effective date of section 2602.

SEC. 5. CORDLESS TELEPHONES.

(a) DEFINITIONS.—Section 2510 of title 18, United States Code, is amended—

(1) in paragraph (1) by striking "but such term does not include" and all that follows through "base unit"; and

(2) in paragraph (12) by striking subparagraph (A) and redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively.

(b) PENALTY.—Section 2511 of title 18, United States Code, is amended—

(1) in subsection (4)(b)(i) by inserting "a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit," after "cellular telephone communication,"; and

(2) in subsection (4)(b)(ii) by inserting "a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit," after "cellular telephone communication,".

SEC. 6. RADIO-BASED DATA COMMUNICATIONS.

Section 2510(16) of title 18, United States Code, is amended—

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

(2) by inserting "or" at the end of subparagraph (E); and

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

"(F) an electronic communication;"

SEC. 7. PENALTIES FOR MONITORING RADIO COMMUNICATIONS THAT ARE TRANSMITTED USING MODULATION TECHNIQUES WITH NONPUBLIC PARAMETERS.

Section 2511(4)(b) of title 18, United States Code, is amended by striking "or encrypted, then" and inserting ", encrypted, or transmitted using modulation techniques the essential parameters of which have been withheld from the public with the intention of preserving the privacy of such communication".

SEC. 8. TECHNICAL CORRECTION.

Section 2511(2)(a)(i) of title 18, United States Code, is amended by striking "used in the transmission of a wire communication" and inserting "used in the transmission of a wire or electronic communication".

SEC. 9. FRAUDULENT ALTERATION OF COMMERCIAL MOBILE RADIO INSTRUMENTS.

(a) OFFENSE.—Section 1029(a) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (3); and

(2) by inserting after paragraph (4) the following new paragraphs:

"(5) knowingly and with intent to defraud uses, produces, traffics in, has control or custody of, or possesses a telecommunications instrument that has been modified or altered to obtain unauthorized use of telecommunications services; or

"(6) knowingly and with intent to defraud uses, produces, traffics in, has control or custody of, or possesses—

"(A) a scanning receiver; or

"(B) hardware or software used for altering or modifying telecommunications instruments to obtain unauthorized access to telecommunications services,".

(b) PENALTY.—Section 1029(c)(2) of title 18, United States Code, is amended by striking "(a)(1) or (a)(4)" and inserting "(a) (1), (4), (5), or (6)".

(c) DEFINITIONS.—Section 1029(e) of title 18, United States Code, is amended—

(1) in paragraph (1) by inserting "electronic serial number, mobile identification number, personal identification number, or other telecommunications service, equipment, or instrument identifier," after "account number,";

(2) by striking "and" at the end of paragraph (5);

(3) by striking the period at the end of paragraph (6) and inserting "; and"; and

(4) by adding at the end the following new paragraph:

"(7) the term 'scanning receiver' means a device or apparatus that can be used to intercept a wire or electronic communication in violation of chapter 119.".

SEC. 10. TRANSACTIONAL DATA.

(a) DISCLOSURE OF RECORDS.—Section 2703 of title 18, United States Code, is amended—

(1) in subsection (c)(1)—

(A) in subparagraph (B)—

(i) by striking clause (i); and

(ii) by redesignating clauses (ii), (iii), and (iv) as clauses (i), (ii), and (iii), respectively; and

(B) by adding at the end the following new subparagraph:

"(C) A provider of electronic communication service or remote computing service shall disclose to a governmental entity the name, address, telephone toll billing records, and length of service of a subscriber to or customer of such service and the types of services the subscriber or customer utilized, when the governmental entity uses an administrative subpoena authorized by a Federal or State statute or a Federal or State grand jury or trial subpoena or any means available under subparagraph (B).''; and

(2) by amending the first sentence of subsection (d) to read as follows: "A court order for disclosure under subsection (b) or (c) may be issued by any court that is a court of competent jurisdiction described in section 3126(2)(A) and shall issue only if the governmental entity offers specific and articulable facts showing that there are reasonable grounds to believe that the contents of a wire or electronic communication, or the records or other information sought, are relevant and material to an ongoing criminal investigation.''.

(b) PEN REGISTERS AND TRAP AND TRACE DEVICES.—Section 3121 of title 18, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c) LIMITATION.—A government agency authorized to install and use a pen register under this chapter or under State law, shall use technology reasonably available to it that restricts the recording or decoding of electronic or other impulses to the dialing and signalling information utilized in call processing.''.

Mr. BREAUX. Mr. President, I ask unanimous consent that the committee substitute be agreed to, that the bill be read a third time, passed, the motion to reconsider be tabled and any statements appear at the appropriate place in the RECORD as if read.

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

The committee amendment was agreed to.

So the bill (S. 2375), as amended, was deemed read for a third time and passed, as follows:

(The text of the bill will be printed in a future edition of the RECORD.)

LAND SALE BY THE UNIVERSITY OF ARKANSAS

Mr. BREAUX. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2550, relating to a land sale by the University of Arkansas, introduced earlier today by Senator PRYOR, that the bill be read three times, passed, and the motion to reconsider be laid upon the table, and that any statements relating to this item be placed in the RECORD as if read in the appropriate place.

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

So the bill (S. 2550) was deemed read three times and passed, as follows:

(The text of the bill will be printed in a future edition of the RECORD.)

STATE DEPARTMENT AUTHORIZATION TECHNICAL CORRECTIONS

Mr. BREAUX. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 5034, the State Department authorization technical corrections bill just received from the House, that the bill be deemed read a third time and passed; the motion to reconsider laid upon the table; and that any statements thereon appear in the RECORD at the appropriate place as though read.

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

So the bill (H.R. 5034) was deemed read a third time and passed.

INTERNATIONAL NARCOTICS CONTROL CORRECTIONS

Mr. BREAUX. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 5030, the international narcotics control corrections bill, just received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 5030) to amend the Foreign Assistance Act of 1961 to make corrections relating to international narcotics control activities, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2639

(Purpose: To add provisions relating to the membership of the North Atlantic Treaty Organization [NATO])

Mr. SIMPSON. Mr. President, I send an amendment to the desk on behalf of Senator BROWN, and I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON] for Mr. BROWN proposes an amendment number 2639.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

So the amendment (No. 2639) was agreed to, as follows:

At the end of the bill, add the following:

TITLE—NATO PARTICIPATION ACT OF 1994

SEC. 01. SHORT TITLE.

This title may be cited as the "NATO Participation Act of 1994".

SEC. 02. SENSE OF THE CONGRESS.

It is the sense of the Congress that—

(1) the leaders of the NATO member nations are to be commended for reaffirming that NATO membership remains open to Partnership for Peace countries emerging from communist domination and for welcoming eventual expansion of NATO to include such countries;

(2) full and active participants in the Partnership for Peace in a position to further the principles of the North Atlantic Treaty and to contribute to the security of the North Atlantic area should be invited to become full NATO members in accordance with Article 10 of such Treaty at an early date, if such participants—

(A) maintain their progress toward establishing democratic institutions, free market economies, civilian control of their armed forces, and the rule of law; and

(B) remain committed to protecting the rights of all their citizens and respecting the territorial integrity of their neighbors;

(3) the United States, other NATO member nations, and NATO itself should furnish appropriate assistance to facilitate the transition to full NATO membership at an early date of full and active participants in the Partnership for Peace; and

(4) in particular, Poland, Hungary, the Czech Republic, and Slovakia have made significant progress toward establishing democratic institutions, free market economies, civilian control of their armed forces, and the rule of law since the fall of their previous communist governments.

SEC. 03. AUTHORITY FOR PROGRAM TO FACILITATE TRANSITION TO NATO MEMBERSHIP.

(a) IN GENERAL.—The President may establish a program to assist the transition to full NATO membership of Poland, Hungary, the Czech Republic, Slovakia, and other Partnership for Peace countries emerging from communist domination designated pursuant to subsection (d).

(b) CONDUCT OF PROGRAM.—The program established under subsection (a) shall facilitate the transition to full NATO membership of the countries described in such subsection by supporting and encouraging, inter alia—

(1) joint planning, training, and military exercises with NATO forces;

(2) greater interoperability of military equipment, air defense systems, and command, control, and communications systems; and

(3) conformity of military doctrine.

(c) TYPE OF ASSISTANCE.—In carrying out the program established under subsection (a), the President may provide to the countries described in such subsection the following types of security assistance:

(1) The transfer of excess defense articles under section 516 of the Foreign Assistance Act of 1961, without regard to the restrictions in paragraphs (1) through (3) of subsection (a) of such section (relating to the eligibility of countries for such articles under such section).

(2) The transfer of nonlethal excess defense articles under section 519 of the Foreign Assistance Act of 1961, without regard to the restriction in subsection (a) of such section (relating to the justification of the foreign military financing program for the fiscal year in which a transfer is authorized).

(3)Assistance under chapter 5 of part II of the Foreign Assistance Act of 1961 (relating to international military education and training).

(4) Assistance under section 23 of the Arms Export Control Act (relating to the "Foreign Military Financing Program").

(d) DESIGNATION OF PARTNERSHIP FOR PEACE COUNTRIES EMERGING FROM COMMUNIST DOMINATION.—The President may designate countries emerging from communism and participating in the Partnership for Peace, especially Poland, Hungary, the

Czech Republic, and Slovakia, to receive assistance under the program established under subsection (a) if the President determines and reports to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate that such countries—

(1) are full and active participants in the Partnership for Peace;

(2) have made significant progress toward establishing democratic institutions, a free market economy, civilian control of their armed forces, and the rule of law;

(3) are likely (in the future) to be in a position to further the principles of the North Atlantic Treaty and to contribute to the security of the North Atlantic area; and

(4) are not selling or transferring defense articles to a state that has repeatedly provided support for acts of international terrorism, as determined by the Secretary of State under section 6(j) of the Export Administration Act of 1979.

(e) NOTIFICATION.—At least 15 days before designating any country pursuant to subsection (d), the President shall notify the appropriate congressional committees in accordance with the procedures applicable under section 634A of the Foreign Assistance Act of 1961.

(f) DETERMINATION.—It is hereby determined that Poland, Hungary, the Czech Republic, and Slovakia meet the criteria required in paragraphs (1), (2), and (3) of subsection (d).

SEC. 04. ADDITIONAL AUTHORITIES.

(a) ARMS EXPORT CONTROL ACT.—The President is authorized to exercise the authority of sections 63 and 65 of the Arms Export Control Act with respect to any country designated under section 03(d) of this title on the same basis authorized with respect to NATO countries.

(b) OTHER NATO AUTHORITIES.—The President should designate any country designated under section 03(d) of this title as eligible under sections 2350c and 2350f of title 10, United States Code.

(c) SENSE OF CONGRESS.—It is the sense of Congress that, in the interest of maintaining stability and promoting democracy in Poland, Hungary, the Czech Republic, Slovakia, and any other Partnership for Peace country designated under section 03(d) of this title, those countries should be included in all activities under section 2457 of title 10, United States Code, relate to the increased standardization and enhance interoperability of equipment and weapons systems, through coordinated training and procurement activities, as well as other means, undertaken by the North Atlantic Treaty Organization members and other allied countries.

SEC. 05. REPORTING REQUIREMENT.

The President shall include in the report required by section 514(a) of Public Law 103-236 (22 U.S.C. 1928 note) the following:

(1) A description of all assistance provided under the program established under section 03(a), or otherwise provided by the United States Government to facilitate the transition to full NATO membership of Poland, Hungary, the Czech Republic, Slovakia, and other Partnership for Peace countries emerging from communist domination designated pursuant to section 03(d).

(2) A description on the basis of information received from NATO, of all assistance provided by other NATO member nations or NATO itself to facilitate the transition to full NATO membership of Poland, Hungary, the Czech Republic, Slovakia, and other Partnership for Peace countries emerging from communist domination designated pursuant to section 03(d).

AMENDMENT NO. 2640

(Purpose: To retain existing authorities under the 1988 International Narcotics Control Act)

Mr. BREAUX. Mr. President, I send an amendment to the desk on behalf of Senator KERRY and I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. BREAUX] for Mr. KERRY proposes an amendment numbered 2640.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

So the amendment (No. 2640) was agreed to, as follows:

On page 8, line 21, delete the period and inset in lieu thereof the following:

"except for the title heading and section 4702 (a) through (f).".

Mr. BREAUX. Mr. President, I ask unanimous consent that the bill be deemed read a third time and passed; the motion to reconsider be laid upon the table, and any statements thereon appear at appropriate place in the RECORD as though read.

So the bill (H.R. 5030), as amended, was deemed read three times and passed.

PROVIDING FOR THE PRINTING OF STATEMENTS MADE IN TRIBUTE TO THE LATE SPEAKER "TIP" O'NEILL, JR.—H. CON. RES. 292

PROVIDING FOR THE PRINTING OF THE BOOK ENTITLED "HISTORY OF THE U.S. HOUSE OF REPRESENTATIVES"—H. CON. RES. 293

PROVIDING FOR THE PRINTING OF THE BOOK ENTITLED "HISPANIC AMERICANS IN CONGRESS"—H. CON. RES. 299

Mr. BREAUX. Mr. President, I ask unanimous consent that the Senate proceed to the consideration en bloc of the following concurrent resolutions now at the desk: House Concurrent Resolution 292, House Concurrent Resolution 293, and House Concurrent Resolution 299; that the concurrent resolutions be agreed to en bloc; the motions to reconsider laid on the table and any statements thereon appear in the RECORD at the appropriate place as though read.

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

So the concurrent resolutions (H. Con. Res. 292, H. Con. Res. 293, and H. Con. Res. 299) were agreed to.

THE CROW BOUNDARY SETTLEMENT ACT OF 1994

Mr. BREAUX. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5200, the Crow Boundary Settlement Act of 1994, just received from the House, that the bill be deemed read three times, passed, and the motion to reconsider be laid upon the table; further that any statements on this measure be read three times, passed, and the motion to reconsider be laid upon the table.

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

So the bill (H.R. 5200) was deemed read three times and passed.

TO REAUTHORIZE THE OFFICE OF SPECIAL COUNSEL

Mr. BREAUX. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2970, a bill to reauthorize the Office of Special Counsel, received from the House and at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2970) to reauthorize the Office of Special Counsel, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2641

(Purpose: To authorize appropriations for the United States Office of Special Counsel, the Merit Systems Protection Board, and for other purposes)

Mr. BREAUX. Mr. President, on behalf of Senators LEVIN and COHEN, I send a substitute to the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. BREAUX] for Mr. LEVIN proposes an amendment numbered 2641.

Mr. BREAUX. 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:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

(a) MERIT SYSTEMS PROTECTION BOARD.—Section 8(a)(1) of the Whistleblower Protection Act of 1989 (5 U.S.C. 5509 note; Public Law 101-12; 103 Stat. 34) is amended by striking out "1989, 1990, 1991, 1992, 1993, and 1994" and inserting in lieu thereof "1993, 1994, 1995, 1996, and 1997".

(b) OFFICE OF SPECIAL COUNSEL.—Section 8(a)(2) of the Whistleblower Protection Act of 1989 (5 U.S.C. 5509 note; Public Law 101-12; 103 Stat. 34) is amended by striking out "1989, 1990, 1991, and 1992" and inserting in lieu thereof "1993, 1994, 1995, 1996, and 1997".

SEC. 2. REASONABLE ATTORNEY FEES IN CERTAIN CASES.

Section 1204 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(m)(1) Except as provided in paragraph (2) of this subsection, the Board, or an administrative law judge or other employee of the Board designated to hear a case arising under section 1215, may require payment by the agency involved of reasonable attorney fees incurred by an employee or applicant for employment if the employee or applicant is the prevailing party and the Board, administrative law judge, or other employee (as the case may be) determines that payment by the agency is warranted in the interest of justice, including any case in which a prohibited personnel practice was engaged in by the agency or any case in which the agency's action was clearly without merit.

"(2) If an employee or applicant for employment is the prevailing party of a case arising under section 1215 and the decision is based on a finding of discrimination prohibited under section 2302(b)(1) of this title, the payment of attorney fees shall be in accordance with the standards prescribed under section 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(k)).".

SEC. 3. OFFICE OF SPECIAL COUNSEL.

(a) SUCCESSION.—Section 1211(b) of title 5, United States Code, is amended by inserting after the first sentence: "The Special Counsel may continue to serve beyond the expiration of the term until a successor is appointed and has qualified, except that the Special Counsel may not continue to serve for more than one year after the date on which the term of the Special Counsel would otherwise expire under this subsection.".

(b) LIMITATIONS ON DISCLOSURES.—Section 1212(g) of title 5, United States Code, is amended—

(1) in paragraph (1), by striking out "provide information concerning" and inserting in lieu thereof "disclose any information from or about"; and

(2) in paragraph (2), by striking out "a matter described in subparagraph (A) or (B) of section 2302(b)(2) in connection with a" and inserting in lieu thereof "an evaluation of the work performance, ability, aptitude, general qualifications, character, loyalty, or suitability for any personnel action of any".

(c) STATUS REPORT BEFORE TERMINATION OF INVESTIGATION.—Section 1214(a) of title 5, United States Code, is amended—

(1) in paragraph (1) by adding at the end thereof the following new subparagraph:

"(D) No later than 10 days before the Special Counsel terminates any investigation of a prohibited personnel practice, the Special Counsel shall provide a written status report to the person who made the allegation of the proposed findings of fact and legal conclusions. The person may submit written comments about the report to the Special Counsel. The Special Counsel shall not be required to provide a subsequent written status report under this subparagraph after the submission of such written comments."; and

(2) in paragraph (2)(A)—

(A) in clause (ii) by striking out "and" after the semicolon;

(B) in clause (iii) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

(C) by adding at the end thereof the following new clause:

"(iv) a response to any comments submitted under paragraph (1)(D).".

(d) DETERMINATIONS.—Section 1214(b)(2) of title 5, United States Code, is amended—

(1) by redesignating subparagraphs (A), (B) and (C) as subparagraphs (B), (C) and (D), respectively;

(2) by inserting before subparagraph (B) (as redesignated by paragraph (1) of this subsection) the following:

"(A)(i) Except as provided under clause (ii), no later than 240 days after the date of receiving an allegation of a prohibited personnel practice under paragraph (1), the Special Counsel shall make a determination whether there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken.

"(ii) If the Special Counsel is unable to make the required determination within the 240-day period specified under clause (i) and the person submitting the allegation of a prohibited personnel practice agrees to an extension of time, the determination shall be made within such additional period of time as shall be agreed upon between the Special Counsel and the person submitting the allegation."; and

(3) by inserting after subparagraph (D) (as redesignated by paragraph (1) of this subsection) the following new subparagraph:

"(E) A determination by the Special Counsel under this paragraph shall not be cited or referred to in any proceeding under this paragraph or any other administrative or judicial proceeding for any purpose, without the consent of the person submitting the allegation of a prohibited personnel practice.".

(e) REPORTS.—Section 1218 of title 5, United States Code, is amended by inserting "cases in which it did not make a determination whether there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken within the 240-day period specified in section 1214(b)(2)(A)(i)," after "investigations conducted by it,".

SEC. 4. INDEPENDENT RIGHT OF ACTION.

(a) SUBPOENAS.—Section 1221(d) of title 5, United States Code, is amended by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) At the request of an employee, former employee, or applicant for employment seeking corrective action under subsection (a), the Board shall issue a subpoena for the attendance and testimony of any person or the production of documentary or other evidence from any person if the Board finds that the testimony or production requested is not unduly burdensome and appears reasonably calculated to lead to the discovery of admissible evidence.".

(b) CORRECTIVE ACTIONS.—Section 1221(e)(1) is amended by adding after the last sentence: "The employee may demonstrate that the disclosure was a contributing factor in the personnel action through circumstantial evidence, such as evidence that—

"(A) the official taking the personnel action knew of the disclosure; and

"(B) the personnel action occurred within a period of time such that a reasonable person could conclude that the disclosure was a contributing factor in the personnel action.".

(c) REFERRALS.—Section 1221(f) of title 5, United States Code, is amended by adding after paragraph (2) the following new paragraph:

"(3) If, based on evidence presented to it under this section, the Merit Systems Protection Board determines that there is reason to believe that a current employee may have committed a prohibited personnel practice, the Board shall refer the matter to the Special Counsel to investigate and take appropriate action under section 1215.".

SEC. 5. PROHIBITED PERSONNEL PRACTICES.

(a) PERSONNEL ACTIONS.—Section 2302(a)(2)(A) of title 5, United States Code, is amended—

(1) in clause (ix) by striking out "and" after the semicolon;

(2) by striking out clause (x) and inserting in lieu thereof the following:

"(x) a decision to order psychiatric testing or examination; and

"(xi) any other significant change in duties, responsibilities, or working conditions;"; and

(3) in the matter following designated clause (xi) (as added by paragraph (2) of this subsection) by inserting before the semicolon the following: ", and in the case of an alleged prohibited personnel practice described in subsection (b)(8), an employee or applicant for employment in a Government corporation as defined in section 9101 of title 31".

(b) COVERED POSITIONS.—Section 2302(a)(2)(B) of title 5, United States Code, is amended to read as follows:

"(B) 'covered position' means, with respect to any personnel action, any position in the competitive service, a career appointee position in the Senior Executive Service, or a position in the excepted service, but does not include any position which is, prior to the personnel action—

"(i) excepted from the competitive service because of its confidential, policy-determining, policy-making, or policy-advocating character; or

"(ii) excluded from the coverage of this section by the President based on a determination by the President that it is necessary and warranted by conditions of good administration; and".

(c) AGENCIES.—Section 2302(a)(2)(C) of title 5, United States Code, is amended in clause (i) by inserting before the semicolon: ", except in the case of an alleged prohibited personnel practice described under subsection (b)(8)".

(d) INFORMATIONAL PROGRAM.—Section 2302(c) of title 5, United States Code, is amended in the first sentence by inserting before the period ", and for ensuring (in consultation with the Office of Special Counsel) that agency employees are informed of the rights and remedies available to them under this chapter and chapter 12 of this title".

SEC. 6. PERFORMANCE APPRAISALS.

Section 4313(5) of title 5, United States Code, is amended to read as follows:

"(5) meeting affirmative action goals, achievement of equal employment opportunity requirements, and compliance with the merit systems principles set forth under section 2301 of this title.".

SEC. 7. MERIT SYSTEMS APPLICATION TO CERTAIN VETERANS AFFAIRS PERSONNEL.

Section 2105 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) For purposes of sections 1212, 1213, 1214, 1215, 1216, 1221, 1222, 2302, and 7701, employees appointed under chapter 73 or 74 of title 38 shall be employees.".

SEC. 8. CORRECTIVE ACTIONS ORDERED BY THE MERIT SYSTEMS PROTECTION BOARD.

(a) IN GENERAL.—Section 1214 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) If the Board orders corrective action under this section, such corrective action may include—

"(1) that the individual be placed, as nearly as possible, in the position the individual would have been in had the prohibited personnel practice not occurred; and

"(2) reimbursement for attorney's fees, back pay and related benefits, medical costs incurred, travel expenses, and any other reasonable and foreseeable consequential damages.".

(b) CERTAIN REPRISAL CASES.—Section 1221(g) of title 5, United States Code (as amended by section 4(d) of this Act) is further amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively; and

(2) by inserting before paragraph (2) (as redesignated by paragraph (1) of this subsection) the following new paragraph:

"(1)(A) If the Board orders corrective action under this section, such corrective action may include—

"(i) that the individual be placed, as nearly as possible, in the position the individual would have been in had the prohibited personnel practice not occurred; and

"(ii) back pay and related benefits, medical costs incurred, travel expenses, and any other reasonable and foreseeable consequential changes.

"(B) Corrective action shall include attorney's fees and costs as provided for under paragraphs (2) and (3).".

SEC. 9. AUTHORITIES RELATING TO ARBITRATORS AND CHOICE OF REMEDIES NOT INVOLVING JUDICIAL REVIEW.

(a) AUTHORITIES WHICH MAY BE EXTENDED TO ARBITRATORS.—Section 7121(b) of title 5, United States Code, is amended—

(1) by redesignating subparagraphs (A) through (C) of paragraph (3) as clauses (i) through (iii), respectively;

(2) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively;

(3) by striking "(b)" and inserting "(b)(1)"; and

(4) by adding at the end the following:

"(2)(A) The provisions of a negotiated grievance procedure providing for binding arbitration in accordance with paragraph (1)(C)(iii) shall, if or to the extent that an alleged prohibited personnel practice is involved, allow the arbitrator to order—

"(i) a stay of any personnel action in a manner similar to the manner described in section 1221(c) with respect to the Merit Systems Protection Board; and

"(ii) the taking, by an agency, of any disciplinary action identified under section 1215(a)(3) that is otherwise within the authority of such agency to take.

"(B) Any employee who is the subject of any disciplinary action ordered under subparagraph (A)(ii) may appeal such action to the same extent and in the same manner as if the agency had taken the disciplinary action absent arbitration.".

(b) CHOICE OF REMEDIES PROVISION NOT INVOLVING JUDICIAL REVIEW.—Section 7121 of title 5, United States Code, is amended by adding at the end the following:

"(g)(1) This subsection applies with respect to a prohibited personnel practice other than a prohibited personnel practice to which subsection (d) applies.

"(2) An aggrieved employee affected by a prohibited personnel practice described in paragraph (1) may elect not more than one of the remedies described in paragraph (3) with respect thereto. For purposes of the preceding sentence, a determination as to whether a particular remedy has been elected shall be made as set forth under paragraph (4).

"(3) The remedies described in this paragraph are as follows:

"(A) An appeal to the Merit Systems Protection Board under section 7701.

"(B) A negotiated grievance procedure under this section.

"(C) Procedures for seeking corrective action under subchapters II and III of chapter 12.

"(4) For the purpose of this subsection, a person shall be considered to have elected—

"(A) the remedy described in paragraph (3)(A) if such person has timely filed a notice of appeal under the applicable appellate procedures;

"(B) the remedy described in paragraph (3)(B) if such person has timely filed a grievance in writing, in accordance with the provisions of the parties' negotiated procedure; or

"(C) the remedy described in paragraph (3)(C) if such person has sought corrective action from the Office of Special Counsel by making an allegation under section 1214(a)(1).".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—Section 7121(a)(1) of title 5, United States Code, is amended—

(1) by striking "(d) and (e)" and inserting "(d), (e), and (g)"; and

(2) by inserting "administrative" after "exclusive".

SEC. 10. EXPENSES RELATED TO FEDERAL RETIREMENT APPEALS.

Section 8348(a) of title 5, United States Code, is amended—

(1) in paragraph (1)(B) by striking out "and" at the end thereof;

(2) in paragraph (2) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

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

"(3) is made available, subject to such annual limitation as the Congress may prescribe, for any expenses incurred by the Merit Systems Protection Board in the administration of appeals authorized under sections 8347(d) and 8461(e) of this title.".

SEC. 11. ELECTION OF APPLICATION OF LAWS BY EMPLOYEES OF THE RESOLUTION TRUST CORPORATION AND THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD.

(a) ELECTION OF PROVISIONS OF TITLE 5, UNITED STATES CODE.—If an individual who believes he has been discharged or discriminated against in violation of section 21a(q)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(q)(1)) seeks an administrative corrective action or judicial remedy for such violation under the provisions of chapters 12 and 23 of title 5, United States Code, the provisions of section 21a(q) of such Act shall not apply to such alleged violation.

(b) ELECTION OF PROVISIONS OF FEDERAL HOME LOAN BANK ACT.—If an individual files a civil action under section 21a(q)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(q)(2)), the provisions of chapters 12 and 23 of title 5, United States Code, shall not apply to any alleged violation of section 21a(q)(1) of such Act.

SEC. 12. IMPLEMENTATION.

(a) POLICY STATEMENT.—No later than 6 months after the date of enactment of this Act, the Special Counsel shall issue a policy statement regarding the implementation of the Whistleblower Protection Act of 1989. Such policy statement shall be made available to each person alleging a prohibited personnel practice described under section 2302(b)(8) of title 5, United States Code, and shall include detailed guidelines identifying specific categories of information that may (or may not) be communicated to agency officials for an investigative purpose, or for the purpose of obtaining corrective action under section 1214 of title 5, United States Code, or disciplinary action under section 1215 of such title, the circumstances under which such information is likely to be disclosed, and whether or not the consent of any person is required in advance of any such communication.

(b) TERMINATION STATEMENT.—The Special Counsel shall include in any letter terminating an investigation under section 1214(a)(2) of title 5, United States Code, the name and telephone number of an employee of the Special Counsel who is available to respond to reasonable questions from the person regarding the investigation or review conducted by the Special Counsel, the relevant facts ascertained by the Special Counsel, and the law applicable to the person's allegations.

SEC. 13. ANNUAL SURVEY OF INDIVIDUALS SEEKING ASSISTANCE.

(a) IN GENERAL.—The Office of Special Counsel shall, after consulting with the Office of Policy and Evaluation of the Merit Systems Protection Board, conduct an annual survey of all individuals who contact the Office of Special Counsel for assistance. The survey shall—

(1) determine if the individual seeking assistance was fully apprised of their rights;

(2) determine whether the individual was successful either at the Office of Special Counsel or the Merit Systems Protection Board; and

(3) determine if the individual, whether successful or not, was satisfied with the treatment received from the Office of Special Counsel.

(b) REPORT.—The results of the survey conducted under subsection (a) shall be published in the annual report of the Office of Special Counsel.

SEC. 14. EFFECTIVE DATE.

The provisions of this Act and the amendments made by this Act shall be effective on and after the date of the enactment of this Act.

Mr. DORGAN. Mr. President, I rise in support of the conference report on H.R. 2970, the proposed act to authorize appropriations for the U.S. Office of Special Counsel, the Merit Systems Protection Board [MSPB], and for other purposes.

One of the persistent complaints that surveys, conducted by both GAO and the Merit Systems Protection Board itself, of Federal civil servants reveals is the frustration people feel about the lack of communication on the part of the Office of Special Counsel.

The Office of Special Counsel is supposed to be the policeman of the merit system. The OSC is supposed to punish the perpetrator and help the victims of personnel crime. But, a policeman must be able to communicate with those he is trying to help.

Federal employees who have suffered retaliation for blowing the whistle on waste, fraud, or abuse are supposed to report first to the Office of Special Counsel. In the vast majority of cases, OSC has exclusive jurisdiction—a monopoly, if you will—of these cases. OSC typically waits for months before they take any action on a case. All too often cases are closed out by OSC well before critical witnesses have been interviewed or documents reviewed.

All the employee knows is that the fate of his or her career has entered a black box known as the OSC and that after an undetermined amount of time his or her case is spit out of the black box with a little note—called a close out memo—that says, in effect, "Sorry, you're out of luck."

It should be noted that, in one survey, over a third of cases closed out by the OSC were later won by the employees on appeal. Obviously, the OSC is missing something.

What this amendment says is that 10 days before the OSC rejects a case the OSC must tell the employee why. The employee then has one last chance to highlight a key fact or make sure that a critical witness is interviewed. At least the employee will have some idea why the agency charged with protecting his rights is not going to stand up for him.

There should not be any confusion that this status report is solely for the complainant's benefit. Like an OSC closeout letter, the Special Counsel's final status report with proposed findings of fact and legal conclusions may not be admitted into any administrative or judicial forum without the complainant's consent.

This amendment will open the lines of communication at an early stage of the process. This will help prevent the MSPB from being clogged with appeals that could have been avoided if the OSC had simply talked to the employee.

The notion that Federal agencies should serve their customers should not be limited to agencies that deal with the general public. Agencies that are supposed to help the employees of the people should also treat these employees as people. That means leveling with them, letting them know the score. That is what this amendment accomplishes.

Mr. HATCH. Mr. President, law enforcement agencies and representatives of the telecommunications industry have worked with members of the Judiciary and Commerce Committees for several years to draft legislation intended to clarify the responsibilities of telecommunications companies when assisting law enforcement in conducting court authorized wiretaps and traces. The proposed legislation, S. 2375, is the result of their labors. I commend the efforts of Senator LEAHY for sheperding this bill through the Senate. I also applaud FBI Director Louis Freeh and his staff for their dogged determination in fighting for this important legislation.

The Fourth Amendment to our Constitution underscores the careful balance that must be struck between the right of the people to private communications and the legitimate needs of law enforcement. Unfortunately, that balance has shifted in recent years. Law enforcement agencies have seen rapid advancements in telecommunications technology seriously undermining their ability to conduct court-authorized wiretaps. In the not too distant future, law enforcement may find that it will be unable to execute wiretaps. While we must applaud the telecommunications industry for developing extraordinary new means of communicating, we must be ever watchful that those who prey upon society's innocents will not be able to pervert those revolutionary technologies and use them for criminal gain. Who can forget the bombing of the World Trade Center in New York City? But how many of us remember that the FBI was able to thwart additional terrorist attacks in New York because of the Bureau's capability to intercept criminal conversations. Law enforcement's ability to conduct court-authorized electronic surveillance simply cannot be compromised.

American's concern about crime has never been greater than it is today. Court authorized electronic surveillance is one of the most important and effective tools that State and Federal law enforcement agencies have to fight and to prevent crime. The proposed legislation is essential to effective law enforcement. It preserves law enforcement's ability to conduct court-authorized wiretaps while maintaining the overall security and integrity of the communications network.

The bill requires telephone companies, when served with a court order, to continue to assist law enforcement as they have for the past 50 years by having the capability to identify, segregate, and provide access to the conversations of specific criminals and target numbers, to the exclusion of all others, regardless of the technology, services, or features offered. This bill is not requiring industry to do anything new; rather it simply requires industry to continue to take into account the needs of law enforcement as new communications technologies are designed and deployed. This bill strikes a careful balance between the legitimate needs of law enforcement and the right of the people to private communications. It also strengthens the cooperative relationship that industry and law enforcement have shared for the past 50 years. On this account, I am delighted to cosponsor this legislation and urge my colleagues to give it their wholehearted support.

Mr. BREAUX. Mr. President, I ask unanimous consent that amendment be agreed to and that the motion to reconsider be laid upon the table; that the bill, as amended, be deemed read three times, passed, the title amendment be agreed to, and the motions to reconsider be laid upon the table, en bloc, and that any statements be inserted in the RECORD at the appropriate place as if read.

The amendment (No. 2641) was agreed to.

So the bill (H.R. 2970), as amended, was deemed read three times and passed.

The title was amended so as to read: "An Act to authorize appropriations for the United States Office of Special Counsel, the Merit Systems Protection Board, and for other purposes."

TO ENHANCE BUSINESS DEVELOPMENT OPPORTUNITIES

Mr. BREAUX. Mr. President, I ask unanimous consent that the Small Business Committee be discharged from further consideration of S. 2478, a bill to enhance the business development opportunities of socially and economically disadvantaged individuals, and that the Senate proceed to the bill's immediate consideration, that the bill be deemed read three times, passed, and the motion to reconsider be laid upon the table; and further that any statements on this measure appear in the RECORD at the appropriate place as though read.

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

So the bill (S. 2478) was deemed read three times and passed.

(The text of the bill will be printed in a future edition of the RECORD.)

THE FEGLI LIVING BENEFITS ACT

Mr. BREAUX. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 708, H.R. 512, relating to group life insurance benefits.

The PRESIDING OFFICER. Without objection, the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 512) to amend chapter 87 of title 5, United States Code, to provide that group life insurance benefits under such chapter may, upon application, be paid out to an insured individual who is terminally ill, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2642

(Purpose: To provide for continuation of health benefits coverage for certain individuals enrolled in health benefits plans administered by the Office of the Comptroller of the Currency or the Office of Thrift Supervision)

Mr. BREAUX. Mr. President, on behalf of Senator PRYOR, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. the clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. BREAUX] for Mr. PRYOR proposes an amendment numbered 2642.

Mr. BREAUX. 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 end of the bill, add the following new sections:

SEC. 5. CONTINUATION OF HEALTH BENEFITS COVERAGE FOR INDIVIDUALS ENROLLED IN A PLAN ADMINISTERED BY THE OFFICE OF THE COMPTROLLER OF THE CURRENCY OR THE OFFICE OF THRIFT SUPERVISION.

(a) ENROLLMENT IN CHAPTER 89 PLAN.—For purposes of the administration of chapter 89

of title 5, United States Code, any period of enrollment under a health benefits plan administered by the Office of the Comptroller of the Currency or the Office of Thrift Supervision before the termination of such plans on January 7, 1995, shall be deemed to be a period of enrollment in a health benefits plan under chapter 89 of such title.

(b) CONTINUED COVERAGE.—(1) Any individual who, on January 7, 1995, is covered by a health benefits plan administered by the Office of the Comptroller of the Currency or the Office of Thrift Supervision may enroll in an approved health benefits plan described under section 8903 or 8903a of title 5, United States Code—

(A) either as an individual or for self and family, if such individual is an employee, annuitant, or former spouse as defined under section 8901 of such title; and

(B) for coverage effective on and after January 8, 1995.

(2) An individual who, on January 7, 1995, is entitled to continued coverage under a health benefits plan administered by the Office of the Comptroller of the Currency or the Office of Thrift Supervision—

(A) shall be deemed to be entitled to continued coverage under section 8905a of title 5, United States Code, for the same period that would have been permitted under the plan administered by the Office of the Comptroller of the Currency or the Office of Thrift Supervision; and

(B) may enroll in an approved health benefits plan described under section 8903 or 8903a of such title in accordance with section 8905a of such title for coverage effective on and after January 8, 1995.

(3) An individual who, on January 7, 1995, is covered as an unmarried dependent child under a health benefits plan administered by the Office of the Comptroller of the Currency or the Office of Thrift Supervision and who is not a member of family as defined under section 8901(5) of title 5, United States Code—

(A) shall be deemed to be entitled to continued coverage under section 8905a of such title as though the individual had, on January 7, 1995, ceased to meet the requirements for being considered an unmarried dependent child under chapter 89 of such title; and

(B) may enroll in an approved health benefits plan described under section 8903 or 8903a of such title in accordance with section 8905a for continued coverage effective on and after January 8, 1995.

(c) TRANSFERS TO THE EMPLOYEES HEALTH BENEFITS FUND.—The Office of the Comptroller of the Currency and the Office of Thrift Supervision shall transfer to the Employees Health Benefits Fund established under section 8909 of title 5, United States Code, amounts determined by the Director of the Office of Personnel Management, after consultation with the Office of the Comptroller of the Currency and the Office of Thrift Supervision, to be necessary to reimburse the Fund for the cost of providing benefits under this section not otherwise paid for by the individuals covered by this section. The amounts so transferred shall be held in the Fund and used by the Office in addition to amounts available under section 8906(g)(1) of such title.

(d) ADMINISTRATION AND REGULATIONS.—The Office of Personnel Management—

(1) shall administer the provisions of this section to provide for—

(A) a period of notice and open enrollment for individuals affected by this section; and

(B) no lapse of health coverage for individuals who enroll in a health benefits plan under chapter 89 of title 5, United States Code, in accordance with this section; and

(2) may prescribe regulations to implement this section.

FEHB LEGISLATION FOR OCC AND OTS

BACKGROUND

In the 1980s, OCC and OTS (along with other federal banking agencies) established separate health plans to help attract and retain employees during a time when turnover was high and valuable examiner talent was being lost to private industry.

OCC plan was established in 1982; OTS in 1987. Both were attractive enough that the vast majority of employees chose the separate plans rather than a plan in FEHB.

In the last several years, the rationale for maintaining health plans outside the FEHB has eroded. Accounting rules have substantially increased the costs of maintaining separate health plans. And, as health care costs have increased generally over recent years, the differences between the agency plans and FEHB fee-for-service plans have narrowed.

The increased costs of accounting for separate health plans have come at a critical time for both OTS and OCC.

The OTS is confronted with a shrinking industry. Since OTS is 95% funded by assessments on the thrift industry, revenue has been decreasing at an alarming rate. In fact, even with two previous downsizing initiatives, OTS expenses have not declined as fast as revenues. OTS has been operating at a deficit for several years.

OCC is also primarily funded by assessments of the national banks it regulates. National banks are increasingly complaining about their costs of federal supervision. Consequently, OCC is launching a major effort to cut costs, with the hope that this will permit an assessment decrease for 1995.

Both agencies have decided to terminate their separate health plans at the end of 1994.

EMPLOYEES NEGATIVELY AFFECTED BY THE CHANGE TO FEHB

Active employees not close to retirement are not affected by the decision to terminate OCC and OTS separate agency plans, except that they will have to choose among FEHB plans during the next open season.

However, the statutory requirement that Federal employees participate in an FEHB plan for five years just prior to retirement is an impediment for employees close to retirement. To obtain FEHB insurance, these employees would have to work five additional years.

Also barred by statute from participation in FEHB plans are the OCC and OTS retirees currently covered by the agencies' separate plans.

OCC and OTS retirees and near-retirees have accumulated many decades of federal service and, in fact, in most cases participated in FEHB plans (and paid premiums) for as long as 20 years before selecting their agency health plan.

LEGISLATIVE SOLUTION

The Administration supports this legislative proposal.

OCC, OTS, and OPM staff have worked cooperatively to develop legislative language that will allow their near-retirees and retirees to enroll in FEHB plans during this coming open season. By treating participation in an FCC or OTS plan as though it were an FEHB plan, the proposed legislation makes the transition a seamless one.

For OTS, this legislation resolves the problems affecting 189 employees within five years of retirement, 175 current retirees, and a handful of non-employees (e.g., survivors of OTS employees; separated employees with temporary continuing coverage).

For OCC, the numbers are 330 employees within five years of retirement, 284 current retirees, and a small number of non-employees.

The retirees and near-retirees affected by the proposed legislation are located throughout the country, as are the current workforces.

FUNDING FEHB

OCC and OTS have agreed to pay the Employees Health Benefit Fund an amount determined by the Director of OPM for the benefits provided by this legislation not otherwise paid for by the individuals to be covered. According to OMB, this makes the proposal budget-neutral for pay-go purposes.

URGENCY

Legislation must be passed this session. Without it, OCC and OTS will be forced to purchase private health coverage at substantially higher premiums for this relatively small number of older individuals. This higher cost will exacerbate the OTS deficit and will not allow the OCC to reduce costs to the degree necessary to relieve pressure on national bank assessments.

Moreover, without this legislation, OCC and OTS retirees, most of whom have many years of federal service, would not have the range of choice and costs available to all other federal retirees. And near-retirees may feel they must work longer than they had planned to ensure themselves coverage under FEHB.

Last, OCC and OTS plans for rightsizing initiatives will be frustrated by the uncertainties in health insurance confronting those employees eligible for either optional or early retirement.

Mr. BREAUX. Mr. President, I ask unanimous consent that the amendment be agreed to and the motion to reconsider be laid upon the table; that the bill as thus amended be deemed read three times, passed, and the motion to reconsider be laid upon the table; that the title amendment be agreed to; that any statements relating to this measure be inserted in the RECORD at the appropriate place as if read.

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

The amendment (No. 2642) was agreed to.

So the bill (H.R. 512), as amended, was deemed read three times and passed.

The title was amended so as to read:

An Act to amend chapter 87 of title 5, United States Code, to provide that group life insurance benefits under such chapter may, upon application, be paid out to an insured individual who is terminally ill; to provide for continuation of health benefits coverage for certain individuals enrolled in health benefits plans administered by the Office of the Comptroller of the Currency or the Office of Thrift Supervision; and for other purposes.

ADVANCEMENT OF NATIONAL EDUCATION GOALS FOR INDIANS

Mr. BREAUX. Mr. President, I ask unanimous consent that the Indian Affairs Committee be discharged from further consideration of S. Res. 264, a resolution expressing the sense of the Senate on advancement of the national

education goals for Indians; that the Senate then proceed to its immediate consideration, the resolution be adopted, the preamble be agreed to, and the motion to reconsider be laid on the table; and that, further, any statements on this measure appear in the RECORD at the appropriate place as though read.

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

So the resolution (S. Res. 264) was agreed to.

The preamble was agreed to.

(The text of the resolution will be printed in a future edition of the RECORD.)

CODIFICATION OF LAWS RELATED TO TRANSPORTATION

Mr. BREAUX. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4778, relating to codification of laws related to transportation to improve the code, just received from the House; that the bill be read a third time, passed, the motion to reconsider be laid on the table; and that any statement appear at the appropriate place in the RECORD as if read.

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

So the bill (H.R. 4778) was passed.

SENATE ARMS CONTROL OBSERVER GROUP

Mr. BREAUX. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 280, a resolution introduced earlier today by the majority leader and Senator DOLE regarding the Senate Arms Control Observer Group; that the resolution be agreed to, the motion to reconsider laid on the table, and any statement thereon appear in the RECORD at the appropriate place, as though read.

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

So the resolution (S. Res. 280) was agreed to.

(The text of the resolution will be printed in a future edition of the RECORD.)

WATER BANK EXTENSION ACT OF 1994

Mr. BREAUX. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5053, the Water Bank Extension Act of 1994, just received from the House; that bill be read three times, passed, the motion to reconsider be laid upon the table; and, further, that any statements related to this measure be printed in the RECORD at the appropriate place as if read.

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

So the bill (H.R. 5053) was passed.

Mr. LEAHY. Mr. President, I applaud the purpose of H.R. 5053 which is to protect the approximately 64,000 acres of wetlands and upland habitat enrolled in the Water Bank Program that are scheduled to expire on December 31, 1994. Unfortunately, no funds have been appropriated in fiscal year 1995 to renew these contracts. Therefore, we have been forced to pass this bill as a quick fix to protect these lands until the long-term future of the Water Bank Program can be resolved in the 1995 farm bill.

It is with reluctance, however, that I agree to utilize the scarce dollars that have been appropriated to fund the Wetland Reserve Program for a quick fix of the Water Bank Program. The Wetland Reserve Program is a unique program that seeks to restore wetlands, help farmers meet the wetland conservation provisions of the 1985 Food Security Act, and help all of us meet our overall goal of no net loss of wetlands. Most of the wetlands currently enrolled in the Water Bank Program would not, and should not, be eligible for inclusion in the Wetlands Reserve Program. The Wetlands Reserve Program was authorized for a single, unique purpose: to help farmers restore, and protect in perpetuity, wetlands that had previously been converted to cropland. It is critical that the Wetland Reserve Program not be diverted from this unique and important purpose.

Tight budgets have forced us to choose between two unique wetland management programs. I concur that this choice is best made in the farm bill when the overall needs of wetland conservation and protection can be debated more fully. I look forward to working with my colleagues from water bank States to resolve this problem next year.

INTERNATIONAL ANTITRUST ENFORCEMENT ASSISTANCE ACT OF 1994

Mr. BREAUX. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 699, S. 2297, a bill relating to international antitrust.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2297) to facilitate obtaining foreign-located antitrust evidence by authorizing the Attorney General of the United States and the Federal Trade Commission to provide, in accordance with antitrust mutual assistance agreements, antitrust evidence to foreign antitrust authorities on a reciprocal basis, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "International Antitrust Enforcement Assistance Act of 1994".

SEC. 2. DISCLOSURE TO A FOREIGN ANTITRUST AUTHORITY OF ANTITRUST EVIDENCE.

Subject to section 8, except as provided in section 5, and in accordance with an antitrust mutual assistance agreement, the Attorney General and the Federal Trade Commission may provide antitrust evidence to a foreign antitrust authority to assist the foreign antitrust authority—

(1) in determining whether a person has violated or is about to violate any of the foreign antitrust laws administered or enforced by the foreign antitrust authority; or

(2) in enforcing any of such foreign antitrust laws.

SEC. 3. INVESTIGATIONS TO ASSIST A FOREIGN ANTITRUST AUTHORITY IN OBTAINING ANTITRUST EVIDENCE.

(a) AUTHORITY OF THE ATTORNEY GENERAL.—

(1) REQUEST.—Requests for assistance from a foreign antitrust authority pursuant to this section shall be made to the Attorney General.

(2) INVESTIGATION.—Subject to section 8, except as provided in section 5, and in accordance with an antitrust mutual assistance agreement, the Attorney General may, after consultation with the Commission, use antitrust investigative authority to conduct antitrust investigations to obtain antitrust evidence relating to a violation of the foreign antitrust laws administered or enforced by a foreign antitrust authority, and may provide such antitrust evidence to the foreign antitrust authority, to assist the foreign antitrust authority—

(A) in determining whether a person has violated or is about to violate any of such foreign antitrust laws; or

(B) in enforcing any of such foreign antitrust laws.

(3) FEDERAL ANTITRUST LAWS.—An investigation under this section may be conducted, and such antitrust evidence may be provided, without regard to whether the conduct investigated violates any of the Federal antitrust laws.

(b) AUTHORITY OF THE COMMISSION.—

(1) IN GENERAL.—After consultation with the Commission, and consistent with section 10(b), the Attorney General may refer to the Commission a request for assistance under this section from a foreign antitrust authority.

(2) INVESTIGATION.—Upon referral under paragraph (1), the Commission may, subject to section 8 and except as provided in section 5, use its investigative authority under the Federal Trade Commission Act (15 U.S.C. 41 et seq.) to conduct antitrust investigations in the same manner and of the same scope as those described under subsection (a).

(c) CONFORMING AMENDMENTS.—

(1) ANTITRUST CIVIL PROCESS ACT.—The Antitrust Civil Process Act (15 U.S.C. 1311 et seq) is amended—

(A) in section 2—

(i) in subsection (d)—

(I) by striking "or any" and inserting ", any"; and

(II) by inserting before the semicolon ", or any of the foreign antitrust laws"; and

(ii) by adding at the end the following new subsection:

"(k) The term 'foreign antitrust laws' has the meaning given such term in section 12 of the International Antitrust Enforcement Assistance Act of 1994."; and

(B) in the first sentence of section 3(a)—

(i) by inserting "or to an investigation authorized by section 3(a) of the International Antitrust Enforcement Assistance Act of 1994" after "investigation"; and

(ii) by inserting "by the United States" after "proceeding".

(2) FEDERAL TRADE COMMISSION ACT.—Section 6(h) of the Federal Trade Commission Act (15 U.S.C. 46(h)) is amended by striking the period after "advisable" and inserting "and to conduct investigations in accordance with the International Antitrust Enforcement Assistance Act.".

SEC. 4. JURISDICTION OF THE DISTRICT COURTS OF THE UNITED STATES.

(a) AUTHORITY OF THE DISTRICT COURTS.—On the application of the Attorney General made in accordance with an antitrust mutual assistance agreement, the United States district court for the district in which a person resides, is found, or transacts business may order such person to give testimony or a statement, or to produce a document or other thing, to the Attorney General to assist the foreign antitrust authority that is covered by the agreement—

(1) in determining whether a person has violated or is about to violate any of the foreign antitrust laws administered or enforced by the foreign antitrust authority; or

(2) in enforcing any of such foreign antitrust laws.

(b) CONTENTS OF ORDER.—

(1) IN GENERAL.—An order issued under subsection (a) may direct that testimony or a statement be given, or a document or other thing be produced, to a person who shall be recommended by the Attorney General and appointed by the court.

(2) POWER OF APPOINTEE.—A person appointed in an order under paragraph (1) shall have power to administer any necessary oath and to take such testimony or such statement.

(3) PRACTICE AND PROCEDURE.—(A) An order issued under subsection (a) may prescribe the practice and procedure for taking testimony and statements.

(B) Such practice and procedure may be in whole or in part the practice and procedure of the foreign state, or the regional economic integration organization, represented by the foreign antitrust authority with respect to which the Attorney General requests such order.

(C) To the extent such order does not prescribe otherwise, any testimony and statements required to be taken shall be taken, and any documents and other things required to be produced shall be produced, in accordance with the Federal Rules of Civil Procedure.

(c) RIGHTS AND PRIVILEGES PRESERVED.—A person may not be compelled under an order issued under subsection (a) or in connection with an investigation authorized by section 3 to give testimony or a statement, or to produce a document or other thing, in violation of any legally applicable right or privilege.

(d) VOLUNTARY CONDUCT.—This section does not preclude a person in the United States from voluntarily giving testimony or a statement, or producing a document or other thing, in any manner acceptable to such person for use in an investigation by a foreign antitrust authority.

SEC. 5. LIMITATIONS ON AUTHORITY.

Sections 2, 3, and 4 shall not apply with respect to the following antitrust evidence:

(1) Antitrust evidence that is received by the Attorney General or the Commission under section 7A of the Clayton Act (15 U.S.C. 18a), as added by title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976. Nothing in this paragraph shall affect the ability of the Attorney General or the Commission to disclose to a foreign antitrust authority antitrust evidence that is obtained otherwise than under such section 7A.

(2) Antitrust evidence that is matter occurring before a grand jury and with respect to which disclosure is prevented by Federal law, except as may be directed by a court pursuant to Rule 6(e)(3)(C)(i) of the Federal Rules of Criminal Procedure. For purposes of this section, disclosure preliminary to or in connection with a judicial proceeding shall include disclosure to a foreign antitrust authority for the purposes provided in section 2.

(3) Antitrust evidence that is specifically authorized under criteria established by Executive Order 12356, or any successor to such order, to be kept secret in the interest of national defense or foreign policy, and—

(A) that is classified pursuant to such order or such successor; or

(B) with respect to which a determination of classification is pending under such order or such successor.

(4) Antitrust evidence that is classified under section 142 of the Atomic Energy Act of 1954 (42 U.S.C. 2162).

SEC. 6. DISCLOSURE OF ANTITRUST EVIDENCE.

Neither section 4 of the Antitrust Civil Process Act (15 U.S.C. 1313) nor section 6(f) or 21 of the Federal Trade Commission Act (15 U.S.C. 46, 57b–2) shall apply to prevent the Attorney General or the Commission from providing to a foreign antitrust authority antitrust evidence in accordance with an antitrust mutual assistance agreement in effect under this Act and in accordance with the other requirements of this Act.

SEC. 7. PUBLICATION REQUIREMENTS APPLICABLE TO ANTITRUST MUTUAL ASSISTANCE AGREEMENTS.

(a) PUBLICATION OF PROPOSED ANTITRUST MUTUAL ASSISTANCE AGREEMENTS.—Not less than 45 days before entering into an antitrust mutual assistance agreement, the Attorney General, with the concurrence of the Commission, shall publish in the Federal Register—

(1) the proposed text of such agreement and any modification to such proposed text; and

(2) a request for public comment with respect to such text or such modification, as the case may be.

(b) PUBLICATION OF PROPOSED AMENDMENTS TO ANTITRUST MUTUAL ASSISTANCE AGREEMENTS IN EFFECT.—Not less than 45 days before entering into an agreement that makes an amendment to an antitrust mutual assistance agreement in effect under this Act, the Attorney General, with the concurrence of the Commission, shall publish in the Federal Register—

(1) the proposed text of such amendment, and

(2) a request for public comment with respect to such amendment.

(c) PUBLICATION OF ANTITRUST MUTUAL ASSISTANCE AGREEMENTS ENTERED INTO, AND AMENDMENTS TO AND TERMINATIONS OF, SUCH AGREEMENTS.—

(1) IN GENERAL.—Not later than 30 days after—

(A) entering into an antitrust mutual assistance agreement;

(B) entering into an agreement that makes an amendment to an antitrust mutual assistance agreement; or

(C) terminating an antitrust mutual assistance agreement,

the Attorney General, with the concurrence of the Commission, shall publish in the Federal Register a notice containing the information described in paragraph (2).

(2) CONTENTS OF NOTICE.—A notice under this subsection shall contain—

(A) the text of the antitrust mutual assistance agreement or of such amendment, or the fact and any terms of termination as the case may be; and

(B) in the case of an agreement that makes such amendment, a notice containing—

(i) a statement of the fact that such agreement was entered into;

(ii) citations to the provisions of the Federal Register that contain the text of the amendment, of any previous amendments and of the antitrust mutual assistance agreement that is so amended; and

(iii) a description of the manner in which a copy of the antitrust mutual assistance agreement, as so amended, may be obtained from the Attorney General or the Commission.

(d) CONDITION FOR VALIDITY.—An antitrust mutual assistance agreement, or an agreement that makes an amendment to an antitrust mutual assistance agreement, entered into in violation of subsection (a) or (b) shall not be considered to be entered into under the authority of this Act.

SEC. 8. IMPLEMENTATION OF ANTITRUST MUTUAL ASSISTANCE AGREEMENTS.

(a) DETERMINATIONS.—The Attorney General or the Commission may conduct an investigation under section 3 and may provide antitrust evidence to a foreign antitrust authority, under an antitrust mutual assistance agreement, only if the Attorney General or the Commission, as the case may be, determines in the particular instance in which such investigation or evidence is requested that—

(1) the foreign antitrust authority—

(A) will satisfy the assurances, terms, and conditions required by subparagraphs (A), (B), and (D) of section 12(2); and

(B) is capable of complying with and will comply with the confidentiality requirements applicable under such agreement to the requested antitrust evidence;

(2) providing the requested antitrust evidence will not violate section 5; and

(3) conducting such investigation, or providing the requested antitrust evidence, as the case may be, is consistent with the public interest of the United States, taking into consideration, among other factors, whether the foreign state, or the regional economic integration organization, represented by the foreign antitrust authority holds any proprietary interest that could benefit or otherwise be affected by such investigation or by the provision of such antitrust evidence.

(b) LIMITATION ON DISCLOSURE OF CERTAIN ANTITRUST EVIDENCE.—Neither the Attorney General nor the Commission may disclose in violation of an antitrust mutual assistance agreement any antitrust evidence received under such agreement, except that such agreement may not prevent the disclosure of such antitrust evidence to a defendant in an action or proceeding brought by the Attorney General or the Commission for a violation of any of the Federal antitrust laws if such disclosure would otherwise be required by Federal law.

(c) REQUIRED DISCLOSURE OF NOTICE RECEIVED.—If the Attorney General or the Commission receives a notice described in section 12(2)(G), the Attorney General or the Commission, as the case may be, shall transmit such notice to the person that provided the evidence with respect to which such notice is received.

SEC. 9. LIMITATIONS ON JUDICIAL REVIEW

(a) DETERMINATIONS.—Determinations made under section 8(a) (1) and (3) shall not be subject to judicial review.

(b) ANTITRUST MUTUAL ASSISTANCE AGREEMENTS.—Whether an antitrust mutual assistance agreement satisfies the requirements specified in section 12(2) shall not be subject to judicial review under chapter 7 of title 5, United States Code.

(c) RULE OF CONSTRUCTION.—Nothing in this section affects the availability of judicial review under laws referenced in section 5.

SEC. 10. SUPPLEMENTATION AND PRESERVATION OF AUTHORITY.

(a) SUPPLEMENTAL AUTHORITY.—The authority provided by this Act is in addition to, and not in lieu of, any other authority vested in the Attorney General, the Commission, or any other officer of the United States.

(b) AUTHORITY PRESERVED.—This Act shall not modify or affect the allocation of responsibility between the Attorney General and the Commission for the enforcement of the Federal antitrust laws.

SEC. 11. REPORT TO THE CONGRESS.

In the 30-day period beginning 3 years after the date of the enactment of this Act, the Attorney General, with the concurrence of the Commission, shall submit, to the Speaker of the House of Representatives and the President pro tempore of the Senate, a report—

(1) describing how the operation of this Act has affected the enforcement of the Federal antitrust laws;

(2) the extent to which foreign antitrust authorities have complied with the confidentiality requirements applicable under antitrust mutual assistance agreements in effect under this Act;

(3) the number and identities of the foreign antitrust authorities, foreign states, and regional economic integration organizations that have entered into such agreements;

(4) the identity of each foreign state, and each regional economic integration organization, that has in effect a law similar to this Act;

(5) the approximate number of requests made by the Attorney General and the Commission under such agreements to foreign antitrust authorities for antitrust investigations and for antitrust evidence;

(6) the approximate number of requests made by foreign antitrust authorities under such agreements to the Attorney General and the Commission for investigations under section 3 and for antitrust evidence; and

(7) a description of any significant problems or concerns of which the Attorney General or the Commission is aware with respect to the operation of this Act.

SEC. 12. DEFINITIONS.

For purposes of this Act:

(1) The term "antitrust evidence" means information, testimony, statements, documents, or other things obtained in anticipation of, or during the course of, an investigation or proceeding under any of the Federal antitrust laws or any of the foreign antitrust laws.

(2) The term "antitrust mutual assistance agreement" means a written agreement, or written memorandum of understanding, that is entered into (i) between the Attorney General and the Commission, and the foreign antitrust authority and such other agencies of a foreign state or regional economic integration organization as may be necessary to carry out the agreement, or (ii) between the Government of the United States and a foreign state or regional economic integration organization, for the purpose of conducting investigations under section 3, or for providing antitrust evidence, on a reciprocal basis and that includes the following:

(A) An assurance that the foreign antitrust authority will provide to the Attorney General or the Commission assistance that is comparable in scope to the assistance the Attorney General or the Commission provides under such agreement or such memorandum.

(B) An assurance that the foreign antitrust authority is subject to laws and procedures that are adequate to maintain the confidentiality of antitrust evidence that may be received under section 2, 3, or 4 and will give protection to antitrust evidence received under such section that is not less than the protection provided under the laws of the United States to such antitrust evidence.

(C) Citations to, and brief descriptions of, the laws (including treaties, statutes, executive orders, and regulations) of the United States, and the laws (including treaties, statutes, executive orders, and regulations) of the foreign state, or the regional economic integration organization, represented by the foreign antitrust authority, that protect the confidentiality of antitrust evidence that may be provided under such agreement or such memorandum. Such citations and such descriptions shall include the enforcement mechanisms and penalties applicable under such laws.

(D) Terms and conditions that specifically prohibit disclosing or using antitrust evidence received under such agreement or such memorandum, for any purpose other than the administration or enforcement of the foreign antitrust laws involved unless, under special circumstances when such disclosure or use is essential to law enforcement and the evidence is not otherwise readily obtainable, the Attorney General or the Commission gives prior written consent to the disclosure or use of the antitrust evidence provided under this Act for such other law enforcement purpose as may be specified by the foreign antitrust authority, subject to the other confidentiality requirements of this Act.

(E) An assurance that antitrust evidence received under section 2, 3, or 4 from the Attorney General or the Commission, and all copies of such evidence, in the possession or control of the foreign antitrust authority will be returned to the Attorney General or the Commission, respectively, at the conclusion of the foreign investigation or proceeding with respect to which such evidence was so received.

(F) Terms and conditions that specifically provide that such agreement or such memorandum will be terminated if—

(i) the confidentiality required under such agreement or such memorandum is violated with respect to antitrust evidence; and

(ii) adequate action is not taken both to minimize any harm resulting from the violation and to ensure that such confidentiality requirement is not violated again.

(G) Terms and conditions that specifically provide that if the confidentiality required under such agreement or such memorandum is violated with respect to antitrust evidence, notice of the violation will be given—

(i) by the foreign antitrust authority promptly to the Attorney General or the Commission with respect to antitrust evidence provided by the Attorney General or the Commission, respectively; and

(ii) by the Attorney General or the Commission to the person (if any) that provided such evidence to the Attorney General or the Commission.

(3) The term "Attorney General" means the Attorney General of the United States.

(4) The term "Commission" means the Federal Trade Commission.

(5) The term "Federal antitrust laws" has the meaning given the term "antitrust laws" in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)) but also includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies to unfair methods of competition.

(6) The term "foreign antitrust authority" means a governmental entity of a foreign state or of a regional economic integration organization that is vested by such state or such organization with authority to enforce the foreign antitrust laws of such state or such organization.

(7) The term "foreign antitrust laws" means the laws of a foreign state, or of a regional economic integration organization, that are substantially similar to any of the Federal antitrust laws and that prohibit conduct similar to conduct prohibited under the Federal antitrust laws.

(8) The term "person" has the meaning given such term in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)).

(9) The term "regional economic integration organization" means an organization that is constituted by, and composed of, foreign states and in which such foreign states have vested authority to make decisions binding on such foreign states.

SEC. 13. AUTHORITY TO RECEIVE REIMBURSEMENTS.

The Attorney General and the Commission are authorized to receive from a foreign antitrust authority, a foreign state, or a regional economic integration organization reimbursement in cash or in kind for the costs incurred by the Attorney General or the Commission, respectively, to conduct investigations under section 3 or provide antitrust evidence under a mutual assistance agreement.

AMENDMENT NO. 2643

(Purpose: To facilitate obtaining foreign-located antitrust evidence)

Mr. BREAUX. Mr. President, on behalf of Senator METZENBAUM and Senator THURMOND, I send a substitute amendment to the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. BREAUX], for Mr. METZENBAUM for himself and Mr. THURMOND, proposes an amendment numbered 2643.

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

The PRESIDING OFFICER. Without objection it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. THURMOND. Mr. President, I rise today in support of H.R. 4781, the International Antitrust Enforcement Assistance Act, which is the House version of the legislation I introduced with Senator METZENBAUM in July of this year. It authorizes closer cooperation and sharing of information between United States and foreign antitrust authorities in order to more effectively enforce antitrust laws for the benefit of American consumers and businesses.

As I have stated previously, the goals of this legislation deserve broad bipartisan support. It is appropriate and necessary for our antitrust authorities to be given better tools for obtaining evidence abroad, because antitrust violations increasingly involve transactions and evidence which are located abroad or in more than one country. This bill achieves that goal by authorizing investigations to be conducted and information shared with foreign authorities in appropriate circumstances. However, this legislation does not change the jurisdictional reach or substance of either the U.S. antitrust laws or any foreign law.

Mr. President, I believe that this legislation now contains all necessary protections to safeguard American interests. Prior to any exchange of information, the bill requires a comprehensive agreement between the United States and foreign antitrust authorities, which is effective only after notice and an opportunity for public comment. That agreement is required to

contain many terms to protect the confidentiality of any information disclosed, while the bill expressly precludes disclosure of certain categories of information.

Among other things, the confidentiality provisions require that the U.S. agencies must make a determination in each case that the foreign laws are sufficient to protect confidentiality and will be applied. Further, the bill ensures that there will be true reciprocity between the United States and foreign antitrust authorities in providing assistance and exchanging information so that the benefits and responsibilities are evenly shared.

For all of these reasons, this is a bill which is good for American consumers and which many American businesses wholeheartedly support. I urge my colleagues to vote for this legislation.

Mr. BREAUX. Mr. President, I ask unanimous consent the amendment be agreed to; that the committee substitute amendment, as amended, be agreed to; that the bill be read a third time, passed, the motion to reconsider be laid upon the table; and that any statements appear in the appropriate place in the RECORD as if read.

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

So the amendment (No. 2643) was agreed to.

So the bill (S. 2297) was passed.

(The text of the bill will be printed in a future edition of the RECORD.)

FEDERAL EMPLOYEES FAMILY FRIENDLY LEAVE ACT

Mr. BREAUX. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of H.R. 4361, the Federal Employees Family Friendly Leave Act and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4361) to amend title 5, United States Code, to provide that an employee of the Federal Government may use sick leave to attend to the medical needs of a family member; to modify the voluntary leave transfer program with respect to employees who are members of the same family; and for other purposes.

AMENDMENT NO. 2644

(Purpose: To amend chapter 63 of title 5, United States Code, to provide that an employee of the Federal Government may use sick leave to attend to the medical needs of a family member, and for other purposes)

Mr. BREAUX. Mr. President, on behalf of Senator PRYOR, I send a substitute amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. BREAUX] for Mr. PRYOR proposes an amendment numbered 2644.

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

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Employees Family Friendly Leave Act".

SEC. 2. USE OF SICK LEAVE FOR PURPOSES RELATING TO A FAMILY MEMBER.

Section 6307 of title 5, United States Code, is amended by adding at the end the following:

"(d)(1) For the purpose of this subsection, the term 'family member' shall have such meaning as the Office of Personnel Management shall by regulation prescribe, except that such term shall include any individual who meets the definition given that term, for purposes of the leave transfer program under subchapter III, under regulations prescribed by the Office (as in effect on January 1, 1993).

"(2) Subject to paragraph (3) and in addition to any other allowable purpose, sick leave may be used by an employee—

"(A) to give care or otherwise attend to a family member having an illness, injury, or other condition which, if an employee had such condition, would justify the use of sick leave by such an employee; or

"(B) for purposes relating to the death of a family member, including to make arrangements for or attend the funeral of such family member.

"(3)(A) Sick leave may be used by an employee for the purposes provided under paragraph (2) only to the extent the amount used for such purposes does not exceed—

"(i) 40 hours in any year, plus

"(ii) up to an additional 64 hours in any year, but only to the extent the use of such additional hours does not cause the amount of sick leave to the employee's credit to fall below 80 hours.

"(B) In the case of a part-time employee or an employee on an uncommon tour of duty, the Office of Personnel Management shall establish limitations that are proportional to those prescribed under subparagraph (A).

"(4)(A) This subsection shall be effective during the 3-year period that begins upon the expiration of the 2-month period that begins on the date of the enactment of this subsection.

"(B) Not later than 6 months before the date on which this subsection is scheduled to cease to be effective, the Office shall submit a report to Congress in which it shall evaluate the operation of this subsection and make recommendations as to whether or not this subsection should be continued beyond such date.".

Mr. BREAUX. Mr. President, I ask unanimous consent that the amendment be agreed to; that the motion to reconsider be laid upon the table; that the bill, as amended, be read three times, passed and the motion to reconsider be laid upon the table; that the title amendment be agreed to; and that any statements relating thereto be placed in the RECORD at the appropriate place as if read.

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

So the amendment (No. 2644) was agreed to.

So the bill (H.R. 4361), as amended, was deemed read the third time and passed.

JUVENILE JUSTICE ACT

Mr. BREAUX. Mr. President, I ask unanimous consent the Judiciary Committee be discharged from and the Senate proceed to immediate consideration of H.R. 3160, a bill relating to the Juvenile Justice Act.

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

The Senate proceeded to consider the bill.

Mr. BREAUX. Mr. President, on behalf of Senator SIMON, I send an amendment to the desk, I ask unanimous consent to proceed to its immediate consideration, that the amendment be agreed to, the bill be read a third time, passed, and the motion to reconsider be laid upon the tale, and any statement appear at an appropriate place in the RECORD as if read.

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

The amendment (No. 2645) was agreed to, as follows:

On page 4, strike line 17 through the "(B)" on page 5 of line 3.

On page 6, strike line 13 and insert the following:

SEC. 3. DRUG EDUCATION AND PREVENTION RELATING TO YOUTH GANGS.

Section 3505 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11805) is amended—

(1) by striking "$16,000,000 for fiscal year 1992 and"; and

(2) by striking "1993 and 1994" and inserting "1995".

SEC. 4. PROGRAMS FOR RUNAWAY AND HOMELESS YOUTH.

Section 3513 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11823) is amended—

(1) by striking "$16,000,000 for fiscal year 1992 and"; and

(2) by striking "1993 and 1994" and inserting "1995".

SEC. 5. EFFECTIVE DATES.

At the appropriate place set the following:

SECTION 1. FINDING AND PURPOSE.

(a) FINDING.—The Congress finds that Benchmark Rail Group, Inc., of St. Louis, Missouri, satisfactorily performed emergency work after the Northridge earthquake, but has not been reimbursed as a result of a technicality under California State law.

(b) PURPOSE.—The purpose of this Act is to fairly compensate Benchmark Rail Group, Inc., for the work for which, except for the technicality under California State law, it would otherwise have been paid under the provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

SEC. 2. PAYMENT.

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the director of the Federal Emergency Management Agency shall pay to Benchmark Rail Group, Inc., of St. Louis, Missouri, an amount equal to the total amount owed to Benchmark Rail Group, Inc., by the Federal Emergency Management Agency and the State of California to compensate Benchmark Rail Group, Inc., for the emergency work and services performed at the request of the Southern California Regional Rail Authority, to the extent that such work and

services are otherwise eligible for reimbursement under the Robert T. Stafford Disaster and Emergency Assistance Act. The payment shall be made from funds appropriated to implement such Act.

(b) DEOBLIGATION OF FUNDS.—The Federal Emergency Management Agency shall deobligate an equal amount to that obligated previously for payment to the State of California to cover the costs of work performed for the Southern California Regional Rail Authority by Benchmark Rail Group, Inc., after the Northridge earthquake which would have been eligible for reimbursement under such Act.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 3160), as amended, was passed.

CONFEDERATED TRIBES OF THE COLVILLE RESERVATION GRAND COULEE DAM SETTLEMENT ACT

Mr. BREAUX. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of H.R. 4757, the Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act, just received from the House, the bill be read three times, passed, and the motion to reconsider be laid upon the table, and further that any statements on this measure appear in the RECORD at the appropriate place as though read.

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

The bill (H.R. 4757) was ordered to a third reading, was read the third time, and passed.

AUTHORIZING THE TRANSFER OF NAVAL VESSELS TO CERTAIN FOREIGN COUNTRIES

Mr. BREAUX. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of H.R. 5155, a bill to authorize the transfer of naval vessels to certain foreign countries received from the House, that the bill be read three times, passed, the motion to reconsider be laid upon the table, and further that any statements relating to this measure be printed in the RECORD at the appropriate place, as if read.

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

The bill (H.R. 5155) was ordered to a third reading, was read the third time, and passed.

RECOGNITION OF ALASKAN NATIVE INDIAN TRIBES

Mr. BREAUX. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of H.R. 4180, a bill related to recognition of Alaska native Indian tribes just received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4180) to provide for the annual publication of a list of Federally recognized Indian tribes and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NOS. 2646, 2647, 2648

Mr. BREAUX. Mr. President I send three amendments to the desk and ask unanimous consent they be considered en bloc, agreed to en bloc, and the motions to reconsider be laid upon the table en bloc; also I send a title amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. BREAUX], for Mr. STEVENS, proposes an amendment numbered 2646; for Mr. INOUYE, an amendment numbered 2647; and for Mr. AKAKA, an amendment numbered 2648, as follows:

AMENDMENT NO. 2646

(Purpose: to authorize appropriations for interest or earnings on trust funds created for the benefit of Alaska Indian, Aleuts, or Eskimo people)

At the appropriate place in the bill, add the following new section:

SEC. . AUTHORIZATION FOR INTEREST ON TRUST FUNDS.

(a) IN GENERAL.—There are authorized to be appropriated funds necessary to pay interest or earnings on any trust fund administered by the Secretary of the Interior for the benefit of Alaska Indian, Aleut or Eskimo people.

(b) DEPOSIT IN TRUST FUND.—Upon appropriation, the Secretary shall deposit in the appropriate trust fund such interest or earnings that have or should have accumulated during the period since any such trust fund was established.

(c) INTEREST OR EARNINGS.—Interest or earnings for each such trust fund shall be determined in accordance with section 9702 of title 31, United States Code.

(d) INTEREST ACCRUED.—Nothing in this section shall diminish any interest or earnings that have otherwise accrued on any trust funds administered by the Secretary for the benefit of Alaska Indian, Aleut or Eskimo people.

AMENDMENT NO. 2647

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

AMENDMENT NO. 2648

Strike title I, and redesignate titles II and III as titles I and II, respectively.

After title II, as so redesignated, insert the following new titles:

TITLE III—MISCELLANEOUS

SEC. 301. EDUCATIONAL ASSISTANCE.

Notwithstanding any deadline established under section 5(a)(2) of the Act of September 30, 1950 (64 Stat. 1100, chapter 1124), the Secretary of Education shall accept, as if timely received, applications from the Window Rock, Arizona, local educational agency for funding under section 3 of such Act for fiscal years 1994 and 1995.

SEC. 302. PUEBLO DE TAOS.

(a) TRANSFER.—The parcel of land described in subsection (b) is hereby transferred without consideration to the Secretary of the Interior to be held in trust for the Pueblo de Taos. Such parcel shall be a part of the Pueblo de Taos Reservation and shall be managed in accordance with section 4 of the Act of May 31, 1933 (48 Stat. 109, chapter 45) (as amended, including as amended by Public Law 91-550 (84 Stat. 1437)).

(b) LAND DESCRIPTION.—The parcel of land referred to in subsection (a) is the land that is generally depicted on the map entitled "Lands transferred to the Pueblo of Taos—proposed" and dated September 1994. Such land comprises 764.33 acres, and is situated within sections 25, 26, 35, and 36, Township 27 North, Range 14 East, New Mexico Principal Meridian, within the Wheeler Peak Wilderness, Carson National Forest, Taos County, New Mexico.

(c) CONFORMING BOUNDARY ADJUSTMENTS.—The boundaries of the Carson National Forest and the Wheeler Peak Wilderness are hereby adjusted to reflect the transfer made by subsection (a).

(d) COMPLETION OF TRANSFER.—The Congress finds and declares that the lands described in subsection (b), which the United States shall hold in trust as part of the Pueblo de Taos Reservation pursuant to this section, complete the transfer effected by section 4 of the Act of May 31, 1933 (48 Stat. 109, chapter 45) (as amended, including as amended by Public Law 91-550 (84 Stat. 1437)).

Mr. DOMENICI. Mr. President, Section 402 of H.R. 4180 is essentially a substitute for S. 1509 which I am offering with my colleagues, Mr. BINGAMAN and Mr. DOLE. It will transfer 764 acres now locate in the Wheeler Peak Wilderness of the Carson National Forest to the Taos Pueblo, both in northern New Mexico.

The history of this area is fascinating and involves the only living culture in the United States to be recognized by the United Nations as a World Heritage Site. The United States of America can be very proud of the Taos Pueblo Indians who live in the Rocky Mountains of New Mexico. I know New Mexicans are proud of the Taos Pueblo for this most unique international honor in our Land of Enchantment.

Designation as a World Heritage Site is an honor we share with the Grand Canyon, Yosemite, the Statue of Liberty, and Independence Hall, to name several such sites in the United States. The Taos Pueblo, however, is the only living culture to be so honored in the Western Hemisphere.

A well-known cultural and religious attribute of this World Heritage Site at Taos Pueblo is the Blue Lake and its special spiritual significance to the Taos Pueblo and other New Mexico Indians. Blue Lake is nestled high in the Sangre de Cristo Mountains east of the Pueblo. The sacred ceremonies of the Taos Pueblo people at this site predate the signing of the Magna Carta.

The Bottleneck area is an integral part of Blue Lake and continues to be used by Taos Pueblo for religious pilgrimages. The sacred "Path of Life

Trail," connecting the Pueblo with Blue Lake, runs through the Bottleneck. The Blue Lake Wilderness includes Blue Lake, Star Lake, and Bear Lake. Headwaters to Rio Pueblo de Taos and the Rio Lucero are also in this sacred area. There is no doubt that he Blue Lake Wilderness, designated a wilderness area in the 1970 law, has been a vital source of livelihood and spiritual strength for the Taos Pueblo for over 1,000 years.

The bill pending before the Senate today is intended to complete the full transfer of the Blue Lake territory to the Taos Pueblo. The Path of Life Trail in the Bottleneck Tract will be returned to its rightful owners.

Most of the Blue Lake area transfer took place in 1970, when Public Law 91-550 was signed by President Richard M. Nixon. At the same time 48,000 of the 50,000 acres of Blue Lake Wilderness were returned to the Taos Pueblo. The entire 50,000 acre area known as the Blue Lake was acknowledged by the Indian Claims Commission in 1965 to be Taos Pueblo land. The creation of the Blue Lake Wilderness in 1970 by the Congress transferred 48,000 acres of the 50,000 acres back to back to Taos Pueblo to be held in trust by the United States for the Pueblo.

In 1979, the Federal District Court in Washington, DC, added 1,235 acres to the trust lands of Taos Pueblo in the Tract C transfer, leaving only the so-called Bottleneck Tract from the original 50,000 acre claim. Our legislation completes the Blue Lake transfer.

Drafted as an amendment to the Blue Lake Wilderness Act, our bill requires that the Bottleneck also be maintained as wilderness. The Taos Pueblo has an excellent record of maintaining the Blue Lake Wilderness. We have every confidence that adding the Bottleneck to the Blue Lake Wilderness will increase the enthusiasm of the Pueblo for continuing its excellent stewardship of the Blue Lake Wilderness.

The Wilderness Society, Audubon Society, Sierra Club, and the National Wildlife Federation support the return of the Bottleneck to Taos Pueblo.

Under the terms of this legislation, Taos Pueblo will hold the responsibility and right to manage and control the entire Blue Lake Territory. The Bottleneck Tract is currently a part of the Wheeler Peak Wilderness Area in the Carson National Forest, New Mexico, and is managed by the Forest Service. Taos Pueblo lands surround the Bottleneck on three sides (east, south, and west). Unfortunately, public access to this Bottleneck tract too often leads to unwelcome intrusions during Indian ceremonials into the surrounding Indian lands of the Blue Lake Wilderness Area.

The Bottleneck Tract, as managed by the Forest Service today, is essentially managed today as a scenic overlook. Taos Pueblo leaders are issued permits and the Forest Service closes the area for their pilgrimages. There are no public camping, fishing, or other recreational uses permitted, except hiking.

It is the intention of Taos Pueblo, under the terms of this bill, to continue to use these lands for traditional purposes only. These uses include religious and ceremonial pilgrimages, hunting and fishing, a source of water, forage for their domestic livestock, timber, and other natural resources for their personal use. These uses are all subject to such regulations for conservation purposes as the Secretary of the Interior may prescribe as managed by the Taos Pueblo under the terms of the Blue Lake wilderness legislation.

There is no intention in our legislation to change any water rights associated with the Blue Lake area or the Taos Pueblo. I have personally discussed this issue with the Taos tribal leaders who have assured me that the return of the Bottleneck will not alter their claims to water in the Taos Valley. There will be no adverse impact on downstream water users in the Taos Valley as a result of passage of this legislation. In fact, I remain optimistic about the on-going water negotiations in the Taos Valley and look forward to working with all parties to ratify a negotiated settlement in the Congress.

It is our intention that the lands shall remain forever wild and maintained as a wilderness.

Virtually identical legislation has been passed by the House on October 3, 1994, as Title VII of H.R. 4746, Gates of the Arctic National Park, and for other purposes. It is our hope that the Senate will pass this bill, return it to the House for final action, and then forward it to the President for signature.

We urge our colleagues to support our substitute bill for S. 1509, to transfer the last parcel of the Blue Lake Wilderness to the Taos Pueblo Indians of New Mexico.

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

The amendments (Nos. 2646, 2647, 2648) were agreed to en bloc.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Without objection the bill is read for a third time and passed.

The amendment to the title is agreed to.

The bill (H.R. 4180) was ordered to a third reading, was read the third time, and passed.

The title was amended so as to read:

A bill to clarify the status of the Tlingit and Haida, and for other purposes.

AMERICAN INDIAN TRUST FUND MANAGEMENT REFORM ACT OF 1994

Mr. BREAUX. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of H.R. 4833, the American Indian Trust Fund Management Reform Act of 1994 just received from the House, the bill be read three times and passed, and that the motion to reconsider be laid upon the table; and further that any statements on this measure appear in the RECORD at the appropriate place as though read.

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

The bill (H.R. 4833) was ordered to a third reading, was read the third time, and passed.

INDIAN SELF-DETERMINATION ACT AMENDMENTS OF 1994

Mr. BREAUX. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of H.R. 4842, a bill to specify the terms and contracts entered under the Indian Self-determination and Education Assistance Act just received from the House, the bill be read three times and passed, the motion to reconsider be laid upon the table; further, that any statements on this measure appear in the RECORD as though read.

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

The bill (H.R. 4842) was ordered to a third reading, was read the third time, and passed.

Mr. McCAIN. Mr. President, I rise today to make a few remarks concerning H.R. 4842, the Indian Self-Determination Act amendments of 1994. H.R. 4842 passed the House earlier this morning and combines two bills regarding Indian Self-Determination and Tribal Self-Governance.

Title I of H.R. 4842 is the Indian Self-Determination Contract Reform Act of 1994 and is virtually identical to S. 2036, a bill that passed the Senate last night. Title I incorporates technical changes that were inadvertently omitted from the Senate bill. Although I made a statement on S. 2036 last night, I want to repeat my comments today so that they parallel the bill that hopefully will be enacted into law this year.

Title I of H.R. 3842 reflects a good faith effort on the part of the Senate, House and the tribes to be responsive to the administration's concerns. With the inclusion of the changes incorporated in this amendment, I am advised that the administration is finally able to express its full support for the bill.

I want to comment on one aspect of H.R. 4842 which relates to the standards to be applied to the exercise of discretion by the Secretary. Under Public Law 93-638, the Secretary must

justify his decisions by a preponderance of the evidence. During the consideration of S. 2036 and H.R. 4842, the Indian tribes urged the Congress to raise this evidentiary standard to clear and convincing. The Department objected to this higher standard and suggested that it would compromise with the standard of clearly demonstrates which is included in H.R. 4842. Although this standard is not defined in the bill, it is clearly understood by all parties to mean more than a preponderance of the evidence, but less than clear and convincing evidence.

Although I am pleased that we are acting on H.R. 4842 today, I am deeply trouble by what has taken place during consideration of self-determination reform legislation. In my view, after the administration concluded that its attempts to indefinitely postpone the bill would be useless, the administration had one thing in mind with respect to self-determination reform: the administration's concerns were critical; tribal concerns were negotiable. I suspect the tribes themselves will be troubled by this because the administration has gone out of it way to proclaim itself as an administration that is more sensitive to tribal concerns. Frankly, if there is a unifying theme in this administration's Indian policy, it is the casual relationship between words and action.

Mr. President, this administration needs an Indian policy with fewer illusions and more attentiveness to the problems and opportunities that exist in Indian country today. If this administration really desires to match rhetoric with action, I encourage them to heed the advice contained in President Nixon's 1970 "Special Message to the Congress on Indian Affairs":

> For years we have talked about encouraging Indians to exercise greater self-determination, but our progress has never been commensurate with your promises. Part of the reason for this situation has been the threat of termination. But another reason is the fact that when a decision is made as to whether a Federal program will be turned over to Indian administration, it is the federal authorities and not the Indian people who finally make that decision.
>
> This situation should be reversed. In my judgment, it should be up to the Indian tribe to determine whether it is willing to assume administrative responsibility for a service program which is presently administered by a federal agency.

Mr. President, title II of H.R. 4842, the Tribal Self-Governance Act of 1994, is identical to H.R. 3508 and reflects the various agreements negotiated by the Senate Committee on Indian Affairs and the House Subcommittee on Native American Affairs with the Department of the Interior, Self-Governance tribes and the Senate Committee on Environment and Public Works. In addition, a new subsection (k) has been added which addresses further concerns raised by the International Association of Fish and Wildlife Agencies.

Title II is the culmination of months of hard work, persistence and determination by the self-governance tribes. Nearly 1 year ago I met with the leaders and representatives of these tribes to discuss the future of self-governance and their desire for legislation making self-governance permanent at the Department of the Interior. We had a frank and candid discussion about the possibility of extending self-governance to other Federal agencies, but in the end we agreed that, for now, the legislation would focus solely on the Department of the Interior. With the benefit of hindsight, I can say that we made a very wise decision, indeed. I know all of us who met that day fully anticipated that the Bureau of Indian Affairs as well as other Interior bureaus and offices would be resistant to the idea of establishing self-governance on a permanent basis. Nevertheless, I think all of us were a bit surprised at the level of resistance that came from an administration that takes pride in pointing out that reinventing government is one of its highest priorities. Perhaps changes are occurring in the operations of other Federal programs, but when it comes to the manner in which the Bureau of Indian Affairs administers Federal Indian programs, the old way of business—that is, the government knows best—still reigns at 1849 C Street.

Although the passage of permanent legislation has taken longer than I had expected, I never lost faith in the men and women who believe in self-governance and who have been committed to seeing this bill enacted into law. For them, the passage of this legislation is nothing less than the right of tribes to be self-governing. I am pleased to have played a small role in seeing that this legislation is passed by the Congress this year.

Mr. President, in recent weeks concerns have been raised by the International Association of Fish and Wildlife Agencies [IAFWA] about the potential impact of self-governance legislation on the existing jurisdiction and authority of the tribal, State and Federal governments over natural resources, including fish and wildlife resources. I ask unanimous consent that a copy of IAFWA's October 3, 1994, letter be printed in the RECORD immediately following my remarks.

Consequently, I asked Secretary Babbitt to review H.R. 3508 in light of IAFWA's concerns. Secretary Babbitt's letter of September 28, 1994, stated, in part, that

> Nothing in H.R. 3508 or Public Law 93-638 would change jurisdictional responsibilities for administering Federal laws governing natural resources, including fish and wildlife resources, or exempt Indian tribes from adhering to Federal laws and standards with respect to the protection and management of such resources.

Secretary Babbitt went on to state that

> * * * let me state a point which should be obvious to everyone—the Secretary of the Interior has no authority to change State law or jurisdiction. Consequently, I have no authority to confer on an Indian tribe jurisdiction exercised by a State government over any natural resource, including management of fish and wildlife resources. Nothing in Public Law 93-638 or H.R. 3508 confers such authority on the Secretary.

I ask unanimous consent that the Secretary's September 28, 1994, letter be printed in the RECORD immediately following the IAFWA letter.

I fully agree with the Secretary's construction of H.R. 3508—which also applies to title II of H.R. 4842—that the bill is not intended to change the jurisdictional authorities of the tribal, State, and Federal governments over natural resources, including fish and wildlife resources.

I am aware, for example, of reservations that are home to listed threatened or endangered species. Indian tribes are in a position to contribute data on those listed species that could be both helpful to the Secretary in carrying out his responsibilities under the Endangered Species Act, and beneficial to the Indian tribe in negotiating a compact for biological data collection. We also recognize that Indian tribes conduct conservation efforts on their reservations to benefit migratory birds, such as participation in the North American Waterfowl Management Plan. It is intended that H.R. 4842 facilitate such cooperation. This legislation is not intended to alter any existing State jurisdiction.

Concerns have been raised as to the scope of non-BIA programs, services, functions, and activities that are subject to compacts pursuant to sections 403(b)(2). Because National Parks and National Wildlife Refuges, for example, and programs such as the Endangered Species Act and the Marine Mammal Protection Act were established by Congress to benefit the general public, including Indians, a question could arise as to what elements, if any, of the Park and Refuge programs or the Endangered Species program fall within the scope of section 403(b)(2). It is not intended that the Secretary's authority to enter into compacts under section 403(b)(2) permit the transfer of inherently Federal responsibilities vested by Congress in the Secretary which are determined by the Federal courts not to be delegable under the constitution.

It is not possible at this time to list all the elements of Federal programs which may not be subject to self-governance compacts, but such a list certainly could include discretionary administration of Federal fish and wildlife protection laws, promulgation of regulations, obligation and allocation of Federal funds, the exercise of certain prosecutorial powers, and other discretionary functions vested in Federal officials. Thus, for example, with

respect to Federal apportionments made to States under the Federal Aid in Fish Restoration Act (Dingell-Johnson-Wallop-Breaux Program) or with respect to the Federal Aid in Wildlife Restoration Act (Pittman-Robertson Program) exclusive authority appears to relate to aid to the States, and therefore these programs would not be subject to inclusion in compacts under section 403(b)(2) of this act. However, where a tribe otherwise meets grant, contract, or other requirements for a program, a tribe, tribes or Indians do not have be identified in the authorizing statute to have said program included in a compact under section 403(b)(2).

To make clear that nothing in H.R. 4842 is intended to permit the Secretary to enter into a compact for the performance of responsibilities which are inherently Federal, that is, Federal responsibilities vested by the Congress in the Secretary which are determined by the Federal courts not to be delegable under the Constitution, section 403 is amended by adding a new subsection (k), as follows:

(k) Disclaimer—Nothing in this section is intended or shall be construed to expand or alter existing statutory authorities in the Secretary as to authorize the Secretary to enter into any agreement under sections 403(b)(2) and 405(c)(1) with respect to functions which are inherently federal or where legislation establishing the existing program does not authorize the participation sought by the tribe; Provided, however an Indian tribe or tribes need not be identified in the authorizing statute in order for a program or element of a program to be included in a compact under section 403(b)(2).

Mr. President, I ask unanimous consent that a copy of the letter from the Secretary of the Interior stating the administration's views on these amendments, with the exception of subsection (k), be inserted in the RECORD immediately following my remarks.

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

SECRETARY OF THE INTERIOR,
Washington, September 22, 1994.

Hon. JOHN MCCAIN,
Vice Chairman, Senate Committee on Indian Affairs, Washington, DC.

DEAR MR. VICE CHAIRMAN: I am pleased to transmit to you the Department of the Interior's favorable response to your proposed amendments to sections 403(b) and 405 of H.R. 3508 of the Tribal Self-Governance Act of 1994. This attached suggested language encompasses the compromises reached by the Department, your staff, Mr. Richardson's staff and tribal representatives. With the inclusion of these amendments, the Administration strongly supports H.R. 3508, as amended.

Tribal Self-Governance is consistent with my commitment to enhancing the government-to-government relationship with Tribes. I believe that this legislation is the single most important piece of legislation to advance Indian self-determination since P.L. 93-638. Further, Tribal Self-Governance is consistent with the Federal government's efforts to reinvent itself, by shifting responsibility for use of federal resources to elected tribal leaders.

I realize that there are some who are concerned about the possibility that Self-Governance tribes may compact for national programs that benefit the public at large. I must point out that the only non-BIA programs that will be available are those listed by mutual consent of both the Department and the Self-Governance Tribes. In addition, actual negotiations between a Tribe and the Department regarding programs that are eventually included in a Self-Governance agreement will identify any special conditions or requirements that should be met. Consequently, I am confident that the attached language adequately protects the responsibilities that my Department has to the American people.

I appreciate the leadership of many Tribal leaders and especially the leadership that you have rendered in making the possibility of permanent Tribal Self-Governance a reality. The Department has also transmitted this response to Congressman Richardson.

The Office of Management and Budget advises that it has no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

BRUCE BABBITT.

SEC. 403 (b) CONTENTS.—Each funding agreement shall—

(1) authorize the tribe to plan, conduct, consolidate, and administer programs, services, functions, and activities, or portions thereof, administered by the Department of the Interior through the Bureau of Indian Affairs without regard to the agency or office of the Bureau of Indian Affairs within which it is performed, including funding for agency, area and central office functions in accordance with section 403(g)(3) and, also, including (but not limited to) those administered under the authority of * * *

A new 403(b)(2):

(2) subject to such terms as may be negotiated, authorize the tribe to plan, conduct, consolidate, and administer programs, services, functions, and activities or portions thereof, administered by the Department of the Interior other than through the Bureau of Indian Affairs and that are otherwise available to Indian tribes or Indians as identified in section 405(c), except that nothing in subsection (b)(2) shall be construed to provide any tribe with a preference in its opportunity to administer programs, services, functions, activities or portions thereof, unless such preference is otherwise provided for by law;

A new 403(b)(3):

(3) subject to the terms of the agreement, authorize the tribe to redesign or consolidate programs, services, functions, and activities, or portions thereof, and to reallocate funds for such programs, services, functions, or activities, or portions thereof, except that reallocation, consolidation, and redesign with respect to 403(b)(2) programs shall require the joint agreement of the Secretary of the Interior and the tribe;

In section 403(g)(3), the first sentence should be changed to conform to the recommended changes above in the following manner:

(3) Subject to paragraph (4) of this subsection and paragraphs (1), (2) and (3) of subsection (b),

Revised Section 405(c)(1):

(1) In order to optimize opportunities for including non-Bureau Indian Affairs programs, services, functions, and activities, or portions thereof, in agreements with tribes participating in Self-Governance under this title, the Secretary—

(A) shall review all programs, services, functions, and activities, or portions thereof, administered by the Department of the Interior other than through the Bureau of Indian Affairs, without regard to the agency or office concerned, and

(B) within 90 days after the enactment of this title, provide to the appropriate committees of the Congress a listing of all such programs, services, functions and activities, or portions thereof, which the Secretary determines with the concurrence of tribes participating in Self-Governance under this title, are eligible for inclusion in such agreements at the request of a participating Indian tribe.

SECRETARY OF THE INTERIOR,
Washington, September 28, 1994.

Hon. JOHN MCCAIN,
U.S. Senate, Senate Russell Office Building, Washington, DC.

DEAR SENATOR MCCAIN: It has come to my attention that concerns have been raised about the potential impact of H.R. 3508 on the existing jurisdiction and authority of the tribal, state and federal governments over natural resources, including fish and wildlife resources.

It is important to note that the self-governance project is authorized as part of the Indian Self-Determination and Education Assistance Act, more commonly referred to as P.L. 93-638 or 638. This law was originally enacted in 1974 and was amended to include the self-governance demonstration project in 1988. As you know, H.R. 3508 would make the self-governance project permanent.

Nothing in H.R. 3508 or P.L. 93-638 would change jurisdictional responsibilities for administering federal laws governing natural resources, including fish and wildlife resources, or exempt Indian tribes from adhering to federal laws and standards with respect to the protection and management of such resources. Indeed, I am obligated by virtue of my oath of office to uphold and carry out these federal laws. This responsibility includes conditioning approval of self-determination and self-governance compacts as necessary to fulfill my responsibilities under such laws. Lastly, let me state a point which should be obvious to everyone—the Secretary of the Interior has no authority to change state law or jurisdiction. Consequently, I have no authority to confer on an Indian tribe jurisdiction exercised by a state government over any natural resource, including management of fish and wildlife resources. Nothing in P.L. 93-638 or H.R. 3508 confers such authority on the Secretary.

Thank you again for your leadership on this important legislation. I look forward to continuing to work with you to ensure its enactment.

The Office of Management and Budget advises that it has no objection to the presentation of this report from the standpoint of the Administration's program

Sincerely,

BRUCE BABBITT.

INTERNATIONAL ASSOCIATION
OF FISH AND WILDLIFE AGENCIES,
Washington, DC, October 3, 1994.

Hon. JOHN MCCAIN,
Co-Chairman, Committee on Indian Affairs, Hart Senate Office Building, Washington, DC.

DEAR SENATOR MCCAIN: We sincerely appreciate your continuing efforts to address

our concerns regarding H.R. 3508 and your willingness to provide language and legislative history which ensures that the scope of programs eligible for compact are those to which the statute already reaches. We would like to particularly recognize that both Mr. Dan Lewis and Mr. Eric Eberhard of your staff have been particularly helpful in bringing consensus to the proposal. We do regret that the lateness of the session constrains the time over which we have to perfect this language.

One of the Association's interests is in facilitating cooperation between the States and the tribes regarding the conservation of fish and wildlife resources. As you are aware, this cooperation has been improving in recent years because both parties have endorsed the merits of working together to meet all of our citizens' needs and interests in the future of fish and wildlife resources.

As you know, we are concerned about the overly broad and ambiguous language in H.R. 3508 because of its impact on both the tribes and the States. From the tribes' perspective, this language could raise expectations about programs which are not intended to be eligible for compact, or the Secretary is otherwise constrained from compacting to the tribes. From the States' perspective, this same ambiguous language may raise concerns about the reach of language such as "otherwise available to Indian tribes or Indians" which has yet to be judicially interpreted.

As agreed with Mr. Dan Lewis of your staff and tribal representatives/attorneys this morning, we have made a good faith effort to draft some language which makes minimal changes to the bill, and addresses most of our concerns through furthering the legislative history. We would ask for your endorsement of this language in response to the efforts we have made to further passage of H.R. 3508.

We also request that this letter and suggested language, along with that of Secretary Babbitt to you of September 28, 1994, be made a part of the public record for H.R. 3508.

Thank you for your sincere interest in facilitating cooperation between the Indian tribes and the States on fish and wildlife issues.

Sincerely,

R. MAX PETERSON,
Executive Vice-President.

AUTHORIZING TESTIMONY OF A SENATE EMPLOYEE

Mr. BREAUX. Mr. President, on behalf of the majority leader and the distinguished Republican leader, I ask unanimous consent the Senate proceed to the immediate consideration of S. Res. 281, a resolution relating to testimony of a Senate employee submitted earlier today, the resolution be adopted, the motion to reconsider be laid upon the table, the preamble be agreed to, and that explanatory statement by the majority leader appear at the appropriate place in the RECORD.

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

The resolution (S. Res. 281) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

(The text of the resolution will be printed in a future edition of the RECORD.)

Mr. MITCHELL. Mr. President, a law enforcement entity has requested testimony from staff of the Permanent Subcommittee on Investigations relating to its 3-year investigation into the management and operations of the Blue Cross and Blue Shield insurance network. The Senate has previously authorized documents to be produced in this matter with Senate Resolution 179 of the last Congress.

In keeping with the Senate's customary practice with regard to similar requests, and with the concurrence of the chairman and ranking minority member of the subcommittee, this resolution would authorize staff of the subcommittee to testify in response to this request, and in any related proceedings, except concerning matters for which a privilege should be asserted. In order to protect the Senate's privileges, the resolution would authorize the Senate Legal Counsel to represent subcommittee staff in connection with any testimony.

AUTHORIZING SENATE LEGAL COUNSEL TO REPRESENT OFFICE OF SENATE FAIR EMPLOYMENT PRACTICES

Mr. BREAUX. Mr. President, on behalf of the majority leader and the Republican leader, I send a resolution to the desk relating to the Office of Fair Employment Practices and ask unanimous consent that the Senate proceed to its immediate consideration; that the resolution be agreed to; that the preamble be agreed to; that a statement by the majority leader explaining this matter appear at the appropriate place in the RECORD.

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

So the resolution (S. Res. 282) was agreed to.

The preamble was agreed to.

(The text of the resolution will be printed in a future edition of the RECORD.)

Mr. MITCHELL. Mr. President, the case of Rhonda Farmer versus Office of Senate Fair Employment Practices, No. 94-6005, pending in the United States Court of Appeals for the Federal Circuit, involves judicial review of a final decision issued under the process created by title III of the Civil Rights Act of 1991 for adjudication of claims of discrimination in Senate employment.

Petitioner, a member of the Capitol Police, filed a complaint in December 1992 pursuant to section 307 of the Government Employee Rights Act of 1991, naming the Sergeant at Arms as the respondent. Petitioner seeks judicial review of the final decision, entered in the records of the Office of Senate Fair Employment Practices, which affirms a hearing board's rejection of her claims of discrimination on the basis of race and sex in the denial of a promotion and with respect to certain negative performance evaluations and disciplinary actions, and affirms an award of damages to Officer Farmer based on the hearing board's determination that she had proven that negative performance citations placed by a supervisor in her personnel file constituted retaliation for her exercise of rights under the 1991 Civil Rights Act.

The accompanying resolution would authorize the Senate Legal Counsel to represent the Office of Senate Fair Employment Practices in defense of the final decision entered pursuant to the direction of the Ethics Committee. The resolution would also recognize the statutory right of the employing office, the Sergeant at Arms, to intervene and to be represented by its counsel of choice.

The Sergeant's at Arms choice of counsel in this case is the Senate Chief Counsel for Employment. The Office of the Senate Chief Counsel for Employment was established as a nonpartisan office in May 1993 at the direction of the joint leadership of the Senate. The Office of the Senate Chief Counsel for Employment is staffed by experienced attorneys who specialize in employment law matters and litigation. The Office was established to advise Senate Members, officers, administrators, and Senate employing offices regarding employment laws, to assist them in complying with those laws, and to defend them in administrative and judicial proceedings addressing employment matters.

The Emergency Supplemental Appropriations Act, 1994, Public Law 103-211, provided the initial funding for the compensation and expenses of this Office. Funding for this Office was included as part of the President's annual budget request and was appropriated in the Legislative Branch Appropriations Act for fiscal year 1995, Public Law 103-283.

CAPITOL PRESERVATION COMMISSION

Mr. BREAUX. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 283, a resolution introduced earlier today by Senator BYRD regarding the Capitol Preservation Commission; that the resolution and the preamble be agreed to; the motions to reconsider be laid upon the table en bloc; and that any statements thereon appear in the RECORD at the appropriate place as though read.

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

So the resolution (S. Res. 283) was agreed to.

The preamble was agreed to.

(The text of the resolution will be printed in a future edition of the RECORD.)

CONSTITUTION DAY

NATIONAL WOMEN AND GIRLS IN SPORTS DAY

RELIGIOUS FREEDOM DAY

NATIONAL BURN AWARENESS WEEK

NATIONAL GOOD TEEN DAY

Mr. BREAUX. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged en bloc and the Senate proceed to the immediate consideration en bloc of H.J. Res. 390, S.J. Res. 186, S.J. Res. 218, S.J. Res. 225, and H.J. Res. 326, just received from the House; that these joint resolutions each be read a third time, passed, and the motion to reconsider be laid upon the table en bloc; and that any statements appear at the appropriate place in the RECORD.

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

So the joint resolutions (H.J. Res. 390, S.J. Res. 186, S.J. Res. 218, S.J. Res. 225, and H.J. Res. 326) were deemed read the third time and passed.

(The text of the joint resolutions will be printed in a future edition of the RECORD.)

PROHIBITING DUPLICATION OF BENEFITS AND DISASTER PAYMENTS

MR. BREAUX. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2551, to prohibit the duplication of benefits and disaster payments, introduced earlier today by Senator HEFLIN; that the bill be read three times, passed, and the motion to reconsider be laid upon the table; and that any statements relating to this item be placed at the appropriate place in the RECORD as if read.

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

So the bill (S. 2551) was deemed read the third time and passed.

(The text of the bill will be printed in a future edition of the RECORD.)

FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT

Mr. BREAUX. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2461, a bill to provide for the transfer of surplus property for donation to providers of services to impoverished families and individuals, received from the House and is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2461) to amend the Federal Property Administrative Services Act of 1949 to authorize the transfer to States of surplus personal property for donation to nonprofit providers of necessaries to impoverished families and individuals.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2649

(Purpose: To end the practice of imposing unfunded Federal mandates on States and local governments and to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations)

Mr. BREAUX. Mr. President, on behalf of Senator NUNN, I send to the desk an amendment, which is the text of S. 560 as passed by the Senate. I ask unanimous consent that the amendment be agreed to and the motion to reconsider be laid upon the table.

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

The amendment (No. 2649) was agreed to.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. BREAUX. Mr. President, I ask unanimous consent that the bill, as amended, be read three times, passed, and the motion to reconsider be laid upon the table; and that any statements be inserted in the RECORD at the appropriate place as if read.

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

So the bill (H.R. 2461), as amended, was deemed read the third time and passed.

(The text of the bill will be printed in a future edition of the RECORD.)

DEFENSE DEPARTMENT OVERSEAS TEACHER PAY AND PERSONNEL PRACTICES ACT

Mr. BREAUX. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 709, H.R. 3499, the Defense Department Overseas Teacher Pay and Personnel Practices Act.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2650

(Purpose: To provide that certain politically appointed Federal officers may not receive cash awards for a certain period during a Presidential election year, to prohibit cash awards to Executive Schedule officers, and for other purposes.)

Mr. BREAUX. Mr. President, on behalf of Senator LEVIN, I send an amendment to the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows.

The Senator from Louisiana [Mr. BREAUX], for Mr. LEVIN, proposes an amendment numbered 2650.

At the appropriate place insert the following:

SEC. . PROHIBITION ON CASH AWARDS TO CERTAIN FEDERAL OFFICERS.

(a) IN GENERAL.—Chapter 45 of title 5, United States Code, is amended by inserting after section 4507 the following new sections:

"§ 4508. Limitation of awards during a Presidential election year

"(a) For purposes of this section, the term—

"(1) 'Presidential election period' means any period beginning on June 1 in a calendar year in which the popular election of the President occurs, and ending on January 20 following the date of such election; and

"(2) 'senior politically appointed officer' means any officer who during a Presidential election period serves—

"(A) in a Senior Executive Service position and is not a career appointee as defined under section 3132(a)(4); or

"(B) in a position of a confidential or policy-determining character under schedule C of subpart C of part 213 of title 5 of the Code of Federal Regulations.

"(b) No senior politically appointed officer may receive an award under the provisions of this subchapter during a Presidential election period.

"§ 4509. Prohibition of cash award to Executive Schedule officers

"No officer may receive a cash award under the provisions of this subchapter, if such officer—

"(1) serves in—

"(A) an Executive Schedule position under subchapter II of chapter 53; or

"(B) a position for which the compensation is set in statute by reference to a section or level under subchapter II of chapter 53; and

"(2) was appointed to such position by the President, by and with the advice and consent of the Senate."

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 45 of title 5 of title 5, United States Code, is amended by inserting after the item relating to section 4507 the following:

"4508. Limitation of awards during a Presidential election year.

"4509. Prohibition of cash award to Executive Schedule officers."

Mr. BREAUX. I ask unanimous consent that the amendment be agreed to and the motion to reconsider be laid upon the table; that bill, as amended, be read three times, passed, and the motion to reconsider be laid upon the table; further, that any statements relating to this item be inserted in the Record at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, the request is agreed to.

So, the amendment (No. 2650) was agreed to.

So the bill (H.R. 3499), as amended, was passed.

(The text of the bill will be printed in a future edition of the RECORD.)

THEODORE LEVIN U.S. COURTHOUSE

Mr. BREAUX. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4967, designating the Theodore Levin U.S. Courthouse received from the House and at the desk, and that the bill be read three times, passed, and the motion to reconsider be laid upon the table, and that any statements relating to this matter be placed in the RECORD at the appropriate place as if read.

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

So the bill (H.R. 4967) was passed.

COMPENSATION OF PERSIAN GULF WAR VETERANS

Mr. BREAUX. Mr. President, I ask unanimous consent that the Veterans Committee be discharged from consideration of H.R. 4386, relating to the compensation of Persian Gulf war veterans, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4386) to amend title 38, United States Code, and so forth, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2651

Mr. BREAUX. Mr. President, on behalf of Senator ROCKEFELLER, I send a substitute amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. BREAUX], for Mr. ROCKEFELLER, proposes an amendment 2651 in the nature of a substitute.

(The amendment is printed in today's RECORD under "Amendment Submitted.")

Mr. BREAUX. I also ask unanimous consent that the amendment be agreed to; that the bill be read a third time and passed, and the motion to reconsider be laid upon the table; that any statements appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection it is so ordered.

So the amendment (No. 2651) was agreed to.

H.R. 4386: VETERANS' BENEFITS IMPROVEMENTS ACT OF 1994

Mr. ROCKEFELLER. Mr. President, as the Chairman of the Committee on Veterans' Affairs, I am enormously pleased that the Senate is considering H.R. 4386, a bill to amend title 38, United States Code, to provide the Secretary of Veterans Affairs with the authority to pay compensation to any Persian Gulf veteran suffering from a disability resulting from an undiagnosed, disabling health condition, to revise and improve the assessment of the health consequences of service during the Persian Gulf War, and for other purposes. I urge my colleagues to give their unanimous support to the Senate amendments to H.R. 4386, which I will offer shortly, and their unanimous support to final Senate passage of the bill as amended.

The pending measure, H.R. 4386, with a Senate amendment to the original House bill, represents a compromise that the Committees on Veterans' Affairs of the House and the Senate have reached on H.R. 4386 as originally passed by the House on August 8, 1994. This measure, which I will refer to as the compromise agreement, incorporates amendments to title 38 and freestanding provisions from: S. 2330, which the Committee reported to the Senate on September 28, 1994; S. 2325 and S. 2094, which the Committee reported to the Senate on September 27, 1994; S. 1546, which the Senate passed on March 25, 1994; H.R. 3313 which contained provisions originally reported in S. 1626 and which passed the Senate on June 8, 1994; H.R. 4088 which the House also passed on August 8, 1994; and H.R. 4724, H.R. 4768, and H.R. 4776 which passed the House on August 1, 1994.

SUMMARY

Mr. President, I will at this time summarize the provisions of the bill. Detailed descriptions of all of the provisions are set forth in the explanatory statement which was developed in cooperation with the House Committee on Veterans' Affairs. My counterpart on the House Committee on Veterans' Affairs, Chairman G.V. "Sonny" Montgomery, intends to insert the same explanatory statement in the RECORD when the House considers this measure.

Mr. President, the compromise agreement has 12 titles: Persian Gulf War Veterans; Board of Veterans' Appeals Administration; Adjudication Improvements; Veterans' Claims Adjudication Commission; Miscellaneous Provisions; Education and Training Programs; Employment Programs; Cemeteries and Memorial Affairs; Housing Programs; Homeless Veterans Programs; Reductions in Department of Veterans Affairs Personnel; and Technical and Clerical Amendments.

PERSIAN GULF WAR VETERANS

Mr. President, Title 1 of the compromise agreement contains provisions that would:

First, set forth specific congressional findings regarding Persian Gulf War veterans.

Second, state the purposes of the compromise bill.

Third, order the Secretary to (a) develop and implement a uniform and comprehensive evaluation protocol to provide extensive medical examinations to Persian Gulf War veterans who are suffering from illnesses the origins of which are unknown and that may be attributable to service in the Gulf War; (b) develop case definitions or diagnoses from such illnesses; and (c) ensure that VA provides the evaluations as many VA medical centers as possible. In order to make these evaluations as accurate and available as possible, the Secretary would be authorized to contract out these medical examinations, and any necessary treatment, to non-VA facilities, and to pay for travel and incidental expenses.

Fourth, require the Secretary to develop and implement a comprehensive outreach program to uniform Persian Gulf veterans and their families of medical care and other benefits that may be available to them from VA and DOD. the outreach program would include a semiannual newsletter to be prepared in consultation with veterans service organizations, and a toll-free number to provide any other information the Secretary considers appropriate.

Fifth, provide the Secretary with authority to pay compensation to any Persian Gulf War veteran suffering from a disability resulting from an undiagnosed illness that became manifest during active duty or to a degree of 10 percent or more within a period to be determined by the Secretary, and, if the Secretary determines that compensation should be paid to these Persian Gulf War veterans, would require the Secretary to publish proposed regulations under which compensation would be paid.

Sixth, direct VA to conduct a pilot study, whereby VA would develop an evaluation protocol and guidelines for medical examinations and tests for dependents of Gulf War veterans. These procedures would be restricted to those dependents whose illnesses, birth defects, or other disorders may be associated with the veterans' service in the Gulf War. It would authorize VA to pay for the medical examinations, tests, and consultations through contracts with non-VA facilities, and to use the data to determine whether Gulf War symptoms are being transmitted to family members.

Seventh, clarify that the Persian Gulf War Veterans Health Registry includes diagnostic tests in its definition of medical examinations

Eighth, authorize the Secretary of the Department of Veterans Affairs, in coordination with the Secretary of Defense, to carry out a survey of Gulf War veterans to gather information about their health problems and the health problems of family members.

Ninth, authorize VA to conduct an epidemiological study or studies of Persian Gulf War veterans if such a study is recommended by the National

Academy of Sciences in the report required by section 706(b) of the Veterans Health Care Act of 1992 (Public Law 102-585).

Tenth, amend section 1317 of title 38 to permit surviving spouses eligible to receive dependency and indemnity compensation (DIC) to elect to receive death pension under chapter 15 in lieu of DIC, and provide that, with respect to any cost-of-living adjustment in the rates of compensation and DIC provided for fiscal year 1995, all increased rates (other than those equal to a whole dollar amount) must be rounded down to the next lower dollar.

BOARD OF VETERANS' APPEALS ADMINISTRATION

Mr. President, Title 2 of the compromise agreement contains provision that would:

First, eliminate term limits for members of the Board of Veterans' Appeals other than the Chairman and provide that members of the Board would receive the same basic pay as received by administrative law judges, unless that would result in a reduction in pay.

Second, require the Chairman to establish a panel, including the Chairman and two other members of the Board, to conduct reviews of the job performance of Board members, establish job performance standards, and conduct reviews of the job performance of Board members within 1 year after the establishment of those job performance standards, and then at least every 3 years thereafter.

Third, specify that if the position of Chairman were to become vacant upon the expiration of the Chairman's term, the current Chairman would be authorized, with the approval of the Secretary, to continue to serve as Chairman until the Chairman is appointed to another term or a new Chairman is appointed (but not beyond the end of the Congress during which the term of office expired).

ADJUDICATION IMPROVEMENTS

Mr. President, title 3 of the compromise agreement contains provisions that would:

First, for purposes of claims for VA benefits, allow the Secretary to accept a written statement from the claimant as evidence of marriage, dissolution of a marriage, birth of a child, or death of a family member.

Second, allow the Secretary to accept the medical examination report of a private physician in support of any claim for VA disability benefits, without a requirement for confirmation by an examination by a VA physician, if the report is sufficiently complete to be adequate for purposes of adjudicating the claim.

Third, require the Secretary to take such actions as may be necessary to provide that claims remanded by the Board of Veterans' Appeals to regional offices or by the Court of Veterans Appeals to VA be treated expeditiously.

Fourth, permit the Board to screen cases on appeal at any point in the decision process (a) to determine whether the record is adequate for decisional purposes, or (b) for the development or attempted development of a record that is inadequate for decisional purposes.

Fifth, require the Secretary to submit to the House and Senate Committees on Veterans' Affairs a report addressing the feasibility and impact of a reorganization of VA claims adjudication divisions to a number of such divisions that would result in improved efficiency in the processing of claims.

VETERANS CLAIMS ADJUDICATION COMMISSION

Mr. President, title 4 of the compromise agreement contains provisions that would:

First, establish an independent commission to study VA's system for the disposition of claims for benefits, both at the regional office level and at the Board of Veterans' Appeals.

Second, describe the composition of the commission to be made up of nine members appointed by the Secretary of Veterans Affairs, to include the following: One member who is a former VA official; two members from the private sector who have expertise in the adjudication of claims relating to insurance or similar benefits; two members who are employed in the Federal Government, outside VA, who have expertise in the adjudication of claims for Federal benefits other than VA benefits; two members who are representatives of veterans service organizations; one member recommended by the American Bar Association or a similar private organization who has expertise in administrative law issues; and one member who currently is a VA official.

Third, direct the Commission to evaluate the entire adjudication system in order to determine the efficiency of its processes and procedures, including the impact of judicial review on the system, means for reducing the backlog of pending cases in the system, and means for improving timeliness and quality of the claims process by examining the VA's system for the disposition of claims and benefits delivery and any related issues the commission determines are relevant to such a study.

Fourth, order the Secretary to submit to the commission and the Committees on Veterans' Affairs of the Senate and House of Representatives any information which the Chairman of the study has determined necessary to carry out the study within 30 days of the Chairman's request for such information.

Fifth, require the Commission to present a preliminary report within 1 year of enactment of the act and a final report within 18 months of enactment.

Sixth, authorize that $400,000 be made available from amounts appropriated to VA for fiscal year 1995 for the payment of compensation and pension for the activities of the commission.

MISCELLANEOUS BENEFITS-RELATED PROVISIONS

Mr. President, title 5 of the compromise agreement contains provisions that would:

First, clarify that, for the purposes of a presumption of service connection based on exposure to ionizing radiation, participation in atmospheric testing of nuclear devices includes non-U.S. tests.

Second, provide that provisions of law requiring VA to establish a procedure for a particular type of claim may not be construed to prevent the establishment of service connection on a direct basis.

Third, extend the Secretary's authority to maintain the regional office in the Republic of the Philippines until December 31, 1999.

Fourth, provide that an application filed for non-service-connected pension or parents' DIC made within 1 year of a renouncement of such benefits will not be treated as an original claim, and benefits will be paid as though the renouncement had not occurred.

Fifth, clarify that an attorney may receive payment for representation in proceedings before VA or the Court of Veterans Appeals directly from VA out of a retroactive benefit award only if the total amount of the fee is contingent upon the claim being resolved in favor of the appellant.

Sixth, codify the presumptions of service connection based on exposure to herbicides for Hodgkin's disease, porphyria cutanea tarda, respiratory cancers—lung, trachea, bronchus, and larynx, and multiple myeloma established administratively by the Secretary.

Seventh, exclude payments received from Alaska Native corporations under the Alaska Native Claims Settlement Act from the calculation of income for purposes of determining eligibility for VA pension, but only to the extent that these payments are excluded for purposes of other means-tested Federal benefits programs as specified in ANCSA.

Eighth, eliminate the requirement that certain VA benefits paid to eligible veterans in the Republic of the Philippines be paid in pesos, thereby allowing VA to issue regulations in order to comply with the requests of the Departments of State and Treasury that such restrictions be eliminated.

Ninth, require an evaluation of the feasibility of a study of the health consequences for family members of atomic veterans of exposure of atomic veterans to ionizing radiation.

Tenth, establish a Center for Minority Veterans and a Center for Women Veterans.

Eleventh, require (a) the Secretary to establish an Advisory Committee for

Minority Veterans for a period of 3 years; (b) the Committee membership to represent certain groups relating to minority veterans; and (c) the Committee to submit a report to the Secretary, not later than July 1 of each even-numbered year, which assesses the needs of and programs for minority veterans, and require the Secretary to share this report with Congress.

Twelfth, require that a notice of appeal be deemed received by the Court on the date it is postmarked, if it is mailed. Only legible United States Postal Service postmarks would be sufficient.

EDUCATION AND TRAINING PROGRAMS

Mr. President, title 6 of the compromise bill contains provisions that would:

First, make permanent the program of vocational flight training available under chapters 30 and 32 of title 38, and chapter 106 of title 10.

Second, authorize the use of Indian reservations for the purposes of section 3115 of title 38, to allow eligible veterans to participate in program of on-the-job training on Indian reservations.

Third, add to the definition of the term "educational institution," for the purposes of chapters 34 and 36 and as described in section 3452(c), entities which provide training required for completion of any State-approved alternative teacher certification program, as determined by the Secretary.

Fourth, remove the requirement that courses offered by approved foreign universities and colleges be located at the site of the approved institution in order for such courses to be eligible for approval by the Secretary.

Fifth, require that correspondence programs and combination correspondence-residence courses may be approved by State Approving Agencies only if the educational institution is accredited by an entity recognized by the Secretary of Education, and that no less than 50 percent of such courses require a minimum of 6 months to be completed.

Sixth, increase the maximum amount available to State approving Agencies to $13,000,000 per fiscal year, and eliminate certain reporting and supervision requirements.

Seventh, add chapter 106 of title 10 to the sources of education and training benefits for which the Secretary will define full- and part-time training.

Eighth, extend the authority for the Veterans' Advisory Committee on Education through December 31, 2003, and make technical changes to the Committee's mandate.

Ninth, increase the level of funding available for contract educational and vocational counseling services from $5,000,000 to $6,000,000, effective October 1, 1994.

EMPLOYMENT PROGRAMS

Mr. President, title 7 of the compromise bill contains provisions that would:

First, create the position of Deputy Assistant Secretary of Labor for Veterans' Employment and Training who shall perform such duties as the Assistant Secretary of Labor for Veteran's Employment and Training prescribes and who shall be a veteran.

Second, provide that compensation for disabled veterans' outreach program [DVOP] specialists shall be set at rates comparable to the rates paid to professionals performing essentially similar duties in the State Government of the State in which that specialist is employed.

Third, expand the scope of the biennial study required under section 4110A to include (a) veterans of the Vietnam era who served outside the Vietnam theater of operations, (b) veterans who served after the Vietnam era, (c) veterans discharged or released from active duty within the 4 years prior to the study, and (d) a category for women veterans for each of the classifications of veterans.

Fourth, require Federal contractors to immediately list with the local employment service officer all open positions except executive and top management positions, those positions that will be filled from within the contractor's organization, and positions lasting 3 days or less.

Fifth, add benefits received under chapter 30 of title 38 and chapter 106 of title 10 to the amounts disregarded pursuant to section 4213.

CEMETERIES AND MEMORIAL AFFAIRS

Mr. President, title 8 of the compromise agreement would revise and improve matters relating to the national cemeteries. Specifically, the compromise agreement would:

First, restore the statutory eligibility for burial in national cemeteries of spouses who predecease veterans eligible for such burial.

Second, restore eligibility for burial in national cemeteries to surviving spouses whose subsequent marriage ended by death or divorce.

Third, extend the authorization of appropriations for the State Cemetery Grants Program from September 30, 1994 to September 30, 1999.

Fourth, authorize the use of flat grave markers at the Willamette National Cemetery in Oregon.

HOUSING PROGRAMS

Mr. President, title 9 of the compromise bill contains provisions that would:

First, add to the definition of "veteran" persons discharged or released from the Selected Reserves before completing 6 years of service because of a service-connected disability, and extend eligibility to surviving spouses of reservists who died on active duty or due to a service-connected disability.

Second, allow the Secretary to waive the precondition to restoration of loan guaranty entitlement contained in subsection 3702(b)(1)(A) once for each veteran.

Third, eliminate VA's prohibition against guaranteeing a loan to purchase or construct a home not served by public water and sewerage systems where such service is certified as economically feasible.

Fourth, allow for the costs of energy efficiency improvements to be added to the loan balance in connection with a loan refinanced for the purpose of reducing the interest rate.

Fifth, authorized the refinancing of adjustable rate mortgage loans to fixed rate mortgage loans at a higher interest rate.

Sixth, eliminate VA inspection requirements under section 3712(h)(2)(A), and provide that manufactured housing that is certified to conform to standard under section 616 of the National Manufactured Housing Construction and Safety Standards Act of 1974 shall be deemed in compliance with requirements of subsection 3712(h)(1).

Seventh, permit VA to acquire property from the lender at the price provided for under current law, despite the fact that the lender's bid at the foreclosure sale might have exceeded that price.

Eighth, add an exception from the 2-year minimum service requirement with respect to eligibility under chapter 37 of title 38 for service members discharged because of reduction in force.

HOMELESS VETERANS PROGRAMS

Mr. President, title 10 of the compromise agreement would revise and improve programs to assist homeless veterans. Specifically, the compromise agreement would:

First, require VA to submit an annual report on its activities to assist homeless veterans, including information on the numbers of homeless veterans served and the costs to the Department of its activities, and to report biannually on the effectiveness of these activities.

Second, require that VA complete and assessment of the needs of homeless veterans, as required by Public Law 102–405, report its finding to the Senate and House Committees on Veterans' Affairs by December 31, 1994, and update this report annually for 3 years.

Third, raise the limit on the number of comprehensive homeless centers that VA may establish from four to eight.

Fourth, remove the requirement in the Homeless Veterans Comprehensive Service Programs Act of 1992 that funds for various initiatives in the law be specifically provided for in an appropriations law.

Fifth, express that it is the sense of the Congress that (a) of the funds appropriated for any fiscal year for programs to assist homeless individuals, a share more closely approximating the proportion of the population of homeless individuals who are veterans should be appropriated to VA for VA

homeless programs; (b) of the Federal grants made available to assist community organizations that assist homeless individuals, a share of such grants more closely approximating the proportion of the population of homeless individuals who are veterans should be provided to community organizations that provide assistance primarily to homeless veterans; and (c) the Secretary should encourage Federal agencies that assist homeless individuals, including homeless veterans, to be aware of and make appropriate referrals to VA for benefits, such as health care, substance abuse treatment, counseling, and income assistance.

REDUCTION IN DEPARTMENT OF VETERANS AFFAIRS PERSONNEL

Mr. President, title 11 of the compromise agreement would limit the number of personnel reductions in VA and set other requirements regarding VA staff. Specifically, the compromise agreement would:

First, limit the cuts in the VA workforce from fiscal years 1993–99 to a total of 10,051 full-time equivalent employees [FTEE].

Second, require that, in determining the total number of FTEE in VA for purposes of achieving Federal workforce reductions, only those employees whose salaries and benefits are paid with appropriated funds may be counted VA FTEE.

Third, require the Secretary to submit an annual report, through the year 2000, to the House and Senate Committees on Veterans' Affairs that describes the numbers and positions of all VA employees cut and the rationale behind such cuts.

Fourth, provide enhanced authority for VA to contract for services during fiscal years 1995–1999 in order to assist VA in achieving its work force reduction, and provide certain assistance and hiring preference to those employees who are displaced by contract workers.

Fifth, require the Secretary to contract with an appropriate non-Federal entity to study and report to Congress on the feasibility and advisability of alternative organizational structures, such as the establishment of a quasi-Government corporation, to provide health care to veterans.

COMPENSATION FOR PERSIAN GULF WAR VETERANS FOR DISABILITIES RESULTING FROM UNDIAGNOSED ILLNESSES

Mr. President, the provisions of the compromise agreement regarding Persian Gulf war veterans would clearly provide the Secretary with authority to pay compensation to any Persian Gulf veteran suffering from a disability resulting from an undiagnosed illness that became manifest during active duty, or to a degree of 10 percent or more within a period following service in the Persian Gulf war to be determined by the Secretary. This strongly bipartisan and bicameral provision is derived from provisions that Representatives MONTGOMERY, KENNEDY, and EVANS offered in the House which were incorporated into H.R. 4386 which passed the House on August 8, 1994, and from provisions that Senator DASCHLE and I offered at the September 23, 1994, Senate Committee on Veterans' Affairs meeting.

My distinguished colleague on the committee, Senator DASCHLE, worked extremely long and hard with me on this issue throughout the entire 103d Congress. During the past several weeks, he and his staff member, Rachel Graham, have devoted much time and energy to crafting the final Senate provisions relating to Persian Gulf veterans.

Mr. President, I regret that this situation requires a legislative remedy. However, I strongly believe this measure is the appropriate action to take because the Department of Veterans Affairs will not take action on its own to provide compensation to Persian Gulf war veterans clearly disabled following their service in the Gulf. Under this measure, the Secretary would be required to decide whether to compensate these veterans, and, if so, to prescribe regulations to implement the decision and thereby provide Persian Gulf war veterans the compensation they deserve. The Secretary would determine the appropriate period of time following service in the Southwest Asia theater of operations for a presumption of service connection. In addition, the regulations would have to include a description of the particular military service involved, the illness for which compensation may be paid, and the relevant medical characteristics associated with the illnesses. Of the various legislative options available, I believe this is a good approach because it avoids micromanagement of the Department by Congress, and validates VA's authority to make decisions concerning service connection for specific conditions.

Mr. President, I strongly believe that Congress should not be in the business of legislating service connection for every new disease that results from service in particular wars or military conflicts. That is simply not where our expertise lies. Although this measure is limited to Persian Gulf war veterans, it still leaves the discretion for such decisions to VA, where it rightfully belongs. Only when VA fails to act poorly in carrying out its obligations with respect to compensating veterans for service-related disabilities should Congress step in and take some corrective action.

Mr. President, this measure will not resolve all of the problems faced by Persian Gulf veterans. There are still many unanswered questions concerning the health effects of service in the Persian Gulf and whether conditions that take a longer time to show up can be connected to Persian Gulf service. As has been noted previously, we will have to wait for the scientific and medical evidence to provide us with answers. However, I am happy to note that, in addition to the many steps already being taken in this effort by VA, the Secretary of Defense, and the Secretary of Health and Human Services, this measure also would require VA to develop a uniform and comprehensive medical evaluation protocol, and would provide for the evaluation of the health status of spouses and children of Persian Gulf war veterans.

Mr. President, my hope is that we can enact this measure, so that VA can begin to compensate all veterans who are suffering from undiagnosed, service-connected conditions that have left them severely disabled. These deserving veterans should not be penalized simply because their diseases have no name. They are sick because of their military service, and therefore should receive compensation from the Government they served so bravely.

EDUCATION, JOB TRAINING, AND HOME LOANS

This bill also contains many technical corrections and improvements to programs which provide education benefits, job training, and home loan benefits to millions of our veterans.

Among these improvements—thanks to my colleague and good friend TOM DASCHLE—vocational flight training will be established as a permanent program under chapters 30 and 32 of title 38, and chapter 106 of title 10, United States Code. Nearly 1,800 veterans have benefited from the financial assistance these programs have provided under the Montgomery GI bill and the Veterans Educational Assistance Program, a majority of whom have gained employment in the aviation industry. However, authority to allow eligible veterans to use their education benefits for flight training expired on September 30.

It is important to provide as many options as possible for eligible veterans who wish to pursue approved programs of education or vocational training. Eligible veterans who wish to pursue careers in aviation should continue to be allowed to use their education benefits for approved programs of flight training, a result achieved by this bill.

This bill also makes improvements and technical corrections to the Service Members Occupational Conversion and Training Act [SMOCTA]. SMOCTA has been instrumental in helping over 7,000 former service members secure job placement in the private sector. However, some adjustments will make SMOCTA even more valuable for participants.

Under current law, the 18-month limitation on payment of the subsidy is phrased in terms of an 18-month limit on the period of training. This limitation prevents veterans from entering into some training programs for stable,

well-paying jobs. This bill allows employer and veteran to agree to a training program that lasts longer than 18 months if they are willing to do so without the benefit of a subsidy for the extended training period. While this will greatly improve the utility of the program for both veteran and employer, removing the 18-month cap on training will not increase the amount of the subsidy payable under a training program.

Mr. President, these are only a few examples of the adjustments made to VA education, home loan, and job training programs in this bill. While most are relatively minor, when taken together they will help VA maintain and improve services to many thousands of our veterans. I wish to recognize the hard work and dedication of GEORGE SANGMEISTER, chairman of the House Subcommittee on Housing and Memorial Affairs, who has made tremendous contributions to this bill and countless others which have benefited our veterans during his 6 years in Congress. He has been an active chairman, and I thank him for his good work.

REDUCTIONS IN DEPARTMENT OF VETERANS AFFAIRS PERSONNEL

Mr. President, title 11 of the compromise agreement would limit the number of personnel reductions in VA and set other requirements regarding VA staff. This agreement follows months of discussions among the two Committees on Veterans' Affairs, VA, and the Office of Management and Budget. I believe it strikes a reasonable balance between the two difficult and competing objectives of reducing the Federal work force and delivering health care to our Nation's veterans. I thank my good friend and chairman of the House Committee on Veterans' Affairs, Mr. MONTGOMERY, for his cooperation, hard work, and ceaseless advocacy for veterans and veterans' health care.

BACKGROUND

Mr. President, in March 1993, Vice President Albert Gore, Jr., launched a 6-month national performance review of the Federal Government with the aim of finding ways to make Government work better and cost less. The report of the performance review described numerous changes to the Government that, according to the report could, if implemented, achieve these aims. The report suggested that these changes would enable the Government, through greater program and management efficiency, to reduce the Federal work force by 252,000 positions by the year 2000.

Mr. President, let me reiterate this last point. The National Performance Review team stated, "* * * the reinventions we propose *will allow* us to reduce the size of the civilian * * * work force by 12 percent [252,000 FTEE] over the next 5 years." The report does not state that cutting the workforce will necessarily result in greater efficiency or improved service for our citizens. The NPR report correctly puts the horse before the cart—improvements would enable a workforce reduction, not result from a workforce reduction.

On March 30, 1994, Congress considered legislation which, in part, was designed to codify the Federal cutback into law. The Federal Workforce Restructuring Act of 1994 proposed a reduction in the Federal Government of 272,900 positions between fiscal years 1993 and 1999. This proposal received the overwhelming support of both Houses of Congress. Public Law 103-226 was enacted March 30, 1994.

Mr. President, this law gives the Office of Management and Budget the authority to determine how to distribute personnel cuts among the Federal agencies. Unfortunately, OMB planned an across-the-board cut of 12 percent for all agencies, instead of looking carefully at each agency's workforce and ability to sustain cuts without compromising the agency's mission. For VA, OMB proposed to cut 27,000 FTEE during the next 5 years. This proposed cut concerned me enormously, particularly in the context of health care reform, as it did my fellow committee members, the House Committee on Veteran's Affairs, and the many veterans who contacted me about this issue.

Mr. President, I note that, contrasted with OMB's proposal, a later, specific analysis of VA by the National Performance Review showed that, if VA fully implemented all management streamlining proposals, VA would be able to cut a total of only 289 FTEE.

Mr. President, in response to OMB's projected 27,000 FTEE cut, the chairman of the House Committee on Veteran's Affairs [Mr. MONTGOMERY] introduced H.R. 4013 on March 11, 1994, which would have exempted the Veterans Health Administration from work force reductions over the next 5 years, provided that appropriate funding was provided for these positions. The bill would have exempted over 211,000 employees. H.R. 4013 passed the House on May 3, 1994.

Mr. President, I share the concern of my friend, Chairman MONTGOMERY, that VA medical centers cannot afford drastic cuts in staff. We must strengthen the veterans health system by protecting hospitals from arbitrary across-the-board cuts in medical staff. We must search for a long-term solution that maintains the Federal Government's commitment to veterans and permits VA flexibility to staff, contract out, purchase, sell, and do whatever else a business delivering health care services is permitted to do, but without the constraints of Federal employment ceiling and other restrictions. Mr. President, we should not put an artificial cap on health care staffing and, at the same time, tell VA to be a competitive health care provider. The compromise agreement attempts to address this issue.

SUMMARY OF AGREEMENT

Mr. President, the compromise agreement would set a 5-year limit on the number of VA personnel cuts, not to exceed 10,051 FTEE. I and others participating in the negotiation believe that VA could sustain this level of cuts without affecting direct medical care for veterans.

The agreement would also require that, in determining the total number of FTEE in VA for purposes of achieving Federal work force reductions, only those employees whose salaries and benefits are paid with appropriated funds may be counted as VA FTEE. The Department currently counts approximately 5,400 positions that are paid with funds other than federally appropriated funds. In fiscal year 1993, the Veterans' Canteen Service employed 3,065 staff who were paid from the receipts of canteen sales, not from Federal appropriations. Employees of the nonprofit research corporations and Medical Care Cost Recovery Program are similarly paid with nonappropriated money. I strongly believe that, for purposes of determining an accurate estimate of the number of Federal employees in VA, those employees whose salaries and benefits are not paid with taxpayers' money should not be counted.

Mr. President, the compromise agreement also would waive certain conditions with which VA must comply in order to contract out for services that the Department could otherwise perform, provided that certain protections and assistance are provided to those former VA employees who are replaced by workers hired by contract. The Secretary would be required to ensure that, in any contract for services that had been provided by VA employees, the contractor would be required to give priority to former VA employees who were displaced by the award of the contract. The Secretary would also be required to provide to such former VA employees all possible assistance in obtaining other Federal employment or entrance into job training programs.

Finally, Mr. President, the compromise agreement would require the Secretary to contract with an appropriate non-Federal entity to study and report to Congress on the feasibility and advisability of alternative organizational structures, such as the establishment of a quasi-Government corporation, to provide health care to veterans.

Mr. President, as a Federal agency which is funded with federally appropriated money, VA has not had the proper incentives to perform as a business. VA hospitals receive appropriations and remain open generally without regard to how many veterans are

being served or the quality of service they provide. Although VA does collect a limited amount of third-party reimbursements and copayments, it does not need or rely upon such income. It does not need to attract a certain number of veterans to remain in service. In essence, VA does not have a bottom line to drive it to deliver high quality services for a competitive price.

The compromise agreement would require a study that assesses the management structures and organization of the VA health care delivery system. While there are many aspects of VA that should and must remain federally funded and centrally administered—such as programs to assist veterans who suffer from homelessness, posttraumatic stress disorder, or spinal cord injuries, or who need blind rehabilitation—certain aspects of VA's health delivery system could operate more like nongovernment businesses. I believe that VA should strive to serve veterans' health care needs in the best and most effective manner possible. Regardless of whether substantial changes occur in the Nation's health care system, this study should benefit the Department's health delivery system.

CONCLUSION

Mr. President, in closing, I again thank my good friends Representatives SONNY MONTGOMERY and BOB STUMP, the chairman and ranking minority member of the House Committee on Veterans' Affairs, for their cooperation and assistance as we have developed this compromise. I also thank our committee's ranking minority member, my good friend FRANK MURKOWSKI, and all the members of the Senate Committee for their support on this measure.

Mr. President, I also want to thank the staff who have worked extremely long and hard on this compromise—Mack Fleming, Jill Cochran, Ralph Ibson, Greg Matton, Winsome Packer, Gloria Royce, Pat Ryan, John Brizzi, Richard Jones, and Kingston Smith on the House committee, and Bill Brew, Meg Morrow, Tom Hart, Valerie, Kessner, Dan Rauh, Diana Zuckerman, Kim Lipsky, Patricia Olson, Lara Muldoon, Mary Schoelen, Jim Gottlieb, Bill Tuerk, Chris Yoder, Mickey Thursam, and John Moseman with the Senate committee. I also thank Robert Cover and Charlie Armstrong of the House and Senate Offices of Legislative Counsel for their excellent assistance and support in drafting the compromise agreement.

Mr. President, I ask unanimous consent that the explanatory statement that I mentioned earlier appear in the RECORD.

JOINT EXPLANATORY STATEMENT FOR H.R. 4386, THE VETERANS' BENEFITS IMPROVEMENTS ACT OF 1994

H.R. 4386 reflects a compromise agreement that the Senate and House of Representatives Committees on Veterans' Affairs have reached on certain bills considered in the Senate and the House of Representatives during the 103d Congress. These are the following: H.R. 4386, which the House passed on August 8, 1994; H.R. 4088, which the House Committee on Veterans' Affairs reported on August 4, 1994, and the House passed on August 8, 1994 as S. 1927; H.R. 4768, which the House passed on August 1, 1994; H.R. 4776, which the House passed on August 1, 1994; H.R. 4724, which the House passed on August 1, 1994; H.R. 949, which the House passed on September 21, 1993; H.R. 3013, which the House passed on June 13, 1994; H.R. 3456, which the House passed on November 16, 1993; S. 1908, which the Senate passed on August 19, 1994; S. 1546, which the Senate passed on March 25, 1994; S. 2330, which the Senate Committee on Veterans' Affairs reported on September 28, 1994; S. 2325, which the Senate Committee on Veterans' Affairs reported on September 27, 1994; S. 2094, which the Senate Committee on Veterans' Affairs reported on September 27, 1994; and S. 1626, which was reported by the Senate Committee on Veterans' Affairs on May 23, 1994, and passed by the Senate as part of H.R. 3313 on June 8, 1994.

The Committee on Veterans' Affairs of the Senate and House of Representatives have prepared the following explanation of H.R. 4386 as amended (hereinafter referred to as the "compromise agreement"). Differences between the provisions contained in the compromise agreement and the related provisions in the above-mentioned bills are noted in this document, except for clerical corrections, conforming changes made necessary by the compromise agreement, and minor drafting, technical, and clarifying changes.

TITLE I—PERSIAN GULF WAR VETERANS

Findings

Current law: No provision.

House bill: Section 2 of H.R. 4386 sets forth specific congressional findings regarding Persian Gulf War Veterans, including the following: (1) During the Persian Gulf War, members of the Armed Forces potentially were exposed to toxic substances and psychological stress; (2) Persian Gulf War veterans suffer from illnesses that cannot now be diagnosed or defined, and, as a result, VA does not consider these illnesses to be service connected for VA benefit purposes; (3) the National Institutes of Health Technology Assessment Workshop on the Persian Gulf Experience and Health, held on April 27–29, 1994, was unable to identify a single disease entity or syndrome responsible for these illnesses; (4) the workshop concluded that the data on the range and intensity of the exposure to toxic substances are limited and were collected after considerable delay; (5) under Public Law 102–585, VA established the Persian Gulf War Veterans Health Registry, authorized health examinations, and authorized NAS to conduct a review and assessment of the information about the health consequences of service during the Persian Gulf War, and to make recommendations for research; (6) Public Law 103–210 authorized priority health care for Persian Gulf War veterans; (7) Public Law 103–160, the National Defense Authorization Act for Fiscal Year 1994, provided funding for a specialized environmental research medical facility; and, (8) further research and studies must be undertaken and veterans must be given the benefit of the doubt and provided compensation.

Senate bill: No comparable provision.

Compromise agreement: Section 102 follows the House, adding that the National Defense Authorization Act for Fiscal Year 1995 authorizes the Secretary of Defense to provide research grants for three types of studies of the Gulf War syndrome, including the following: (1) an epidemiologic study or studies; (2) studies related to the health consequences of the use of pyridostigmine bromide; and (3) other studies on the causes, treatment, and possible transmission of Gulf War illnesses.

Purposes

Current law: No provision.

House bill: Section 3 of H.R. 4386 states the purposes of the House bill as follows: (1) To provide compensation to Persian Gulf War veterans suffering disabilities resulting from undiagnosed illnesses; (2) to require the development of case assessment strategies and definitions and diagnoses at the earliest possible date; (3) to promote greater outreach to Persian Gulf War veterans and their families; and (4) to fund research activities and surveys of Persian Gulf War veterans.

Senate bill: No comparable provision.

Compromise agreement section 103 follows the House bill.

Development of medical evaluation protocol

Current law: Title VII of the Veterans Health Care Act of 1992 (Public Law 102–585) requires the Secretary of Veterans Affairs to establish and maintain a Persian Gulf War Veterans Health Registry. Those individuals who served as a member of the Armed Forces in the Persian Gulf War become eligible for enrollment in the registry after they give historical information about their health and military exposures, receive a physical examination, and receive routine diagnostic testing.

On June 17, 1994, VA announced the implementation of a comprehensive case assessment protocol to be used by selected VA medical centers. The first phase of the protocol would continue to be the evaluation provided through enrollment into the VA Persian Gulf War Veterans Health Registry. If necessary, additional evaluations would be offered.

House bill: Section 104 of H.R. 4386 would require the Secretary of Veterans Affairs, in consultation with the Secretaries of Defense and Health and Human Services, to develop at the earliest possible date uniform case assessment protocols and case definitions or diagnoses for illnesses attributed to service in the Persian Gulf War. The Secretary of Veterans Affairs would be required to provide status reports on these activities, with the first such report due to the Committees on Veterans' Affairs of the House and Senate not later that 6 months after the date of enactment of the act.

Senate bill: Section 3 of S. 2330 is similar to the House bill and would require the Secretary to develop and implement a uniform and comprehensive evaluation protocol to provide extensive medical examinations to Persian Gulf War veterans who are suffering from illnesses the origins of which are unknown and that may be attributable to service in the Gulf War. It would not require VA to provide a case definition of the illness. Section 3 of S. 2330 also would require that the Secretary of Veterans Affairs, in consultation with the Secretary of Defense, ensure that information on the protocols of the two agencies is collected and maintained in a manner that enables the information to be analyzed together.

This section also would require that the VA provide the comprehensive clinical evaluations at as many VA medical centers are possible. This evaluation protocol must include evaluation for reproductive complaints, including but not limited to birth

defects, miscarriages, and abnormal semen. If a VA medical center were to be unable to provide the comprehensive clinical evaluation, VA would have the authority to provide funding for the veteran to travel to a VA medical center or non-VA facility that can provide the necessary assessment, diagnosis, and treatment. VA would also have the authority to pay for care at non-VA medical facilities. For individuals whose symptoms or illnesses remain undiagnosed or unresponsive to treatment after comprehensive clinical evaluations at VA medical facilities, the Secretary of Veterans Affairs would be authorized to provide funds for the veteran to be evaluated by a recognized medical institution outside of the VA medical system. All information gathered by non-VA medical facilities as part of these protocols would be required to be maintained by VA.

VA would be authorized to enter into an agreement with the National Academy of Sciences under which appropriate members of the Academy would review the adequacy of the comprehensive clinical evaluation protocol and its implementation by VA.

Compromise agreement: Section 104 includes the requirement that VA develop a medical evaluation protocol, which was included in both the House and Senate bills. It includes the Senate provision requiring VA to make the medical protocol available in as many VA medical centers as possible and to include examinations and tests for reproductive complaints. The compromise agreement specifies that the Secretary has authority to contract out these medical examinations, tests, and consultations, and any necessary treatment, to non-VA facilities, and to pay for travel and incidental expenses, under section 1703 and section 111 of title 38. The Senate provision regarding reviews by the National Academy of Sciences is also included. The compromise agreement includes the House provision requiring that VA develop a case definition of "Gulf War Syndrome."

Section 104 reflects the Committees' concerns about the letters and Congressional testimony they have received from Gulf War veterans who report that they have had difficulty in obtaining appropriate medical examinations or diagnoses at numerous VA medical centers.

Outreach to Persian Gulf Veterans

Current law: Section 702(f) of Public Law 102-585 required VA to notify periodically individuals listed in the Persian Gulf War Veterans Health Registry of significant developments in research on the health effects of military service in the Persian Gulf during the Persian Gulf War. Neither this provision, nor any other provision in law otherwise specifically requires VA to establish an outreach program for Persian Gulf War veterans and their families. There are a number of benefits and services available to these individuals, but there currently is no single source of VA information to ensure that they know about the benefits and services for which they may be eligible, as well as the scientific studies and research currently being conducted and any developments with respect to such research.

House bill: Section 5 of H.R. 4386 would require the Secretary to develop and implement a comprehensive outreach program and information system to provide Persian Gulf War veterans and their families with information regarding VA's Persian Gulf War Veterans Health Registry, access to health services and health-related benefits, compensation and other benefits, and developments in research regarding the health consequences of service in the Persian Gulf, and to establish a toll-free telephone number for Persian Gulf veterans and their families.

This section also would amend section 702(f) of Public Law 102-585 to require VA to establish a newsletter to be distributed at least quarterly to all veterans listed on the VA's Persian Gulf War Veterans Health Registry, or survivors of such veterans. The newsletter would provide updates on the status and findings of Government-sponsored research on illnesses which may be related to the veteran's service in the Persian Gulf theater of operations. The newsletter also would include information regarding any VA or DOD compensation and benefits, including health care and other health-related benefits which may be available to Persian Gulf War veterans or their family members from either VA or DOD. The newsletter would be required to be prepared in consultation with veterans service organizations.

Senate bill: Section 4 of S. 2330 would require the Secretary to develop and implement a comprehensive outreach program to inform Persian Gulf veterans and their families of medical care and other benefits that may be available to them from VA and DOD. Subsection (b) would require that this outreach program include a newsletter to be updated and distributed at least annually to all veterans listed on VA's Persian Gulf War Veterans Health Registry. The newsletter would provide summaries of the status and findings of Government-sponsored research on illnesses which may be related to the veteran's service in the Persian Gulf theater of operations. The newsletter would also include information regarding any VA benefits which may be available to Persian Gulf veterans and their families. The newsletter would be required to be prepared in consultation with veterans service organizations.

Subsection (c) of section 4 would require that the outreach program include establishment of a toll-free number within 90 days after the enactment of the act to provide Persian Gulf War veterans and their families information about the Persian Gulf War Veterans Health Registry, health care, and other benefits provided by VA. In addition, the toll-free number would provide any other information the Secretary considers appropriate.

Compromise agreement: Section 105 follows the Senate bill, except that the Secretary would be required to issue the newsletter at least twice a year, and this requirement would terminate on December 31, 1999.

Compensation benefits for disability resulting from illness attributed to service during the Persian Gulf war

Current law: There is no provision in current law relating specifically to compensation for Persian Gulf War veterans.

House bill: Section 6 of H.R. 4386 would amend title 38 to add a new section 1117 which would require the Secretary to pay compensation to any Persian Gulf veteran suffering from a disability resulting from an undiagnosed illness that became manifest to a degree of at least 10 percent before October 1, 1996, or within 2 years after the veteran last performed active service in the Southwest Asia theater of operations, whichever is later. A veteran would not receive compensation if there was affirmative evidence that the disability was not incurred during service in the Persian Gulf theater of operations during the Persian Gulf War or if there was affirmative evidence showing that the veteran suffered from an intercurrent injury or illness, recognized to be a cause of the disability, between the time of the veteran's departure from the Persian Gulf and the onset of the disability.

Payment of compensation under this provision would be for 3 years following enactment of the act, with an automatic extension of 3 years if the Secretary reports to the Committees on Veteran's Affairs of the Senate and the House of Representatives prior to the end of the first 3-year period that no diagnoses for the illnesses experienced by Persian Gulf veterans can be made, based on then-current medical knowledge. A report from the Secretary submitted to the Committees would be due by no later than April 1, 1997.

Senate bill: Section 2(a) of S. 2330 would amend title 38 to add a new section 1112A, which would provide the Secretary with express general authority to conduct an inquiry when the Secretary becomes aware of assertions that a group of veterans with the same or similar military service share similar diseases, illnesses, or medical signs or symptoms, and that such health conditions are related to their service. Such an inquiry would be carried out for the following purposes: To determine whether veterans with the particular military service in question have the claimed health conditions; to identify all veterans who had such service to determine which veterans have such health conditions; and to determine whether a presumption of service connection should be established for such health conditions.

Under this new authority, if the Secretary determines that a presumption of service connection for any such health condition should be established, the Secretary would be required to prepare a proposal for establishing such a presumption. The proposal would be required to include a description of the particular military service involved, the health condition at issue, the relevant medical characteristics associated with the health condition, and a statement of any limitations on the period for which the Secretary proposes to pay compensation.

After completion of the proposal, the Secretary would be required to submit a report to the Committees on Veterans' Affairs of the Senate and House of Representatives, including the proposal, as well as recommendations for legislation concerning the establishment of the presumption and the reasons for these recommendations.

With specific respect to veterans of the Persian Gulf War, section 2(c) of the Senate bill would require the Secretary to report to the Committees, within 30 days of enactment of the act, whether or not a presumption of service connection should be established between service in the Southwest Asia theater of operations and health conditions experienced by Persian Gulf War veterans. If the Secretary determines that such a presumption should be established, the Secretary, pursuant to section 2(d) of the bill, would be required to include in the report the elements of any report made under the provisions of the new section 1112A and publish proposed regulations relating to establishment of the presumption, allowing 30 days for public notice and comment on the proposed regulations. The Secretary would be required to publish final regulations within 30 days following the expiration of the public notice and comment period.

Section 2(e) would set certain requirements for the treatment of claims and compensation for Persian Gulf veterans if based on a presumption of service connection under the provisions of the Senate bill. First, an award of compensation under the new regulations would not preclude payment of retroactive benefits to a veteran with a claim pending on the date of enactment of these

provisions, if VA later determines that the condition is service connected. Second, the Secretary would be required to consider sending all claims for compensation under the new regulations to one regional office for adjudication for purposes of ensuring consistency in rating decisions. Finally, VA would be required to reopen and readjudicate any claims for service-connected disability compensation for a health condition covered in the new regulations that were denied prior to enactment of these provisions. These claims would be considered original claims, and if compensation is eventually awarded, the effective date of the award would be the date the original claim was filed.

Compromise agreement: Section 106 would amend title 38 to add a new section 1117 which would provide the Secretary with authority to pay compensation to any Persian Gulf veteran suffering from a disability resulting from an undiagnosed illness that became manifest during active duty in the Southwest Asia theater of operations during the Persian Gulf War or to a degree of 10 percent or more within a period to be determined by the Secretary, based on a review of any available credible medical or scientific evidence and a review of the historic treatment afforded disabilities for which manifestation periods have been established. The Secretary also would be required to take into account other pertinent circumstances regarding the experiences of Persian Gulf veterans. The Secretary would be required to prescribe regulations to implement this provision.

New section 1117 would require the Secretary to include in the regulations a specification of the manifestation period of time following service in the Southwest Asia theater of operations that the Secretary finds appropriate for a presumption of service connection. In addition, the regulations would have to include a description of the particular military service involved, the illnesses for which compensation may be paid, and the relevant medical characteristics associated with each such illness.

Section 106 also contains a freestanding provision that would require the Secretary, within 60 days of enactment of the act, to submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report indicating whether or not the Secretary intends to pay compensation under new section 1117. If the Secretary states in the report to the Committees an intent to pay compensation under new section 1117, the Secretary must publish proposed regulations, as required by new section 1117, in the Federal Register within 30 days of the date of the report.

Evaluation of health status of spouses and children of Persian Gulf war veterans

Current law: Section 702 of Public Law 102-585 created a Persian Gulf War Veterans Health Registry. Only veterans can be included in this registry.

House bill: No comparable provisions.

Senate bill: Section 5 of S. 2330 would authorize the inclusion of up to 10,000 dependents in the Persian Gulf War Veterans Health Registry. VA would be required to conduct medical examinations and testing, consultation, and counseling for the dependent of any veteran who is listed in the registry if the veteran believes that the illness of any family member is related to the veteran's service in the Gulf War. The registry would also include information about miscarriages and stillbirths.

The Secretary would be required to determine the types of medical examinations and tests are appropriate in order to determine the nature and extent of the connection, if any, between the illness or disorder of the individual and the illness of the veteran. These examinations are expected to be similar to registry exams for gulf War veterans. These tests may be provided by VA facilities or through contract with non-Department facilities.

Compromise agreement: Section 107, which is derived from the Senate provision, would require VA to conduct a pilot study, whereby VA would develop an evaluation protocol and guidelines for medical examinations, tests, and consultations with dependents of Gulf War veterans. These procedures would be restricted to those dependents whose illness, birth defects, or other disorder cannot be disassociated from the veterans' service in the Gulf War. There is no limit on the number of dependents who could be included in the registry; however, the number may be limited by the cost since the bill authorizes $2 million for the pilot study from November 1, 1994, through September 30, 1996. It would authorize VA to pay for the medical examinations, tests, and consultations through contracts with non-VA facilities. In addition, information provided by medical facilities that follow the VA protocol or guidelines could also be included in the registry even if the examinations and tests were not paid for by VA. The compromise also includes a provision regarding outreach to ensure that the maximum possible number of dependents would be included in this research.

The Committees expect that objective medical information on miscarriages, stillbirths, and birth defects can be included in the registry at minimum cost. The Committees also urge the VA to ensure that the pilot study is administered in such a way as to ensure that the medical information that is collected is sufficiently uniform, accurate, and appropriate to the goals of the study.

The purpose of the pilot study is to ensure that the VA conduct research on the illnesses of Gulf War veterans' spouses and children, using an existing data base and objective medical information. The VA is required to prepare a report to Congress describing the results of the pilot study, focusing on any information about the possible transmission of diseases associated with the Gulf War.

The Committees expect VA to use funds from the medical care account for the medical examinations and tests, data analysis, and administration of the pilot study.

Clarification of scope of health examinations provided for veterans eligible for inclusion in health-related registries

Current law: Under section 703 of the Persian Gulf War Veterans' Health Status Act (Title VII of Public Law 102-585), VA is required to conduct medical examinations for any veteran and the information from those exams must be included in the Persian Gulf War Veterans' Health Registry.

House bill: No comparable provision.

Senate bill: Section 108 would clarify that the Persian Gulf War Veterans' Health Registry includes diagnostic tests in its definition of medical examinations.

Compromise agreement: The compromise follows the Senate provision.

Survey of Persian Gulf veterans

Current law: There is no authorization in current law for VA to carry out a survey of Persian Gulf War veterans to gather information about their health status.

House bill: Section 8 of H.R. 4386 would require the Secretary of VA, in coordination with the Secretary of Defense, to carry out a survey of Gulf War veterans to gather information about their health problems and the health problems of family members.

Senate bill: No comparable provision.

Compromise agreement: Section 109 amends the House provision, so that it authorizes the survey as described in Section 8.

The Committees note that under the National Defense Authorization Act for FY 1995, Public Law 103-337, the Department of Defense will be providing research grants to non-Federal researchers to conduct similar research on Gulf War veterans, and encourages VA to ensure that VA funded research contributes unique information that will not be available from DoD-funded research.

Authorization for Epidemiological studies

Current law: Section 722 of the National Defense Authorization Act for FY 1995, Public Law 103-337, requires the Department of Defense to provide research funds to non-Federal scientists to conduct an epidemiological study or studies of U.S. service members and civilians who participated in the Persian Gulf War, and their families.

House bill: Section 9 of H.R. 4386 would authorize VA to conduct an epidemiological study or studies if such a study is recommended by the National Academy of Sciences in the report required by section 706(b) of the Veterans Health Care Act of 1992 (Public Law 102-585).

Senate bill: No comparable provision.

Compromise agreement: Section 110 follows the House provision.

The Committees note that the National Defense Authorization Act for FY 1995, Public Law 103-337, requires the Department of Defense to provide research grants to non-Federal researchers to conduct an epidemiological study or studies of Gulf War veterans and their families. The Committees therefore encourage the VA to coordinate their research efforts to ensure that any epidemiological research funded by VA contributes unique information that will not be available from DoD-funded research.

Cost savings provisions

Current law: The Omnibus Budget Reconciliation Act of 1990 (OBRA 90), Public Law 101-508, amended section 3203 (now section 5503) of title 38 to limit monthly VA pension payments to $90 for Medicaid-eligible veterans with no dependents who are in nursing homes. Previously, veterans receiving nursing home care covered by Medicaid did not have their pension benefits reduced; however, the amount of their pension had to be applied toward the cost of the nursing home care. No part of that $90 payment can be applied to the cost of the veteran's nursing home care.

Under OBRA 90, this provision was originally due to expire September 30, 1992. The Veterans' Benefits Act of 1992 extends the provision through September 30, 1997, and added a provision applying the limitation to payment of pension to surviving spouses who have no dependents and are receiving nursing home care covered by Medicaid. OBRA 93 extended the provision through September 30, 1998.

There is no comparable protection for any amount of dependency and indemnity compensation (DIC) received by surviving spouses in nursing homes participating in Medicaid. The amount of their benefit payments, minus any amount allowed by the State for personal use, is available to be applied to the cost of their nursing home care.

Section 1317 of title 38 prohibits any person eligible to receive DIC based on a death after

December 31, 1956, from being eligible for death pension.

There is no provision in current law which requires an adjustment of the rates of compensation and DIC based on an increase in the cost of living. However, Congress has passed legislation providing for a cost-of-living adjustment in these rates every year since 1976. With respect to calculating the annual cost-of-living adjustment in the rates of compensation and DIC, the Congressional Budget Office budget baseline assumes normal rounding, under which fractional dollar amounts of less than $0.50 are rounded down and fractional dollar amounts of $0.50 and more are rounded up.

House bill: Section 11(a) of H.R. 4386 would amend section 1317 of title 38 to permit surviving spouses eligible to receive DIC to elect to receive death pension under chapter 15 in lieu of DIC. This would permit surviving spouses who are in Medicaid-covered nursing homes and who receive DIC to elect to receive death pension, in order to be able to retain $90 of their monthly benefits.

Section 11(b) of H.R. 4386 would provide that, with respect to any cost-of-living adjustment in the rates of compensation under chapter 11 and DIC under chapter 13 provided for fiscal year 1995, all increased rates (other than those equal to a whole dollar amount) must be rounded down to the next lower dollar.

Senate bill: No comparable provision.

Compromise agreement: Section 111 follows the House bill.

TITLE II—BOARD OF VETERANS' APPEALS ADMINISTRATION

Current law: Before 1990, members of the Board of Veterans' Appeals (BVA) had received pay and benefits comparable to those received by Administrative Law Judges (ALJ's). However, the pay Act of 1990, Public Law 101-194, removed ALJ's from the General Schedule, and thereby eliminated pay comparability between BVA members and ALJ's.

In 1988, Congress enacted the Veterans' Judicial Review Act of 1988, Public Law 100-687, which changed Board members' status (other than that of the Chairman) from permanent appointments to 9-year terms, subject to the possibility of reappointment. Under section 7101(b)(1) of title 38, the Chairman is appointed by the President, with the advice and consent of the Senate, for a term of 6 years.

Currently, a member of the Board may be removed by the Secretary, upon the recommendation of the Chairman. There are no standards that govern removal or reappointment of members. There is no statutory process for removal of a Board member. However, section 7101(b) provides grounds under which the President may remove the Chairman.

House bill: Sections 301 through 303 of H.R. 4088 would restore the pay comparability between members of BVA and ALJ's and eliminate term limits for Board members (other than the Chairman). These provisions also would require the Chairman to establish job performance standards, with the approval of the Secretary, and would require that reviews be conducted not less than every 3 years. If the Chairman recommended that the member be noncertified, the Secretary would establish a panel of non-BVA employees of the Department or Federal employees from outside the Department, or a combination of VA and other Federal employees, to review the member's case.

Senate bill: Sections 302 through 304 of S. 2325 would restore the pay comparability between members of BVA and ALJ's, eliminate term limits for Board of Veterans' Appeals members (other than the Chairman), require the establishment of a peer review panel to periodically review the performance and fitness of Board members, and clarify that those BVA members who hold appointments through the Senior Executive Service (SES) retain their SES pay and status.

Compromise agreement: Section 201 would amend title 38 to add a new section 7101A which would eliminate term limits for Board members other than the Chairman and provide that members of the Board (other than the Chairman and Board members who are members of the SES) would receive the same basic pay as received by ALJ's (unless that would result in a reduction in pay). The pay provision would be effective on the first day of the first pay period beginning after December 31, 1994.

Under new section 7101A, the provisions for pay comparability with ALJ's and the elimination of term limits would be accompanied by new provisions instituting a system for periodic job performance review and recertification of members of the Board (other than the Chairman and any member who is a member of the SES). Section 7101A would require the Chairman to establish a panel, to include the Chairman and two other members of the Board (other than the Vice Chairman), that would conduct reviews of the job performance of Board members. The membership of this panel (other than the Chairman) would rotate among all members of the Board.

Section 7101A also would require that the Chairman, with the approval of the Secretary, establish job performance standards for Board members (except the Chairman and Board members who are members of the SES), which are to be objective and fair criteria for the evaluation of job performance. Section 202 would require that the job performance standards be established not later than 90 days after the enactment date of this act. This section also would require that the Secretary submit a report describing these standards to the Senate and House Committees on Veterans' Affairs no later than the date on which these standards take effect.

With 1 year after the establishment of the job performance standards, section 7101A would require that the panel complete a review of the job performance of each member of the Board. Reviews would then have to be conducted and completed at least once every 3 years thereafter. If the panel determines that a Board member meets the performance standards, the Chairman would recertify the Board member. If a Board member does not meet the performance standards, the Chairman would be required either to grant the Board member conditional recertification or to recommend to the Secretary that the member be noncertified. A conditional recertification would require another review within 1 year after the conditional recertification. If the Board member does not meet the job performance standards after the period of conditional recertification, the Chairman must recommend to the Secretary that the member be noncertified.

If the Chairman recommends to the Secretary that a member be noncertified, either after a performance review or after a period of a conditional recertification, the Secretary would be authorized to grant a conditional recertification or determine that the member should be noncertified. If the Secretary grants a conditional recertification, the performance review panel would review the member's job performance within 1 year and if the member still does not meet the standards, the Chairman would be required to recommend to the Secretary that the member be noncertified.

If the Secretary determines that the member should be noncertified, the member's appointment would be terminated and the member removed from the Board. Any Board member whose appointment is terminated and who was a career or career-conditional employee in the civil service prior to service on the Board would revert to the civil service grade and series held prior to appointment to the Board.

Section 7101A would require the Secretary to prescribe procedures for carrying out the provisions of the section, including the deadlines and times schedules for the actions required.

Section 203 would amend section 7101(b)(3) to specify that if the position of Chairman were to become vacant upon the expiration of the Chairman's term, the current Chairman would be authorized, with the approval of the Secretary, to continue to serve as Chairman until the Chairman is appointed to another term or a new Chairman is appointed. However, this section would provide that the Chairman would not be able to continue to serve under this provision beyond the end of the Congress during which the term of office expired.

TITLE III—ADJUDICATION IMPROVEMENTS

Acceptance of certain documentation for claims purposes

Documents to be accepted as proof of relationships

Current law: Until recently, VA's regulations did not allow acceptance of photocopies of documents that were not certified as evidence to show marriage, the annulment of a marriage, birth, the relationship of a child to the veteran, or death, or of any evidence from a foreign country (sections 3.202(c); 3.204(b) and (c); 3.205(a); 3.207(b); 3.209; 3.210; and 3.211 of title 38, Code of Federal Regulations). A photocopy could only be accepted if the original document had been viewed by an authorized individual and was certified as a true and exact copy of the original document. This requirement of certification existed only in VA's regulations; it was not a statutory requirement.

On September 8, 1994, VA published interim regulations to amend sections 3.202(c), 3.204(b) and (c), 3.205(a), 3.207(b), 3.209(a) and (b), 3.210(b) and (c), and 3.211(a) and (d) of title 38, Code of Federal Regulations, to implement the Secretary's decision to allow VA to accept photocopies of documents necessary to establish marriage, the annulment of a marriage, birth, the relationship of a child to the veteran, or death, or of any evidence from a foreign country for purposes of processing claims for VA benefits. Under these regulations, VA would still have the authority to request certified documentation in cases in which it is questionable whether the photocopies are genuine and free from alteration.

House bill: Section 405(a) of H.R. 4088 would amend title 38 to add a new section 5124 which would provide that, for purposes of determining eligibility for benefits, VA must accept a written statement from a claimant as proof of marriage, dissolution of a marriage, birth of a child, and death of any family member. The Secretary would be authorized to require the submission of documentation in support of the claimant's statement if the claimant does not reside in a State, or if the statement on its face raises a question as to its validity.

Senate bill: Section 202 of S. 1908 is a freestanding provision that would allow VA to accept photocopies of documents as proof of marriage, dissolution of marriage, birth, or death for purposes of determining eligibility for certain VA benefits. The Secretary would be authorized to require the claimant to submit additional supporting documentation if the document on its face raises a question with respect to its validity, or if there is reasonable indication of fraud or misrepresentation, in the document or otherwise.

Compromise agreement: Section 301(a) would amend title 38 to add a new section 5124 which would allow the Secretary to accept a statement from the claimant as evidence of marriage, dissolution of a marriage, birth of a child, or death of a family member for purposes of VA benefits. The Secretary would be authorized to require documentation in support of the statement if the claimant does not reside in a State, if the statement on its face raises a question as to its validity, if there is conflicting information in the record, or if there is reasonable indication of fraud or misrepresentation in the document or otherwise.

The Secretary is encouraged to exercise the authority granted under this section to the maximum extent feasible.

Acceptance of private physician examinations

Current law: Currently, under section 3.326 of title 38, Code of Federal Regulations (as amended by 59 Fed. Reg. 35851 (July 14, 1994)), VA generally requires a VA examination for purposes of determining eligibility for disability benefits. However, section 3.326(d) permits VA to accept the statement of a private physician in the following cases: (1) A claim for increased compensation due to an increase in the severity of a service-connected disability or due to the need of the veteran's spouse for aid and attendance; (2) a veteran's pension claim, including a claim for housebound or aid and attendance benefits; (3) a surviving spouse's claim for housebound or aid and attendance benefits; (4) a surviving parent's claim for aid and attendance benefits; or (5) a claim by or on behalf of a child who is permanently incapable of self-support.

House bill: Section 405(b) of H.R. 4088 would amend title 38 to add a new section 5125 which would required VA to accept the medical examination report of a private physician in support of a claim for benefits, without further examination by a physician employed by the Veterans Health Administration, if the report is sufficiently complete to be adequate for disability rating purposes.

Senate bill: Section 203 of S. 1098 is a freestanding provision which would allow VA to accept the medical examination report of a private physician in support of a claim for disability compensation or pension. Under this provision, a private physician's report would be required to contain sufficient clinical data to support the diagnosis or provide a reliable basis for a disability rating.

Compromise agreement: Section 301(b) would amend title 38 to add a new section 5125 which would allow the Secretary to accept the medical examination report of a private physician in support of any claim for VA compensation or pension, without a requirement for confirmation by an examination by a VA physician, if the report is sufficiently complete to be adequate for purposes of adjudicating the claim.

It is the express intention of the House and Senate Committees on Veterans' Affairs that, to the maximum extent feasible, the Secretary exercise the authority provided under this section as being in the best interest of veterans in furthering the timely adjudication of their claims for compensation by reducing the need for duplicative medical examinations by VA physicians.

Expedited treatment of remanded claims

Current law: Section 7101 of title 38 provides that appeals to the Board of Veterans' Appeals (BVA) will be considered and decided in order according to their docket number. There is no statutory requirement governing the treatment of claims on remand to the Board from the Court of Veterans Appeals or to regional offices from the Board.

House bill: Section 406 of H.R. 4088 is a freestanding provision that would require the Secretary to take such actions as may be necessary to provide that claims remanded by the BVA to regional offices or by the Court of Veterans Appeals to the Board be treated expeditiously.

Senate bill: No comparable provision.

Compromise agreement: Section 302 follows the House bill.

Screening of appeals

Current law: Under section 7107 of title 38, appeals are considered and decided in order according to their docket numbers.

House bill: Section 407 of H.R. 4088 would amend section 7107 to permit the Board to screen cases on appeal at any point in the decision process (a) to determine whether the record is adequate for decisional purposes or (b) for the development or attempted development of a record that is inadequate for decisional purposes.

Senate bill: No comparable provision.

Compromise agreement: Section 303 follows the House bill.

Report on feasibility of reorganization of adjudication divisions in VBA regional offices

Current law: Currently, the administration of VA's compensation and pension programs is carried out in the 58 regional offices of the Veterans Benefits Administration, located in the 50 states, the District of Columbia, Puerto Rico, and the Republic of the Philippines. Each of these offices, except one, has an adjudication division.

House bill: Section 402 of H.R. 4088 would require the Secretary of Veterans Affairs to submit to the House and Senate Committees on Veterans' Affairs, within 180 days of enactment of this act, a report addressing the feasibility and impact of a reorganization of VA claims adjudication divisions to a number of such divisions that would result in improved efficiency in the processing of claims.

Senate bill: No comparable provisions.

Compromise agreement: Section 304 follows the House bill.

TITLE IV—VETERANS' CLAIMS ADJUDICATION COMMISSION

Current law: There is no provision in current law relating to a study of VA's system for adjudicating claims for benefits.

House bill: No comparable provisions

Senate bill: Section 101 of S. 1908 is a freestanding provisions that would require an independent, comprehensive 18-month study by the Administrative Conference of the United States of VA's system for adjudicating benefit claims at the regional office level and the appellate process at the Board of Veterans' Appeals (BVA).

The purpose of the study would be to evaluate the entire adjudication system in order to determine the efficiency of its processes and procedures, including the impact of judicial review on the system, means for reducing the backlog of pending cases in the system, and means for improving timeliness and quality of the claims process.

The study would be required to contain an evaluation and assessment of the entire claims adjudication system, including its historical development and the effect that the Veterans' Judicial Review Act of 1988 has had on the system; how claims are prepared and submitted; the procedures that exist for processing claims; the participation of attorney and nonattorney advocates in the system; VA's efforts to modernize its information management system; the impact of work performance standards at all levels of the claims process; the extent of implementation of the recommendations of the Blue Ribbon Panel on Claims Processing; the application of pilot programs initiated in regional offices; and the effectiveness of quality control and assurance practices.

In the course of its evaluation and study, ACUS would be required to consult with representatives of veterans service organizations and other organizations and entities representing veterans before VA, to include individuals who furnish such representation.

No later than 90 days following the enactment date of the legislation, VA would be required to provide ACUS and the Senate and House Committees on Veterans' Affairs with information deemed Necessary by the chairman of ACUS for purposes of conducting the study, including specific statistical information concerning the adjudication of claims during the 5-year period October 1, 1998, through September 30, 1993.

Within 1 year after the date of enactment, ACUS would be required to submit to the Secretary and the Committees a preliminary report on the study. This preliminary report would contain the initial findings and conclusions of ACUS regarding the evaluation and assessment required. The preliminary report would not be required to include any recommendations for improving the system.

Within 18 months following enactment, ACUS would be required to submit a full report on its study to the Secretary and the Committees. The report would include: (1) The findings and conclusions of ACUS with respect to the study; (2) the recommendations of ACUS for improving the VA adjudication system; and (3) any other information and recommendations concerning the system that ACUS deems appropriate.

An appropriation of $150,000 would be authorized to VA for payment to ACUS for the costs associated with conducting the study and completing and report to be submitted to the Secretary and the Committees.

Compromise agreement: Title IV would require the establishment of an independent comission to study VA's system for the disposition of claims for benefits, both at the regional office level and at the Board of Veterans' Appeals. Section 401 would require that the commission be composed of nine members, all to be appointed by the Secretary of Veterans Affairs by February 1, 1995. The membership of the commission would be required to be composed of the following: One member who is a former VA official; two members from the private sector who have expertise in the adjudication of claims relating to insurance or similar benefits; two members who are employed in the Federal Government, outside VA, who have expertise in the adjudication of claims for Federal benefits other than VA benefits; two members who are representatives of veterans service organizations; one member recommended by the American Bar Association or similar private organization who has expertise in administrative law issues; and one member who currently is a VA official.

Section 401 also would require that the commission hold its first meeting within 30

days after the last of the members has been appointed. Meetings would take place at the call of the chairman. The Secretary would be required to designate a member of the commission, other than the member who is a current official of the Department, to be the chairman.

Section 402(b), regarding the purposes of the study, is generally similar to section 101(b) of the Senate bill.

Section 402(c), regarding the contents of the study, is substantively similar to section 101(c) of the Senate bill. This section would require that the study consist of a comprehensive evaluation and assessment of VA's system for the disposition of claims and benefits delivery and any related issues the commission determines are relevant to such a study. However, section 402(c) would not include a specific requirement that the commission evaluate the historical development of the system and the effect that the Veterans' Judicial Review Act of 1988 has had on the system.

Section 402(d) would require the Secretary to submit to the commission and the Committees on Veterans' Affairs any information which the Chairman has determined necessary to carry out the study, not later than 30 days from the date on which the Chairman makes a request for such information.

Section 402(e), regarding the contents and timing of the preliminary and final reports required of the commission, is identical to section 101(f) of the Senate bill, requiring a preliminary report within 1 year of enactment of the act and a final report within 18 months of enactment.

Section 407 would authorize that $400,000 be made available from amounts appropriated to VA for fiscal year 1995 for the payment of compensation and pension for the activities of the commission.

TITLE V—MISCELLANEOUS BENEFITS-RELATED PROVISIONS

Restatement of Intent of Congress Concerning Coverage of Radiation-Exposed Veterans Compensation Act of 1988

Radiation Risk Activities

Current law: The Radiation-Exposed Veterans Compensation Act of 1988, Public Law 100-321, enacted on May 1, 1988, added a subsection (c) to section 1112 of title 38 which established a presumption of service connection for 13 cancers suffered by veterans who participated in a "radiation risk activity," defined as participation in an atmospheric test of nuclear devices, involvement in the occupation of Hiroshima and Nagasaki following World War II, or internment as a prisioner of war in Japan during World War II that might have resulted in exposure comparable to the occupation forces. Two additional cancers were added to this subsection by Public Law 102-578. On September 8, 1994, the Secretary published in the Federal Register a proposed amendment to section 3.309(d), Code of Federal Regulations, which would extend the presumption of service connection, and therefore eligibility for compensation, to U.S. veterans who participated in atmospheric nuclear tests conducted by Allied Governments.

House bill: Section 501(a) of H.R. 4088 would amend section 1112(c) of title 38 to clarify that participation in atmospheric testing of nuclear devices includes non-U.S. tests. The effective date of the amendment would be May 1, 1988, the date of enactment of Public Law 100-321.

Senate bill: No comparable provision.

Compromise agreement: Section 501(a) follows the House bill, except that the effective date of the amendment would be the date of enactment of the act.

Service connection for certain disabilities relating to exposure to ionizing radiation

Current law: The "Veterans' Dioxin and Radiation Exposure Compensation Standards Act," Public Law 98-542, required VA to establish standards for adjudicating claims based on exposure to Agent Orange and radiation. VA adopted regulations for those claims in sections 3.311a and 3.311b of title 38, Code of Federal Regulations.

The United States Court of Veterans Appeals in *Combee* v. *Principi*, 4 Vet. App. 78 (1993), held that a veteran may not establish direct service connection for a disability based on radiation exposure unless the disability is on VA's regulatory list of "radiogenic diseases" issued pursuant to Public Law 98-542. The essence of the Court's decision was that by establishing a process in Public Law 98-542 relating to claims based on radiation exposure, Congress repealed the general compensation law as to such claims. This decision was reversed by the United States Court of Appeals for the Federal Circuit in *Combee* v. *Brown*, No. 93-7101 (Fed. Cir. Sept. 1, 1994).

At a March 24, 1994, hearing of the Senate Committee on Veterans' Affairs on this bill and other pending legislation, Under Secretary for Benefits R. John Vogel announced Secretary Brown's intention to publish a proposed amendment to the regulation to "permit a veteran to establish direct service connection for disability resulting from a disease claimed to be caused by radiation exposure even if that disease is not included in the list of diseases VA already recognizes as radiogenic." As of the date of passage of this legislation, VA has not published a proposed regulation to implement this change.

House bill: Section 501(b)(1) of H.R. 4088 would amend section 1113(b) of title 38, which provides that the provisions of law governing statutory presumptions may not be construed to prevent the establishment of service connection on a direct basis. The amendment would add a reference to the provisions of Public Law 98-542 to the provisions governing statutory presumptions, thereby affirming a claimant's right to attempt to establish direct service connection for a disability associated with exposure to ionizing radiation. This section applies to claims submitted after the date of enactment.

Senate bill: Section 301 of S. 1908 has the same intent as the House provision, but accomplished that goal through a proposed amendment to Public Law 98-542 in order to clarify Congress' intent in enacting the law. The amendment to Public Law 98-542 would add a new section, specifying that the regulations adopted by VA under the statute may not prohibit a veteran who served during an eligible period of service from establishing direct service connection for a disease or disability based on exposure to radiation, even though the veteran's condition is not considered by VA to be a "radiogenic disease."

Compromise agreement: Section 501(b) follows the House bill.

Extension of authority to Maintain Regional office in the Philippines

Current Law: Under section 315(b) of title 38, the Secretary currently has the authority to maintain a regional office in the Republic of the Philippines until December 31, 1994.

House bill: Section 502 of H.R. 4088 would extend the Secretary's authority to maintain the regional office in the Republic of the Philippines until December 31, 1999.

Senate bill: No comparable provision.

Compromise agreement: Section 502 follows the House bill.

Renouncement of benefits rights

Current law: Under section 5306 of title 38, if a claimant renounces his or her right to VA pension, compensation, or dependency and indemnity compensation, and subsequently reapplies, the new claim is treated as an original claim. Therefore, for purposes of any income-based program (pension or parents' DIC), only prospective income may be considered in determining the claimant's eligibility.

House bill: Section 503 of H.R. 4088 would amend section 5306 to provide that an application filed for non-service-connected pension under chapter 15 of title 38, or parents' DIC under chapter 13 of title 38, made within 1 year of a renouncement of such benefits, will not be treated as an original claim and benefits will be paid as though the renouncement had not occurred.

Senate bill: No comparable provision.

Compromise agreement: Section 503 follows the House provision.

Clarification of payment of attorney fees under contingent fee agreements

Current law: Under section 5904(d) of title 38, an attorney otherwise authorized to collect a fee for representation in a VA case may receive payment for such representation directly from VA out of a retroactive benefit award, provided that the total fee not exceed 20 percent of the amount of any past-due benefits awarded to the appellant, and provided that the fee is contingent upon whether or not the claim is ultimately resolved in favor of the appellant.

House bill: No comparable provision.

Senate bill: Section 4 of S. 1546 would amend 4904(d) to clarify that an attorney may receive payment for representation in proceedings before VA or the Court of Veterans Appeals directly from VA out of a retroactive benefit award only if the total amount of the fee is contingent upon the claim being resolved in favor of the appellant.

Compromise agreement: Section 504 follows the Senate bill.

Codification herbicide-exposure presumptions Established administratively

Current law: The Agency Orange Act of 1991, Public Law 102-4, enacted on February 6, 1991, established a statutory presumption of service connection for three conditions resulting from exposure to herbicides in the Republic of Vietnam during the Vietnam era: chloracne, soft-tissue sarcoma, and non-Hodgkin's lymphoma. In addition, the act required VA to contract with the National Academy of Sciences for a review of the scientific literature on the health effects of exposure to herbicides. NAS was required to report its findings to the Secretary, who then was required to decide whether presumptions of service connection should be established for any of the conditions considered by NAS. In 1993, following the submission by NAS of the first report under the act, the Secretary announced decisions to add to the presumptive list Hodgkin's disease, porphyria cutanea tarda, respiratory cancers (lung, trachea, bronchus, and larynx), and multiple myeloma. VA has finalized regulations to implement these decisions, found in section 3.309(e) of title 38, Code of Federal Regulations.

House bill: Section 201 of H.R. 4088 would amend section 1116 of title 38 to codify the presumptions of service connection based on exposure to herbicides for Hodgkin's disease, porphyria cutanea tarda, respiratory cancers (lung, trachea, bronchus, and larynx), and

multiple myeloma established administratively by the Secretary.

Senate bill: No comparable provision.

Compromise agreement: Section 505 follows the House bill.

Treatment of certain income of Alaska natives for Purposes of Needs-based benefits

Current law: Under current law, VA pays disability pension to non-service-connected wartime veterans whose annual incomes fall below levels specified in section 1521 of title 38 and who meet other qualifying criteria specified by statute. For purposes of computing annual income (and, thus, determining eligibility for pension and the amount of benefits paid), VA takes into account "all payments of any kind or from any source" received by the veteran, except as specified in section 1503 of title 38, or as otherwise excepted by law.

The Alaska Natives Claims Settlement Act, Public Law 92-203, codified at 43 U.S.C. section 1601 et seq. (ANCSA), sets forth the provisions under which the aboriginal land claims of Alaska's Native peoples were settled. ANCSA authorized the creation of 12 Native-owned and -operated regional corporations to administer assets transferred under the act for the benefit of Alaska Native shareholders. These corporations continue to exist today, and they distribute funds received in settlement of Native land claims and funds generated from corporate earnings to native village corporations and to Alaska Native shareholders.

House bill: No comparable provision.

Senate bill: Section 5 of S. 1626 would amend section 1503(a) by adding a new paragraph (11), to exclude payments received from Alaska Native corporations under ANCSA from the calculation of income for purposes of determining eligibility for VA pension, but only to the extent that these payments are excluded for purposes of other means-tested Federal benefits programs as specified in ANCSA.

Compromise agreement: Section 506 would establish a freestanding provision of law which reflects the intent of the Senate bill.

Elimination of requirement for payment of certain benefits in Philippine Pesos

Current law: Sections 107, 3532(d) and 3565(b)(1) of title 38, provide that VA benefits paid to certain eligible veterans in the Republic of the Philippines will be paid in Philippine pesos.

House bill: No comparable provision.

Senate bill: Section 402 of S. 2325 would amend sections 107, 3532(d), and 3565(b)(1) of title 38 to eliminate the requirement that certain VA benefits paid to eligible veterans in the Republic of the Philippines be paid in pesos, thereby allowing VA to issue regulations in order to comply with the requests of the Departments of State and Treasury that such restrictions be eliminated.

Compromise agreement: Section 507 follows the Senate bill.

Study of health consequences for family members of Atomic Veterans of Exposure of Atomic Veterans to ionizing radiation

Current law: There is no provision in current law relating to a study of the family members of atomic veterans.

House bill: No comparable provision.

Senate bill: Section 401 of S. 2325 would require the VA to enter into a contract with the Medical Follow-up Agency of the National Academy of Sciences, or a similar research entity, to convene an expert panel to determine the feasibility of a study of reproductive problems among atomic veterans. MFUA would be required to convene the panel and report their findings to Congress within 180 days. If MFUA concludes that such a study would be feasible, VA would be required to seek to enter into a contract with MFUA or a similar research entity to conduct such a study.

Compromise agreement: Section 509 is derived from the Senate provision but would delete the authorization for the research project itself, while maintaining the requirement that VA enter into a contract with MFUA to convene an expert panel to determine the feasibility of such research.

Center for Minority Veterans and Center for Women Veterans

Current law: Section 317 of title 38 requires the Secretary to designate one Assistant Secretary as VA's Chief Minority Affairs Officer (CMAO) with overall responsibility for assessing the needs of minority and women veterans, and for evaluating VA policies, regulations, programs, and other activities as they affect such veterans. Section 542 of title 38 establishes a VA Advisory Committee on Women Veterans and requires that the Committee consist of representatives of women veterans, experts in fields pertinent to the needs of women veterans, and representatives of both male and female veterans with service-connected disabilities.

House bill: H.R. 3013 would add a new section to Chapter 3 of title 38 to (a) establish a Center for Women Veterans in the Department of Veterans Affairs; (b) provide that the Director of the Center would report directly to the Secretary or the Deputy Secretary concerning the activities of the Center; (c) specify the functions for which the Director would be responsible; (d) require the Secretary to ensure that the Director is furnished with sufficient resources in order to carry out the functions of the Center in a timely manner; and (e) require that VA's documents regarding the budget include information about the Center.

Senate bill: S. 2429 would (a) create an Office for Minority Veterans which is similar in structure and purpose to the Center for Women Veterans in the House bill, in order to assist minority veterans; (b) establish an Advisory Committee on Minority Veterans; (c) designate a minority veterans representative at each VA facility; (d) create an Office for Women Veterans, which is substantively identical to the Center for Women Veterans established in the House bill; and (e) require that a representative of women veterans who have served in combat and a representative of those who have not served in combat serve on the Advisory Committee on Women Veterans.

Compromise agreement: Section 509 contains provisions derived from the House bill and the Senate bill which would establish a Center for Minority Veterans and a Center for Women Veterans.

Advisory Committee on Minority Veterans

Current law: There is no current law regarding the establishment of a VA Advisory Committee for Minority Veterans.

House bill: No comparable provision.

Senate bill: Section 2 of S. 2429 would (a) require the Secretary to establish an Advisory Committee for Minority Veterans; (b) require the Committee membership to represent certain groups relating to minority veterans; and (c) require the Committee to submit a report to the Secretary, not later than July 1 of each even-numbered year, which assesses the needs of and programs for minority veterans, and require the Secretary to share this report with Congress.

Compromise agreement: Section 510 follows the Senate bill, except that the statutory requirement to have an Advisory Committee for Minority Veterans would be for a period of three years.

Mailing of Notices of Appeal to the Court of Veterans Appeals

Current law: Under section 7266 of title 38, in order to obtain review of a final BVA decision by the United States Court of Veterans Appeals, an appellant must file a notice of appeal with the Court within 120 days after the date on which the notice of the BVA decision is mailed under section 7104(e). The Court implemented this statutory provision through adoption of Rule 4 of the Court's Rules of Practice and Procedure, which requires that a notice of appeal must actually be received by the Court within the statutory time limit in order to be timely filed. In a series of decisions, the Court has dismissed for lack of jurisdiction appeals that were mailed before, but received by the Court after, the 120-day limit had expired. (See, e.g., *DiDonato* v. *Derwinski*, 2 Vet. App. 42 (1991)).

Rule 4 of the Court's Rules of Practice and Procedure also allows the filing of a notice of appeal by "facsimile or other printed electronic transmission."

House bill: No comparable provision.

Senate bill: Section 3 of the S. 1546 would amend section 7266(a) of title 38 to require that a notice of appeal be deemed received by the Court on the date it is postmarked, if it is mailed. Only legible United States Postal Service postmarks would be sufficient. The Court's determination as to the legibility of a postmark would be final and not subject to review by any other court.

Under amended section 7266(a), if a notice of appeal is delivered to the Court (for example, by private courier or delivery service), it would be considered timely filed if it is received by the Court within the 120-day limit established by Congress.

Section 3(b) of the Senate bill would provide that the effective date of the amendment to section 7266(a) would be the date of the enactment of the act and would apply only to notices of appeal delivered or mailed to the Court on or after that date.

Compromise agreement: Section 511 follows the Senate bill, except that it also would require specifically that the notice of appeal be properly addressed to the Court.

TITLE VI—EDUCATION AND TRAINING PROGRAMS

Flight training

Current law: Sections 3034(d) and 3241(b) of title 38, and Section 2136(c) of title 10, allow eligible persons to use VA educational benefits for approved programs of vocational flight training commencing before October 1, 1994.

House bill: Section 2 of H.R. 4768 would establish vocational flight training as a permanent program under chapters 30 and 32 of title 38, and chapter 106 of title 10.

Senate bill: Section 1 of S. 2094 is substantively identical to the House provision, except that the Senate bill specifies that the provision would take effect on October 1, 1994.

Compromise agreement: Section 601 follows the Senate bill.

Training and Rehabilitation for Veterans with Service-connected disabilities

Current law: Section 3115 of title 38 authorizes vocational rehabilitation programs providing training or work experience for service-disabled veterans to be implemented through Federal, State, city, and local governments.

House bill: Section 3 of H.R. 4768 authorizes the use of Indian reservations for the purposes of section 3115 of title 38, in order to

allow eligible veterans to participate in non-pay programs of on-the-job training on Indian reservations.

Senate bill: No comparable provision.

Compromise agreement: Section 602 follows the House bill.

Alternative teacher certification programs

Current law: Section 3452(c) of title 38 defines the term "educational institution" for the purposes of chapters 34 and 36 of title 38.

House bill: Section 4 of H.R. 4768 would add to the definition of the term "educational institution" as described in section 3452(c), for the purposes of chapters 34 and 36, entities which provide training required for completion of any State-approved alternative teacher certification program as determined by the Secretary, effective upon enactment for the period ending September 30, 1996.

Senate bill: No comparable provision.

Compromise agreement: Section 603 follows the House bill.

Education outside the United States

Current law: Section 3476 of title 38 denies education benefits to eligible individuals who pursue a course of education not in a State unless that course is pursued at an approved institution of higher learning and the course if approved by the Secretary.

House bill: Section 5 of H.R. 4768 would amend section 3476 to remove the requirement that courses offered by approved foreign universities and colleges be located at the site of the approved institution in order for such courses to be eligible for approval by the Secretary.

Senate bill: No comparable provision.

Compromise agreement: Section 604 follows the House bill.

Correspondence courses

Current law: Section 3672 of title 38 does not specifically address the requirements for approval of correspondence or combination correspondence-residence programs or courses.

House bill: Section 6 of H.R. 4768 would add to section 3672 of title 38 a provision requiring that a correspondence program or combination correspondence-residence course is eligible for approval by State Approving Agencies only if the educational institution offering such program or course is accredited by an agency recognized by the Secretary of Education. This section would also add a provision to section 3672 requiring that no less than 50 percent of the graduates of any such program or course take a minimum of 6 months to complete the program or course.

Senate bill: No comparable provision.

Compromise agreement: Section 605 follows the House bill except that the word "agency" is changed to "entity."

State approving agencies

Current law: Section 3674(a)(4) of title 38, relating to payments by VA to State and local agencies for reasonable expenses associated with approval of courses of education, limits the total amount made available under that section to $12,000,000 per fiscal year. Section 3674A(a)(3) requires the Secretary to functionally supervise course approval services.

House bill: Section 7 of H.R. 4768 would amend section 3674(a)(4) to increase the maximum amount available under the section to $13,000,000 per fiscal year, and would strike sections 3674A(a)(3)(B) and 3674(a)(3), thereby eliminating the reporting and supervision requirements contained therein.

Senate bill: No comparable provision.

Compromise agreement: Section 606 follows the House bill.

Measurement of Courses

Current law: Under Section 3688(b) of title 38, the Secretary defines full and part-time training for purposes of courses pursued under chapter 30, 32, 35, or 36.

House bill: Section 8 of H.R. 4768 would add chapter 106 of title 10 to the sources of educational and training benefits for which the Secretary will define full and part-time training.

Senate bill: No comparable provision.

Compromise agreement: Section 607 follows the House bill.

Veterans' Advisory Committee on Education

Current law: Section 3692 of title 38 establishes a Veterans' Advisory Committee on Education which shall remain in existence until December 31, 1994. The Secretary is required to consult with and seek the advice of the committee with respect to the administration of chapters 30, 32, 34, 35, and 36 of title 38.

House bill: Section 9 of H.R. 4768 would extend the Advisory Committee until December 31, 2003, and make technical changes to the Committee's mandate.

Senate bill: No comparable provision.

Compromise agreement: Section 608 follows the House bill.

Contract Educational and Vocational Counseling

Current law: Section 3697(b) of title 38 limits payments made under section 3697 for contractual educational and vocational counseling services to $5,000,000 in any fiscal year.

House bill: Section 10 of H.R. 4768 would amend section 3697(b) to raise the payment limitation to "$6,000,000," effective October 1, 1994.

Senate bill: No comparable provision.

Compromise agreement: Section 609 follows the House bill.

Service Members Occupational Conversion and Training Act of 1992

Current law: The Service Members Occupational Conversion and Training Act (SMOCTA), enacted by Public Law 102-484, authorizes payment of a subsidy to employers who train recently separated service members who are unemployed, whose military skills do not transfer to the civilian job market, or who are disabled. The subsidy is 50 percent of the starting training wage payable over a period of 18 months up to a maximum of $10,000 ($12,000 for disabled veterans). Under current law, the 18-month limitation on payment of the subsidy is phrased in terms of an 18-month limit on the period of training.

House bill: Section 11 of H.R. 4768 would allow the employer and veteran to agree to a training program that lasts longer than 18 months, but with no payment of a subsidy for the extended training period. The provision would also: a) Clarify that the requirement in current law that employers pay a comparable wage refers to wages paid in the community where the veteran is being trained; b) clarify that payment of the subsidy is limited to an 18-month period, or the equivalent where the length of a training program is calculated in hours; c) amend the requirement that a portion of the reimbursement be retained until the 4th month of the veteran's employment by also permitting payment 4 months after completion of the 18th month of training, whichever is earlier; d) allow a trainee to switch into an alternative approved training program with the employer; and e) permit an eligible veteran to begin an approved training program on the date that the notice of approval is transmitted.

Senate bill: Section 2 of S. 2094 is substantively identical to the House provision, except that: a) The amount of payment an employer may receive would be measured in the number of hours equivalent to 18 months, rather than in months; b) the provision for retaining a portion of the reimbursement until the fourth month of employment would not be changed; c) and the limit on assistance paid to employers would include amounts received but not amounts due.

Compromise agreement: Section 610 follows the House bill except that it includes the Senate provision which measures the amount of payment an employer may receive in the number of hours equivalent to 18 months.

TITLE VII—EMPLOYMENT PROGRAMS

Job counseling, training, and placement

Deputy assistant secretary of labor for veterans' employment and training

Current law: There is no provision in law for a Deputy Assistant Secretary for Veterans' Employment and Training.

House bill: Section 2(a) of H.R. 4776 provides that there shall be a Deputy Assistant Secretary of Labor for Veterans' Employment and Training who shall perform such duties as the Assistant Secretary of Labor for Veterans' Employment and Training prescribes, that the position shall be a career position, and that the Deputy Assistant Secretary shall be a veteran.

Senate bill: No comparable provision.

Compromise agreement: Section 701(a) follows the House provision, except that the Deputy Assistant Secretary for Veterans' Employment and Training shall not be a career position.

DVOP specialists' compensation rates

Current law: Section 4103(a)(1) of title 38 provides that compensation for disabled veterans' outreach program (DVOP) specialists shall be set at a rate not less than the rate prescribed for an entry level professional in the State Government of the State in which the DVOP is employed.

House bill; Section 2(b) of H.R. 4776 would require compensation for DVOP's to be set at rates comparable to those paid other professionals in the State Government.

Senate bill: No comparable provision.

Compromise agreement: Section 701(b) follows the House provision with an addition providing that compensation shall be set at rates comparable to those paid other professionals performing essentially similar duties.

Special unemployment study

Current law: Section 4110A requires the Secretary, through the Bureau of Labor Statistics, to conduct a biennial study of unemployment among special disabled veterans and veterans who served in the Vietnam theater of operations during the Vietnam era.

House bill: Section 2(c) of H.R. 4776 expands the scope of the study to include veterans who served after the Vietnam era and veterans discharged or released from active duty within the 4 years prior to the study, and requires that information regarding women veterans shall be compiled for each category.

Senate bill: No comparable provision.

Compromise agreement: Section 701(c) provides that the scope of the study shall be expanded to include veterans of the Vietnam era who served outside of the theater of operations, veterans who served after the Vietnam era, and veterans discharged or released from active duty within the 4 years prior to the study. It requires that, for each of the

classifications of veterans, there shall be a category for women veterans.

The Committees recognize that the Bureau of Labor Statistics uses a survey methodology that produces a small sample size for women veterans.

Employment and Training of Veterans

Federal contracts

Current law: Section 4212(a) of title 38 requires, among other things, that the President promulgate regulations which require Federal contractors to list all "suitable" job openings with the local employment service office.

House bill: Section 3(a)(1)(C) of H.R. 4776 would strike the word "suitable" from section 4212(a).

Senate bill: No comparable provision.

Compromise agreement: Section 702(a) would amend section 4212(a) to require Federal contractors to immediately list all open positions except executive and top management positions, those positions that will be filled from within the contractor's organization, and positions lasting three days or less.

It is the Committees' intent that Federal contractors may not exclude from the listings positions at the middle management and supervisory level.

Eligibility requirements for veterans under federal employment and training programs

Current Law: Section 4213 of title 38 excludes certain pay and other amounts received by veterans and eligible persons when determining the needs or qualifications of participants in employment or training programs financed in whole or in part with Federal funds.

House bill: Section 3(b) of H.R. 4776 would add benefits received under chapter 30 of title 38 and chapter 106 of title 10 to the amounts disregarded pursuant to section 4213, and would delete reference to chapter 34.

Senate bill: No comparable provision.

Compromise agreement: Section 702(b) follows the House bill, and, in addition, would delete the words "the needs or qualifications of participants in" in section 4213, and would insert, in lieu thereof, the words "eligibility under."

TITLE VIII—CEMETERIES AND MEMORIAL AFFAIRS

Eligibility for Burial in National Cemeteries of Spouses who Predecease Veterans

Current law: Section 2402 of title 38 specifies who is eligible to be buried in an open national cemetery. The Veterans' Benefits Improvement and Health Care Authorization Act of 1986, Public Law 99-576, made a technical correction in section 5 in order to make the section gender neutral. However, the change unintentionally deleted the statutory eligibility for burial in a national cemetery for a veteran's spouse who predeceases the veteran.

House bill: No comparable provision.

Senate bill: Section 403 of S. 2325 would restore the statutory eligibility for burial in national cemeteries of spouses who predecease veterans eligible for such burial.

Compromise agreement: Section 801 follows the Senate bill.

Restoration of burial eligibility for unremarried spouses

Current law: Section 2402 of title 38 permits the surviving spouse of a veteran to be buried in any open national cemetery. The term "surviving spouse" is currently defined in section 101(3) of title 38 as one who is the spouse of a veteran at the time of the veteran's death and who has not remarried. Section 8004 of the Omnibus Reconciliation Act of 1990, Public Law 101-508, precluded eligibility for certain benefits under title 38, including eligibility for burial in national cemeteries, for remarried surviving spouses whose subsequent marriages were ended by death or divorce.

House bill: Section 4 of H.R. 3456 would reinstate eligibility for burial in national cemeteries of surviving spouses whose subsequent marriage ended by death or divorce.

Senate bill: No comparable provision.

Compromise agreement: Section 802 follows the House bill.

Extension of authorization of appropriations for State cemetery grant program

Current law: Section 2408(a)(2) of title 38 authorizes appropriations of such funds as may be necessary for fiscal year 1985, and for each of the 9 succeeding fiscal years, for the purpose of making grants to any State in establishing, expanding, or improving veterans' cemeteries owned by such State.

House bill: Section 7 of H.R. 949 would extend the authorization of appropriations for the State Cemetery Grants Program from September 30, 1994, to September 30, 1999.

Senate bill: No comparable provision.

Compromise agreement: Section 803 follows the House bill.

Authority to use flat grave markers at the Willamette National Cemetery, Oregon

Current law: Section 2404(c)(2) of title 38 requires that all grave markers in national cemeteries be upright for interments on or after January 1, 1987, except that flat grave markers may be used (a) in any section of a cemetery that used flat grave markers prior to October 28, 1986, (b) in any cemetery located on the grounds of or adjacent to a VA health care facility, or (c) at those grave sites where cremated remains are interred.

House bill: No comparable provision.

Senate bill: Section 404 of S. 2325 would authorize the use of flat grave markers at the Willamette National Cemetery in Oregon, notwithstanding section 2404(c)(2) of title 38.

Compromise agreement: Section 804 follows the Senate bill.

TITLE IX—HOUSING PROGRAMS

Eligibility

Current law: Subsections (b)(2) and (b)(5)(A) of section 3701 of title 38 expand the definition of the term "veteran" for purposes of chapter 37.

House bill: Section 1 of H.R. 4724 would add to the definition of veteran, persons discharged or released from the Selected Reserves before completing 6 years of service because of a service-connected disability, and would extend eligibility to surviving spouses of reservists who died on active duty or due to a service-connected disability.

Senate bill: No comparable provision.

Compromise agreement: Section 901 follows the House bill.

Revision in computation of aggregate guaranty

Current law: Section 3702 of title 38 provides for the calculation of the loan guaranty entitlement. Subsection (b)(1)(A) of section 3702 requires that any home acquired with a VA-guaranteed loan must have been disposed of or destroyed as one precondition to the restoration of entitlement.

House bill: No comparable provision.

Senate bill: Section 2 of S. 1626 would eliminate the precondition to restoration of loan guaranty entitlement provided for in subsection 3702(b)(91)(A).

Compromise agreement: Section 902 follows the Senate bill, but provides that the Secretary may waive the precondition to restoration of loan guaranty entitlement contained in subsection 3702(b)(1)(A) once for each veteran.

Public and community water and sewerage systems

Current law: Section 3704(e) of title 38 prohibits VA from guaranteeing a loan to purchase or construct a home not served by public water and sewerage systems where such service is certified as economically feasible.

House bill: Section 4 of H.R. 4724 would eliminate the prohibition contained in section 3704(e).

Senate bill: No comparable provision.

Compromise agreement: Section 903 follows the House bill.

Authority to guarantee home refinance loans for energy efficiency improvements

Current law: Section 3710 of title 38 identifies the types of loans that may be guaranteed under the VA home loan program, and establishes certain conditions and restrictions with respect to such loans.

House bill: Section 3(a) of H.R. 4724 would allow for the costs of energy efficiency improvements to be added to the loan balance in connection with a loan refinanced for the purpose of reducing the interest rate.

Senate bill: Section 3 of S. 1626 would allow for the costs of energy efficiency improvements to be added to the balance of a loan being refinanced, and would provide an exception for such purposes from the maximum loan amount as provided in section 3710(e)(1)(C).

Compromise agreement: Section 904 follows both bills, except that it includes the exception to the maximum loan amount in a refinance as provided in the Senate bill.

Authority to guarantee loans to refinance adjustable rate mortgages to fixed rate mortgages

Current law: Subsection 3710(e)(1)(A) of title 38 requires that the interest rate of a loan which is guaranteed in order to refinance an existing loan must be lower than the rate of the loan which is being refinanced.

House bill: Section 3(b) of H.R. 4724 would authorize the refinancing of adjustable rate mortgage loans to fixed rate mortgage loans at a higher interest rate.

Senate bill: No comparable provision.

Compromise agreement: Section 905 follows the House bill.

Manufactured home loan inspections

Current law: Section 3712(h)(2)(a) of title 38 requires the Secretary to make certain inspections with respect to the financing of loans for the purchase of manufactured housing.

House bill: Section 4 of H.R. 4724 would eliminate VA inspection requirements under section 3712(h)(2)(A), and would provide that manufactured housing that is certified to conform to standards under section 616 of the National Manufactured Housing Construction and Safety Standards Act of 1974 shall be deemed in compliance with requirements of subsection 3712(h)(1).

Senate bill: No comparable provision.

Compromise agreement: Section 906 follows the House bill.

Procedures on default

Current law: Section 3732(c) of title 38 permits the Secretary to acquire property from a loan holder who has purchased the property at foreclosure for a price not exceeding the lesser of the net value of the property or the total indebtedness.

House bill: Section 5 of H.R. 4724 would permit VA to acquire property from the lender at the price provided for under current law, despite the fact that the lender's

bid at the foreclosure sale might have exceeded that price.

Senate bill: No comparable provision.

Compromise agreement: Section 907 follows the House bill.

Minimum active-duty service requirement

Current law: Section 5303A establishes, with certain exceptions, a minimum of 24 months of active duty service for eligibility for benefits under title 38.

House bill: Section 6 of H.R. 4724 would add an exception from the 2-year minimum service requirement with respect to eligibility under chapter 37 of title 38 for service members discharged because of a reduction in force.

Senate bill: No comparable provision.

Compromise agreement: Section 908 follows the House bill.

TITLE X—HOMELESS VETERANS PROGRAMS

Reports on activities of the Department of Veterans Affairs to assist homeless veterans

Current law: Section 10 of the Homeless Veterans Comprehensive Service Programs Act of 1992, Public Law 102-590, requires VA to submit, no later than May 1 of each year 1994, 1995, and 1996, reports to the Senate and House Committees on Veterans' Affairs on the implementation of that act, including the numbers of veterans served, the services provided, and an analysis of the clinical value and cost effectiveness of the programs authorized under that act. However, there is no other provision in current law that requires VA to submit a report to Congress on all of the Department's activities to assist homeless veterans.

House bill: No comparable provision.

Senate bill: Section 105 of S. 2325 would require VA to submit an annual report by April 15 on its activities to assist homeless veterans, including information on the numbers of homeless veterans served and the costs to the Department of its activities, and to report biannually on the effectiveness of these activities.

Compromise agreement: Section 1001 follows the Senate bill and repeals the reporting requirement under section 10 of Public Law 102-590.

It is the Committees' intention that the information that VA is required to furnish to the Committees under section 10 of Public Law 102-590 would be contained, along with other matters, in the reports required under this section of the compromise agreement.

Report on assessment and plans for response to needs of homeless veterans

Current law: Section 107 of the Veterans' Medical Programs Amendments of 1992, Public Law 102-405, enacted on October 9, 1992, requires the Secretary to assess programs developed by VA facilities which have been designed to assist homeless veterans. In carrying out this assessment, the Secretary is directed to require the director of each VA medical center and regional office (a) to assess the needs of homeless veterans within the area served by the facility, including veterans' needs for health care, education and training, employment, shelter, counseling, and outreach services; and (b) to develop, along with other local officials and providers of services to the homeless, a list of all public and private programs to assist homeless persons in the areas served by the VA facilities. Public law 102-405 does not set a date for submission of this report.

House bill: No comparable provision.

Senate bill: Section 106 of S. 2325 would require VA to submit the report described above to the Senate and House Committees on Veterans' Affairs by December 31, 1994, and update this report annually thereafter, through December 31, 1997.

Compromise agreement: Section 1002 follows the Senate bill.

Increase in number of demonstration programs under Homeless Veterans Comprehensive Service Programs Act of 1992

Current law: Section 2 of the Homeless Veterans Comprehensive Service Programs Act of 1992, Public Law 102-590, requires VA to establish no more than four demonstration programs to be centers for the provision of comprehensive services to homeless veterans.

House bill: No comparable provision.

Senate bill: Section 108(a) of S. 2325 would raise the limit on the number of comprehensive homeless centers that VA may establish from 4 to 12.

Compromise agreement: Section 1003 follows the Senate bill, except that the limit would be raised to eight centers.

Removal of funding requirement of Homeless Veterans Comprehensive Service Programs Act of 1992

Current law: Section 12 of the Homeless Veterans Comprehensive Service Programs Act of 1992, Public Law 102-590, specifies that no funds may be used to carry out certain provisions in that law unless expressly provided for in an appropriations statute.

House bill: Section 8 of H.R. 949 would delete this requirement.

Senate bill: Section 108(b) of S. 2325 is identical to the House bill.

Compromise agreement: Section 1004 contains this provision.

Sense of Congress

House resolution: H. Res. 503 would express the sense of the House of Representatives that Congress, in providing funds for any fiscal year for programs to assist homeless individuals, should ensure that these funds are fairly apportioned for homeless veterans to help return homeless veterans to selfsufficient and productive lives.

Senate bill: No comparable provision.

Compromise agreement: Section 1005 is derived from the House resolution and would express that it is the sense of the Congress that (a) of the funds appropriated for any fiscal year for programs to assist homeless individuals, a share more closely approximating the proportion of the population of homeless individuals who are veterans should be appropriated to VA for VA homeless programs; (b) of the Federal grants made available to assist community organizations that assist homeless individuals, a share of such grants more closely approximating the proportion of the population of homeless individuals who are veterans should be provided to community organizations that provide assistance primarily to homeless veterans; and (c) the Secretary should encourage Federal agencies that assist homeless individuals, including homeless veterans, to be aware of and make appropriate referrals to VA for benefits, such as health care, substance abuse treatment, counseling, and income assistance.

TITLE XI—REDUCTIONS IN DEPARTMENT OF VETERANS AFFAIRS PERSONNEL

Requirement for minimum number of full-time equivalent positions

Current law: There is no provision in current law relating to the specific number of personnel in VA.

Section 5(b) of the Federal Workforce Restructuring Act of 1994, Public Law 103-226, requires the President, through the Director of the Office of Management and Budget, to ensure that the total number of full-time equivalent employees (FTEE) in all Federal agencies not exceed specified levels set for each of fiscal years 1994 through 1999. The Office of Management and Budget has the authority to determine how and from where these cuts will be taken.

House bill: Section 2 of H.R. 4013 would (a) prohibit, during fiscal years 1995 to 1999, any reduction in the number of FTEE in the Veterans Health Administration (VHA) other than as specifically required by a law directing a reduction in personnel from VHA or by the availability of funds; and (b) require that the personnel of VHA be managed on the basis of the needs of eligible veterans and the availability of funds. Section 3 of H.R. 4013 would require the Secretary to submit, not later than January 15, 1995, a report to the Senate and House Committees on Veterans' Affairs on streamlining activities in VHA.

Senate bill: Section 7 of S. 2330 would limit the number of FTEE cuts in VA over the next 5 years, and impose certain requirements relating to VA personnel.

Specifically, section 7(b) would set the number of FTEE in VA between the date of enactment of this measure and September 30, 1999, at 224,377 (which is 10,051 FTEE lower than VA's personnel level during fiscal year 1993).

Section 7(c) would require that, in determining the number of FTEE in VA during a fiscal year for purposes of achieving Federal workforce reductions, as required by section 5(b) of Public Law 103-226, only those VA employees whose salaries and benefits are paid with appropriated funds may be counted as VA FTEE. In fiscal year 1993, the administration counted 5,375 positions in VA (including 3,065 in the Veterans Canteen Service, 2,066 in the Medical Care Cost Recovery program, and 244 in the Medical Center Research Organizations) that were paid with funds other than federally appropriated funds.

Section 7(d) would allow the level of VA FTEE to fall below 224,377 if cuts are necessary due to a reduction in funds available to the Department, or if a law enacted after the enactment of this measure specifically requires additional cuts.

Section 7(e) would require the Secretary to submit an annual report, through the year 2000, to the Senate and House Committees on Veterans' Affairs that describes the numbers and positions of all VA employees cut and the rationale behind such cuts. This information would be required to be contained in the annual President's budget submitted to Congress pursuant to section 1105 of title 31, United States Code.

Compromise agreement: Section 1102 follows the Senate bill.

The Committees believe that, for purposes of determining an accurate estimate of the number of Federal employees in VA, those employees whose salaries and benefits are not paid with taxpayers' money should not be counted. The Committees note VA's intention to pay 2,218 medical residents in VA medical centers on a contract basis with the residents' medical schools.

The Committees strongly discourage VA from achieving the workforce reduction required under this section by cutting staff in an arbitrary, across-the-board manner. Such arbitrary cuts cause indefensible staffing imbalances among VA programs and facilities, and hurt VA's ability to provide services to veterans. Although this section does not direct the Secretary how to implement personnel reductions, section 7(e) would require VA to share with the Committees the numbers

and positions of any personnel cuts, and to justify such cuts. The Committees also believe that section 1103 of the compromise agreement would give VA a mechanism to avoid implementing across-the-board cuts.

Enhanced authority to contract for necessary services

Current law: Subsection 8110(c) of title 38 precludes VA from entering into contracts under which VA direct patient care or activities incident to direct patient care would be converted to activities performed by non-VA providers. For services other than those services, this section requires (a) that VA receive at least two bids from financially autonomous bidders; (b) that the cost to the Government of such contract service over the first 5 years to be 15 percent lower than the cost of Federal employees performing such services; and (c) that the quality and quantity of health care provided to veterans at the facility where such contract work is to be performed would be maintained or enhanced. Before carrying out a study in connection with a decision to consider entering such a contract, VA must submit notice to the appropriate Committees of the Congress of its intention to carry out such a study.

House bill: No comparable provision.

Senate bill: Section 8 of S. 2330 would (a) waive, during fiscal years 1995 to 1999, the limitations provided for under section 8110(c) of title 38; (b) require the Secretary to ensure that, in any contract for services that had been provided by VA employees, the contractor give priority to former VA employees who were displaced by the award of the contract; and (c) require the Secretary to provide to such former VA employees all possible assistance in obtaining other Federal employment or entrance into job training programs.

Compromise agreement: Section 1103 follows the Senate bill. The Committees note that providing VA enhanced authority to contract for services will assist VA in achieving its workforce reduction.

Study

Current law: No provision in current law requires a study of the feasibility and advisability of alternative organizational structures, such as the establishment of a quasi-Government corporation, to provide health care to veterans.

House bill: No comparable provision.

Senate bill: Section 9 of S. 2330 would (a) require the Secretary to contract with an appropriate non-Federal entity to study and report to Congress on the feasibility and advisability of alternative organizational structures, such as the establishment of a quasi-Government corporation, to provide health care services to veterans; and (b) authorize appropriations of $1 million for this purpose.

Compromise agreement: Section 1104 follows the Senate bill.

The Committees intend by this provision to draw on the expertise of an independent management consultant to study and assess the management structures and organization of the VA health care delivery system with particular reference to the likelihood that VA will need to compete with private health care providers. The Committees anticipate receiving a detailed evaluation of VA from a business perspective and recommendations on how VA's health care system might be improved and altered, if appropriate, to provide the highest quality medical services to our Nation's veterans in the most effective and efficient manner possible. It is the Committees' view that certain aspects of VA's health delivery system likely could operate more like nongovernment businesses.

Any analysis of VA's health care system must be made in the context of VA's overall mission to help veterans, especially those with service-connected disabilities. In this context, the Committees note that there are many aspects of VA that should and must remain federally funded and centrally administered, particularly programs to assist veterans who suffer from post-traumatic stress disorder, spinal cord dysfunction, or who need blind rehabilitation. VA provides a public good—a necessity which may or may not be adaptable to a competitive business environment. This study would attempt to find the most effective and efficient health delivery mechanism given this reality.

Mr. AKAKA. Mr. President, I rise in strong support of the pending measure, H.R. 4386, the Veterans Benefits Improvement Act of 1994. This is an omnibus measure that includes initiatives that have been considered and approved by the Senate Veterans' Affairs Committee.

Most importantly, this bill authorizes disability compensation for illnesses attributed to service during the Persian Gulf War; it also authorizes an outreach program to inform veterans and their families of research and other information relating to Persian Gulf syndrome. These provisions are based on separate legislation introduced by the distinguished chairman of the Committee, Senator ROCKEFELLER, and by my friend and colleague, Senator DASCHLE. Both deserve credit for making the health of Persian Gulf veterans a top priority of the 103rd Congress.

In addition, H.R. 4386 contains a provision that enables the President to continue efforts to downsize government, but wisely limits the number of personnel cuts that can be implemented at VA. The bill also makes various improvements relating to VA's adjudication system, education and training programs, burial benefits, and home loan guaranty program.

As the author of the underlying legislation, I note that H.R. 4386 incorporates provisions of S. 2305, the Veterans Law Judge Act of 1994, which I introduced earlier this year. S. 2305 called for re-establishing the historical parity in compensation which existed between members of the Board of Veterans Appeals and administrative law judges [ALJs] until 1990, when Congress raised the pay of ALJs above that of Board members. S. 2305 also provided for the reappointment of Board members at the expiration of their statutory 9-year terms, unless they were unable to meet certain performance criteria.

As called for under S. 2305, H.R. 4386 restores pay equity between Board members and ALJs; however, unlike my bill, the omnibus measure eliminates term limits for Board members altogether. To ensure continued accountability, the compromise measure provides for periodic recertification of Board members.

I believe that the BVA provisions included in H.R. 4386 represent an improvement on my original legislation. By simultaneously raising Board members' pay and eliminating term limits, the pending bill will enable VA to retain experienced Board members and recruit qualified candidates—problems which, if left unaddressed, will deplete the ranks of Board members and further exacerbate an already-enormous claims backlog.

H.R. 4386 also incorporates provisions derived from S. 2529, legislation I introduced on August 25 calling for the establishment in law of a minority veterans office, a women veterans office, and an advisory committee for minority veterans.

Specifically, H.R. 4386 establishes the existing minority and women's offices, which were created administratively pursuant to enactment of the Chief Minority Affairs Officer Act (Public Law 102–218), as statutory entities, redesignates them as "centers", and elevates them from the Assistant Secretary level to the Secretarial level. The omnibus bill also authorizes, for an initial 3 years, the establishment of an advisory committee for minority veterans. The function of this committee is to provide independent oversight of VA activities with respect to minorities—comparable oversight for women's activities is already undertaken by an existing advisory committee for women veterans.

It is my hope that, together, the minority and women veterans centers and minority advisory committee provisions will further raise the visibility of minority and women's issues within the Department, thus ensuring that the special needs and circumstances of these often overlooked groups receive full and appropriate consideration.

Mr. President, in closing, I would like to thank Chairman ROCKEFELLER and his fine staff for their work on this bill, particularly with respect to the BVA and women/minority veterans provisions. I understand that the negotiations with the House on this measure were long and arduous. Senator MURKOWSKI, the ranking member, and his staff also deserve credit for bringing this measure to the floor. This bill is ample proof that the welfare of veterans is not, and should never be, a partisan issue.

Thank you, Mr. President. I yield the floor.

So the bill (H.R. 4386), as amended, was passed.

(The text of the bill will be printed in a future edition of the RECORD).

MENTAL HEALTH AND SUBSTANCE ABUSE PROGRAMS REAUTHORIZATION ACT

Mr. BREAUX. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 698, S. 2352, a bill to reauthorize certain programs relating to

the Substance Abuse and Mental Health Services Administration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2352) to amend the Public Health Service Act to reauthorize certain programs relating to the Substance Abuse and Mental Health Services Administration, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2652

Mr. BREAUX. Mr. President, I send a substitute amendment to the desk on behalf of Senators KENNEDY and KASSEBAUM.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. BREAUX], for Mr. KENNEDY for himself and Mrs. KASSEBAUM proposes an amendment numbered 2652:

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. FAILURE TO COMPLY WITH MAINTENANCE OF EFFORT PROVISIONS.

(a) MENTAL HEALTH.—Section 1915(b)(3)(A) of the Public Health Service Act (42 U.S.C. 300x-4(b)(3)(A)) is amended—

(1) by striking "material"; and

(2) by inserting before the period at the end thereof the following: ", except that the Secretary may defer the reduction for a reasonable period of time, but in no event to exceed 1 year, to afford the State an opportunity to correct or mitigate the violation of the agreement that the State made for the preceding year under paragraph (1), and the Secretary shall recalculate the reduction accordingly".

(b) SUBSTANCE ABUSE.—Section 1930(c)(1) of the Public Health Service Act (42 U.S.C. 300x-30(c)(1)) is amended—

(1) by striking "material"; and

(2) by inserting before the period at the end thereof the following: ", except that the Secretary may defer the reduction for a reasonable period of time, but in no event to exceed 1 year, to afford the State an opportunity to correct or mitigate the violation of the agreement that the State made for the preceding year under subsection (a), and the Secretary shall recalculate the reduction accordingly".

SEC. 2. BLOCK GRANTS TO STATES REGARDING MENTAL HEALTH AND SUBSTANCE ABUSE.

Section 205(b) of the ADAMHA Reorganization Act (42 U.S.C. 300x(b) note) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

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

"(3) FISCAL YEAR 1995.—With respect to an allotment for fiscal year 1995 under section 1911 or 1921, the Secretary shall, upon the request of the chief executive officer of a State, make a transfer as described under paragraph (1) or (2) in the case of any State for which such an allotment for fiscal year 1995 is—

"(A) in the case of an allotment under section 1911, at least 20 percent less than the amount of the allotment for such State under such section for fiscal year 1994; or

"(B) in the case of an allotment under section 1921, at least 20 percent less than the amount of the allotment for such State under such section for fiscal year 1994.".

Mr. KENNEDY. Mr. President, I am pleased to join the ranking member of the Labor Committee, Senator KASSEBAUM, in proposing a substitute amendment to S. 2352. As introduced, S. 2352 was a simple 1-year reauthorization of certain mental health and substance abuse programs in the Department of Health and Human Services. The bill was reported favorably by the Labor Committee in August, but there is not unanimous consent to pass this bill in the Senate.

There is agreement, however, to address two short-term problems in the administration of the mental health substance abuse block grant programs, and this substitute amendment will accomplish that goal.

First, several States are in violation of a provision in current law requiring them to maintain their own substance abuse and mental health expenditures as a condition of receiving Federal funding. Some of these States may have remedied this violation after being notified of it, but current law does not permit subsequent remedial spending to be considered in assessing compliance with the maintenance of effort requirement. Section 1 of the substitute amendment would clarify this requirement and permit the Secretary to consider remedial spending in assessing compliance.

Second, current law does not permit States to transfer money between their substance abuse and mental health allotments in fiscal year 1995, and authority they were granted until this fiscal year. The expiration of the transfer authority is causing hardship to States, such as Vermont, which lose money in fiscal year 1995 under the operation of the current formula. Section 2 of the substitute amendment will extend the transfer for 1 more fiscal year for especially hard-hit States.

I expect the Labor Committee to take up a comprehensive, multiyear reauthorization of these mental health and substance abuse programs next year. In the meantime, I urge my colleagues to support this interim measure.

AMENDMENT NO. 2653

(Purpose: to increase the required rate of cases of AIDS in a State for purposes of the funding agreement concerning prevention and treatment grants)

Mr. SIMPSON. Mr. President, I send an amendment to the desk on behalf of Senator HATCH.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON], for Mr. HATCH, proposes an amendment numbered 2653 to amendment No. 2652:

The amendment is as follows:

At the end of the amendment add the following new sections:

SEC. 3. PREVENTION AND TREATMENT GRANTS.

Section 1924(b)(2) of the Public Health Service Act (42 U.S.C. 300x-24(b)(2)) is amended by striking "10 or more" and inserting "15 or more".

SEC. 4. EFFECTIVE DATE.

This Act shall take effect as if enacted on September 30, 1994.

Mr. HATCH. Mr. President, by way of background. Under current law, States which have an annual incidence of AIDS cases exceeding 10 cases per 100,000, must integrate HIV early intervention services into their substance abuse programs which can be funded by their Substance Abuse and Mental Health Services block grant funds.

Earlier this year, CDC broadened the case definition of AIDS, thereby causing several States which otherwise would not have had to meet the above requirement. States are concerned that the "trigger" of this requirement and the expenditure of funds for the early intervention services would lessen the amount of funds they would have otherwise had available under the block grant.

Amendment: The amendment would raise the "trigger point" from 10 cases per 100,000 to 15 cases per 100,000. The intent is that States which previously did not have to comply with the early intervention provision would not have to do so this year simply because CDC had changed the case definition.

Based on 1993 data, the States this would affect are as follows:

Alaska	11.7
Kansas	14.1
Maine	12.0
Minnesota	14.5
Nebraska	11.1
New Hampshire	11.0
Ohio	14.3
Utah	14.2
Vermont	12.9
Wisconsin	14.5

The PRESIDING OFFICER. Without objection, the amendments are agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

(The text of the bill will be printed in a future edition of the RECORD.)

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

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

The motion to lay on the table was agreed to.

Mr. BREAUX. Mr. President, I think at this time I can safely say there is no more business at this point as if in morning business.

I yield the floor.

Mr. SIMPSON. To Senator GRASSLEY.

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

NOMINATION OF BUSTER C. GLOSSON

Mr. GRASSLEY. For the benefit of people who maybe want to speak on any of the subjects that are before the Senate tonight, three nominations and the national park bill, I am going to speak just for 3 or 4 more minutes on Glosson, and then I hope to later on involve myself with some questioning of the chairman of the committee, after he has spoken. I still have not spoken at all on the Barry nomination or the Bolton promotion, and I have in that area a lot of things that I wish to say, as well. So I will be speaking just for 3 or 4 more minutes, finishing up one point that I wish to make on Glosson, and then I intend to yield the floor.

Before I yielded to the distinguished floor managers to take care of a lot of other business, I was complimenting the Armed Services Committee for all the efforts they had put forth to clean up the promotion process and some of the problems connected with it.

I see the Glosson nomination as something sitting there reminding us all the time that this situation has not improved from the problems that were brought up as far back as Secretary Weinberger.

So we have had these three senior Air Force generals step forward and they blew the whistle. They did that at great personal risk.

That is how this whole process is supposed to work. I think that is the way the committee wanted it to work. That is the way it should work. And that is how we want it to work. As General Sullivan testified before the committee when the committee was holding hearings on this subject, honesty in the officer corps depends upon an honest promotion process. I think he was saying that honesty breeds honesty. And honesty is the cornerstone of leadership. A good leadership is key to a strong military force.

All of the committee's hard work will go down the drain, in my estimation, if we let this bad example of Glosson abusing the system, trying to peddle influence—if this nomination goes through and the stamp of approval is on it, it is just like the Senate has turned its back on all those problems that have been so well exposed by the Senate Armed Services Committee. It is just a step backwards. The entire Armed Forces and, most importantly, senior Air Force officers I believe are watching us closely, waiting to see what we do on the Glosson nomination.

Now, as I said earlier, maybe you do not get a clear picture of these junior officers and other military people calling your office and telling you of problems like this, and that Glosson should not get a nomination, and it sends a bad signal—or letters that I have received. Maybe I should not make my judgment that that is the basis for saying that this is a bad example, but I have to draw that conclusion.

I know that because of these many telephone calls and letters that I have received. That is the message I am getting. I think it is loud and clear. If we reject the nomination, I think that would be a stern warning that if anybody is going to tamper with the board, you will get nailed. That would deter others from tampering with selection boards down the road. That is the signal that I believe we in the Senate should be sending when we consider this nomination. If we approve of the Glosson nomination, I think senior officers may say to themselves, well, if Glosson can do it and get away with it, then I am going to do it.

In a sense, Mr. President, this is where the rubber meets the road. Do we hold Glosson accountable and keep trying to bring integrity to the selection process or do we cave in to pressure? Do we reward Glosson and do we forget about integrity in the process?

Mr. President, in my mind, we do not have a choice. We have a responsibility to hold General Glosson accountable for misconduct, as unpleasant as that may be.

Misconduct must have unpleasant consequences. Without accountability, nothing else the Senate does will count for much. All of the fancy words and all of the well-meaning legislation will be nothing more than hollow promises.

Rules must be followed, rules must be enforced, and when rules are broken, those responsible must be held accountable. That is where we are with the Glosson nomination. General Glosson broke the rules. It seems to me he must face the music. Confirmation by the Senate is a reward and an honor, a reward and an honor given only to those who have demonstrated the highest levels of integrity and outstanding performance of duty.

Lt. Gen. Buster Glosson does not meet those standards. General Glosson does not deserve the honor of Senate confirmation.

I yield the floor.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER (Mr. SIMON). The Senator from Idaho.

THE FOREST HEALTH OF THE WEST

Mr. CRAIG. Mr. President, for a few moments this evening I would like to visit with the Senate about a problem that is plaguing the intermountain West that I believe this administration is not willing to address or be responsive to.

I say that in your presence, Mr. President, because it is fortuitous that you are in the chair at this moment in time because on August 29 you came to Boise with me and brought along the Forestry Subcommittee of the Senate Agriculture Committee, which you chair. At that time we held some very critical hearings in Idaho pertaining to the forest health of the West, and especially the intermountain West, an area of the Western United States that for the last 8 years has been plagued with an unprecedented drought that has plunged the forests of that area of Montana, Idaho, Oregon, Washington, and northern California into a tremendous state of illness that has in part produced the tragedy and the catastrophic events of this past summer.

What am I talking about? As the chairman knows, in August when he flew into Boise, ID, he flew across a blanket of smoke that was spread across the Western States from Oregon to Yellowstone and through Wyoming that was a product of forest fires that were burning at an unprecedented rate in total acreage that region of the country had never witnessed. Over 3.7 million acres of forested lands and rangelands burned in the States that I have just mentioned this past summer.

As we speak in the early part of October, fires are still smoldering in the unroaded forested areas of Idaho only to be put out by the snows that are beginning to fall in the high country of the Bitterroots and the Rockies of this inland area. Three point seven million acres of land, primarily forested land, has burned; 26 firefighters have lost their lives; $700 million in fire suppression costs have been extended to date and 5 billion board feet of timber—5 billion board feet of timber—have been tremendously damaged or destroyed.

Those were the statistics that were building on August 29 when you, Mr. President, and I held that hearing in Boise, ID. It was at that time that the chief of the Forest Service Jack Ward Thomas came before that hearing to announce a western forestry health initiative that he was going to put together in a team-like fashion to deal with the forest health problem that that hearing was speaking to and that you and I have been concerned about for nearly a year now as we held hearings and attempted to examine what the condition of these forests were, not just in my State or in that region, but in your own region, and also to understand what kinds of practices and policies were coming forth from the U.S. Forest Service that might in some way begin to alleviate this catastrophic problem.

The chief said at that time:

> I will put together a western forest health initiative team, and I will report to you initial recommendations by September 30.

It takes a simple glance at the calendar to know that September 30 has come and gone. And it was then because of that concern that staffs of myself, you, Senator DASCHLE, Senator LUGAR and Senator LEAHY arranged for a briefing on this very subject on the 4th of October of this past week. The Forest Service sent an individual to the Hill who, in my opinion, had never had any experience on the ground, and

suggested to us that they were not ready yet to make their presentation, that it was proprietary information, and that sometime in the future, 30 or 40 days out, they might consider the possibility of being able to make their first presentation to us.

I would guess, Mr. President, that in the normal span of time that sounds a little reasonable; 30 to 40 days off from the mark that the chief had set for himself and for us on August 29.

Why then am I here at this late hour of the session talking about this issue? The reason I am or for all the figures that I have just given, the 3.7 million acres of land that has been destroyed or damaged, the 26 forest fighters' lives that were lost, the $700 million spent in fire suppression, but more importantly the 5 billion acres of timber that is standing out there at this moment that must be addressed and a solution must be brought as to how that timber will be managed.

This past week, yesterday to be exact, a group of forest industry representatives from my State brought back by Attorney General Larry Evelhoff, met in the Executive Office Building of this Presidency with Katie McGinty and a variety of other people from the administration to talk about this urgent problem. They brought with them a proposal that I have in my hand tonight that I would like to ask unanimous consent become part of the RECORD.

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

UP FROM THE ASHES—ECOSYSTEM RESTORATION, REHABILITATION, AND TIMBER RECOVERY IN WESTERN NATIONAL FORESTS

SUMMARY

This summer's wildfires have created challenges that require decisive, prompt action. Huge volumes of burned timber now stand dead in forests throughout the west. This timber is still valuable, if it can be recovered before it deteriorates. Thousands of acres of watersheds are denuded, the soil to be washed into important spawning streams unless the are stabilized and reforested. Clearly, it is a time for leadership from the Administration to not only meet these challenges, but to use them as opportunities for developing innovative, constructive land management policies.

There are barriers to implementing the needed on-the-ground actions. They include:

Pending injunctions against logging in salmon habitat until consultations on comprehensive forest plans can be completed (Pacific Rivers Council v. Thomas).

The requirement for complete environmental analyses of the potential affects of salvage logging and watershed rehabilitation efforts.

The likelihood that salvage logging decisions will be stalled by administrative appeals, and thereby delayed until the timber no longer has commercial value.

Leadership and firm decisions from the Administration can help overcome these barriers, and, in fact, will be vital to the success of the effort to recover the value of the burned timber and rehabilitate damaged watersheds. A comprehensive strategy is needed in order to assure that fire damaged timber can be sold by June 1, 1995. Specific actions needed include:

A statement of policy from the Administration setting timely rehabilitation, reforestation and the salvage of burned timber for commercial use as the principal objectives to guide federal agency actions on post-fire projects.

Direct the National Marine Fisheries Service and the Forest Service to develop a plan that will lift any injunctions against logging based on Endangered Species Act consultation requirements and which expedites this process as it applies to salvage operations and rehabilitation of burned watersheds.

Where it is legally sufficient, order the use of relatively simple "environmental assessments" to meet NEPA requirements for salvage ad rehabilitation plans and assign additional staff to update this work.

Exempt, using emergency rulemaking authority, salvage and rehabilitation decisions from the administrative appeals process.

Approve and encourage the use of a "single-contract" approach to implementing all aspects of post-fire treatment plans. This would include watershed rehabilitation, reforestation, and salvage recovery to allow industry diversification and participation in the full range of post-fire treatment needs.

Earmark receipts from the sale of burned timber for investment in fire rehabilitation projects and for appropriate thinning and prescribed burning of overcrowded, high fire-risk timber stands.

Move quickly to assess the burned timber values and watershed rehabilitation needs of each area affected by this summer's wildfires. The assessment and action plan for each area should be completed and ready for implementation by June 1, 1995, in order to ensure the viability of salvage logging.

PROPOSAL FOR EXPEDITING SALVAGE, RESTORING WATERSHEDS IN WESTERN FORESTS

Problem: This summer's wildfires have killed valuable stands of trees and wreaked havoc with watersheds in many western national forests. Forest Service managers are now faced with a dual challenge—recovering burned timber which will quickly deteriorate, and assuring that burned watersheds are rehabilitated before erosion damages important fisheries, including endangered salmon.

Unfortunately, it is almost certain that the Forest Service will encounter numerous obstacles as they try to meet these challenges. Those who oppose logging and other well-established uses of the national forests will use all avenues the law provides to stop those activities with which they disagree. Because of the time sensitive nature of logging burned timber, even delaying the Forest Service's efforts can effectively stop proposed salvage of burned timber. Perhaps nowhere will the essence of the debate over the national forests—whether to log or not to log on these public lands—become clearer than in the struggle to decide how to deal with the aftermath of the fires of 1994.

While the challenges are great, the discussion over logging fire-killed timber provides the opportunity to explore new, efficient, economically and environmentally sound ways to manage the national forests. Salvage logging, if it can proceed, can serve as a way to not only utilize the dead timber, but to fund needed rehabilitation efforts, as well as to treat overcrowded, unhealthy forests to reduce the risk of future catastrophic fires where the danger is now unacceptably high.

THE BARRIERS

There exist in either case law or in administrative regulations all the tools necessary to enable those who disagree with salvage efforts to stop them. They are:

(1) As a result of the Federal Court's decision in Pacific Rivers Council v. Thomas an injunction is pending that would stop all logging and road building activities in salmon spawning drainages in six national forests in Idaho. These same forests hold most of the region's burned timber. If such an injunction is granted—and it likely will be—it can only be lifted through a court-approved process for consultation on the effects of the implementation of these comprehensive forest plans on salmon recovery.

(2) In addition to consultation on forest plans, the Forest Service and the National Marine Fisheries Service must also complete consultation on individual timber sales envisioned in these plans. This process is proving cumbersome and unclear even to those who must adhere to it.

(3) Irrespective of the Endangered Species Act requirements for consultation on the effects of logging on listed species, each proposed timber sale is subject to a rigorous analysis of its effects on the environment. Through this process, an adequate array of alternatives must be examined, and the effects of each recorded. This can easily become a time consuming process.

(4) Once the Environmental Assessments or Environmental Impact Statements and any required consultation among the involved federal agencies for the proposed action are complete, the ultimate decision is subject to administration appeals. Those who disagree with the decision can appeal the decision to higher levels of the Forest Service. This process, so long as the appellants choose to pursue it, can forestall actual logging beyond the point which the dead timber still has merchantable value.

THE SOLUTIONS

The Administration can take actions to either remove each of the barriers to logging the burned timber and rehabilitating watersheds or make them easier to overcome. Specific actions might include:

Clear direction from the Administration is needed. A statement of policy confirming the goals of prompt rehabilitation, reforestation and the salvage of commercial timber killed by the fires is a critical first step in assuring that the U.S. Forest Service understands the urgency of the situation.

The Federal Court's recent decision in Pacific Rivers Council v. Thomas will likely require that the Forest Service and the National Marine Fisheries Service develop a process for consultation on all forest plans in forests where salmon spawn. Leadership from the Administration is needed to assure that development of an adequate process is given a high priority within the two agencies and that the process itself can be completed quickly and efficiently.

Apart from the need to consult on forest plans, consultation on specific projects between NMFS and the Forest Service needs clarification and direction. The Administration can plan a key role in facilitating a process that is simple and effective.

The Forest Service has some flexibility in determining the level of environmental analysis that will be given each salvage timber sale and rehabilitation project. With direction from the Administration, the agency can choose less expensive and time consuming Environmental Assessments as opposed to the more expensive and time consuming effort to produce full Environmental Impact Statements, where it is legally appropriate to do so.

The Forest Service can define the harvest of all timber burned in this summer's fires as

an emergency. Through emergency rulemaking, the Administration can exempt such timber sales from the appeals process. With an emergency declaration it is also possible to shorten the time period for filing and deciding appeals or limiting appeals to only one level of review.

These actions would expedite the harvest of timber that has been killed by the fires and now must be salvaged while it still has value (approximately one to two years). There are two other aspects of national forest management consequential to the fires that demand equal attention.

First, burned watersheds need stabilization and rehabilitation. Erosion must be checked with barriers to deflect running water or to capture the sediment and ash it will carry. Bare soil must be seeded and reforestation initiated. In addition, plans are needed to monitor burned watersheds, both to gauge levels of damage to wildlife habitat and streams, but also to assess the effectiveness of various rehabilitation efforts.

Second, it is essential that we learn from the fires of 1994 and begin now to prevent such devastating fires in the future. We now know that by controlling wildfires in the past, we have allowed many forests to accumulate fuels and grow more trees than natural for the site. Coupled with that, some of these now overcrowded, stressed stands are close to homes and other human developments. The combination of such fire prone stands in areas of high human use constitutes a risk that is now unacceptable. The Forest Service has a clear obligation to identify these stands, thin them and use prescribed fire to lower fuel levels to an acceptable, and more natural range.

A STRATEGY FOR SUCCESS

Foremost among the Administration's efforts to resolve the issues raised by the fires of 1994 must be a process to categorize the burned areas and identify appropriate land management practices for them. Again, timeliness is the byword; unless the assessment of salvage opportunities and rehabilitation can be completed promptly, salvage values will disappear and the ravages of weather will complete the damage to watersheds where ground cover has been burned away. The process should assess several key variables, among them:

The value and technical feasibility of logging specific stands of burned timber,

Watershed values that are at risk from accelerated erosion,

The types of watershed stabilization or rehabilitation work needed for each drainage,

The type of environmental analysis needed to allow recovery of burned timber or watershed rehabilitation work to proceed,

The nature of any needed consultation to assess impacts to species listed under the Endangered Species Act, and,

Any ancillary issues that may be specific to a burned area but which must be addressed.

The forest industry stands ready to become a partner with the Forest Service in meeting the challenges posed by this year's fires.

Salvage logging can be a source of both income and manpower for completing watershed rehabilitation work. There are three ways to utilize the helpful potential of salvage logging. First, logging, thoughtfully planned and carefully conducted, can actually help stop erosion from burned lands. Fires harden the soil surface and water flows across it unless there are areas for it to permeate the soil. Skid trails and roads built perpendicular to the natural flow of water slows runoff and allows it to sink into the subsoil.

Second, proceeds from logging, can be utilized to fund current rehabilitation efforts. Wildlife and watershed management funds are always lacking within the Forest Service's normal budget. With the Administration's direction, salvage sale proceeds can help support critical projects in these areas. Funds could be used for stream cleanup, reforestation, grass seeding on erosive areas, and plantings of wildlife food. Moneys should also be earmarked to monitor burned watersheds, both to gauge the levels of damage to wildlife habitat and streams, but also to assess the effectiveness of various rehabilitation measures in limiting the fires' impact.

Provisions should be made to use some of the money from salvage sales to treat overstocked timber stands where the risk of future fires is unacceptably high. Such stands include those where fuel loads are abnormally high and where fires, if they occurred, would threaten private lands or high fisheries or wildlife values in adjoining stands. Timber lands meeting "high risk" criteria should be thinned and/or lightly burned under controlled conditions to reduce the hazard.

Finally, through the use of a "single-contract" concept, salvage logging could not only fund, but also complete watershed rehabilitation work. Such contracts would include not only the right to harvest salvageable timber at some specified dollar amount, but also the obligation by the purchaser to actually complete the rehabilitation projects specified in the contract. Forest products companies would bid for the timber offered in these contracts knowing that the contract obligated them to also build erosion control structures, reforest or reseed burned areas, or otherwise help reach the Forest Service's rehabilitation goals for the area. The rehabilitation objectives in the contract would reduce the price paid for the timber (thus, the value of the timber helps fund the work), and the Forest Service can specify and supervise not only the timber to be harvested, but the rehabilitation work to be completed.

CONCLUSION

The Forest Service has long been heralded for its unique ability to fight wildfires. The skill, energy and resources they apply to this task is remarkable. But the fires of 1994 call for the same dedication and ingenuity to be directed toward both forest rehabilitation, the recovery of burned timber, and forest treatments that will prevent such fires in the future. Meeting that challenge is a major issue as the U.S. Forest Service moves toward "ecosystem management" in the 1990s. It is a task that will require firm leadership and decisive action.

Mr. CRAIG. Mr. President, it was a simple proposal. It talked about the fires of the summer of 1994. It talked about the billions of board feet of timber that had been lost. It talked about the lives that had been lost. It talked about the thousands of denuded acres of land, soil, spawning beds in streams that were now at risk unless there was an immediate management proposal put in place that would begin to redress the problems of these destroyed or damaged acreages. It talked about what National Marine Fisheries was attempting to do with the Forest Service in developing a plan to respond to all of these issues consistent with the endangered species issues out in the Western States.

While that plan was presented in a comprehensive and well-thought-out way, the word that came from this administration was very simple. We are not yet ready to respond. We have at least a 30- to 60-day need to consult with friends of ours in the environmental community and to decide what they want to do as it relates to the possibility of the management of these lands that would deal with civil cultural practices and salvage sales and a variety of other things.

Mr. President, that kind of response is irresponsible. That kind of lack of interest or lack of care is almost unbelievable coming from an administration that places its mark high on the environmentalist as someone who is responsive and caring about the lands of the West and the lands of our country to say we are not yet ready to talk about a problem; that we are not yet ready to even begin to look at a plan to respond to the 3.7 million acres of charred and destroyed land of the Western intermountain States, both for environmental reasons and for management reasons.

Why am I concerned? A lot of that land lies within the boundaries of the State of Idaho. But I am concerned well beyond that because our Nation today cries out for a responsible and reasonable management plan for our forested public lands that recognizes salvage sales, that says there is a need to respond quickly when you have a bug infestation or when you need to change the nature of a forest because of a catastrophic event that will result in negative environmental activity. That catastrophic event has occurred. It occurred in the summer of 1994 when these lands with huge fuel buildups of trees and underbrush began to burn in the drought States of Idaho, Oregon, Washington, Montana, and northern California.

What is the problem? Why can I not wait? Why cannot everyone wait for the 30 or 60 days that this administration talks about? For just a moment, let me tell you what that problem is.

It is demonstrated on this diagram tonight because this administration—and I would not ask them to do otherwise—should stay within the laws of the land that this Congress has created for the purposes of managing our public lands. I am talking about the Forest Planning Act. I am talking about the National Environmental Policy Act. I am talking about a course of activity that is standard when you ask for a human activity on the public land. But there is a problem in using the time line with an administration that simply wishes to drag its feet until it is consulted appropriately with the environmental community as to what they ought or ought not do on this 3.7 million acres. Here is the problem.

If they consult now, and they begin to act with all of the natural analyses that are necessary under existing law and the National Endangered Species

Act, here is a time line that would suggest that if all worked well without appeals, without any objections, we might actually be able to have a management plan in place in a year and 4 or 5 months. What is wrong with that, Senator CRAIG? Why can you not accept that? Is that not a reasonable approach to management? That is an entire seasonal cycle. That is the winter and the spring and the summer and the fall and the winter and the spring again. And that is moisture and runoff and erosion, and the lands go unmanaged, and the lands go untreated for environmental purposes, and to protect the ecosystems and to protect the critical habitat in the stream beds where fish are trying to spawn, and the environment is trying to rejuvenate.

I say to Katie McGinty and this administration: You are doing the most antienvironmental act I have yet to see. Do not hide behind your green cloak. Come forward with a reasonable management plan that does a variety of things. Let me suggest to you what they ought to be. That is to move immediately—I mean tomorrow —to work with the professionals on the grounds of the U.S. Forest Service that have the talent and the unique quality we have demanded over the years, to put together a management plan that does a variety of things, and does not just cut trees. It begins to stabilize the streams and the banks. It begins to take the steep hillsides and to make sure that this fall, before the winter snows come, that grasses are seeded so that they can sprout in the spring and build a root base that will disallow the kind of erosion that can happen as a result of these catastrophic fires. But, no, that will not happen because they will be caught up in the business of a bureaucratic morass, because they are afraid to lead, based on the policy that is available to them today. That is one side of the story.

Here is the other side of the story, and I will be brief. Five-billion board feet of timber; it is burned and it is dead. But much of it is still standing, and much of it still has a commercial value. But that window of opportunity, before that commercial value will fade, is less than a year—in some species, it may be a little more—before it is worthless, before it could only be cut for firewood.

So what I am suggesting to this administration is the reason why their 30- or 60-day timeframe is simply too long is because that plan needs to be in place now. Some of that logging could occur this winter, and some of it could be done on the snow and frozen ground, where it would not damage the environment at all. Yet, it could remove a variety of those types of fiber that could be used for paper or dimensional timber or all of those kinds of things.

What does it mean in my State? It literally means thousands of jobs. It means millions of dollars to the U.S. Treasury. It means hundreds of thousands of dollars in stumpage fees to the counties and schools and road systems of my State. In Grangeville, ID, today, a small logging community and agricultural community in north central Idaho, just this last week, Ida Pine Mill gave the 60-day notice to its 100 employees that the mill was shutting down. There was no more timber. As far as they were concerned, that would be a permanent shutdown.

That mill is located less than 100 miles from nearly 500 million board feet of the very kind of timber that I have just described—less than 100 miles from enough timber to keep that mill operating for 4 or 5 years. Yet, not one signal, not one green light from this administration have we heard. When our staffs came together and asked for a briefing, we were told: Oops, priority information, cannot talk to you. We do not have our act together.

When my forest products people came back here yesterday, they were told: Stand in line until the environmental communities of this country tell us what to do. Since when do the environmental communities of this country run the public policy as administered by any President or administration? They do now, apparently. That is what we heard yesterday.

Well, OK, 100 workers at Ida Pine Mill in Grangeville, ID. That is in the mill, and there are 100 others in the woods. Over 200 families in Grangeville, ID, you are going to be out of work, and you are not going to be able to put food on the table this winter. Happy Thanksgiving and Merry Christmas from the Clinton administration.

Is that tough talk? No, it is angry, frustrated talk. It is not me understanding what they are doing, because they are not giving us any signal that they are doing anything. And we know now that you act when these things occur. On the State lands in Idaho right now, the State Lands Department is out and the trees are being marked that ought to be pulled out. They are even logging today in the burns. Grass is being seeded, and stream banks are being stabilized. That is what is going on on the State lands.

On the millions of acres of Federal land, not one thing is going on. Until the management team is put together—and I assume it is now, although we do not know—and until we get a policy put together—because this appears to be some extraordinary event; yet, it really is not—we cannot do anything.

Well, let me close at this moment. The Senator from Georgia has been more than patient. I know he has some issues to talk about. I will conclude with these thoughts:

We are talking about 5 billion board feet of charred timber that could be logged and turned into dimensional lumber. A million homes in America could be built from the trees that were burned this summer in that intermountain area on the 3.7 million acres that I am talking about. I would not expect that all of those trees could or should be logged. But I would expect that a good many or a good amount should come out, because that would be the right practice. If they are left, they will rot and die, and they generate bug populations and endanger surrounding forests that were not burned, and it all goes on in a very damaging way.

There is the time track that apparently they are going to stay on board with, because that is in the law. But they have not even started. Mr. President, a few years ago, when I and others here worked to change the appeals process in the U.S. Forest Service, we made sure that within it was a clause that said in salvage sales, it would be unappealable, that up to a certain amount of board feet, that was an administrative action, a decisionmaking process on the part of the professionals inside the Forest Service, and that they could go ahead with salvage sales. This administration said "no" when they wrote the regulations to that new law. Even though we in the Senate said "yes," Jim Lyons of the Forest Service, an appointee of this administration, said "no." Therefore, he subjected all of what needs to be done in the intermountain West to the ability of a 29-cent stamp and a group that wants to appeal, outside the professional judgment and the necessary actions of the professionals of the U.S. Forest Service.

We had a crisis all summer in the West. Tragically enough, that crisis has not gone away. The crisis of the summer was 3.7 million acres of land, timberland, that burned; the loss of 26 firefighters' lives; the unprecedented expenditure of $700 million of taxpayers' money to extinguish those fires. That was the crisis of the summer of 1994.

What will the crisis of the winter of 1994 and 1995 be? The inability of this Clinton administration to make a simple management decision about the responsibility that they must undertake in the management of the public lands of the West, and to the thousands of people that could lose their jobs, and to the economy of regions that are threatened, simply because they will not act in a responsible fashion?

Well, I know by direct conversation with Jack Ward Thomas that he means well. When he said, "On August 29, I will assemble a team and I will have you an answer by September 30," he meant it. The problem is that he has not been able to do it. It has not been because of him. It has been because of others, in my opinion, who have disallowed his ability to make those kinds of sound decisions and move us ahead in a direction that will resolve that problem.

Mr. President, that is the issue. I have sent a letter, along with other Senators, to Jack Ward Thomas asking that we get a quick response. I hope he can fulfill that, and I hope this administration can be responsible in the wise and appropriate balanced management of our critical public lands. We have a crisis, and it needs to be resolved in an expedited fashion. I hope they can respond.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

NOMINATION OF LT. GEN. BUSTER C. GLOSSON

NOMINATION OF COL. CLAUDE M. BOLTON, JR.

NOMINATION OF LT. GEN. EDWARD P. BARRY, JR.

Mr. NUNN. Mr. President, I will speak briefly this evening on three nominations, all of which are subject to extended debate, although two of them have not been discussed, and I am not sure how much the Senator from Iowa is planning on discussing the Barry nomination and the Bolton nomination. But I will discuss those first and then make some remarks on the Glosson nomination, in the hope we can get a vote on all three of these individuals that have come out of committee with strong support.

The nomination, Lt. Gen. Edward P. Barry, U.S. Air Force, is a retirement nomination, to retire in grade. For people who do not follow these procedures, retiring in grade means the officer would be able to retire with the same number of stars—in this case as a three-star general—that the officer earned while on active duty. If do you not get confirmed by the Senate in grade, you revert to a two-star position for retirement. So that is what we mean when we say retire in grade. It is not a promotion. It is a retirement at the rank earned in active duty. The Barry nomination came out of the Armed Services Committee with a 22 to 0 vote. It was unanimous, Republicans and Democrats alike.

The second nomination I will discuss briefly is Col. Claude Bolton, U.S. Air Force. This is a promotion to the grade of brigadier general. In other words, he will stay in the service. He is not retiring.

The third nomination is another retirement question, and that is on Lt. Gen. Buster C. Glosson. The question is whether he will be able to retire with three stars, which he earned on active duty, or whether he will revert permanently to two stars at retirement. So those are the questions. One promotion in active duty, and two retirements.

First, I will discuss the nomination of Gen. Edward P. Barry, U.S. Air Force. As I mentioned, his nomination received unanimous support in the Armed Services Committee.

In a September 30, 1994, letter to that committee, Deputy Secretary of Defense John Deutch outlined the highlights of Lieutenant General Barry's military record. I quote from that letter:

> LTG Barry has had a 33-year distinguished career serving our country. His accomplishments have directly impacted our national security. For example, in 1982 he received the Air Force Association's National Award for Program Management as Program Director for the Defense Support Program. The system's detection of Iraqi-launched SCUD missiles during Desert Storm provided crucial advance notice of attack, which saved lives and enabled our air defense system to react. As Commander of the Ballistic Missile Division, he successfully fielded 50 Peacekeeper ICBMs, on schedule and under cost, while sustaining Minuteman II/III operational requirements.

Other highlights of his career include service as the Program Director of the NAVSTAR Global Positioning Satellite at its inception in 1978, Vice Commander of the Aeronautical Systems Division, and Commander of the Air Force Space and Missiles Systems Center.

Lieutenant General Barry's nomination has been pending since October 29, 1993—almost a year. The reason for the delay has been the committee's review of issues raised in connection with the C–17 program.

Mr. President, from 1990 to 1991, Lieutenant General Barry served as the Air Force's first program executive officer for Tactical and Airlift Systems. In that position, he had general oversight of a number of major programs, including the F–22, the F–15, the F–16, and the C–17. These are all programs under his jurisdiction. During this period, as Members well know, and as the Senator from Iowa has pointed out, the C–17 contractor experienced a variety of cost, schedule, and performance problems. These problems were examined in detail in 1993 by the inspector general of the Department of Defense.

So the controversy concerning Lieutenant General Barry, in spite of the fact that he had a number of systems, the F–22, F–16, F–15 all under his jurisdiction, the controversy as I understand it, relates to one of those, the C–17 program.

Although the IG issued over 60 pages of findings on problems in the C–17 program, the only specific discussion of Lieutenant General Barry involved an assessment he made that the risks of the contractor meeting its estimate of cost at completion was moderate to high. That was his risk assessment on the C–17 program.

Then the IG said they did not believe this was a strong enough assessment of risk. In other words, they believe moderate to high was not sufficient. It should have been higher than that. The Air Force then reviewed the inspector general report and concluded that the facts supported Lieutenant General Barry's assessment.

So the total case as I understand it against Lieutenant General Barry, that the IG said that his risk assessment was not high enough, the Air Force reviewed it and said they did not agree with the IG. They agreed with Lieutenant General Barry. If there is any further case against him, perhaps somebody could inform us.

Secretary Aspin reviewed the IG report and the Air Force's response on the range of individuals responsible for the C–17 program. He removed the program manager from his duties, and the program manager then retired. So when we talk about accountability, the program manager was forced off the job and forced to retire.

Secretary Aspin also stated that in order to restore confidence in the acquisition system, he would direct that a number of individuals no longer perform acquisition management functions, including Lieutenant General Barry. Secretary Aspin, however, made no specific findings with respect to Lieutenant General Barry.

Lieutenant General Barry then submitted a request to retire. The request was approved by the Department of Defense with a recommendation that he retire in grade, meaning that he could keep the number of stars he had earned under active duty.

The President approved this DoD recommendation and submitted the retirement nomination. Our committee took note of the Secretary's administrative action concerning Lieutenant General Barry's acquisition duties and asked Secretary Aspin for his views. Secretary Aspin affirmed his strong support for Lieutenant General Barry to retire in grade, which is what the committee has recommended to the Senate.

This nomination remained pending in the committee while the Department of Defense addressed a variety of questions regarding the management of the C–17 programs. None of these subsequent reviews found any culpability on the part of Lieutenant General Barry.

I note my friend and colleague from Iowa mentioned he was prepared to vote on the nomination last year. But the committee did not complete its review until after the C–17 inquiries were completed with respect to this nomination. If we had brought this nomination to the floor when the Senator from Iowa mentioned—I do not remember what he said, April or when he said he was ready to debate it—then we would not have had the benefit of these reviews and we would not have been able to tell our colleagues the facts relating to the findings in regard to Lieutenant General Barry and his part on the C–17 program.

The nomination remained pending in the committee while the Department

of Defense went through the numerous management questions relating to the management of the C–17 program. None of these subsequent reviews found any culpability on the part of Lieutenant General Barry.

On September 30, 1994, Deputy Secretary Deutch advised the committee that he had personally reviewed Lieutenant General Barry's role in the C–17 program. This is the Deputy Secretary of Defense. He concluded that "if Lieutenant General Barry had not elected to retire, I would have returned him to acquisition duties." Secretary Deutch then added that his "performance in his current position of the Commander of the Space and Missile Systems Center in Los Angeles has further demonstrated his professionalism and his dedication to duty."

In effect, Mr. President—and this is no exaggeration—if we reject this nomination, Secretary Deutch—and this is the nomination for retirement in grade, not a promotion, this man is retiring from active duty if we approve it—but, if we reject it, Secretary Deutch says he wants him to serve out his remaining 3 years in acquisition, because he has full confidence in him. So if this nomination is rejected on the belief that he made a mistake in acquisition—to the IG rejected by the Air Force, made one mistake in all his career, if he did it all—if we reject it, it would result in his going into the acquisition system for 3 more years.

Now, I do not know whether that is what the Senator from Iowa wants, because he is opposed to this nomination I understand. But it would be the ultimate paradox if we rejected the nomination on the basis that he made a mistake in procurement and then he stays in procurement for 3 more years. It would not bother me because I think he has had an outstanding career, but for those who voted to reject him it would be the ultimate paradox. We have no authority to remove him from the military service. That is not in the power of the Senate. We have the authority to not approve his nomination to retire in grade.

That is our question. The Secretary of Defense has the authority to keep him on. I do not believe my colleagues who perhaps have opposition to this nomination would find that result to their liking if they really do believe he has made a serious mistake. I do not. I think with the outstanding record he has had in all these programs, that he has managed to have only one such allegation by the IG in all of this time—and, remember, he said the risk was moderate to high; that was the range. It turned out it was high. If he had not had the word moderate in there, perhaps there would have been no finding by the IG.

Mr. President, it is important to remember that the C–17 program was a troubled program long before Lieutenant General Barry became the program executive officer, and the decisions regarding cost, schedule and performance were not his. They were made at the highest levels of the Air Force.

It is certainly possible, with hindsight, as the IG did, to suggest that Lieutenant General Barry could have done more to address the problems in the C–17 program. I do not believe however, it is wise or desirable to insist that military officers achieve a standard of perfection in order to retire in grade. How many of us would like to be held to a standard of perfection in terms of the United States? How many of us have never made a single error in our careers?

There has been no showing that he acted or failed to act in any manner that would cast doubt upon his professionalism or integrity. I repeat that. There has been no showing that he failed to act in any manner or acted in any manner that would cast doubt upon his professionalism or integrity.

Lieutenant General Barry served the Nation with distinction and has had many successful tours of duty. He has contributed to the strength of our Armed Forces and to our national security through the development of sound and successful acquisition programs. In view of his overall career and in view of the high degree of confidence that the current leadership of Department of Defense has expressed in his abilities, I strongly endorse his nomination to be retired in grade.

Mr. President, I assume we will vote on this nomination, either on the nomination itself, I hope, or perhaps on the cloture motion, I hope, in the next several hours or perhaps even the next several days. That is up to the people who oppose the nomination.

Mr. President, the second nomination I will discuss this evening is the nomination of Col. Claude Bolton in the U.S. Air Force, for promotion to the grade of brigadier general. This is a different nomination.

This is one to stay in the military and move up a notch to brigadier general from colonel.

Colonel Bolton is a Vietnam combat veteran where he flew over 200 combat missions, including 40 missions over North Vietnam. Following his service in Vietnam, he served as a test pilot for the F–4, F–11, and F–15 aircraft. More recently, he was the first program manager for the Advanced Tactical Fighter Program, which evolved into what we now call the F–22. He then served as the program manager for the Advanced Cruise Missile Program.

According to Deputy Secretary of Defense Deutch, Colonel Bolton "turned around a troubled program and produced technically sound missiles regarding meeting the requirements of the Air Force. Since May 1993, he has served as commandant of the Defense System Management College. Deputy Secretary Deutch has advised the committee that he has "had the opportunity to personally observe Colonel Bolton's performance over the last 18 months in his capacity as the commander of the Defense System Management College. His service in that capacity, as in earlier assignments," according to Secretary Deutch, "has been outstanding."

Colonel Bolton was selected for promotion by a duly authorized selection board. His nomination for promotion was submitted to the Senate. The nomination has been pending in the committee since January 7, 1993. The committee withheld action on this nomination due to the reviews by the Air Force and the Department of Defense concerning the Advanced Cruise Missile Program, including the period during which he was program manager. That is the reason this nomination has not come before us. The Senator from Iowa said he was prepared to vote on it earlier. Perhaps he was, but it would have been without full information because the committee was waiting for the reviews concerning the Advanced Cruise Missile Program, the program he was associated with. On September 30, 1994, a week ago, Deputy Secretary Deutch described the results of those reviews.

And I quote Secretary Deutch again:

> I have personally reviewed the issues that have been raised about his management of the ACM (advanced cruise missile) program as a result of a DOD Inspector General Report on Air Force missile procurement. The report, which did not allege any misconduct or other deficiency by Colonel Bolton, recommended that the Air Force review and report on violations of the Anti-Deficiency Act. The Air Force conducted the review, and determined that the actions taken to fund the program did not violate the Anti-Deficiency Act. The Department of Defense General Counsel and DOD Comptroller have both concurred in this determination.

Secretary Deutch added:

> It is important to note that the funding decisions at issue were not made by Colonel Bolton; rather, they were made by the Secretary of the Air Force, with the advice and concurrence of the senior leadership of the service. Colonel Bolton reasonably and properly relied on their decisions and direction in his implementation of the program.

Mr. President, in summary, Colonel Bolton is a combat veteran, an acquisition specialist whose record has been characterized by the leaders of the Department of Defense as "outstanding."

With respect to the Advance Cruise Missile Program, the Deputy Secretary has noted that there is "no basis . . . for concluding that there was any significant deficiency in Colonel Bolton's management of the program. On the contrary, . . . he acted with professionalism and integrity to identify problems and implement the decisions made by authorized superior officials."

Secretary Deutch concluded:

Colonel Bolton has served his Nation with skill and dignity. I am confident that he has much more to offer our Nation.

Mr. President, in summary, what happened was this program had a funding problem. Colonel Bolton properly brought it to the attention of his superiors, the Secretary of the Air Force and others. They came up with a funding plan and told him what to do. This was his superiors. He reports a problem. He gets an order from the top that says, "This is what you are supposed to do." Then the IG criticized the funding of the program and said that there was a violation of the Anti-Deficiency Act, which is serious.

But Colonel Bolton did not make that decision. The Secretary of the Air Force did. The Air Force has now said there was no violation; and the DOD General Counsel said there was no violation—so that dispute has pretty much been laid to rest. But whether it has or not, Colonel Bolton had nothing to do with it.

I do not know what you can ask of a man any more than he report a problem to his superiors. And when they basically review it and tell him what to do, he does it. That is what he did.

He did not do anything wrong. He has not been accused of doing anything wrong by anyone. I repeat that. He has not been accused of doing anything wrong by anyone—by the IG, by the Air Force, by DOD, by the committee, by anyone.

So I certainly urge that this nomination for promotion to brigadier general be approved.

Mr. President, the third nomination is the one that my friend and colleague from Iowa has talked about at length on the floor. I know that the people who have heard this now, I think, pretty much understand his view of the nomination, and that is a view that all my colleagues should consider. I do not agree with it, but this is a closer case and it deserves consideration of those here on the floor of the Senate, as well as those who will be voting.

Mr. President, there are a couple of things that the Senator from Iowa said over and over again. I will address some of the other points he made in more detail, but he mentioned two or three of what I used to call back in my law practice days "straw man" arguments that he proceeded to knock down very hard. But the difficulty with citing those arguments, from the committee point of view, is we did not rely on them.

One was so the so-called conspiracy theory. And the Senator made a strong case that there was no conspiracy among the officers who were accusing General Glosson of misconduct. We agree with that. That is not part of our committee report. We did not in any way say there was a conspiracy.

The other one that he mentioned and then knocked down, was that the IG was biased. As the Senator knows in reading the report, I am sure, that we did not say in the report that the IG was biased.

So the main arguments he used on those two points, the committee did not in any way rely on those. We did not even mention those in our discussion of the merits of the nomination, although those were questions that came up in the overall investigation. But that was not the basis of the majority's opinion on this.

This was a vote that passed in the committee by 14 to 7. People on both sides of the aisle voted yes and people on both sides of the aisle voted no.

I want to emphasize, before I begin my remarks—and I will make short remarks tonight on this subject and then I will have perhaps more remarks tomorrow, depending on when we vote.

I want to emphasize to my colleagues again that this is not an active duty promotion. This is a retirement nomination.

The question here is not whether General Glosson stays in the Air Force. He is already out of the Air Force. The question is whether General Glosson retires with three stars, which were earned while he was on active duty, or whether he permanently retires with two stars because we disapprove his nomination for retirement in grade.

He is going to retire as a general. He is going to retire either as a two-star general—if we reject his nomination—or as a three-star general. He is not going to be court-martialed. He is not going to face any kind of criminal charges. There has been no charge like that.

The question we have before us is whether General Glosson is going to retire as a three-star or a two-star general.

Mr. WARNER. Mr. President, will the Senator yield for one added clarification?

Mr. NUNN. Yes.

Mr. WARNER. There is also a serious financial implication, which is not only shared by the service person but by his family, also.

Mr. NUNN. The Senator from Virginia is correct. There is approximately a $6,700 a year difference. So we are deciding, in terms of money, whether General Glosson gets $6,700 less, he and his family, as the Senator from Virginia said.

Mr. WARNER. I urge, Mr. President, the emphasis on the family, because they, in most instances, have worked throughout this 30-plus year career, moved hundreds of odd times, and borne the burdens of service life.

Mr. NUNN. I thank my friend from Virginia. And I certainly concur in that.

Mr. President, Lt. Gen. Glosson has served our Nation in uniform for over 29 years. The highlights of his career—and it has been an outstanding career—include: Combat in Vietnam as an F-4 pilot, for which he was awarded the Distinguished Flying Cross for 139 missions—139 missions in Vietnam.

Deputy Commander of the Joint Task Force, Middle East, United States Central Command, during the Persian Gulf conflict. General Glosson was responsible for planning and implementation of the Allied air campaign during Operation Desert Storm.

He was the individual in charge of Operation Desert Storm, the entire air campaign. He was responsible for planning and implementation right under General Horner. That team probably did as fine a job as any team has ever done in the history of warfare in terms of a complicated, complex operation. And we saw the results of an awful lot of it on our television screens. He served as the Deputy Chief of Staff of the Air Force for Plans and Operations. That is the job he had when he left the Persian Gulf war.

As Deputy Secretary of Defense John Deutch stated in support of the nomination, Lieutenant General Glosson's record of service in Vietnam and Desert Storm is impressive. This is a quote: His "record of service in Vietnam and Desert Storm is impressive."

Secretary Deutch added:

"His demanding style and frankness contributed to protecting and saving the lives of American pilots during the Gulf War. This was part of a 29-year military career that has been distinguished * * * and justifies a retirement with a rank of lieutenant general."

Mr. President, I could make a 4-hour speech about General Glosson's military record. I could go through everything that was happening in Desert Storm. I could go through his whole career in Vietnam. But I think it should just be said for the record that this has been an outstanding military officer.

That does not decide the question tonight. That does not decide the question we must address. But it is certainly a relevant fact.

When you look at a mistake that an individual made, and he did make a mistake. I think it was a serious mistake. But when you look at that mistake, I think you also have to weigh that against a 29-year career. I hope my colleagues will do that.

There are people who will come to one or the other conclusion, but to me you have to consider the entire spectrum when you are considering retirement.

This is not a question of whether he is going to stay in the military. He has already paid a price. This individual is one of the few people in the Air Force who would probably have been in the final two or three—looking at the new Chief of Staff of the Air Force. He was going to be a four-star general. Everybody in the Air Force knew that.

So the question in people's minds is going to be did he do something wrong? In my opinion, he did not do anything

that violated the Uniform Code of Military Justice in terms of any court-martial offense. The Senator from Iowa made some comments regarding that. But he did make a mistake, and I will get into that in a moment. He made a mistake which I think was a serious mistake.

The question will then be has he paid a price for that? The answer is he has paid an enormous price. He was basically retired from the military 6 years earlier than his career would otherwise have terminated. He was basically not given the opportunity to be a four-star general. He was basically removed from his outstanding potential career.

So has he paid a price? If you talk to General Glosson or his family, anybody who knows him, you would say he has paid a very high price for the mistake he made.

The Committee on Armed Services has given considerable attention to this nomination, as outlined in detail in the committee's report on this nomination—Executive Report 103-34. We go into great detail in that report. I am not going to lay it all out tonight. But anyone who wants to read every angle of this can read that report or even skim that report and get a full picture.

The information provided by the Department of Defense on this nomination, when it came over to us, raised more questions than it answered, so we directed the Department of Defense to establish an independent panel to review the issues concerning Lieutenant General Glosson's nomination.

Mr. President, the inspector general found that General Glosson had lied. That was said in the inspector general's report. When the Department of Defense sent the nomination over to us, they did not even reasonably comment on that. They just said we do not have to decide that.

Well, in effect, the committee was put in an impossible position.

If I felt he lied, I would not be out here tonight on this nomination. I would have said no on that nomination. I would have said no without any doubt. But that was not what the Department of Defense found. The IG found that: The Department of Defense did not take a position on that, which we found to be unacceptable. So we sent it back to the Department of Defense.

The independent panel then was formed by the Department of Defense and that panel, composed of Mr. Jeff Smith, who used to be the chief counsel of our committee, the Armed Services Committee, Mr. Will Taft, who was the Deputy Secretary and general counsel of the Department of Defense. Also he was our NATO head in the Bush administration. He was the second member of the panel, and the third member was Mr. Alan Chase, who was the minority staff director on the House side.

That panel was appointed. They confirmed the conclusion of an earlier joint DOD and Air Force inspector general investigation that Lieutenant General Glosson knew, at the time that he discussed the qualifications of a particular candidate with the three officers, that one or more of these officers had been designated to serve on the promotion board.

That is what this is all about—commenting to people in derogatory terms about an officer when General Glosson either knew or should have known that one or more of those officers could be or was likely to be on the promotion board, selecting or determining the future of that individual officer that he talked about.

The panel, this independent panel, then considered the issue of whether Lieutenant General Glosson lied about his communications with the three officers in his testimony during the joint IG investigation. The panel reviewed the evidence, interviewed the witnesses, assessed their credibility. That panel concluded that Lieutenant General Glosson's statements were "not accurate" but they also stated:

> We have concluded that LTG Glosson thinks his version is accurate and that it represents fairly what at this point he recalls. In short, we believe he is not deliberately lying but is simply mistaken.

Everyone who has practiced law knows if you are going to prove that someone committed perjury in any kind of court, you not only have to show the statement is false, you also have to show they knew it was false. Those are the two elements. So in this case the panel said they did not believe Lieutenant General Glosson knew that he was making a false statement. That is the heart of what they decided.

Before giving my evaluation of this nomination, I want to emphasize that the committee spent a lot of time on this nomination because of the high priority we give to matters involving the integrity of the promotion system.

The committee regards improper communications with selection board members to be a very serious matter. As we noted in a report in 1992, the "fair and impartial conduct of the selection process is a matter of great concern to the Committee. The integrity of the selection process is essential to the integrity of the officer corps. Adherence to the established laws and regulations is necessary to ensure the best officers are selected for promotion and that the officer corps has confidence in the integrity of the selection process."

The factfinding panel found that Lieutenant General Glosson "improperly attempted to influence" officers who had been designated to serve on a selection board. This finding was accepted by the Deputy Secretary of Defense, Mr. Deutch.

Mr. President, the committee's report on this nomination addresses this matter by noting that, "it was wrong for LTG Glosson to attempt to influence members of the board. The committee regards failure to comply with the restrictions on communications with selection boards as a serious matter in view of the committee's strong commitment to the integrity of the selection board process."

The committee also noted, however, that it is important to place these actions in their appropriate legal context. The regulations governing such communications are administrative in nature. Actions inconsistent with such regulations are subject to administrative action. They are not subject to punishment under the Uniform Code of Military Justice.

The Senator from Iowa has mentioned that UCMJ several times I think in his presentation. But these actions are not subject to that Uniform Code of Military Justice. They are subject to administrative action.

The committee further noted that, as a result of the administrative action taken against Lieutenant General Glosson, his military career has been prematurely terminated, 6 years before his projected retirement date. As Secretary Widnall has stated:

> General Glosson has earned the privilege of retiring in the grade of lieutenant general. The events of last fall do not erase his years of extraordinary contribution, nor, in my view, do they call for a different conclusion.

So the Secretary of the Air Force basically endorses this and sent this nomination up. The Secretary of Defense endorses it. The President endorses it.

The committee agreed in the final analysis after a great deal of discussion and months and months of deliberation on a very tough question. We agreed with the recommendations of the administration, based it upon the following factors:

First, this is a retirement nomination, and does not involve promotion or reassignment to a position of importance and responsibility. In that context, it is particularly important to take into account Lieutenant General Glosson's 29 years of distinguished service to the Nation, including his service as architect of the Persian Gulf air war during Operations Desert Shield and Desert Storm as well as his outstanding combat service in Vietnam.

Second, improper communications to a member of the selection board, while serious, involve an administrative matter, not a court-martial offense.

Third, Lieutenant General Glosson has suffered serious consequences as a result of the improper communications. His brilliant career, destined for four stars and perhaps even leadership of the Air Force, has been terminated. The improper communications are now a matter of public record. General Glosson must live with the consequences of the panel report and the decision by the Deputy Secretary of Defense to accept the panel's finding.

Mr. President, I heard the Senator from Iowa say several times that there needs to be a warning sent to the Air Force officers out there about this conduct being a mistake and improper. I agree with that. I agree with that. I think the Senator is entirely correct on that. This was not a correct action. It was a mistake. It basically could have tainted the process. Three Air Force officers came forward and said we do not think this is right, and they basically reported the conversations they had with Lieutenant General Glosson.

But where I perhaps would disagree with my friend from Iowa is I believe the warning has already gone out. When an Air Force officer who is slated for four stars, who has had one of the most outstanding combat records in the Air Force, certainly since World War II and including a lot of that war, when that happens and he and his career is cut off and he is to retire 6 years early, and when he has no opportunity for further promotion, when he gives up any opportunity to ever be in a four-star position, that is punishment in the eyes of anybody in the military.

The question for this body is: Is that punishment enough? The Senator from Iowa does not believe it is. I believe it is. I believe that is sufficient punishment. I understand how others could have a different view.

Mr. President, there is one final remark I want to make. I have known Lieutenant General Glosson personally for a number of years. Everyone should know that. I have known him, I have admired him, I have worked with him. You cannot divorce that from your view when you bring forth a nomination on the floor of the Senate. I do not in any way hide that knowledge of him. I know him, and the reason I do not believe he lied and the reason I agree with the panel and not the IG is because I have seen him time after time come forward and give information that is adverse to his own position in an honest and a fair and an objective way.

Time after time, we have worked with General Glosson and asked him for information about controversial programs. He has always been honest—honest and painfully so—even when he knows that the information being provided, even his own personal opinion, is adverse to a particular program that he has been in favor of.

So I know him personally. Others know him personally. Other Senators do not know him personally. They can make their own judgment, but I do not believe he lied intentionally. I do not believe he provided false information intentionally. I do know General Glosson is a very frank and candid guy. That is one of the characteristics of people who are usually warriors. He is a warrior. He is frank. He is candid.

When he says something about someone, he means it. And I can imagine him making derogatory comments about another officer. I want everyone to understand, it is no offense, administrative or otherwise, to make derogatory comments about another officer, any more than it is to make derogatory comments in the Senate—private comments—about a Senator. But what is wrong in this case is he was making comments to those people he either knew or should have known, might have known, or probably knew were likely to be on the promotion board. He may not have known specifically they were going to be on the promotion board, but he should have known when he was talking to that many generals at that rank.

Finally, if General Glosson is not confirmed or retired in grade as a three-star general, his retired pay will be reduced, as the Senator from Virginia said, by approximately $6,700 a year. While the improper communications, in my view, warrant serious administrative action—and action has been taken in this case—it was the committee's judgment that a single incident of noncriminal conduct in an otherwise distinguished career did not warrant an annual reduction of $6,700 of retired pay and a reversion back to two stars.

If anybody ever earned three stars in the United States Air Force since World War II, General Glosson earned those three stars. Our decision tonight will be whether to remove one of them from what would otherwise be justified.

The committee did not believe that that single misstep, even though significant and even though a serious mistake, in light of the overall total career, warranted compounding the consequences that General Glosson has already suffered and his family has already suffered by denying him one of the three stars he earned while on active duty.

Mr. President, I urge my colleagues to remember that this is a retirement nomination involving an individual who has already suffered serious consequences. In view of his long and distinguished service to the Nation, I believe this nomination should be confirmed.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. NUNN. Mr. President, I have not yielded yet. I will yield in just a moment.

Mr. President, I ask unanimous consent that the letters on Colonel Bolton and Lieutenant General Barry from Secretary Deutch be printed in the RECORD.

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

DEPUTY SECRETARY OF DEFENSE,
Washington, DC, September 30, 1994.

Hon. SAM NUNN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to express my support for the nomination of Colonel Claude M. Bolton for promotion to the grade of Brigadier General. I have had the opportunity to personally observe Colonel Bolton's performance over the last 18 months in his capacity as the Commander of the Defense Systems Management College. His service in that capacity, as in his earlier assignments, has been outstanding.

Colonel Bolton is a combat veteran of Vietnam, where he flew 232 combat missions over Southeast Asia in the F-4 with 40 of these missions over North Vietnam. He received two Distinguished Flying Crosses and 18 Air Medals. He then flew the F-4, F-111, and F-16 as a test pilot. He was the first program manager for the Advanced Tactical Fighter Technologies Program, which evolved into the F-22 System Program Office. As program manager for the Advanced Cruise Missile (ACM) program, he turned around a troubled program and produced technically sound missiles meeting the requirements of the Air Force. In March 1993, he assumed his current position as Commandant.

I have personally reviewed the issues that have been raised about his management of the ACM program as a result of a DOD Inspector General report on Air Force missile procurement. The report, which did not allege any misconduct or other deficiency by Colonel Bolton, recommended that the Air Force review and report on violations of the Anti-Deficiency Act. The Air Force conducted the review, and determined that the actions taken to fund the program did not violate the Anti-Deficiency Act. The Department of Defense General Counsel and the DOD Comptroller both have concurred in this determination. It is important to note that funding decisions at issue were not made by Colonel Bolton; rather, they were made by the Secretary of the Air Force, with the advice and concurrence of the senior leadership of the service. Colonel Bolton reasonably and properly relied on their decisions and direction in his implementation of the program.

It is always possible, with hindsight, to suggest ways in which an acquisition official might have taken a different approach in dealing with funding and management challenges. There is no basis, however, for concluding that there was any significant deficiency in Colonel Bolton's management of the program. On the contrary, it is my view that he acted with professionalism and integrity to identify problems and implement the decisions made by authorized superior officials.

Colonel Bolton has served his nation with skill and dignity. I am confident that he has much more to offer our nation, and urge the Senate to promptly confirm his nomination for promotion to Brigadier General. A similar letter is being provided to Senator Thurmond.

Sincerely,

———.

DEPUTY SECRETARY OF DEFENSE,
Washington, DC, September 30, 1994.

Hon. SAM NUNN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to express my support for the nomination of Lieutenant General (LTG) Edward P. Barry, Jr., to retire in his current grade.

LTG Barry has had a 33-year distinguished career serving our country. His accomplishments have directly impacted our national security. For example, in 1982 he received the Air Force Association's National Award for Program Management as Program Director for the Defense Support Program. The system's detection of Iraqi-launched SCUD missiles during Desert Storm provided crucial advance notice of attack, which saved lives and enabled our air defense systems to react. As Commander of the Ballistic Missile Division, he successfully fielded 50 Peacekeeper ICBMs, on schedule and under cost, while sustaining Minuteman II/III operational requirements.

I have personally reviewed the issues that have been raised with respect to his role in the C-17 program. As a Program Executive Officer with a staff of seven people, he had supervision over six major acquisition programs, including the F-22, F-15, and F-16 programs. In a January 1993 report on the C-17 program, the DoD Inspector General alleged that the Air Force had failed to acknowledge or report cost and schedule difficulties and take decisive corrective action. Although the report contained detailed information concerning the role of the program manager and a number of other officials, the only information in the report concerning LTG Barry involves his assessment that the risk of the contractor meeting its estimate at completion was "moderate to high."

After reviewing the IG Report and the Air Force's comments on the Report, Secretary Aspin determined that it was important to take action that would restore confidence in the acquisition process. He directed that the former C-17 program manager be removed from his then-current duties. In addition, he directed that LTG Barry and two other officials no longer perform acquisition duties.

After Secretary Aspin took his action, LTG Barry asked to retire. Secretary Aspin reviewed the entire matter and recommended that he be retired in grade. The nomination was forwarded to the President, who submitted it to the Senate. Subsequently, at the request of the Senate Armed Services Committee, Secretary Aspin again reviewed the entire matter and reaffirmed his support for LTG Barry's nomination to retire in grade. He specifically noted at that time that there was no evidence of criminal conduct, and that LTG Barry had not engaged in any actions that were self-serving or malicious.

I have also reviewed these matters. I would like to make it clear that if LTG Barry had not elected to retire, I would have returned him to acquisition duties. His performance in his current position as the Commander of the Space and Missile Systems Center in Los Angeles has further demonstrated his professionalism and dedication to duty.

He has chosen to retire, and I respect that decision. In light of his 33-year distinguished career, I strongly endorse his nomination to retire in grade. A similar letter is being provided to Senator Thurmond.

Sincerely,

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, on February 22, 1994, the Senate Armed Service Committee received Gen. Buster Glosson's nomination to retire in the grade of lieutenant general. The committee was also notified that an inspector general report had been prepared on General Glosson concerning a promotion board.

I have a great deal of respect for the Chief of Staff of the Air Force, Merrill McPeak, so I requested his opinion of General Glosson. General McPeak assured me that Lieutenant General Glosson was a true war hero in Vietnam, the primary planner of the Air Force bombing campaign in Desert Storm, and a trusted officer well deserving of retirement in the rank of lieutenant general.

I have watched the Glosson nomination with keen interest. Over the past several months; first, there has been an inspector general report furnished the committee that is 4 inches thick; second a number of executive session hearings have been conducted by the Armed Services Committee; and third, a hearing was held at which the Deputy Secretary of Defense, the Secretary of the Air Force, and the Chief of Staff of the Air Force testified on General Glosson's behalf. After all is said and done, it comes back to what General McPeak and I discussed 7 months ago. This is an outstanding officer who is deserving of retirement in the grade of lieutenant general. Let me just mention a few facts that all Senators should know before they vote.

President Clinton recommended that General Glosson be retired as a lieutenant general.

General Glosson is from North Carolina and is strongly endorsed by both Senators HELMS and FAIRCLOTH.

Secretary Aspin read all the material on General Glosson and recommended that he be allowed to retire as a lieutenant general.

Secretary Perry read all the material on General Glosson and he recommended that General Glosson retire as a lieutenant general.

Secretary of the Air Force Sheila Widnall and Gen. Merrill McPeak both read the same material and made the same recommendations.

Three special consultants were asked to reexamine the entire body of information concerning General Glosson and concluded that there was a misunderstanding between four honorable general officers and that General Glosson had done no wrong in his communications with the Department of Defense inspector general.

Another set of facts are worth noting concern General Glosson's career. He has 29 years of honorable service in the U.S. Air Force. During that time he saw extensive combat service in Vietnam as an F-4 pilot and was awarded the Distinguished Flying Cross for 139 missions. In his capacity as Deputy Commander of the Joint Task Force Middle East, he was responsible for the planning and implementation of the allied air campaign during Operation Desert Storm. He has also served as the Deputy Chief of Staff of the Air Force for Plans and Operations. It has been said about him that his demanding style and frankness unquestionably contributed to protecting and saving the lives of American Pilots during the gulf war. His efforts during Desert Storm were described as "the most successful air campaign in the history of air power, a campaign brilliantly planned and flawlessly executed." I would remind each of you that it was General Glosson's work that we viewed on the evening news as bombs were dropped down the ventilation shafts of Sadaam Hussein's Air Force Headquarters.

General Glosson worked hard, risked his life for his country and delivered exceptional service when his country needed him most. To tell him now that he cannot retire in the grade he so richly deserves not only does not make sense, it sends the wrong signal. This is a country that rewards its citizens for hard work and results. It should not be a country where one can lose a 29 year career over a misunderstanding. I urge my fellow Senators to confirm this outstanding officer to retire in the grade he earned, the grade of lieutenant general.

Mr. President, I think it is worth noting that two additional generals are being held from consideration. Gen. Edward Barry Jr. and Col. Claude Boulton are two other nominees who have been before the Senate since early 1993. This is unconscionable. They are both good officers with outstanding records. The Armed Services Committee has reviewed all the information and materials relevant to these two nominations and has recommended both for confirmation. Holding them longer is not fair to them, the Air Force, or their families. The Senate should consider and approve both of these generals before it adjourns.

Now, Mr. President, Senator NUNN has discussed the allegations made against General Barry and Colonel Bolton. I think he has described the committee's actions and findings very accurately. I ask my colleagues also to review the letters from Secretary Deutch, which I understand are on your desk. Secretary Deutch has concisely described the circumstances under which these two outstanding officers came to be the subject of the delays to their confirmation. It is clear to me that the allegations we have heard here this evening are without merit. I urge my colleagues to support the retirement of General Barry and the promotion of Colonel Bolton.

Mr. President, I ask unanimous consent that a "Dear Colleague" letter sent by Senator NUNN, chairman of the Armed Services Committee, and myself as ranking minority member, follow at this point in the RECORD. This is a "Dear Colleague" that we sent out about General Glosson to explain the situation.

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

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, October 7, 1994.

DEAR COLLEAGUE: The Committee on Armed Services has favorably reported the nomination of Lieutenant General Buster C. Glosson, U.S. Air Force, to retire in grade. LTG Glosson's distinguished 29-year career includes:

His service as an F-4 pilot in Vietnam for which he was awarded the Distinguished Flying Cross for 139 combat missions.

Primary responsibility for planning and implementing the air campaign in Operation Desert Storm.

Service as the Air Force Deputy Chief of Staff for Plans and Operations.

President Clinton, Secretary of Defense Aspin, Secretary of Defense Perry, Secretary of Air Force Widnall, and Air Force Chief of Staff McPeak, all recommend that LTG Glosson retire in the rank of Lieutenant General. As Deputy Secretary of Defense Deutch observed in testimony before the Armed Services Committee, LTG Glosson's "record of service in Vietnam and Desert Storm is impressive. His demanding style and frankness contributed to protecting and saving the lives of American pilots during the Gulf War. This was part of a brilliant 29-year military that has been distinguished . . . and justifies retirement with the rank of lieutenant general."

The Armed Services Committee has spend many hours considering this nomination and has recommended to the Senate that he be retired in grade. The Committee has issued a detailed report on this nomination (Exec. Rept. 103-34).

We urge our colleagues to confirm the nomination of this outstanding officer to retire in grade.

Sincerely,

SAM NUNN,
Chairman.
STROM THURMOND,
Ranking Minority Member.

Mr. THURMOND. I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I shall not take a great deal of time. I wish to say that I join with the distinguished chairman of the committee, Senator NUNN, and the distinguished ranking member, Mr. THURMOND, in urging the Senate to accept the recommendations of the Senate Armed Services Committee.

It has been my privilege to serve on this committee for nearly 16 years. I assure my colleagues that we perform our work with a great deal of care and in a meticulous manner.

On the two particular nominations of Barry and Bolton, there was a unanimous vote by the Armed Services Committee. We relied on documentation and letters given by the Secretary and the Deputy Secretary of Defense. These are individuals that the Senate can confirm for these responsible posts.

Our committee worked very closely with the senior management in the Department of Defense. Likewise, in the case of General Glosson, I have not seen a case in my years that had been done with a greater thoroughness than this.

What we are asking, the chairman and the ranking member, and those of us on the committee, is that this Senate repose in us its confidence that we do these things in a fair and equitable manner, in the best interests of our country and the Department of Defense.

Each Member has a perfect right to challenge—and, indeed, one of our colleagues has challenged—our judgment, and I respect my good friend. But I assure Members of the Senate that we have looked at these very carefully, and you can repose in the committee, particularly its chairman and ranking member, the judgment that we have made is the correct one. We have to be very careful as we deal with these issues on retirement because it affects the morale of the entire officer corps, not just the general officers but many of the juniors who are now making those career decisions as to whether to remain and dedicate the remainder of their lives and, indeed, the lives of their families, to the service of our country.

I yield the floor.

IMPLEMENTATION OF THE NORTH AMERICAN FREE-TRADE AGREEMENT IMPLEMENTATION ACT

Mr. STEVENS. The State of Alaska has an interest in resolving a question which has arisen regarding implementation of a statutory change made last year in connection with NAFTA. Section 521 of the North American Free-Trade Agreement Implementation Act, Public Law No. 103-182, amended 19 U.S.C. 58c(a)(5) to impose a $6.50 fee for the arrival of each passenger aboard a commercial vessel or aircraft from outside the customs territory of the United States. The reason for this change was to recover a portion of the revenue lost as a result of the elimination of a series of duties and tariffs under NAFTA.

NAFTA imposed a new fee of $6.50 for cruise passengers arriving in the United States from the Caribbean, Mexico, and Canada. Previously, such passengers were exempt from the Customs user fee. The law also raised the fee for both air and sea passengers arriving from other foreign destinations from $5 to $6.50.

As a result of the wording of the NAFTA implementing legislation enacted by Congress last year, the Customs Service is claiming authority to collect the Customs user fee multiple times during the course of the same voyage. Substituting the phrase "from outside the customs territory of the United States" for the phrase "from a place outside the United States", had this unintended consequence.

This point is particularly important to cruise passengers in Alaska where this interpretation could require the Customs user fee to be assessed more than once in a single voyage. For example, during the course of an Alaska voyage when the vessel may call in Ketchikan, Juneau, Valdez, Seward, and Sitka and may sail outside the Customs territory of the United States between each of those Alaskan ports as part of one continuous cruise voyage, under the Customs Service interpretation the fee would be collected three, four, or even five times. This was not Congress' intention. Could the distinguished Senator from Louisiana please clarify if it was the intent of Congress to require multiple collection of the $6.50 Customs user fee?

Mr. BREAUX. No, it as not the intent of Congress to assess the $6.50 Customs user fee multiple times during the course of a single voyage as in the Alaska situation. A similar result would apply in certain Caribbean cruises where, during the course of a single voyage, the vessel stops at two or more United States ports and travels outside the Customs territory of the United States between those American ports. In both of these situations, multiple fees should not be collected. The Customs user fee should only be collected once per voyage.

As the distinguished Senator from Alaska stated, the statutory change made last year in the NAFTA implementing legislation replaced the phrase "from a place outside the United States" with the phrase "from outside the Customs territory of the United States". The intent of this language change, which has given rise to this discussion, was to make it clear that the Customs user fee would be applied to passengers on so-called cruises to nowhere. These cruises are not traditional voyages with multiport itineraries, rather they simply leave a U.S. port, go outside the Customs territory of the United States and then return to same port with no stops at any intervening ports. Again, the purpose of this language change was to apply the fee to these cruises to nowhere passengers and not to enable the Customs Service to assess the fee multiple times during the same cruise voyage.

In addition, the existing statute provides that passengers are not subject to the fee unless they are provided Customs inspectional services. With respect to the port calls at intervening U.S. ports, Customs inspections are not required.

Mr. STEVENS. Does the Senator believe Congress needs to enact a clarifying technical amendment in order to limit the collection of this fee to once per voyage?

Mr. BREAUX. Since it was not the intent of Congress to impose the fee multiple times, no new law should be required. If the Customs Service

should, however, attempt to collect this fee multiple times, I would be happy to work with the senior Senator from Alaska in a bipartisan fashion to enact clarifying legislation during the next session. However, I urge the Customs Service to resolve this issue administratively in accordance with congressional intent, so that legislation will not be necessary.

JOB CORPS

Mr. SIMON. Mr. President, I would like to recognize the Job Corps Program and take this opportunity to celebrate its 30th anniversary and the 1.6 million young people it has served. I met yesterday with 45 members of the 9 teams, who competed earlier this week in the Fifth Annual National Job Corps Academic Olympics. These young people are an inspiration to all of us—and proof that Job Corps works.

Job Corps stands out as one of our country's most successful job training programs. It serves approximately 65,000 students each year in 111 centers throughout the United States Job Corps has a successful placement rate of 65 percent.

I am pleased that last year Job Corps announced its expansion to nine new centers, serving an additional 3,600 youth who are most at-risk. In Illinois, for every student enrolled in Job Corps there are 65 young people who are eligible and in need but who go unserved.

The average Job Corps student is 18 years old, reads at a seventh grade level, has a disruptive home life, has never held a full-time job, and comes from a family with an income of under $7,000. More than 80 percent are high school dropouts. These young people are at-risk. Too many of our disadvantaged young people are thrust into an unhealthy cycle of dead-end jobs, unemployment, and dependency on public assistance. Even worse, many turn to lives of crime.

I have often said that the true division in our society is not between black and white, or Anglo and Hispanic, or even between rich and poor. The true division in our society is between those who have hope and those who have given up. We have too many people who have given up. Job Corps gives people hope, and an opportunity to succeed.

According to a study by Mathematical Policy Research, for every $1 invested in Job Corps, $1.46 is returned to the economy through reductions in income maintenance payments, the costs of crime and incarceration, and through increased taxes paid by Job Corps graduates. In addition to improving their future earnings, Job Corps participants are less dependent on welfare and unemployment insurance.

Job Corps helps young people become productive, economically self-sufficient members of society. Few employment and training programs target high school dropouts with low reading levels, and fewer still have had their effectiveness documented in a rigorous and independent evaluation as has Job Corps.

The Department of Labor's inspector general has raised some concerns about the Job Corps. No program is perfect and Job Corps is no exception. But it is significant that while the inspector general has raised concerns, his testimony at a hearing on Tuesday emphasizes the importance of the program:

> The OIG has always believed that the Job Corps Program plays a pivotal role in the Nation's plan to enhance the economic earning power of America's youth. In its 30-year history, the program has enjoyed a great deal of success. However, as is always the case for programs of this size and magnitude, there is room for improvement.

Secretary of Labor Robert Reich described Job Corps as,

> One of the jewels in the crown of our work force investment system. If the Job Corps did not exist, we would have to invent it, and that mission of invention would be among the administration's highest priorities. But fortunately, the Job Corps already exists, and boasts a resounding record of success. So our mission is to preserve it, expand it, and further improve it.

We also heard the inspiring stories of three Job Corps participants: Miguel Garza, Tamika Butler, and Anna Street.

THE JANE ADDAMS CONFERENCE INTERNATIONAL WOMEN'S LEADERSHIP AWARD

Mr. SIMON. Mr. President, on November 2, 1994, the Jane Addams Conference will present its third International Women's Leadership Award. The award recipient for this year is Dr. Sadako Ogata of Japan, the United Nations High Commissioner for Refugees. Dr. Ogata is recognized for her exemplary work to world refugees and her strong commitment to the goals of the United Nations.

The Jane Addams Conference was founded in 1984 to provide an international forum for women. The conference strives to educate women for empowerment and influence in international issues, to promote the involvement of women in global affairs, and to encourage women to attain positions of leadership in the decisionmaking process.

The Women's International Leadership Award was established in 1991, the 60th anniversary of Jane Addams receiving the Nobel Prize for Peace. Award winners are women with international influence who have dedicated their lives to helping others.

The first award winner was Marjorie Benton, a prominent Illinois resident. Ms. Benton was appointed U.S. delegate to the United Nations five times and has served as the U.S. Representative to UNICEF. She travels the world to promote the work of Save the Children Foundation.

The second recipient was Dr. Wangari Maathai of Kenya. Dr. Maathai, founder of the Green Belt Movement, is the one of the foremost environmentalists in Africa. The Green Belt Movement has organized 50,000 women who have planted 12 million indigenous trees.

As the United Nations High Commissioner for Refugees, Dr. Ogata has been a strong and undaunted champion for the world's 20 million refugees. Previously Dr. Ogata served as the Independent Expert of the United Nations Commission on Human rights on the Human Rights Situation in Myanmar. Among her other many accomplishments, Dr. Ogata has served as chairman of the executive board of UNICEF, Envoy Extraordinary and Minister Plenipotentiary at the permanent Mission of Japan to the United Nations, dean of the faculty of foreign studies at Sophia University in Tokyo and director of the Institute of International Relations at Sophia University.

Dr. Ogata's commitment to world refugees and to the goals of the United Nations is exemplary. As we witness unrest, famine, and the disintegration of governments in many spots of the world, Dr. Ogata has been the shining light for refugees. Her tireless effort and her dedication to humanity has been an inspiration to all of us. I am pleased to join people from my State, across the Nation, and around the world to extend my congratulations and best wishes to Dr. Ogata for her outstanding accomplishments.

H.R. 783

Mr. SIMON. Mr. President, I would like to thank all of my colleagues who have made possible passage of H.R. 783, the immigration technical corrections bill, which contains many important provisions—both large and small—that will enable our immigration laws to work in a more sensible and efficient way.

In particular, I would like to commend my colleague from California, DIANNE FEINSTEIN, for her work on this bill and on immigration issues in general. She has long been in the forefront of efforts to strengthen and improve our immigration laws, and her efforts have already borne much fruit, in the form of increased resources for border enforcement, increased funding to the State of California for the costs of incarcerating illegal aliens, and more efficient procedures for dealing with deportable aliens.

Much work yet needs to be done, but Senator FEINSTEIN has my commitment that, as a member of the Immigration Subcommittee, I will work with her to explore further immigration reform legislation in the upcoming year. There is no question that our immigration laws need work, and I am confident that with Senator FEINSTEIN's help, we can achieve our objective of passing good, smart, and fair

immigration legislation in the upcoming session.

AMBASSADOR ALBRIGHT'S REMARKS ON RUSSIA'S ROLE IN PEACEKEEPING

Mr. LEAHY. Mr. President, yesterday, during our debate on Haiti, my colleague Senator MCCONNELL argued that there is a hidden cost to the United States military operation there. He expressed concern that, in order to win Russia's abstention on the U.N. Security Council resolution authorizing this action, the administration told the Russians, and I quote Senator MCCONNELL, "you go ahead and do what you will in Ukraine or Georgia or Armenia, and Azerbaijan, or anywhere else in the former Soviet Union and we will utter not a peep."

Such a statement by the administration would be a tragic mistake. Senator MCCONNELL was not, however, actually quoting an administration official. He explained that this was the meaning of statements like one by Madeleine Albright, or Ambassador to the United Nations, when she was in Moscow on September 6. Senator MCCONNELL quoted Ambassador Albright as saying that "Russia is an empire where the mother country and the colonies are contiguous."

Mr. President, I was in Moscow on September 6. I was not present for Ambassador Albright's speech, but I did have the chance to meet with her there, and to hear from her personally about the grueling trip she had just made to Georgia, Armenia, and Azerbaijan to assess first-hand the conflicts in that region and the role that Russian forces are playing as peacekeepers there. And yesterday, as I listened to Senator MCCONNELL, it struck me that his depiction of the thrust of her remarks—that we are telling Russia we do not care what they do with their neighbors—bore no resemblance to what I remembered Ambassador Albright having told me about Russia's actions in that region and the administration's position on those actions.

Mr. President, I was concerned about this discrepancy. No one can predict the future, and I as much as anyone am concerned about the possibility that Russia could lapse back into the same kind of imperialistic habits relative to its neighbors that it exhibited during the cold war. Like most other Senators, I have supported President Clinton's efforts to build a new, more cooperative relationship with the Russian Government, but I have done so based on my understanding that Yeltsin Government has committed itself to renunciation of Russia's old ways and to accepting the principles of respect for the sovereignty and territorial integrity of its neighbors. I certainly would not support a United States policy towards Russia of the kind attributed to President Clinton by Senator MCCONNELL.

I therefore asked for and obtained a copy of the text of Ambassador Albright's remarks in Moscow, which number 11 single-spaced pages. And I am pleased to report that, although Ambassador Albright did make the statement attributed to her, her overall statement conveys clearly a message completely opposite to what the Senator form Kentucky inferred. Ambassador Albright in her speech repeatedly and emphatically put the Russian Government on notice that the world is watching closely Russia's actions in Georgia, Moldova, and elsewhere, and expects that it will act in full accordance with the accepted principles of international peacekeeping and national sovereignty.

Let me provide a few quotes:

First, the full comment from which the Senator from Kentucky quoted, and let me add that this particular comment was in answer to a question, was extemporaneous, and therefore was perhaps not as artfully worded as it might otherwise have been:

> The burden of proof is on Russia to abide by a variety of international principles that have to do with peacekeeping and neutrality. Russia has a very difficult task, and I think everybody needs to appreciate the difficulty of it. It is an empire that is, on its own, disassembling itself. That is unusual. It is an empire where the mother country and the colonies are contiguous. That is also unusual. It is taking place at a time when there is a greater sense of nationalism, I think, than at any time, and where we not only have nation states that are trying to be formed, but ethnic subgroups that believe that they need to have boundaries, flags, currency, and their own airline. I think that it creates incredible difficulties.
>
> So the United States' position has been in the United Nations, as far as activities in the "near abroad," that so long as Russia abides by the international peacekeeping principles, their mandates are created, and they follow through on them, that it is an appropriate thing for them to do, because in that way they are, in fact, part of the responsible international community that is trying to maintain stability. But—and it is a big but—they have to abide by the international peacekeeping principles. And they know, and we know, that the world is watching how it is done and that people are suspicious because of their past history. But that we should not just decide that they cannot do this kind of business simply because of their history, because something needs to be done to calm the forces. And when you have a person that's as respected as Chairman Shevardnadze asking for help, then I think it is legitimate to have a response.

Mr. President, I for one agree completely with this characterization of the issue and U.S. policy. Particularly, as Ambassador Albright had already stated it even more clearly:

> I think, however, and this is the message from my trip, by virtue of history, there is a certain suspicion in these NIS countries about Russia's intentions. The result of the history and geography basically places a special burden on Russia, and the burden of proof is on Russia to prove its commitment to accepted international principles, to the sovereignty of the newly independent states and to adopting a neutral stance in the ethnic conflicts that have exploded in Georgia, Nagorno-Karabakh and Moldova. And I think that they know that the world is watching. On the other hand, to a great extent, people in these countries and people in other countries are grateful that Russia is able to participate in these. So it's a very mixed kind of situation and a mixed message and very much a sign of the pragmatic approach that we have to take, in this day and age, where there are eruptions of kinds that are very different.

A few minutes later, Ambassador Albright addressed directly Senator MCCONNELL'S concern about linkage between the Russian peacekeeping effort in Georgia and the United States intervention in Haiti. She said, and I quote, "there is no moral equivalency and there is no analogy. * * * and, if I can say something just flat out, there is no analogy in history. None. The United States didn't have an empire. The United States never was totalitarian. And there is no analogy. The confluence or the coincidence is only one of time."

Mr. President, this is a strong assurance from the person best positioned to know, that there was no deal struck between the United States and Russia at the United Nations regarding United States support for Russian engagement in Georgia or anywhere else, in exchange for Russian assent to the Haiti resolution.

This is not the time to debate the fundamentals of United States policy toward Russia. I do feel, however, that it is important that there be no misimpression left about the words of our Ambassador to the United Nations concerning this very sensitive issue. Ambassador Albright is a dedicated public servant committed to identifying and pursuing the foreign policies that she believes best serve the interests of the American people. She went to the former Soviet Union last month because she wanted to assess for herself what the situation in the Caucusus is, so she would be able to help decide what United States policy should be relative to that region. I think we should salute her for that. I would suggest that she speaks with an authority that not many can match.

UKRAINE'S AGREEMENT WITH THE INTERNATIONAL MONETARY FUND

Mr. LEAHY. Mr. President, in the midst of the hustle and bustle in this body over the past week, I believe the Senate has failed to take appropriate notice of a very important development. On September 30, the International Monetary Fund announced that it had reached preliminary agreement with the Ukrainian Government on a cooperation arrangement. The IMF has entered this arrangement on the understanding that the Ukranian Government is moving forward with a program of economic reform designed

to reduce the inflation that has been devastating the Ukrainian people, stabilize the Ukrainian economy, and stimulate private investment to begin to expand production and create jobs. As part of the arrangement, the IMF will provide a large loan to bolster the foreign exchange position of the Ukrainian Government and provide it the breathing space it needs to sustain reform.

This is exciting news. I and many other Senators have long entertained the hope that the Ukraine, a country with which we share many close and warm ties, would jump on the bandwagon of reform and proceed with the transition to democracy and a private enterprise-oriented market economy. This latest announcement, together with the news we are receiving from Kyiv, confirms that these hopes are being fulfilled. When I visited Kyiv a month ago, President Kuchma, who just entered office 3 months ago, told me that he intended to set his Government on a courageous new path. Rada Speaker Moroz, with whom I met here this week, has also pledged to support private investment.

Mr. President, I have said repeatedly that the United States should stand ready to support the Ukraine generously when it embarked on the reform path. There is no question that the Ukraine requires assistance. Its balance of payments is in crisis. Investment is badly depressed. The Ukrainian people do not understand well what has happened to them or where to turn for help. The IMF assistance, while significant, will only begin to close the financial gaps that President Kuchma faces.

The time has come for us to act. Some may argue that we should continue to hold back, make sure that the Ukrainians will actually implement the reforms that we believe essential. But what the Ukrainians need now is a vote of confidence, so that they can begin to have confidence in themselves. Let us be bold. Let us take President Kuchma at his word. I call on the administration to reopen its book on aid for the Ukraine. The United States should be front and center when it comes to welcoming the Ukraine to the ranks of democratic market economies.

NEED TO PASS SEC FUNDING LEGISLATION

Mr. RIEGLE. Mr. President, as time runs out in this Congress, there are many bills that should get done, but very few that must get done. I am taking the Senate floor to speak for a third time about a bill that must get done. I am referring to the urgent need to provide funding to the Securities and Exchange Commission. We face a very serious situation: the SEC has not yet been provided with funding sufficient to carry it through the new fiscal year that began on October 1.

As I have mentioned the Senate, the Congress has provided the agency with only a portion of the funding that it needs for the next 12 months. Legislation that would provide the needed full funding has passed the House of Representatives. That bill, H.R. 5060, is now at the Senate desk. It is crucial that the Senate immediately take up and pass this bill without amendment.

In the absence of full funding, the SEC has begun preparing to shut down. Arthur Levitt, chairman of the SEC, wrote me earlier this week, stating, "the SEC has been forced to suspend vital services." He noted that examinations of brokerages and investment advisers have been halted. The agency has had to stop seeking to recover funds from offshore accounts. The electronic filing system for all publicly traded companies will shut down on Tuesday. This will slow down the filing of securities registration statements, and increase their costs, for every public company in America. In addition, Congress' failure to pass the SEC funding bill has already cost the U.S. Treasury several million dollars, because of the reduced fee schedule now in place.

Why has the Senate not yet acted on H.R. 5060? Because a few Senators have placed holds on the bill. They would like to use the SEC funding bill to advance unrelated tax provisions, and so have prevented the SEC bill from coming to the Senate floor.

At this time of year, every Senator has a provision he or she would like to send through the Senate, I am sure many of the Senators who are holding up the SEC bill are seeking to advance provisions that, by themselves, have merit. It is counterproductive, however, to hold up the SEC bill in order to pursue unrelated provisions. It is costing the Federal Government money, and damaging an agency charged with the vital responsibility of policing our capital markets.

If Congress adjourns without providing the needed funds, the SEC will have to shut down. This would be a catastrophe, because the SEC is crucial to the smooth operation of the capital markets that stand at the heart of our economy. The success of the U.S. financial markets is due, in large part, because the markets and their investors know that the SEC is a vigilant cop on the beat. Leaving the SEC in budgetary limbo needlessly places the stability of the markets and the personal savings of millions of individual investors at risk. In addition, it will cost the U.S. Treasury millions of dollars every week.

This need not happen, if we pass H.R. 5060 without amendment. The language contained in H.R. 5060 passed the Senate earlier this year. It is crucial that the Senate take up and pass this legislation before adjournment, to protect the smooth operation of our markets, to ensure that investors are protected, and to guarantee the efficient operation of our Government. I urge all my colleagues to give their consent so that the Senate can take and pass this crucial bill.

JIM WHITMIRE

Mr. HOLLINGS. Mr. President, we are all proud of our staffs, and with good reason. No institution attracts people with more drive, intellect, or concern for the common good than the U.S. Congress. While it is the way of Washington that we see talent constantly come and go, I have been lucky to enjoy for 8 years the work of Jim Whitmire, a staffer who has simply exceeded in every way the high standards we expect.

Nominally, Jim was a writer but that does not begin to describe his portfolio. He was so good that I was reminded of the Will Rogers story about driving to Europe. Will Rogers said that was easy to work out, just drain the ocean and build a bridge. When asked how to do that, he said I'm just an idea man, you all work out the details. Jim Whitmire was the guy who would work out the details.

First and foremost, Jim pulled the details together in brilliant prose. It is said that one sees with the mind, and not the eye, and his mind was always presenting a brighter, sharper picture of the public interest and the political fray. He was a relentless, vigorous intellectual force, who presented his case with elegance. While some offices have a litmus test, we had a Whitmire test—if it was good enough for Jim, it was good enough for us. This elegant excellence is his gift that I will sorely miss.

While he carried a big pen, he spoke softly. He was an example and mentor to other staff. In a bustling office, he lent his help to others with no concern for who got the credit. And I knew that any new, young staffer sitting next to Jim would not only learn good work habits, but also have his horizons expanded by the enormous breadth and depth of Jim's intellect and experience. Just as importantly, Jim was a workhorse. No job was too big or too small for him, and when he took an assignment, it was considered done and done well. In all these things, Jim obviously made the people around him better—a fitting legacy for a former teacher and father of two adopted children who has spent his professional life in public service.

Mr. President, Jim Whitmire helped me and I hope I helped him. Appropriately, he has gone to carry on his good work at the National Education Association where he will no doubt provide the energy and intellect that was so valued in my office. I wish Jim, his wife, Shelley, and his children well.

HONORING SENATOR DONALD W. RIEGLE, JR.

Mr. FEINGOLD. Mr. President, the end of the 103d Congress marks the end of my first 2 years as a Member of the U.S. Senate. During this time, I have had the chance to work with many Senators on different issues of national importance.

Senator RIEGLE has been a true leader on issues affecting not only his State of Michigan, but working families all across the United States. Unfortunately, Senator RIEGLE is retiring this year, and his leadership both on the floor of the U.S. Senate and as chairman of the Senate Banking, Housing and Urban Affairs Committee will be profoundly missed.

I do not believe this can be more clearly illustrated than by looking at the series of speeches Senator RIEGLE has made over the last several months on the floor of the U.S. Senate about the issue of health care reform. Throughout this period, the Senate seemed to have lost itself in a myriad of multifarious health care proposals and perplexing concepts such as mandatory alliances, purchasing cooperatives and preexisting conditions. Yet while all this was going on, there was Senator Riegle on the floor of the Senate, reminding us of how the numerous flaws of the current health care system are affecting working families, persons with disabilities and older Americans.

I also had the pleasure of working with Senator RIEGLE on several other issues. On insurance redlining, we worked together to produce a bill that would end the discriminatory practice of some insurance companies denying minority and low-income communities the ability to obtain adequate and affordable homeowners insurance which is often a prerequisite for securing a home loan. Senator RIEGLE was also gracious enough to allow me to attend and testify before a Banking Committee hearing on this issue even though I am not a member of that committee. I particularly recall his passionate and obviously heartfelt words at that hearing about his lifelong efforts to combat such manifestations of racism. As members of the House and Senate Great Lakes Task Force, Senator RIEGLE and I had the opportunity to explore and pursue actions that will facilitate the removal and disposal of contaminated sediments from the Great Lakes. Senator RIEGLE has also been an outspoken advocate of the working men and women of our country as exemplified by his leadership role in supporting legislation to ban the hiring of permanent replacement workers and his opposition to the North American Free-Trade Agreement which placed the worker of his and other States at a competitive disadvantage with workers south of the border.

Let me close, Mr. President, by again expressing my admiration and respect not only for the outstanding career achievements of Senator RIEGLE, but also for the kind and considerable manner that he brought with him to the U.S. Senate. Although the citizens of Michigan are losing an effective and forceful representative in the Senate, the accomplishments of Senator RIEGLE will certainly not be forgotten either by his constituents or those of us who were fortunate enough to serve with him in this body.

I yield the floor.

SENATOR DAVID DURENBERGER

Mr. FEINGOLD. Mr. President, I rise to say goodbye to a colleague who has provided guidance and leadership for upper Midwest farmers on a great number of agricultural issues so important to producers in Wisconsin and Minnesota. Our rural constituents of Minnesota and Wisconsin are very similar in their tradition of small family farms as well as their philosophies about fairness and equity in farm programs and other government policies. Both Wisconsin and Minnesota are dairy States of similar structure and as such together our dairy farmers share the burden of a policy that discriminate against them.

Senator DURENBERGER has sought to rectify the inequities of the existing Federal milk marketing order system. He has persistently introduced sound legislation to reform this discriminatory policy under which the dairy producers of our States must operate, even though chances for passage were bleak. Unfortunately, legislation that rights the wrongs inflicted on some regions while benefiting others is quite difficult to fulfill in a democratic body such as ours. I respect his perseverance despite these barriers to reform and I am proud to have cosponsored his Dairy Equity Act of 1993. He has been a great resource on this very technical issue and I will miss his extensive knowledge and leadership on Federal milk marketing order reform.

Senator DURENBERGER must have a knack for recognizing when something is broken because during his tenure in this body he took on reform of another very technical but very important farm program. The Federal Crop Insurance Program, while well intentioned, has created problems for farmers throughout the country and the upper Midwest in terms of inadequate coverage, uncertain coverage and high costs. Senator DURENBERGER'S innovative ideas and solutions to the problems helped direct the Senate to finally pass crop insurance reform that embraced several of his reform proposals. It is a credit to his efforts that such extensive reform passed both the House and Senate unanimously just this week.

I also have great admiration for Senator DURENBERGER'S commitment to improving our health care system. While he and I may not have always agreed on what changes were necessary, I know that we have shared the same goal—to ensure that the best possible health care is available to all Americans. I respect his commitment on an issue that is so critical to this country and the health of American citizens.

Mr. President, there are many other issues on which Senator DAVE DURENBERGER showed tremendous leadership—from environmental policy to deficit reduction. But let me just say, Mr. President, in closing, that the U.S. Senate, American citizens and most definitely the people of Minnesota have benefited from the service of Senator DURENBERGER. I am proud to have had the privilege of serving with him.

TRIBUTE TO SENATOR HARLAN MATHEWS

Mr. FEINGOLD. Mr. President, with the end of this session, we will bid farewell to the junior Senator from Tennessee, Senator HARLAN MATHEWS. I have had the honor and pleasure to serve with Senator MATHEWS on the Senate Foreign Relations Committee, to which we were both appointed as freshmen last year. I valued our consultations during long and sometimes contentious markups, and enjoyed learning the issues and the ropes of the committee with him. We have certainly experienced historic moments together.

As did most of us who came to the Senate in 1993, Senator MATHEWS identified three goals to work on during his term: to begin balancing the Federal budget; to reduce the deficit; and to reform the Nation's health care system. He cosponsored legislation on rural health initiatives, and focused much of his legislative efforts on re-invigorating the American economy, and opening business opportunities for his constituents.

Throughout his long career in public service in Tennessee, Senator MATHEWS has served his State well, stressing his commitment to improve the lives of his fellow Tennesseans. They should be proud to have been represented by such a decent man, and we as a Senate were honored to have him in our ranks. I know that, on a personal note, I have rarely encountered such a courteous, pleasant, and thoughtful person.

THE RETIREMENT OF SENATOR DENNIS DECONCINI

Mr. FEINGOLD. Mr. President, the senior Senator from Arizona will be retiring from the Senate at the end of this Congress, and I want to take a brief moment to congratulate him on his public service.

Though I have been privileged to serve with the Senator for only a brief 2 years, I have fortunate to have gotten

to know him through our common interest in addressing the Federal budget deficit, and especially because of his leadership in helping to establish a deficit trust fund.

I was pleased to cosponsor the Senator's amendment to the Budget Resolution of 1994 to establish a deficit trust fund. That deficit trust fund, eventually created by executive order of the President, ensured that any new revenues passed as part of the Omnibus Budget Reconciliation Act of 1993, as well as all savings generated by the spending cuts made in that act, would be used solely to reduce the deficit.

Mr. President, for the Senator who shares a birthday with former President Harry S. Thurman, the creation of the deficit trust fund guarantees that, rather than be used for additional spending, any new bucks will stop there.

Mr. President, deficit reduction and balanced budgets have been a focus of much of the work done in the Senate by the senior Senator from Arizona. In addition to sponsoring a constitutional amendment to balance the budget, he as a founder and cochairman of the Senate Grace Caucus, a bipartisan group of Senators looking for ways to eliminate waste and abuse within government.

He also led the fight to reduce government waste by cutting government spending on consulting, public relations, printing and motor vehicles, and be cosponsored legislation, now law, establishing an inspector general in the Department of Defense to scrutinize our military spending.

He has not been afraid to take stands that were unpopular among his colleagues to hold the line on spending, including opposition to a pay raise for Member of Congress. And when a pay raise was adopted, he donated his own pay raise back to the Treasury to help reduce the Federal debt.

Mr. President, I congratulate the senior Senator from Arizona on his 18 years of distinguished service in the Senate. Though I have known him and worked with him for only the last 2 of those 18 years, I will very much miss him, his thoughtful counsel, and his willingness to take a freshman Senator under his wing and teach him the deficit reduction ropes.

TRIBUTE TO SENATOR METZENBAUM

Mr. FEINGOLD. Mr. President, as I approach the end of the first Congress in my own first term as a U.S. Senator, I've been greatly impressed with the quality of leadership, the raw talent, intellectual discipline, and political courage of many colleagues with whom I have served. None of these has been more impressive than Senator HOWARD M. METZENBAUM of Ohio. After three terms, nearly 18 years of service to the citizens of this great Nation, Senator METZENBAUM will retire, when the 103d Congress concludes its business at the end of the year.

I, along with millions of American workers, consumers, children, seniors, minorities, and women have benefited from his dedication to what some have termed a dogged pursuit of fairness, safety and equality in the conduct of our daily lives as citizens. During his tenure, which began in the 95th Congress, Senator METZENBAUM has been the recongized leader of the struggle for worker's rights, children's development, minority and women's equality, social and economic justice. The Congressional Quarterly acknowledged his leadership acumen by calling him, "* * * a leader without portfolio,"—a lawmaker who wielded substantial power without holding official leadership positions.

I am pleased and honored to have been able to work closely with him as a cosponsor of legislation addressing the rights of striking workers, child labor abuses, worker retraining and plant closing notification, employment discrimination, and OSHA. One issue that Senator METZENBAUM focused on during this Congress involves the problems of fairness for members of the contingent work force. This is an area that I have a great interest in as well, and hope to be able to carry on some of the efforts he has begun. Senator METZENBAUM has also facilitated several informal meetings with Israeli officials to discuss the Middle East peace process, and consistently played a leading and constructive role in promoting peace in this region.

Senator METZENBAUM has established in the Senate a living example of unquestioned integrity for the benefit of the public interest, excellence in the performance of his work, and dedication to the principles of public service and justice. I will miss him. I will do my best to follow his wonderful example.

TRIBUTE TO SENATOR DAVID L. BOREN

Mr. FEINGOLD. Mr. President. At the conclusion of this Congress, I wish to extend my best wishes to departing Senator DAVID BOREN. I have greatly admired Senator BOREN's ability to assess and keenly lead at strategic points, and boldly steer this body, with strong new steps toward crucial congressional and budgetary reform.

Senator BOREN has been instrumental in working to achieve several major reforms during his time in the Senate including discouraging administration and congressional staff from cashing in on Government experience by becoming lobbyists and, during my tenure in the Senate, limiting congressional campaign spending and curtailing negative campaign practices. That landmark legislation was the first congressional reform package to pass both Houses in 14 years. I know Senator BOREN was deeply disappointed that we did not achieve final passage of these important measures but his work moved us demonstrably closer to our ultimate reform goals.

I am proud of those times where Senator BOREN and I have been partners in reform. He has consistently fought for deficit reduction, which is another issue where we have shared a common interest.

I have also been pleased to have shared in Senator BOREN's concerns for the fair application of Federal laws. This year, Senator BOREN and I joined together, along with a number of others in this body, to try to clarify the tax status of several native American tribes so that tribal members who had invested in tax-exempt retirement programs were able to access them without penalty.

The business of reform will continue in the next Congress without Senator BOREN, but we will be much poorer without his strong steps to follow.

On a personal note, I fondly remember that DAVID BOREN was one of the few members of the Congress who took time to encourage a long shot candidate for the U.S. Senate from Wisconsin. I am pleased that I had the opportunity to serve with him and wish him well as he moves on to playing what I know will be an important role in higher education.

TRIBUTE TO THE MAJORITY LEADER

Mr. FEINGOLD. Mr. President, as a freshman Senator, I quickly learned that GEORGE MITCHELL is a man of great ability, depth, and eloquence. He has a commitment to the public welfare that does not blow hot or cold with popular opinion polls. He has been willing to take difficult and sometimes unpopular stands. His commitment to protecting and preserving our Constitution and the balance of power between the three branches of Government enabled him to steer a steady course through difficult times.

His dedication stems from the values he learned as the son of hard-working immigrants; from the hard-working town of Waterville, ME on the banks of the Kennebec River; from the home of textile mills and shoe factories where his mother worked to put him through school. His story reflects the best sense of what it means to be an American.

He has been a force for the common good who has demonstrated uncommon skill and compassion.

His rapid rise to leadership, second only in this century to Lyndon Baines Johnson, is a testament to his ability and determination. Moreover, by all accounts, his record in 6 years as majority leader has been remarkable for

not only his achievements but for his dogged resolve to remain fair and respectful to all of our colleagues.

His reputation for fairness and decency is unparalleled at a time when political debate too frequently deteriorates to mud-slinging and gamesmanship, rather than edification and statesmanship.

He is a credit to his party, standing up for its best principles and making us proud to be Democrats. In what can be, at times, fierce partisan battles on the floor of the Senate, he has steadfastly refused to engage in personal attacks as staunchly as he has refused to compromise his political ideals.

Mr. President, in my short tenure here as a Member of the Senate, I have had the honor to serve with one of the finest majority leaders who has ever served in the U.S. Senate. An astute politician, a skillful legislator, a vigorous leader, and remarkable man: The U.S. Senate will be a different place without GEORGE MITCHELL.

I am confident that although Senator MITCHELL is leaving the Senate, he will not be leaving public service and that he will continue to make important contributions to the country he loves and has served so well. We all wish him the very best.

DISASTERS

Mr. DURENBERGER. Mr. President, in my 16 years of representing the people of Minnesota in the U.S. Senate, I have been a first-hand witness to a number of catastrophic disasters that Minnesota farm families have endured. I have seen the disasters from the air and from the ground. And, I have visited with farmers who have suffered the effects of these natural disasters.

Everyone remembers the horror of the Midwest floods of 1993, even as we have seen floods occur in other parts of the country this year. But the call for crop insurance reform stemmed from years before that fateful summer.

In 1991, thousands of prime corn and soybean acres could not be planted because of extraordinary rainfalls in southern Minnesota. It was then that we came to the plain realization that crop insurance did not pay up when Minnesota farmers needed it. It was then that Minnesota farmers told me that reform was absolutely essential to their economic survival. And, it was then that we asked the Secretary of Agriculture to lend a hand in bringing about reform.

One year later—in the spring of 1992—three tornadoes devastated a portion of southwestern Minnesota. The tornadoes destroyed crops that, just moments before, looked as promising as anything we had seen. And, a few months later, an unusually early frost killed all of the crops in one northern county. But, unreformed and seriously flawed, crop insurance again fell short. In fact, a Jackson County corn farmer, Richard Peterson, had paid $21,000 in crop insurance premiums over 6 years but—while he endured extensive crop losses over the same period—the total payment he received was just $2,100. With crop insurance floundering, I decided it was time to put together a bill to give our farmers the kind of crop protection they deserve. And, in the fall of that year, I introduced the bill Minnesota farmers like Richard Peterson, Andy Quinn, and Grant Annexstad helped write. Unfortunately, the urgency of reform was not so apparent on Capitol Hill—and the bill never became law.

So, on March 9, 1993, I reintroduced the Federal Crop Insurance Fairness Act hoping that the need for reform would by that time be evident. But, it met with little fanfare. And, tragically, it was only a few months later that floods and rains of Biblical proportions caused 57 of Minnesota's 87 counties to be declared Federal disaster areas. Thousands of Minnesota farmers were not able to turn a wheel in their fields all season due to the floods and torrential downpours. Water stood in the fields all year—even into the winter. It was the worst natural disaster in Minnesota history. That summer, Congress approved millions of dollars in disaster assistance. And, a number of us fought for crop insurance reform during consideration of the disaster bill on the Senate floor. But, beyond the quick fix of disaster aid, there was little enthusiasm for taking on the real problem and fixing a tired crop insurance program that just did not work. We lost that battle but not without a fight and a promise—a promise of reform this year.

Early this spring, the reform legislation I originally introduced in 1992 and 1993 was embraced by the President and the Department of Agriculture. As a leading cosponsor of the Federal Crop Insurance Reform Act, I worked hard to give our farmers real security in crop insurance. The bill Minnesota farmers and I helped write would provide our farmers with a catastrophic yield adjustment to protect his or her actual production history from the effects or disaster. It would make 65 percent and 75 percent coverage more affordable. It would cut in half late planting penalties and allow our farmers to prove their yields in 4 years instead of 10. It would provide prevented planting as part of the standard coverage. And, last, it would provide catastrophic coverage for all our farmers at a nominal cost of $50 per crop per county with a maximum of $100 per farmer per county.

Now—months after we introduced the Federal Crop Insurance Reform Act of 1994 and nearly 4 years after we first began our fight for reform—this reform will finally be law. After all we've been through in Minnesota, the victory is bittersweet. Had Congress listened to Minnesota farmers and passed reform earlier, farmers nationwide could have been spared some of the pain and hardship the disasters of recent years brought. But, there is some consolation in the proof this process reveals: Minnesotans persevere when times get tough and they commit to solving problems with solutions far ahead of their time.

Mr. President, I would like to pay tribute to a group of people who have been tenacious in passing this critical legislation that they, in part, wrote. These friends include farmers and agricultural leaders including Richard Peterson, Andy Quinn, Grant Annexstad, Glenn Annexstad, Gerald Lacey, Noel Kjesbo, Mark Moenning, Paul and Alan Brutlag, Sharon Clark, Craig Weir, Doug Magnus, Kent Thiesse, and Gary Hachfeld. And my thanks to the farm organizations and commodity groups who persisted to see this reform through.

And, finally, I want to recognize members of my staff, including my former agriculture aide, Hank Snyder who sailed in to uncharted territory as he put together the original bill in 1992. I thank Jeff Harrison, who ably took his place and tenaciously hammered out this legislation with staff members of the Agriculture Committee. And, I am grateful to Karen Humphrey of my Minnesota staff who met with farmers throughout all of the disasters they suffered and brought his problem to our attention.

Mr. President, I am proud to have been a leading cosponsor of this important legislation. But, I am most proud of the Minnesota farmers who made it possible.

JUDGE WILLIAM W. WILKINS, JR., CHAIR, UNITED STATES SENTENCING COMMISSION

Mr. THURMOND. Mr. President, for more than two centuries of this Nation's history, Federal judges were the ultimate authority in sentencing defendants who appeared in their courts. Such power, while attractive to members of the bench, led to great disparities in how people were sentenced, from judge to judge, and even from case to case. It became apparent to those of us on the Judiciary Committee that this disparity could not stand, and that some sort of Federal sentencing guidelines needed to be established to ensure, that convicted criminals were sentenced uniformly and fairly for the crimes they committed. In an effort to achieve this goal, the Congress passed the Sentencing Reform Act in 1984, which created the U.S. Sentencing Commission.

As many of you may remember, our legislation required that the Commission be composed of seven voting members, three of whom would be Federal

judges selected by the President from a list compiled by the Chief Justice of the Supreme Court. When I learned that my good friend and former member of my Senate staff, Judge William "Billy" Wilkins, Jr. was being considered for the Commission, I immediately contacted President Reagan and urged him to give Judge Wilkins every possible consideration. My enthusiastic support of Judge Wilkins was motivated by my knowledge of this man's impressive qualifications, ones that were ideally suited to master the challenging job of chairing the Sentencing Commission.

Since his days as a law student at the University of South Carolina, Billy Wilkins has distinguished himself in each and all of his undertakings. At Carolina he earned a reputation for excellence by winning the prestigious position of editor of the South Carolina Law Review; serving as captain of the moot court team; and, being a member of the Wig and Robe. His 3 years of curricular and extra curricular activities earned him the respect of the faculty at South Carolina's law school, which awarded him the title of Outstanding Graduate of the Year.

Upon his graduation from law school, Billy Wilkins entered the U.S. Army and began what has become a career dedicated to the service of the Nation. He continued his service by clerking for a Federal judge, before moving to Washington and becoming a capable and valued member of my Senate staff. It was during his time working for me in Washington that I recognized the great potential of this bright, young attorney, and I predicted that he would go far in his career.

After leaving Washington, Billy returned to South Carolina where he ran successfully for the position of district attorney of the largest judicial circuit in South Carolina. His record as a prosecutor was so well respected that when he sought re-election, District Attorney Wilkins' bid was endorsed by both the Republican and the Democratic Parties. That is clearly a telling testament to the high regard people hold for this man.

Billy's tenure as a district attorney led him down a trail that eventually saw him nominated as a Federal district judge for the district of South Carolina. It was from that position that he was appointed to the Chair of the Sentencing Commission. Since then, he has been elevated to the Fourth Circuit Court of Appeals, where he has served since 1986.

Mr. President, I am not exaggerating when I say that the work that Judge Wilkins and the Sentencing Commission have done over the past 8 years has had a tremendous and positive impact on the American criminal justice system. While there are those who dislike the guidelines and policies that the Commission has established, I have no doubt that time will validate the work of these fine men and women. A recent issue of Legal Times included an article about Judge Wilkins and his leadership of the Commission. I found it to be an accurate and fair account of what my friend has accomplished and I would like to share it with each of you. I ask unanimous consent be given to insert this article in the RECORD following my remarks.

While I am truly sorry to see Judge Wilkins step down as Chairman of the Commission, I know that he takes great satisfaction and pride in what has been accomplished under his leadership. I am proud of Judge Wilkins as a jurist and a friend, and I wish him good health, happiness, and success in all his future undertakings.

[From the Legal Times, Sept. 19, 1994]

WILKINS' TENURE TRANSFORMED THE COURTS

(By Naftali Bendavid)

Billy Wilkins' name is unlikely to pop up on many lists of the 20th century's most influential judges. Louis Brandeis, perhaps. Earl Warren, certainly. But not William Wilkins Jr.

Yet the changes wrought by Wilkins—who is stepping down as the only chairman that the eight-year-old U.S. Sentencing Commission has had to date—are arguably as profound as those brought about by the era's more famous jurists.

With a laserlike single-mindedness, Wilkins has helped transform U.S. jurisprudence, creating a sentencing guidelines system after two centuries in which judges had almost unlimited power to punish or forgive. And he's done it under a withering barrage of vilification from other judges—Wilkins' own colleagues and friends—who consider him a traitor for curtailing their power.

"I've seen judges stand up in his face and say, 'You have just ruined the system,'" says Judge G. Ross Anderson Jr. of the U.S. District Court for the District of South Carolina, one of the few judges who strongly support the guidelines. "He is totally unflappable. He'll just say, 'Awww, in a year of two I think you'll change your mind.'"

Congress, seeking to end sentencing disparities, created the commission a decade ago. Before most people recognized how great its power would be, Sen. Strom Thurmond (R-S.C.) picked as chairman the little-known Wilkins, a former staffer of his.

Then a U.S. District judge in South Carolina, Wilkins arrived for his fancy Washington job to find that he didn't even have an office. He and the six other commissioners were crammed into a single room in the Justice Department, two to a desk, sharing just one telephone.

Congress, not accounting for the magnitude of the job, had given the commission 18 months to write a new punishment system. That meant Wilkins had to make peace quickly between six commissioners with clashing philosophies.

Arguing away throughout 1986, they didn't even agree on such basics as whether the goal of prison is punishment or deterrence. One commissioner, fiercely opposed by other, proposed a scheme so elaborate it would have required a judge to tote up the "harm units" caused by a defendant and, in some cases, calculate the square root of a square root to figure out the sentence.

"Many times we all wanted to just say, 'Really, is it all worth it?'" admits Wilkins, who was appointed to the U.S. Court of Appeals for the 4th Circuit in 1986. "There were a lot of tense moments, and people's tempers got hot, feelings got hurt, but we had to overlook those things and keep moving forward."

Wilkins pulled it off by keeping his demeanor as a Southern gentleman. "You could be a porter at a hotel or chief justice of the United States, and his hand goes out and he says, 'Billwilkins,'" says longtime commission staffer Paul Martin. "It's incredibly disarming."

And it complements a bullheaded refusal to tolerate obstacles. When one commissioner complained about the arrangement of her office, Wilkins personally moved her couch to the other side of the room. As the deadline for completing the guidelines approached, Wilkins would stand by the copy machine at 3:30 a.m., scrutinizing each page as it emerged.

Few episodes reveal as much about Wilkins as his rejection of intense pressure from the Reagan administration to include the death penalty in the guidelines. Wilkins personally supports capital punishment, but including it, he knew, could cost the guidelines Democratic votes. Rather than risk this, Wilkins broke a 3-3 commission tie to vote against the death penalty.

When the commission, to many people's surprise, succeeded in actually producing a guideline system by April 1987, its work had only begun. Facing a wave of hostility, the commission was hit by 247 lawsuits by year's end.

Judges' sentiments were captured in a 1987 speech by U.S. District Judge G. Thomas Eisele of the Eastern District of Arkansas, who fantasized about lawmakers admitting their horrible error in creating the commission. "And then they would line up on the Capitol steps and say, 'Mea culpa, mea culpa, mea maxima culpa! We were wrong! Forgive us!,'" Eisele said.

Wilkins began traveling around the country, wading into crowds of hostile judges to argue for the guidelines.

The criticism was painful, he admits. "When the pressure's on and the clock's ticking and all you can hear is some judge calling you up and saying, 'You guys ought to quit and go home, this is going to be terrible.' that call kind of hurts." Wilkins says. But many judges, he adds, told him privately they supported the guidelines.

Others took issue with Wilkins' approach. Marc Miller, a professor at Emory University School of law and the co-editor of the Federal Sentencing Reporter, blames Wilkins for what he sees as the Sentencing Commission's defensiveness.

"The closed nature of some of the commission's activities, the private decisions in the midst of public meetings, the hostility toward judges and others with concerns—that reflects that a passion for success sometimes includes an excessive defensiveness about critics," Miller says.

But even those who fought Wilkins admire his achievement.

"I have nothing but praise for Billy Wilkins' tenure," says Sam Buffone, a partner in the D.C. office of Boston's Ropes & Gray and former chairman of the American Bar Association's U.S. Sentencing Guidelines Committee. "We certainly came from opposite sides in terms of the issues. But he was always fair, always willing to meet and talk. He did an exceptional job, given a very difficult situation."

REGARDING JUDGE WILLIAM W. WILKINS, JR.'S TERM AS CHAIRMAN OF THE UNITED STATES SENTENCING COMMISSION

Mr. HOLLINGS. Mr. President, I am pleased to join with Senator THURMOND and others in paying tribute to Judge William W. Wilkins, Jr., of Greenville, SC, who at the end of this Congress will complete an extended term as the first Chairman of the U.S. Sentencing Commission.

It has been my pleasure to know and work with Judge Wilkins for many years, including the period since October 1985 when he began his reign as Chairman of the U.S. Sentencing Commission.

Mr. President, when we passed the Sentencing Reform Act of 1984, we gave the Sentencing Commission an almost impossible task—to literally create itself from whole cloth. The Commission had to recruit and organize a staff, procure facilities and equipment, and in the short timeframe of 18 months, produce a comprehensive set of sentencing guidelines covering more than 2,000 Federal crimes.

Under Judge Wilkins able leadership, the Commission met its deadline and withstood congressional review that the guidelines were faithful to the statutory design and workable in the real world of the Federal courtroom. The guidelines took effect on November 1, 1987.

That, however, was just the beginning of the battle to accomplish the goal of a more uniform and certain sentencing system for our Federal courts. Members of the Federal judiciary, accustomed as they were to unrestrained sentencing discretion, had to be trained in the use of these new mandatory rules. And, perhaps the more formidable task was to convince often skeptical judges that the guidelines would work and actually improve the quality of justice in our Federal courts. In this endeavor, Mr. President, Judge Wilkins has clearly been the leading spokesman, ambassador, and trainer—working tirelessly to educate, persuade, and sell the sentencing guidelines. Today, the Federal judiciary still may not be enamored with the guidelines, but most will acknowledge that the guidelines are working well and have substantially reduced sentencing disparity.

As chairman of the Senate Appropriations Subcommittee with responsibility for the Sentencing Commission's budget, I have followed closely and strongly supported the Commission's work under Judge Wilkins' direction. The committee has always known that a budget request submitted by Chairman Wilkins was a frugal, responsible one. Judge Wilkins told us candidly what he thought was needed and then stretched the limited funds we were able to provide to accomplish the work of the Commission.

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Judge Wilkins' laudable job as Chairman of the Sentencing Commission has necessitated a fulltime effort over the past 9 years. Yet, it was hardly his only responsibility. Throughout this same period, he has also been a fulltime jurist, sitting as a member of the Fourth Circuit Court of Appeals. At the same time, he has actively participated in the South Carolina National Guard, and even done some parttime teaching.

Mr. President, our Nation owes a great debt of gratitude to Judge William W. Wilkins, Jr., for the contributions he has made over the past 9 years in guiding the Sentencing Commission through its difficult, formative years. I congratulate Judge Wilkins on a job well done and look forward to continuing to work with him in other capacities in the days ahead.

REGARDING JUDGE WILLIAM WILKINS

Mr. HATCH. Mr. President, this week marks the end of Judge Billy Wilkins successful tenure as Chairman of the U.S. Sentencing Commission. I want to take this opportunity to praise Judge Wilkins for his service as the first Chairman of the Sentencing Commission. I applaud him for his tireless efforts to create a workable set of sentencing guidelines. Under Judge Wilkins able leadership, the Sentencing Commission has labored to end the sometimes gross sentencing disparities that existed under the former Federal sentencing scheme.

Although some criticize the guidelines for being inflexible, those same people forget the unfair sentencing disparities that existed under the former system. Similarly situation defendants who violated identical laws often received strikingly different sentences merely because they were sentenced by different judges. The guidelines have created much-needed sentencing uniformity.

After promulgating the initial sentencing guidelines, Judge Wilkins advocated tougher sentences where the need was shown. Violent offenders, for example, have seen their prison time increase by nearly one-third. Under Judge Wilkins leadership, the guidelines have brought about "truth in sentencing" in the Federal Criminal Justice system. According to the Bureau of Justice Statistics, 74 percent of defendants sentenced under the guidelines actually go to prison compared with only 52 percent of defendants in the pre-guidelines cases.

Judge Wilkins also fought for stiffer penalties for so-called white collar criminals. He led the effort to draft corporate sentencing guidelines with bite. Those guidelines have since been hailed as having a significant deterrent effect.

Although a steadfast advocate of the need for uniformity in sentencing, Judge Wilkins has underscored the need for constant improvement of the guidelines. He has emphasized that the Commission must be responsive to comments from the lawyers and judges who actually work with the guidelines on a day-to-day basis. He has laid a solid foundation for further improvements in the guidelines and has done everything asked of him by this body.

For these reasons, I commend Judge Wilkins for his service as Chairman of the Sentencing Commission.

REGARDING JUDGE WILLIAM W. WILKINS

Mr. KENNEDY. I am pleased to join my colleagues in paying tribute to the tenure of Judge William W. Wilkins as chairman of the United States Sentencing Commission.

The passage of the Sentencing Reform Act of 1984 was a triumph of bipartisan cooperation. Senator THURMOND and I worked for many years to persuade our colleagues of the need for this initiative. We shared the bipartisan goals of minimizing unwarranted disparity, enhancing the certainty of punishment and creating a common law of sentencing to replace the unduly discretionary system that then existed. There is much talk today of truth in sentencing, but too few people realize that we abolished parole in the Federal system effective November 1, 1987.

Similarly, the effort to write the guidelines was a bipartisan undertaking. Judge Wilkins, a Republican, was appointed the first chairman of the Commission in 1985, and he worked with Democratic members of the Commission, notably then-judge now-Justice Stephen Breyer, to draft the initial set of guidelines. Without the give and take of bipartisanship, neither the Sentencing Reform Act nor the guidelines would have come to fruition.

As chairman, Judge Wilkins organized the new agency, hired a well-regarded professional staff, and initiated the difficult job of creating a workable, rational set of sentencing guidelines within the 18-month timeframe provided by statute. Judge Wilkins deserves credit for delivering the guidelines to Congress on schedule on April 13, 1987.

Along the way, the chairman displayed a healthy pragmatism that helped keep the process on track. Although personally supportive of the death penalty, he opposed an effort by the Reagan Justice Department to have the Commission promulgate death penalty guidelines. Judge Wilkins recognized that the basic mission of the Commission was too important to risk its success by involving the Commission unnecessarily in the death penalty controversy. Judge Wilkins' courageous vote on this matter preserved the Federal sentencing reform effort at a time when it faced possible derailment.

Judge Wilkins has guided the Commission toward a strong stand against statutory mandatory minimum penalties. In congressional hearings and other public forums, he has persuasively explained that such statutes are structurally incompatible with and obsolete now that we have a functioning sentencing guideline system. Under the leadership of Judge Wilkins and Judge David Mazzone, the Commission produced a widely acclaimed, comprehensive report on mandatory minimum sentences in August, 1991.

In 1993, Judge Wilkins developed a legislative proposal to reconcile the statutory mandatory minimums for drug offenses and the sentencing guidelines. Unanimously approved by the Commission and supported in concept by the Judicial Conference, a version of the Wilkins proposal was introduced as S. 1596 by Senators SIMON, THURMOND, SIMPSON, LEAHY, and myself, and enacted as title VIII of the 1994 omnibus crime bill.

Judge Wilkins also played a key role in developing an innovative and effective approach to the sentencing of corporations convicted of Federal crimes. These corporate guidelines have the potential to make a real dent in white-collar crime by encouraging the development of anticrime compliance programs.

In these and many other ways, Judge Billy Wilkins has left an indelible mark on the guidelines, the Commission and the Federal criminal justice system. He has been a very constructive force at this important agency, and I congratulate him on the completion of a successful term as chairman.

THE RETIREMENT OF SENATOR MALCOLM WALLOP

Mr. THURMOND. Mr. President, I rise today to pay tribute to a good friend of mine, a fellow Republican, and one of the true gentlemen of this Chamber, Senator MALCOLM WALLOP of Wyoming, who is retiring at the end of the 103d Congress.

When MALCOLM first arrived in the Senate 1976, I immediately recognized him as an individual White House would make many important contributions to this body, and I am pleased to note that he far exceeded my expectations. A man of great ability and integrity, MALCOLM has dedicated himself to the responsibilities of his office and has truly distinguished himself over the past 18 years.

Senator WALLOP's keen mind, honed by the faculty at Yale University, and his strong sense of right and wrong have helped to guide his actions here in the Senate. As one who has strong understand of the Constitution, MALCOLM makes certain that he abides by the restrictions and provisions dictated by that grand document. Furthermore, his voting record is one that reflects a person who places the interests of the nation above all others. While such a philosophy is often unpopular with the public and other Senators, it is the wisest way in which to govern. I am convinced that if only more members followed Senator WALLOP's example, we would not face many of the disagreements and problems we do today.

Mr. President, I am truly sorry to see Senator WALLOP leave this body, but I know that he takes great pride in the service he has rendered the people of Wyoming and the United States. I have no doubt that MALCOLM will excel in all his future undertakings and I wish him, and his lovely wife, French, health, happiness, and success in the years ahead.

THE RETIREMENT OF SENATOR HARLAN MATHEWS

Mr. THURMOND. Mr. President, I rise today to pay tribute to one of our colleagues, HARLAN MATHEWS, who will be leaving the Senate at the end of the 103d Congress.

While Senator MATHEWS' time here has been short—he was appointed to fill AL GORE's seat—he has represented the people of Tennessee well, and has lived up to the highest traditions of the U.S. Senate. No doubt, it was HARLAN's long career in public service that prepared him so well to carry out the duties of his office in this body.

A patriot, HARLAN served in the Navy during World War II, before entering college. After earning a bachelor's degree, HARLAN began what would become a lifetime of public service in Tennessee State government, including holding the positions of State treasurer, secretary of the cabinet, and commissioner of finance.

Mr. President, it is never easy to step in and complete the term of a previously elected Senator, but I am pleased to note that HARLAN MATHEWS has done so, and has distinguished himself well. I commend him on his service and I wish him and his lovely wife, Patsy, well in all his future endeavors.

RETIREMENT OF SENATOR DAVID L. BOREN

Mr. THURMOND. Mr. President, I rise today to pay tribute to a good friend and colleague, DAVID BOREN, who is leaving the U.S. Senate at the end of the 103d Congress.

In his 15 years in the Senate, DAVID has established a reputation for being one of this body's most dedicated and clear minded individuals. Educated at Yale and Oxford, DAVID possesses a very strong and active mind which he used to approach legislation in a thoughtful and methodical manner. His strong grasp of the issues and their possible effect on the Nation not only made him an influential opinion leader in the Senate, it also made him a popular guest on many of the network public affairs shows.

DAVID's record in the Senate is one that has earned him the respect of Members on both sides of the aisle, his constituents, and of individuals and groups throughout the Nation. I have no doubt that his skills as a manager and a scholar will serve him well in his new position as the president of the University of Oklahoma.

Leaving the Senate is never an easy experience for anyone, and I am sure that DAVID is looking at his departure with mixed emotions. What the good Senator from Oklahoma can take considerable satisfaction in is, that he has served the people of his State honorably and most ably. I know that we will all miss DAVID, and that each of us wishes him and his lovely wife, Molly, health, happiness, and success in his new job.

THE RETIREMENT OF SENATOR JOHN C. DANFORTH

Mr. THURMOND. Mr. President, the Senate is often characterized as being filled with wealthy individuals who know no other career outside this Chamber. I am happy to report that is simply not the case, and in my four decades in the Senate, I have seen men and women of all different means and background serve here. One of the most interesting and unique of these people is my good friend, JOHN DANFORTH, who is retiring from the U.S. Senate at the end of the 103d Congress.

The people of Missouri first elected JOHN DANFORTH to be their Senator in 1976, after he had served two terms as the attorney general of State, where he earned a well deserved reputation as an honest and reform minded public official. That JOHN would hold himself to high moral standards is hardly surprising, given that he graduated from both the Yale Law School and the Yale Divinity School and he served as an ordained member of the Episcopalian clergy prior to entering the attorney general's office. In the Senate, JOHN earned a reputation as a pragmatist who was often able to propose solutions to legislative logjams, and he quickly became one of the most respected Members of either party in the Senate. In the course of his 18 years in the Senate, JOHN has played an important role in the passage of a number of significant pieces of legislation and he was one of the key supporters of Clarence Thomas' nomination to the U.S. Supreme Court.

Mr. President, I do not know a Member of the Senate who is not saddened to know that when we reconvene for the 104th Congress, JOHN DANFORTH will not be among us. I will certainly miss my friend, and I wish him and his lovely wife, Sally, health and happiness in all their future undertakings.

THE RETIREMENT OF SENATOR HOWARD METZENBAUM

Mr. THURMOND. Mr. President, there are a handful of Senators in this body who, because of their stature, legislative record, or stand on certain issues, gain not only national prominence, but national constituencies. One such person is Senator HOWARD METZENBAUM of Ohio, who is retiring from the U.S. Senate at the end of this Congress.

Senator METZENBAUM is a man who has become known as a vocal supporter for many different causes, ranging from adoption rights to the rights of senior citizens. As a man who has become an advocate for many different groups of Americans, Senator METZENBAUM is not someone who hesitated to use Parliamentary procedures and tactics to advance legislation he supported, or stop legislation that he did not favor.

As ideological opposites, Mr. President, I doubt that there are more than a handful of issues which Senator METZENBAUM and I both supported in our time together here in the Senate. Despite our differences on the floor and in committee, I have always respected HOWARD for his steadfast beliefs. One must admire a person who will stand up and fight for what he or she believes is right, no matter what the cost.

Mr. President, I wish Senator METZENBAUM, and his lovely wife, Shirley, good health and happiness in the years ahead.

THE RETIREMENT OF SENATOR DAVE DURENBERGER

Mr. THURMOND. Mr. President, I rise today to pay tribute to a friend and a valued member of the Senate and the Republican Party, DAVE DURENBERGER, who is retiring from this body at the end of the 103d Congress.

DAVE first joined us in 1978, when he was elected to serve out the unexpired term of the late Hubert H. Humphrey, and he quickly earned a reputation as a thoughtful and competent Member of this body. A man whose service includes that as a soldier, a Governor's chief of staff, an attorney, and a corporate executive, DAVE possesses a solid background in both the public and private sectors; and, he was able to use his experiences in these arenas to approach matters from a unique perspective. DAVE has always understood that there is a real cost and consequence to the actions taken by any governmental entity and he always worked to ensure that his actions in the Senate were dictated by striking a balance between the two.

In his 16 years in the U.S. Senate, DAVE has made his mark on numerous pieces of legislation. In particular, though, he takes great pride in his role in the Clean Air Act, the Civil Rights Act of 1991, and the contributions he has made to the ongoing health care debate.

Mr. President, while Senator DURENBERGER will be missed by all those in this Chamber, he can take great pride in the service he has rendered his State and Nation. I wish him well in all his future endeavors.

THE RETIREMENT OF SENATOR GEORGE J. MITCHELL

Mr. THURMOND. Mr. President, I rise today to pay tribute to the majority leader, Senator GEORGE MITCHELL of Maine, who is retiring from the U.S. Senate at the conclusion of the 103d Congress.

To say that GEORGE MITCHELL has had an impressive career in the Senate would be an understatement. Appointed in 1980 to complete the unexpired term of Senator Ed Muskie, Maine's newest Senator quickly began to make his mark on this body and began his ascent into the Democratic leadership. In less than 6 years, the Senator served as the chairman of the Democratic Senatorial Campaign Committee, and only 3 years later, was elected to the position of majority leader where he has served since.

In his position as leader of Senate Democrats, Senator MITCHELL has played a key and pivotal role in passing numerous pieces of legislation. While I have certainly not supported all of the bills that Senator MITCHELL has advanced on behalf of the Democrats, I must say that his ability to guide legislation through the Congress, is impressive.

After 14 years of service in this body, Senator MITCHELL is ending his career of public service, one that includes time as a Department of Justice Attorney, a U.S. Attorney, and a Federal Judge. There is a great deal of speculation on what Senator MITCHELL's next undertaking will be; but whatever it is, I am confident that he will approach it with the same determination and commitment that he has his duties in the Senate. I wish him, and his lovely fiancee, Heather McLachlan, success and happiness in their marriage and all their future endeavors.

THE RETIREMENT OF SENATOR DON RIEGLE

Mr. THURMOND. Mr. President, I rise today to pay tribute to a fellow Member of this body, Senator DON RIEGLE, who will retire from the U.S. Senate at the end of the 103d Congress.

A native of Flint, MI, DON RIEGLE has represented the people of his State for almost 30 years, serving in the U.S. House of Representatives from 1967–76, and then in the Senate, from 1976 to the present. During his tenure in this body, Senator RIEGLE has emerged as one of its leading experts on business, economic, and monetary matters thanks to his extensive experience in these areas as both an academician and an executive. His expertise enabled him to do a commendable job as the chairman of the powerful Senate Banking, Housing, and Urban Affairs Committee, where he has won praise from many different sectors.

Mr. President, DON RIEGLE is a hard working, studious, and thoughtful man who has brought much to the U.S. Senate. I wish him, and his lovely wife, Lori, health, happiness, and great success in all their future undertakings, and I am pleased to have had the opportunity to serve with DON.

IS CONGRESS IRRESPONSIBLE? YOU BE THE JUDGE OF THAT

Mr. HELMS. Mr. President, anyone even remotely familiar with the U.S. Constitution knows that no President can spend a dime of Federal tax money that has not first been authorized and appropriated by Congress—both the House of Representatives and the U.S. Senate.

So when you hear a politician or an editor or a commentator declare that "Reagan ran up the Federal debt" or that "Bush ran it up," bear in mind that it was, and is, the constitutional duty and responsibility of Congress to control Federal spending. Congress has failed miserably in that task for about 50 years.

The fiscal irresponsibility of Congress has created a Federal debt which stood at $4,690,448,546,845.94 as of the close of business Thursday, October 6. Averaged out, every man, woman, and child in America owes a share of this massive debt, and that per capita share is $17,990.99.

WOULD THOMAS JEFFERSON DISDAIN POLITICAL MOANING ABOUT UNLIMITED SENATE DEBATE?

Mr. HELMS. Mr. President, a few days ago, I listened with fascination as the distinguished majority leader lectured the Senate on the evils of the filibuster, a word he uses with great frequency and with the most pejorative tone he can muster.

There is a touch of the thespian in the able majority leader. There is at least a trace of showmanship in most political figures, and the majority leader obviously relishes keeping a straight face as he debunks the patron saint of his party, Thomas Jefferson, who was the first real advocate of unlimited debate in the Senate. And the news media, reacting in the style of Pavlov's dog, races to convey to the public the majority leader's references to the evil filibuster.

We should all understand the majority leader's discomfort. He is upset. He is upset because no matter how often he talks about filibusters, the American people nonetheless instinctively

understand why the majority leader is in such a snit these days. The Wall Street Journal pinned the tail on the donkey in an October 4 editorial headed, "Glorious Gridlock." The Wall Street Journal observed—

The 103d Congress that began by boasting it would break gridlock is coming to an end mired in it. The striking political news is that voters seem more relieved than upset. This year the voters are looking beyond the label offered by politicians to inspect what's really being sold. From health care to campaign finance, voters have turned out to be discriminating when offered "reform." Instead of blaming Republicans for blocking bills, voters are holding the Democratic majority responsible for offering misguided change.

And the editorial concluded:

No doubt Senator Mitchell will shout gridlock during each of these debates, but voters don't seem to be listening. Mr. Mitchell's handpicked successor for Senator from Maine is getting trounced in the polls. Two years of the Mitchell-Clinton administration have turned gridlock into a political advantage.

So, one must understand why the majority leader is upset. In fact things are so bad that one of our Democratic colleagues is now running a campaign commercial which proudly proclaims, "A majority of the time, I voted with the Republican leader, BOB DOLE." Another of our colleagues is running an ad which doesn't identify his party affiliation but highlights how many times he has voted against the Clinton-Mitchell program.

But, Mr. President, my purpose is not to focus on the majority leader's political problems. What needs to be understood is the charges that the majority leader has constantly made that somehow extended debate in the Senate is beyond the pale and that something out of the ordinary is afoot as the Senate winds down the clock on the 103d Congress.

As an aside, it should be noted that in the 102d Congress, this same majority leader singlehandedly stonewalled President Bush's capital gains tax cut and held up all Bush judicial nominations for months prior to the 1992 election. That, you see, was perfectly legitimate because it was the Mitchell ox that was doing the goring.

It is a bit strange, when one pauses to think about it, that the distinguished majority leader has attended literally scores of Jefferson-Jackson political dinners in his career. At these Democratic Party events, the majority leader many times surely joined in paying homage to Thomas Jefferson and everything Mr. Jefferson stood for. The problem is if you look at the big government, big spending agenda of the majority leader's present-day party, you certainly will not see much of anything which Thomas Jefferson would approve.

Let us ponder for a moment, Senator MITCHELL's frequent pejorative attacks on those of us to whom Thomas Jefferson is an historical hero. What did Mr. Jefferson think of unlimited debate in the Senate—which Senator MITCHELL repeatedly condemns as filibustering.

In his Manual of Parliamentary Practice for the Use of the United States Senate, Thomas Jefferson clearly warned those who, in the name of institutional reform, ending gridlock, or any other such contrivance, attack Senators who would openly and fairly use the Senate rules which govern debate in this body to check, or at least slow down, the raw power of the majority party and its leader. I am confident that if Mr. Jefferson were around today, he would disdain those who make such arguments. Consider this: Writing in 1801, 12 years after the convening of the First Congress, Mr. Jefferson said:

* * * nothing tended to throw power into the hands of administration and those who acted with a majority of the House of Commons, than a neglect of, or departure from the rules of proceeding: that these forms [rules], as instituted by our ancestors, operated as a check and control on the actions of the majority, and that they were in many instances, a shelter and protection to the minority against the attempts of power * * *

* * * and whether these forms be in all cases the most rational, or not, is really not of great importance.

It is much more material that there should be a rule to go by, than what the rule is; that there may be a uniformity of proceeding in business, not subject to the caprice of the Speaker, or captiousness of the members.

Mr. President, what the majority leader really wants us to do is—ignore Mr. Jefferson's warning and let the majority leader, and Mr. KENNEDY, and other majority party Senators have their way. Every time a bloated spending bill is shot down the Republicans are chastised for not following as Mr. Jefferson put it, "the caprice of the Speaker [in this case the majority leader] or the captiousness of the members."

For my part, being chastised by the distinguished majority leader is like being flogged with a wet noodle.

But, in fact, as Mr. Jefferson went on to say, the rules of debate in the Senate are there to protect the American people from the wantonness of power of large and successful majorities.

I do not make these observations lightly. There is no right so essential to maintaining our freedoms, nor is there a right so misunderstood, as the right of unlimited debate in the Senate of the United States. If and when the Senate majority leader, regardless of party, is allowed to acquire the powers possessed by the Speaker of the House of Representatives, the U.S. Senate will be reduced to nothing more than an appendage of the House, as the distinguished President pro tempore, Senator ROBERT C. BYRD, eloquently noted in his history of the U.S. Senate.

Those like the majority leader who wail against gridlock are really implying that in a democracy the majority must always rule. And to that I must dissent with all my being. There was, it needs to be said, a man named Pontius Pilate who abdicated his responsibility to a mob.

Our Founding Fathers did not carelessly or thoughtlessly design this system for the convenience of any President, or the whims of any majority leader. Mortals come and go. The system was designed to protect all Americans from the dangers of hurried, arbitrary, and ill-considered legislation.

If that doesn't suit the majority leader's wishes he may need to remind himself that the American people know what is afoot in the U.S. Senate and it appears fairly obvious that they may register their feelings on November 8.

BEING FLOGGED WITH A WET NOODLE NOT SO BAD

Mr. HELMS. Mr. President, last evening I mentioned an editorial in yesterday's Washington Post—which a growing number of people call the The Washington Compost. The editorial writers of the Post, who never allow accuracy or fairness to interfere with an ad hominem attack on someone with whom they disagree, published a mean-spirited opinion piece favoring proposed legislation that is tantamount to having Congress write an open-ended check requiring the American taxpayers to pay for a new Smithsonian Museum at a time when the Federal Government has already run up a debt of more than $4.6 trillion.

The editorial, entitled "Another Congressional Casualty?" was akin to being flogged with a wet noodle. In short, the editorial was remarkable in that it was difficult to find any accuracy in it.

For example, Mr. President, the editorial stated that Senator ROBERT C. BYRD's amendment to the proposed museum legislation makes clear the new museum can't ask for public money for at least 5 years. In fact, the opposite is true. Had the editors bothered to look at the bill, they would have found that in section 9, the Byrd amendment reads as follows:

There are authorized to be appropriated such sums as may be necessary only for costs directly relating to the operation and maintenance of the Museum.

The Washington Post editorial writer conveniently neglected to mention that thus far, the Smithsonian has refused to provide Congress with any budget estimates for its first 5 years of operation, or any assessment of the burden on the taxpayers in connection with the proposed museum's programs and activities, which will include traveling road shows, media promotions, and training programs. Nor has the Smithsonian been willing to advise Congress as to an estimate for the number of employees the museum will hire, their salaries, or how much of

these salaries the taxpayer will have to foot.

For the record, I have, on numerous occasions asked the Smithsonian for the projected budget of this proposed museum including costs for its establishment, and its operation, maintenance and activities. The first Smithsonian response stated that the $475,000 already appropriated will be used to establish the museum, and that over the next 5 years, no additional taxpayer funds will be needed for the establishment of the museum. But the Smithsonian official refused to say how much in taxpayer funds will be needed for the other costs of the museum, that is, for its operation, maintenance, and programs, including the traveling exhibits, the media promotions, and the training programs for African-Americans, all of which will amount to the bulk of the cost of the museum.

So, I wrote back, thanking the Smithsonian for telling me how much it will cost to establish the museum, which of course was not the question I had asked. But now please tell me, I wrote, "how much in Federal funds do you project that the museum will spend, for each of the next 5 fiscal years, for all other aspects of the museum, that is, its maintenance, operation, programs, and other costs, other than the costs for establishing the museum?"

The Smithsonian responded that it will develop a strategy for private funding to support the establishment of the museum, a question I had not asked. I asked about the cost of all other aspects of the museum, that is, maintenance, operation, programs, and other costs.

So, you see what is going on, Mr. President, ask the Smithsonian one question, and you get a nonanswer, an answer to an entirely different question. The Washington Post editorial writer accepted the nonanswer as if it was the gospel.

Then the editorial claimed I raised dark hints that the Nation of Islam will want a museum of their own if we create an African-American museum. A contrived falsehood.

What I asked the Smithsonian, in my letter of June 8, was: (1) What criteria were used in approving a museum specifically dedicated to African-Americans? and (2) Will the Smithsonian support creation of separate museums for all ethnic, racial, and religious minorities meeting this criteria?

Mr. President, those are reasonable questions, and we'd better get answers to them now—not later. Once Congress establishes a museum dedicated solely to African-Americans every other minority will give thought to asking the taxpayers to pony up for a special museum for them. In fact, a Smithsonian report of May of this year, titled, "Willful Neglect: The Smithsonian Institution and U.S. Latinos" has already recommended a new museum dedicated to Americans of Hispanic descent.

Once Congress gives the go ahead for African-Americans, how can Congress then say no to Hispanics, and the next group, and the next group after that? Of course Congress can't, and Congress won't. So where will it stop? No one knows. I doubt it will ever stop as long as Congress has the power to reach into the pockets of the American taxpayer and sieze larger and larger amounts of tax dollars.

Mr. President, I did, in my questions to the Smithsonian, inquire as to how the Smithsonian would deal with requests by the Nation of Islam which may desire to participate in the museum's programs and activities, a valid question inasmuch as the taxpayer is already subsidizing the Nation of Islam through the Department of Housing and Urban Development.

I also asked how the Smithsonian would deal with requests to honor any of the leaders of the Nation of Islam. Another good question, to which I did not receive a straight answer, inasmuch, as I doubt many Americans want their tax dollars being spent to honor Louis Farrakhan and his ilk.

It is by no means far-fetched to anticipate requests to honor in the museum's exhibits, people like Farrakhan, remember, it is the Smithsonian which attempted to use the 50th anniversary of the dropping of the atomic bomb as an excuse for putting together an exhibit demonizing America.

The Post editors also lament what they claim is the possible loss of important collections, if the Congress fails to soak the taxpayer for this proposed museum. The editors declined to mention that these collections can be acquired by the Smithsonian for display in existing museums and exhibits dedicated to African-Americans.

You see, Mr. President, there is the question of whether this proposed museum duplicates activities already being undertaken by the Smithsonian. The answer is that it does. First, there is the Anacostia Neighborhood Museum—which the Smithsonian advertises as a Smithsonian Museum of African American History and Culture. Yet the multi-million dollar museum to be created by the pending amendment is also portrayed by the Smithsonian to be a Museum of African American History and Culture.

If there is already one museum, financed by the taxpayers, dedicated to African American History and Culture, why is another one needed?

Then, there is the African Art Museum on the Mall. And the National Museum of American History, which has two separate exhibits dedicated to African-Americans. And the National Museum of American Art, which this month opens an entire wing of one floor of its building dedicated to an African-American art exhibit entitled, "Free Within Ourselves." And the National Portrait Gallery which features one exhibit on African-American journalists of the World War II era, and another exhibit entitled "The Harlem Renaissance." The list goes on and on.

Mr. President, the bottom line is that with a $4.6 trillion Federal debt the Washington Post could not, on the facts, justify a new Smithsonian museum when, (1) nobody knows how much it will cost, and (2) we don't know the number of employees, what their pay will be or who will pay them, (3) it duplicates other museums already funded within the Smithsonian, (4) the Smithsonian can't afford upkeep on museums and collections it already has and, (5) the museum will undertake numerous extraneous activities such as training programs, seminars and travel of which no cost estimates have been provided.

So, Mr. President, the Washington Post did the next best thing—it handed out another one of its mean-spirited ad hominems. The trouble is, it was still a wet noodle.

Mr. President, I ask unanimous consent that The Washington Post editorial, "Another Congressional Casualty?", be printed in the RECORD at the conclusion of my remarks.

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

[From the Washington Post, Oct. 6, 1994]

ANOTHER CONGRESSIONAL CASUALTY?

Back in 1990 when Congress first took up the idea of establishing a Smithsonian museum of African American "history and heritage," the museum's projected opening date was 1996. That still seemed feasible earlier this year: The House overwhelmingly passed a bill authorizing the museum, which would let it begin seeking contributions and gathering artifacts, and the Senate seemed poised to do likewise. Only one senator has been heard to express any opposition to the bill as it now exists. But that senator is Jesse Helms, and given the welter of other filibusters that need breaking in the Senate's last days, supporters now say the African American museum is a long shot at best.

Lots of worthy legislation is expiring this month, of course. But there are a few extra reasons for shame if the Senate lets Mr. Helms kill this one. The first is that the senator's stated concerns, reiterated in lists of questions to the Smithsonian—mainly about possible cost and possible undue "influence" by unsavory groups—have been exhaustively and repeatedly answered. An amendment by Sen. Robert Byrd makes clear the new museum can't ask for public money for at least five years. (The designated building already exists, and most funds are to be raised privately.) The senator's dark hints that "other groups," including the Nation of Islam, will "want one too" if this museum is created ignore the entire existing governance structure of the Smithsonian, not to mention a decade's worth of discussion as to what kinds of additions the Mall should make to its portrayal of history.

More important is that another year's delay would do serious damage to the quality of what the museum ultimately could show.

The delay threatens irretrievable loss of some important collections that Smithsonian prospectors have already identified—including actual 19th-century photographs taken on slave ships—but that, once identified, have come to the attention of private collectors. It was a Republican criticism in Congress that put a curb on the Smithsonian's ability to solicit such contributions, after complaints that the museum was backing congressional overseers into a corner by coming to them seeking funds for already-promised acquisitions. Museum officials then agreed that no such major acquisitions could be made without congressional authorization for the museum in which they would be put. That makes good sense—except when Congress dallies year after year for no other reason than procedural snarls and one senator's mean-spirited obstruction.

RECENT DEVELOPMENTS IN NORTHERN IRELAND

Mr. KENNEDY. Mr. President, I commend my colleague, Senator LEAHY, for his continuing concern and effective leadership on the important issue of United States policy toward Northern Ireland. In recent months, we have seen dramatic and positive developments there. All friends of Ireland are hopeful that the auspicious peace process currently under way will finally end the tragic conflict in Northern Ireland that has claimed more than 3,000 lives over the past 25 years.

Many people deserve credit for the developments that led to the most hopeful breakthrough in many years—the August 31 announcement by the Irish Republican Army of a complete cease-fire. No one deserves more credit than John Hume, the leader of the Social and Democratic Labour Party in Northern Ireland. I first came to know John in the 1970's when he visited the United States to urge Irish Americans to stop supporting the violence and to start supporting his courageous leadership in the cause of nonviolence and peaceful change. In the past year, his long and tireless efforts for peace have finally begun to bear fruit, especially his initiative last year with Sinn Fein leader Gerry Adams that helped lead to the recent IRA cease-fire.

Last December, Irish Prime Minister Albert Reynolds and British Prime Minister John Major issued a landmark Joint Declaration which outlined a realistic path for peace. Both leaders deserve credit for recognizing this unique opportunity and for putting Northern Ireland high in their priorities.

President Clinton has also played an important role in the peace process. Last January, he granted Gerry Adams his first visa to visit the United States. That visit was a key step in leading the IRA to declare a cease-fire. His visit then, his new visit to this country in recent days, and the continued involvement of the Clinton administration have been of central importance in moving the peace process forward.

For years, all of us who oppose the violence in Northern Ireland have called on both sides to lay down their arms and seek to achieve their legitimate aspirations through the democratic process. Now that the IRA has agreed to do that, Sinn Fein should be encouraged, not isolated. In fact, as we now know, the British Government had been talking secretly with the IRA long before Gerry Adams received his visa to visit the United States. It is gratifying that the peace process is now so clearly in the open, and all of us are optimistic that the current progress will continue.

Credit for these developments also goes to a delegation of Irish Americans—Niall O'Dowd, Bill Flynn, Bruce Morrison and Chuck Feeney—who have actively contributed in recent months to bringing about the August 31 cease-fire.

Much remains to be done. Most important, the Protestant paramilitary organizations should halt their violence immediately, and all sides should come together at the peace table. My hope is that all sides will be able to build on the recent momentum and reach a lasting settlement soon. I am confident that the United States will do its part to facilitate that settlement in any way possible, and I look forward to working with Congress and the administration to provide whatever assistance we can.

EDUCATING CHILDREN FOR PARENTING PROGRAM

Mr. PELL. Mr. President, I wish to engage in a colloquy with the distinguished chairman of the Labor and Human Resources Committee.

The Educating Children for Parenting Program is being used in many school districts around the county to help parents and children to learn parenting skills. My understanding is that the managers of the Improving America's Schools Act intended to include language on this innovative program in the Statement of Managers.

Mr. KENNEDY. The Senator is correct. The managers commend the Educating Children for Parenting Program and urge local education agencies to consider incorporating this model as part of their comprehensive drug and violence prevention activities, as authorized under title IV of this act.

Mr. PELL. I thank the Senator.

RETIREMENT OF STEPHEN M. NYULASZI

Mr. MITCHELL. Mr. President; this year, the State of Maine is losing a tremendous public servant. Stephen M. Nyulaszi will be retiring as Director of the Department of Commerce's branch office in Maine.

Steve has served the people of Maine in this position for 15 years. His assistance to Maine Businesses has been invaluable. He has helped countless Maine companies to grow and become competitive in both domestic and international markets. His skills and dedication have made significant difference in the success of many businesses' effort, and I know that he will be deeply missed.

Steve Nyulaszi personifies the ideal public servant. He has worked above and beyond the call of duty to assist Mainers.

I have often said that it is not easy to choose public service. It guarantees neither wealth nor fame.

Rather, public service must be and is its own reward. It gives work a value and meaning greater than mere personal ambition and private goals. It affords you an opportunity to do something that will change the lives of people for the better.

Steve Nyulaszi has done just that. He has worked hard, and it has been both noticed and appreciated. I wish Steve the long, happy, and healthy retirement that he so richly deserves.

PASSAGE OF H.R. 6 AND THE REAUTHORIZATION OF THE NATIVE HAWAIIAN EDUCATION ACT

Mr. INOUYE. Mr. President, I rise today to express my deep appreciation to my colleagues, Senators KENNEDY, PELL, KASSEBAUM, and JEFFORDS for their efforts in securing passage of H.R. 6, the improving America's Schools Act. H.R. 6 represents literally thousands of hours of work by the members of the Senate Labor and Human Resources Committee and their staff. I think they all deserve special commendation.

I am especially pleased that included in H.R. 6 is a reauthorization of the Native Hawaiian Education Act. Mr. President, the Native Hawaiian Education Act is one of the most important measures with which I have had the privilege of being affiliated. It is a measure which is premised upon raising the educational status on native Hawaiian children and youth to national parity. Yet it is also a measure which recognizes the importance of native Hawaiian culture, language, and traditions and the critical role that these values can play in the education of all native Hawaiian people.

The Native Hawaiian Education Act had its origins in 1981, when the Senate authorized the Secretary of Education to submit a comprehensive report on native Hawaiian education to the Congress. The report, entitled the "Native Hawaiian Educational Assessment Project" was released in 1983 and Documented that native Hawaiians scored below parity with national norms on standardized achievement tests, were disproportionately represented in

many negative social and physical statistics, indicative of special educational needs, and that their educational needs were related to their unique cultural situation, such a different learning styles and low-self-image.

In recognition of these needs, the Congress enacted title IV of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 to authorize and develop supplemental education programs to benefit native Hawaiians.

The programs established under the act have been extraordinarily successful. The Kamehameha Schools Family-Based Preschools and the Higher Education Program, the Punana Leo Hawaiian Immersion Preschools, Pihana Na Mamo—the native Hawaiian special education project, and Na pua No'EAU—the center for gifted and Talented Native Hawaiians, have touched the lives of literally thousands of native Hawaiian children and their families.

But despite these advancements, a recently released 10 year update of the native Hawaiian education assessment project found that many of the same educational needs still exist for native Hawaiians. Currently, native Hawaiian children and youth represent the single largest ethnic group within the state educational system, 23.6 percent, and their numbers are growing. Yet they represent more than 50 percent of youth committed to the Hawaiian Youth Correctional Facility. In special educational programs, Hawaiian students represent 32.7 percent of the total special education enrollment, with figures in some school districts approaching 42 percent. And in achievement tests of basic skills, Hawaiians score below national norms and scored the lowest of the four major ethnic groups in Hawaii.

These are only a few examples of the over-representation of Hawaiian children and youth in the at-risk population. They are also indications of a school system that has failed to meet the needs of the native Hawaiian people. For example, for the school years 1989–1991, approximately 17 percent of Hawaiian students enrolled in their junior year were not enrolled for their senior year.

In April 1993, the Indian Affairs Committee convened a 2-day native Hawaiian education summit, which brought together over 200 native Hawaiian educators, administrators, parents, students, and community leaders to collectively chart a course for the future of native Hawaiian education. The amendments to the Native Hawaiian Education Act contained in H.R. 6 reflect the recommendations which were issued forth from the summit.

I believe it is imperative that a unified approach be taken so that each of the programs receiving funding under the Native Hawaiian Education Act do not provide duplicative services but rather coordinate the provision of services, and reach out to other educational and related programs. Because only with such a comprehensive approach can we best utilize our limited resources. That is why H.R. 6 contains provisions which establish a native Hawaiian education council, as well as individual island education councils, in order to ensure the input of native Hawaiian communities.

On July 7, 1994, U.S. Secretary of Education Richard Riley met with representatives of the programs funded under the Native Hawaiian Education Act and other native Hawaiian educational programs. I wish to share with you the words that were offered to the Secretary by Ms. Haunani Apoliona, A native Hawaiian educator, singer and song writer, and a true native Hawaiian role model.

Nearly 18 months ago all of us in this room and many more who are not present today, returned to the bosom of Pauahi, in gathering for the Native Hawaiian Education Summit, to exchange both ancient and contemporary wisdom to assist us in moving together to take what is only a first step in collectively charting the journey of native Hawaiian education into the 21st century.

A context of concepts served as common starting points for our discussion on Hawaiian education—which highlighted the expectations for Native Hawaiian education:

To prepare our youth and adults to recognize that responsible jobs and rapidly changing occupational requirements call for workers with the ability to read, write, compute, analyze, solve problems, and exercise good judgment in carrying out their duties.

To promote the use of cognitive skills (induction, deduction, critical thinking) through exposure to and analysis of problems encountered and acquisition of basic skills.

To instill the appreciation for the dignity of work and its importance in determining a standard of living and instill in students the value of cooperation with others in order to accomplish a task.

To allow Hawaiian learning styles to influence how curriculum is shaped and how teaching strategies are accomplished, incorporating designs or educational programs that strengthen family and generational interaction, building on the strengths rather than on the deficits of families.

To identify viable non-traditional approaches to a learning environment that achieve measurable and high standards of results as well as consider the equal partnership of both academic and vocation education and for the Hawaiian.

To achieve educational reform not by just focusing on factors external to a child's educational experience but by also addressing the attitudes, feelings and fears on the inside of the child especially in the early years.

We also noted at least two aspects that make Native Hawaiian education special and distinct from other populations:

Aspect one, recognized the inclusion as well as consistent lead that Hawaiian language and Hawaiian values must play in Native Hawaiian education, education that begins even before the child is born; and that the utilization of such Hawaiian values and the striving for lokahi instills the wisdom and enlighten perspective of inter-dependency between ourselves, our environment and our spiritual forces promoting individual responsibility for the good of the whole * * * all key elements to the renewal of our people.

Aspect two, committed and dedicated ourselves, our families and communities, as Hawaiians, to the principle that education is synonymous with life long learning—that education takes on a different dimension and meaning, becomes relevant for all stages of life, individually and collectively, from before birth to the senior years.

The vigorous exchange of ideas on what ingredient elements must comprise Native Hawaiian education and what the vision will be is framed in our collective voice, our collective mele, resounding in the following statement of goals from the Native Hawaiian Education Summit:

"The 'ohana (extended family) and Native Hawaiian communities are essential to the success of Native Hawaiian education and we therefore shall determine, shape and guide the learning and education of our people."

"We collectively shall shape an education system that embraces, nurtures and practices our traditional foundation as embodied in our language, culture, values and spirituality."

"That we collectively shall shape an education system that empowers Native Hawaiians to be contributors, active participants, and leaders in our local and global communities."

We are prepared for the challenge and opportunity to chart the voyage of Native Hawaiian education, guided by the wisdom and work of Native Hawaiians for the benefit of Native Hawaiians. We are poised to work together, to collaborate among our people in assessment, planning and implementation (i.e., embodied in the mechanism of the Education Council) and with all partners (current and potential) who support and contribute to the achievement of our mission. Our unique legal and historic background with the United States underscores the special responsibility and relationship demonstrated by the U.S. Federal Government to Native Hawaiians; a special responsibility that the U.S. can not choose to abandon even in these difficult economic times.

Our work has begun* * *.

Put forward the paddle and draw it back.

Go on with the task that is started and finish it.

Let us work together, Natives of Hawai'i.

This 'olelo no'eau is shared in closing* * *.

Let us move forward and drink of the bitter waters (the challenging times) for we will not turn back, retreat (or give up). Mahalo.

Mr. President, I thank you for granting me this time.

REFLECTIONS ON THE HEALTH CARE REFORM DEBATE

Mr. ROCKEFELLER. Mr. President, as the final hours of the 103d Congress near, I rise to share some thoughts on the subject that so many of us thought would be the defining accomplishment of this challenging year. We were not able, it turns out, to arrive at a conclusion on health care reform. Many of the problems that sparked the drive for reform still exist and will continue. It is my deep and abiding hope that the experiences and lessons of these past 2

years will help guide a more successful course in the next year.

Lyndon Johnson used to say that other nations are confused by the nature of our democracy. He was referring to observers that mistake dissent for disloyalty, restlessness for a rejection of policy, and individual speeches for public policy. That could apply to our recent debate on health care. But the heated, tumultuous stage on health care was, yet again, democracy in practice. This legislative body took a serious problem on its broad shoulders and struggled to mend it. And while we have yet to conclude our work, we have seriously begun our push.

For too long, American families have struggled under the weight of health care. Medical bills have become more and more expensive while health insurance paid less and less. The same is true for American businesses—they have spent more and more to insure workers with policies that covered less and less.

My reason for deciding to focus on health care reform years ago was very simple. Over my many years in public life, I saw more and more harm being done to the people of my State. West Virginians—families, small businesses, providers—asked for help. They said they could not solve these problems on their own no matter how hard they tried.

Whenever I am back home, I meet a worried mother or father, a devoted son or granddaughter looking for a way to cope with burdens caused by a health care crisis or need. People who work, who pay their taxes, who play by the rules. But people who individually just can not stop an insurer from raising its rates or cutting off coverage at the moment it is needed the most.

As much as we can explain the reasons that Congress did not agree on a health reform bill this year, as much as we have learned from one another, one fundamental and simple truth remains: too many working American families are still falling through the cracks every single day, unable to pay their health care bills or get the treatment a loved one needs.

We must persist in the search of a solution. I am disappointed that health care reform did not happen in this session—there is no denying that. I try to find comfort in the fact that getting Social Security into place took 10 years.

Important ground was covered in the feisty, fiery debate that lasted over this entire Congress. If enough of us remain committed to solutions, Congress and the American people have much to draw on to chart the path to health care reform. We did not finish our work, and there should not be a competition for partisan trophies. There is no win here for Democrats or Republicans.

We dare not find ourselves satisfied. We dare not claim the moral high ground on what became of health care reform. Because, in America, people still lose their homes, parents still deplete college funds, and businesses still shutter their doors because health care costs are spiraling out of control. We have brought health care reform closer to happening than ever before in American history, but that means very little to the people hurting from the problems of our system and the bottom line that saddles our economy. Our heated exchanges did achieve one thing: it moved health care reform from a whisper in a few rooms into the national conversation.

Around lunch counters, on front porch stoops, in factory cafeterias, Americans now discuss the pros and cons of managed care, purchasing cooperatives, single payer, and mandates.

The debate of the past 2 years helped educate all Americans. Every single Member of Congress talked to and wrote to constituents about health care reform. I held town meetings in many counties in West Virginia where 8 out of 10 questions I was asked were about health care reform. And I bet my experience was the norm. When reporters from home started to pick up on this, I eagerly exchanged thoughts and information about health care reform with them. I know every Member of Congress did the same. As the questions got tougher and more detailed, I worked harder, researched more, tried to explain the issues as I understood them in greater length.

We saw the dividends. Our newspapers and talk shows, our radio programs and magazines gave more and more time, more and more space, to health care. We moved the country from arguing about whether or not there even was a health care crisis to how best to respond to the crisis. That does not happen easily in this country. That was the result of patient, committed work.

We had more partners than we can count. Whether people supported President Clinton's plan or not—whether they wanted a single payer system or some form of mandates or their very own prescription—they weighed in and got active. Involvement in health care reform spanned the entire American population. Union members, small business owners, seniors, handicapped, farmers, and so many others rallied their membership, educated themselves, and took an active role. Phones here really did ring off the hook with input. There was no apathy on health care reform. No time that America lost interest. I still get calls from people in West Virginia and from all over the country telling me "to keep on working on reform."

Even with this to be proud of and take solace in, far-reaching, meaningful health care reform will have to wait another day. Because fear and confusion, in the end, stalled our work.

After all our hours of deliberation, after caucusing and studying and hearing from constituents back home, the problems of our system are not retreating. Insurance companies will not be forced to change a thing. Consumers will still be buried under more paperwork, fine print, and bureaucratic waste. The $100 million spent to stir up a blinding sandstorm of bedlam and bewilderment overwhelmed our push to help Americans.

And that bedlam reigned, despite the fact that there are some basic reforms that we all agree are desperately needed, like the need to stop insurance companies from refusing to insure people with preexisting conditions—or the need to make home- and community-based care available for those in need of long-term care. Or, to make sure that all of our children have a health insurance card.

Real people lost out because we could not get a compromise agreement on even a scaled-back reform package, real people whom I was sent here to represent, like the Saunders family from Charles Town, WV, lost. The Saunders' story is not uncommon in today's system, and it will happened again and again without action on basic insurance reforms. Michael Saunders is an assistant pastor at a Baptist Church. The family lost their health care coverage suddenly when their church had to switch plans to an insurance company that then went broke. Now, the Saunders are faced with thousands and thousands of dollars of unpaid bills that make each day a struggle. I firmly believe that a majority of my colleagues would have ultimately voted to change that, but that vote never came.

A few early votes, like the bipartisan vote for the Pryor Rockefeller long-term care amendment during the Finance Committee's markup of health reform, or the Senate floor vote in favor of the amendment I wrote with Senator DASCHLE to help rural areas, did prove there is a strong, bipartisan base of support for some important pieces of reform.

In the Veterans' Affairs Committee that I am proud to chair, a substantial proposal was approved to both preserve a health care system for America's veterans and extend the choices and quality services that they deserve. This effort must resume, and Congress cannot ignore the obvious needs for improvements in the health care system dedicated to veterans.

I appreciate the thought and effort devoted to the need for reforms in our current system of financing medical education. Market changes and fiscal realities are forcing lawmakers and medical educators to adapt our policies. My hope is that we can build a consensus to generate the primary care doctors and health care workforce that Americans so clearly need.

With the few votes on health care cast in committees and on the Senate floor, they showed that Members were willing to make a commitment to new spending if it met serious needs and if the programs were designed to be fiscally responsible. Democrats and Republicans alike agreed on the need to act to provide some assistance to the families who want the ability to care for their own at home as they deal with the financial, physical, and emotional burdens of coping with chronic illnesses. But, on this issue, as on so many others, I regret to say that the real life needs of the people we represent were not elevated beyond gestures of support.

Here is what is so sad: It was easy to be stubborn, to draw lines in the sand and pull one objection after another out of the air when a $100 million blitz smothered the basic nuggets of truth. Confusion and hysteria about health care went hand-in-hand with calls for help. Those endless and divisive Harry and Louise ads, and others on radio and in newspapers, played fast and loose with the truth in an effort to scare people into believing that health care reform—any reform—was so complicated, so revolutionary, and so expensive that it would ruin us all. Well, that was not the truth, period. But a $100 million sky-is-falling media blitz was tough to drown out.

The nature of the American media only fueled the fire. At a time when everything from Michael Jordan's baseball career to O.J. Simpson were headline-grabbers, something as critically important in the real world as health care reform had to share precious airtime and ink. Now health care isn't very sexy and it won't sell many newspapers—unless it's a controversial story. So health care was reduced to a political horse race.

I am not faulting reporters for the fact that we did not get health care reform done. Most did us a great service with detailed and insightful work. But the American media is a very different entity than it used to be. Not so long ago, major newspapers and a few networks essentially served as a check on misleading and irresponsible information. The public gained perspective by how a restrained and cautious media covered subjects. That discrete judgment is just about gone. What the mainstream media rejects as trivial or simply titillating is delivered by the feeding frenzy of the alternative media.

So the ability to deliver an inaccurate message is easily found. And opponents of health care reform seized this chance—their hype, hysteria, and half-truths were broadcast far and wide. Take Harry and Louise. Actors who pretended to have health care worriers took on a life of their own. They pushed scary ideas like big government and bureaucracy without ever having to prove anything. They were unchallenged critics. Yet they were as fake as the sets for their home and office built on some back-lot soundstage. And the tabloid press treated them as real when they were products of the health insurance industry's public relations machine.

Factor together a $100 million blitz and news priorities skewed by the need to compete for audience share with the explosion of tabloid journalism, and it is no wonder the important elements of health care reform were drowned out.

This confusion helped to stall health care reform. It bogged reform down in so much uncertainty and fear that it made having to take a real stand on health care reform utterly avoidable.

We are sent to Washington by our constituents to act on their behalf—to take on the important issues and problems of a nation. Yet millions of dollars and thousands of column inches and hours of airtime make it harder to cut through—it takes more time, more education, to make a case for reform. That helped run the congressional clock down. And that came at the expense of virtually every single middle class family and every single small business in America. The people who really do drive this country, the people who work in our factories and on our farms, who pay taxes and play by the rules, who give their time and money to build their communities, are the people on the losing end of this score.

Sadly, I believe our falling short could have been avoided. We could have put as much time and effort into constructive negotiation as we did to fighting over labels. But that never really seemed an option. No one ever said Bill Clinton's plan was perfect. No one ever said Senator MITCHELL'S bill was a take-it-or-leave-it proposition. I was an advocate for both those bills, and I myself saw them as starting points. But the notion that health care reform had to start somewhere and would be an evolutionary process never seemed an option to some here—and that is a shame. So health care reform is something we all have to keep on pushing for.

I have not given up for West Virginia. Not unless and not until the problems that saddle our people and economy go away.

As frustrated as I am with what transpired on health care, I am still moved by the good-faith, sincere, and honorable efforts of individuals far, far too numerous to mention. I think of many Senators and Members of the other body. I think of the hundreds and hundreds of congressional staff, like my own, who sacrificed time with their families and gave their hearts and souls to the effort of the past 2 years. I think of the President and First Lady, and their own troops, all clearly trying to make life better for the American people. I think of the people from my State and across the country who did all they could to help achieve reform for themselves and their fellow citizens.

In the closing days of this Congress, Senate Majority Leader GEORGE MITCHELL and Republican Senator JOHN CHAFEE tried mightily to create a blueprint for health care reform. Together, they represented Senators from both parties who wanted to put the concerns of the American people ahead of partisan politics. They wanted to make a real effort to achieve universal coverage. The conviction they represented will not die, and it is one of the starting points we have to press on.

Health care reform should be bipartisan. It should represent what most Americans want, and not just for one faction or one theology. But it also has to be about dealing with real problems and achieving real results.

I do not see the endeavor getting any easier. The special interest money and the confusing claims will form their torrent when we try again next year or the year after or the year after.

Without reform, this Nation's deficit will balloon just when we have put it on a downward slope. Without reform, businesses and families will continue to struggle with an impossible choice: spend more for coverage or gamble on doing without. Without reform there will be no peace of mind for parents and no thoughts of a secure future for young people. So the stakes remain high, and the need remains undiminished. Our debate is over for this year, but the health crisis continues to grow.

We can succeed only if we stop listening to the voices for partisan wars and those that win when the status quo prevails. And success means relief for real people and the stability that our budget so clearly needs.

For those of us who will not give up on trying for our people, we have to look on the past 2 years as the foundation to build from. Before the 103d Congress, health care reform was something like the Loch Ness monster—sighted every few years, heard about, but never produced. President after President during the past 60 years had an idea of the importance of health care reform, only to be outdone by political inertia. This time, reform came closer to reality than ever before. And it is now a vivid issue, etched clearly onto the American agenda. People in rural and urban America young and old, regardless of ethnicity, income, or geography all see the need for reform.

At its very core, health care reform has been about offering real hope for resolving the real problems that weigh down too many of us. For me, it has been about helping West Virginians put their heads on their pillows at night with the peace of knowing that their families, their businesses, their jobs, and their homes will not be devastated by health care costs. For me, it has

been about freeing my State from the exhausting burdens of out-of-control health care costs.

Let us not forget what health care reform was really about. It was about giving the American people the same security that they give Congress. It was about giving them the same reliable, affordable, flexible coverage we have. I have in my wallet a Blue Cross Blue Shield card. Because I am one of 9 million Federal employees in a common program, I get to choose from among dozens of different insurance plans. I chose this one because it suits the needs of my family best. I pay almost a third of the monthly premium, and my employer, the Federal Government and taxpayers, pays the rest. I have very good, very comprehensive health benefits. I don't wait in lines and I deal with a doctor, not a bureaucrat.

In fact, just a day or so after the reality that health care reform was not going to happen this year, the Washington Post ran a front page story detailing how the health care benefits of Congress and of all Federal employees were about to get better and less expensive. How can we watch the success of the health program that covers us and our own staff, and then endure the failures that plague the people we represent. There is no way to rationalize this, no way to spin or filibuster it into acceptability. Allowing Americans to get the same affordable, reliable coverage was what we fought for.

I know others think the same way, and I know I have Senate colleagues just as hopeful and determined to do right and pass reforms that Americans want from us. We've come so very far, but more trying and exhausting steps await us when the 104th Congress convenes next year. The growing interest in entitlement reform, and what that means for Americans relying on Medicare and Medicaid, will require serious attention.

My greatest hope is that the needs of our Nation and our own States, in the end, will ultimately outweigh the $100 million hype and hysteria that have put obstacle after obstacle after obstacle in our path.

During World War II, the Army Corps of Engineers—the people who helped bridge the Rhine and clinch the defeat of Germany—had a motto: The difficult we do immediately, the impossible takes a little longer. That should be our rallying cry for health care. It's a major undertaking, and I have acknowledged that from day one. But it's an undertaking we must resume. We have taken a long time, and we will take a little longer. If we have the integrity and the commitment to do right by the American people, we'll get to work with renewed vigor and determination and repair the health care system. We can and we must turn one of our Nations's more trying episodes into a moment of great effort and achievement.

SOCIAL SECURITY NOTCH ADJUSTMENT ACT OF 1993

Mr. DECONCINI. Mr. President, I introduced the Social Security Adjustment Reform Act of 1993 early in the 103d Congress. I have been a longtime supporter of legislation to correct the glaring inequity in our Social Security System known as the notch problem. In previous Congresses dating as far back as the 99th Congress, I have cosponsored legislation to address this notch disparity.

Mr. President, I had hoped to offer this legislation for a vote prior to the end of this Congress. However, our former colleague, Senator Sanford and I made a pledge on the floor of the Senate in 1992 that we would not force a vote on this matter until the Senate and the House received the recommendations of the Notch Commission. In turn, the opponents of this legislation agreed to allow passage of legislation establishing and funding a commission to study and report its recommendations to Congress. While I am very frustrated over the long delay in the appointment of members of the commission and the late date for the completion of their work, I have kept my word. As I am fast approaching the end of my term in the Senate, I wanted to lay out my arguments one last time in hopes my words will be an impetus for others to champion this legislation next year.

Mr. President, Social Security payroll contributions and benefits are based upon wages earned. However, because of inflation, increases in benefits are needed to maintain an adequate standard of living for retirees. In 1972, the Congress sought to ensure that these increases would occur automatically in response to rising prices, rather than being dependent upon a mandate from Congress, which might reflect partisan politics. With this intention, Congress changed the formula used to calculate increases so that it would be based on prices, rather than wages. Economic theory which had held true for some 50 years or so suggested that wages tend to rise nearly twice as fast as prices. So if increases were based on prices, benefit levels would keep pace with inflation, but the contributions being paid into the trust funds would increase faster, keeping pace with wage levels. This would ensure the solvency of the trust funds.

Unfortunately, that wage-price economic theory failed. Wages were rising only slightly faster than prices and the Social Security pension fund began to pay out more than it had available and was in danger of bankruptcy. Congress soon realized its mistake and in 1977 it again adjusted the formula for calculating benefits to prevent the Social Security trust funds from going broke.

However, since the 1977 formula provides a lower benefit than the benefit provided by the 1972 formula, and since activating that change immediately would have caused a reduction in benefits for people already receiving Social Security, Congress provided for a period of transition in an effort to be fair to new and near retirees.

Mr. President, individuals in the notch group understand too well the importance of equity in ensuring long-term confidence in the system. The notch group knows it has been disenfranchised by its own Government. Worse yet, many in their Government have portrayed them as greedy geezers merely attempting to squeeze yet another buck out of old Uncle Sam. I strongly disagree.

The problem does not stem from anything which the notch group did or said. It was the Congress and the President who enacted the transitional fix which provided them with lower benefits than their peers. It was the Congress and the President who chose not to reduce the benefit levels of those bonanza babies born before 1917 whom they argued were getting a windfall. In short, Congress and the President corrected an earlier mistake which resulted in another. Like it or not, thousands of individuals in the so-called notch group have a legitimate beef with their Government.

Mr. President, I have consistently maintained that the original transition period, 6 to 10 years, was far too short to give adequate notice to the people who had or were in the process of making retirement decisions. This short timeframe has worked to the detriment of those retirees who fall in the notch category and receive the middle benefit, but who at age 56 to 60 were too close to retirement to change decisions they had made based on their expected Social Security benefits. The notch benefit level as it exists today is simply not fair. It is plainly not fair to the many honest, hard working Americans who responsibly planned for their retirement and is it not fair to others in the notch group who had less opportunity to save for whatever reason.

Mr. President, if Social Security is indeed a social compact with the working class, then the Government owes those who pay into the system a duty of good faith and fair dealing. The opponents of fixing the notch problem argue that these beneficiaries are treated better and will continue to be treated better than those who are post-notch babies. This is not true. Some in the notch group were treated better than others, but many receive lower benefits and their loss has nothing to do with how much an individual worked or paid into the Social Security System in his or her lifetime. The transitional rules were supposed to guarantee against large discrepancies in benefits, but these new rules proved as unsound for that purpose as the bedrock

economic theory that would have prematurely bankrupted the system.

Mr. President, the Congress had intended in the seventies to delegate its duty to manage the benefit computation authority in order to minimize the chance that benefit levels would be altered for political gain by any party or President. I believe that the Congress and the President did the right thing. I also believe that the Congress and the President were trying to do the right thing in 1977, but fell short of the mark. However, I now believe that the Congress and the President are doing the wrong thing by refusing to correct the problems the first fix created.

The legislation I offered in this Congress, and my dear friend Senator Sanford in the 102d Congress, would correct much of this unfair situation by enhancing benefit levels during the transition years and extending the transition period to also protect anyone born between 1922 and 1929. Few bills are ever perfect and this bill is not perfect. The bill does not fully compensate those who were not helped by the transition fix and it probably true would enrich some in the notch too much. But, the bill is no worse than the 1977 legislation that created the problem. In short, this bill is a fair compromise and it is high time we face up to our mistakes and fix the notch problem.

In conclusion, I would like to thank my friends and colleagues who have steadfastly supported despite the enormous weight of criticism by the notch opposition forces. Their courage and integrity have provided me with a great deal of personal satisfaction and hope for the future. I would note for the record that the following Senators cosponsored my bill in the 103d Congress: Senators HARKIN, HEFLIN, HOLLINGS, SHELBY, DASCHLE, BURNS, MIKULSKI, PRESSLER, PELL, and BRYAN. I certainly wish them Godspeed in the efforts to resolve this problem in the coming Congress.

TRIBUTE TO MAJORITY LEADER GEORGE MITCHELL

Mr. DODD. Mr. President, I rise today to pay tribute to our retiring colleague, the Majority Leader GEORGE MITCHELL. His 14-year Senate career is about to come to a close, and this institution will sorely miss him.

The role of Senate majority leader is a dual and seemingly contradictory one: He is supposed to be both a neutral arbiter of the Senate's business and the leader of his party, both a bipartisan manager and a partisan advocate. GEORGE MITCHELL has kept the two roles insulated from each other, and as a result, he has succeeded in both splendidly.

As majority leader, he has always been fair, above-board and completely honest. I think all of my colleagues from the other side of the aisle would agree with that assessment.

As the leader of the Senate Democrats, he has been highly effective and leaves behind him a string of legislative victories as proof. He has coaxed and wheeled, cajoled and convinced, pestered and pressured. Senator MITCHELL is a true leader, in the sense of the word Harry Truman used when he said, "You know what makes leadership? It is the ability to get men to do what they don't want to do, and like it."

One of Senators MITCHELL's principal achievements will undoubtedly be the Clean Air Act, which passed during his first year as majority leader. He made clean air his top priority when he came to the Senate in 1980. It took several years, but he was dogged and got it done.

Thanks to that legislation, Americans today are breathing cleaner air than they would have without it. We are also making strides in our efforts to fight acid rain and protect the ozone layer.

There are countless other monuments to GEORGE MITCHELL's skill as a legislator and compassion of ordinary Americans. Of all the achievements of his years as majority leader, I will list just a few.

The Family and Medical Leave Act, which he and I pushed for year after year until it finally became law in 1993.

The Brady bill and this year's crime bill, both of which will make our streets safer.

An increase in the minimum wage and expansion of the earned income tax credit, both of which provided a small boost to millions of working Americans.

The largest deficit reduction bill in our history, which has put us back on a course of fiscal responsibility after the drift of the 1980's.

The Americans with Disabilities Act, which has opened doors and new vistas to millions of physically challenged Americans.

A national service program, intended to bring help to the disadvantaged and a new spirit of service to our next generation.

Each of these by itself is a major achievement. Taken together, they represent a monument record of success.

We all know that the majority leader had hoped to make health care reform the final achievement of his Senate career—not to secure his own place in history, but to provide relief to millions and millions of Americans in desperate need of it. In fact, Senator MITCHELL turned down a lifetime appointment to the U.S. Supreme Court so that he could fully devote himself to this cause.

We fell short on health care this year, and I know that no one regrets that more than GEORGE MITCHELL. But all of our efforts were not futile. We made valuable progress, and we laid the foundation for major reform next year.

We will eventually get this job done, and the memory and example of GEORGE MITCHELL will be with us when we do. His inspiration will also be with us when we pass campaign finance reform, another of his passions.

As Walter Lippman said, "The final test of a leader is that he leaves behind him in other men the conviction and will to carry on." GEORGE MITCHELL will leave all of us with the will to carry on, with the conviction to fight the good fight for the American people.

TRIBUTE TO GOVERNOR LOWELL P. WEICKER, JR.

Mr. DODD. Mr. President, I rise today to pay tribute to Lowell Weicker, our former Senate colleague who will be leaving public office when his term as Connecticut Governor ends in January.

Governor Weicker is tough and tenacious, opinionated and outspoken, caring and compassionate. For proof of his credentials as a maverick, one need look no further than the fact that for years he was known as a "liberal Republican." When his chosen party had moved too far to the right for him, he formed his own party and carried its banner into the Connecticut Governor's mansion.

Lowell Weicker began his Senate career in 1970, and he quickly became a passionate advocate for Government reform and accountability. He made his first big splash nationally during the televised Watergate hearings. One might have expected a first-term Republican Senator to stick up for his party's leader, or at least to sit quietly with his hands folded in front of him. But that wouldn't have been his style. Instead, he was a relentless, probing, inquisitive questioner. His priority wasn't defending his party or sticking up for his President: He wanted to know the truth.

Senator Weicker was once questioned about his political philosophy by a reporter. He responded that he served the Republican Party best "by not striving to be a great Republican, but by striving to be a good Senator." Senator Weicker's achievements were many. He fought hard against organized school prayer, which he saw as an affront to the Constitution. He strenuously opposed cuts in health and education funding proposed by President Reagan.

He created a new program within the Education of the Handicapped Act to provide educational and rehabilitative services for disabled infants. He also launched a Federal initiative to encourage medical schools to offer specialities in geriatrics.

Lowell Weicker served in the Senate until 1988, when my friend and colleague, JOE LIEBERMAN, defeated him by 10,000 votes. But Lowell Weicker didn't simply recede from the scene in Connecticut. He decided to run for Governor in 1990 under the banner of a new

party, called "A Connecticut Party." His campaign slogan was "Nobody's man but yours." In a three-way race, he won with 40 percent of the vote, become the first third-party Governor in Connecticut since the Civil War.

Governor Weicker inherited a terrible fiscal situation. In 1991, Connecticut's deficit was proportionately the largest in the United States. Jobs were vanishing from the State, and the mood was grim. Governor Weicker knew that tough medicine was called for, and he delivered it. He proposed a State income tax and painful spending cuts.

As one would expect, a storm of protest ensued, but Governor Weicker didn't ride it out in the Governor's mansion. He took to the streets to confront the protesters, some of whom literally spat on him. He took to the air waves to take calls on radio talk shows. He sought out his opponents wherever he could find them in order to make his case that the route he had taken was the only one available to fiscal stability.

When the legislature refused to enact his plan, he declared a state of emergency and shut down all nonessential services; 13,000 State employees were put on indefinite furlough. The legislature then acquiesced and passed the Governor's plan.

At the same time he was bringing the State's books back into balance he was dramatically improving Connecticut's business climate. He made a concerted effort to make Connecticut more attractive to business. He cut corporate taxes and directed the Department of Economic Development to fight aggressively to retain existing employers and attract new ones to the State.

After nearly 4 years in Office, the results on Governor Weicker's policies are in. The State of Connecticut now enjoys a surplus. The economy is far from robust, but it has come a long way from the dark days early in this decade. And further improvements are on the horizon.

As governor, Lowell Weicker has many other considerable achievements. Under his leadership, Connecticut became only the third State in the Nation to restrict the sale of military-style assault weapons. he also has sought voluntary, regional solutions to racial segregation in the problem. Governor Weicker has continued his lifelong advocacy for children and the disabled. He is chairman of the board of the International Special Olympics Summer Games, which will take place in New Haven, CT next year.

Governor Weicker announced a year ago that he would not seek reelection. It was time, he said, to devote himself to his family and to interests in the private sector.

I suspect, however, that one way or another we will be hearing again from Lowell Weicker. It would not be like him to simply go quietly into that good night. Whatever Lowell Weicker chooses to do next, I wish him all the best, and I commend him on his three decades of public service.

THE RETIREMENT OF SENATOR DON RIEGLE

Mr. DODD. Mr. President. I rise to pay tribute to our retiring colleague, DON RIEGLE, whose career here will come to an end with the close of this session.

Throughout his career in public service, DON RIEGLE has demonstrated hard work, sound political judgment and strong leadership. He has never forgotten his roots in Flint, MI, and he has devoted himself to bettering the lives of the people who live there and in the thousands of communities like it across this country.

Senator RIEGLE has a distinguished track record of standing up for an international trading system based on fairness, of fighting for the economic interests of his constituents, and of looking out for the interests of our society's most vulnerable people.

He has also made considerable contributions to the health and well-being of our financial system. Those of us who served with Senator RIEGLE on the Senate Banking Committee, which he has chaired for the past 6 years, will especially miss him. Under DON RIEGLE's leadership, the Banking Committee has been among the Senate's most active committees.

As chairman, Senator REIGLE shephered critical legislation through the Senate to address the savings and loan crisis. the Financial Institutions Reform, Recovery, and Enforcement Act [FIRREA] attacked thrift industry problems head-on by cutting the flow of S&L losses, providing authority to investigate and sanction criminal abuses, and establishing the Resolution Trust Corporation to seize and sell thrift assets.

Senate RIEGLE's leadership was also instrumental in the passage of landmark legislation in 1990, the Federal Deposit Insurance Corporation Improvement Act. This important bill strengthened the banking industry by raising capital standards and created prompt corrective action procedures to avert future financial crises.

DON RIEGLE's legislative achievements also include passage of the $3 billion National Affordable Housing Act to expand access to home ownership to more Americans, as well as the HUD Reform Act passed to respond to agency mismanagement and abuse.

And just within the last 2 months, we passed the community development banking bill and what will go down as one of Senator RIEGLE'S foremost achievements, the Riegle-Neal Interstate Banking and Branching Act of 1994. Thanks to that legislation, which was years in the making, consumers will soon begin to enjoy a wealth of new benefits, and our banking system will be strengthened for years to come.

Since I succeeded Senator RIEGLE as chairman of the Securities Subcommittee, we have worked closely on a host of legislative initiatives to increase the integrity of the securities market, reduce the credit crunch, and provide increased capital to consumers, industry and the economy.

Senator RIEGLE'S invaluable support and leadership as my full committee chairman helped us rack up the most significant legislative achievements in the securities field in the past 15 years. The list includes the Securities Market Reform Act and the Securities Law Enforcement Act.

Like Majority Leader MITCHELL, Senator RIEGLE had hoped we would pass health care reform before his Senate career came to an end. We failed as a Congress to pass health care reform this year, and we must all accept responsibility for that outcome. But if there is anyone in this body who will go home at the end of this session sure in the knowledge that he did everything he was humanly capable of for this cause, it is DON RIEGLE.

Starting more than 2 years ago, Senator RIEGLE has talked about more than 60 Michigan families in a series of Senate speeches called "Faces of the Health Care Crisis." He has told the tales of people throughout Michigan whose lives have been wrecked, whose children have suffered needlessly, whose job prospects have been dashed—all because of the inadequacies of our health care system. These speeches periodically reminded all of us about why this fight really mattered.

During the Finance Committee's markup of health care legislation, he made sure that the package that finally emerged included a strong set of benefits for pregnant women and children.

We didn't succeed this year, but in the end, we will. And when we do, we will be guided by the inspiration of DON RIEGLE. It is with admiration for a long career of effective public service and with sadness for the departure of a dear colleague and dear friend, that I bid farewell to DON RIEGLE.

TRIBUTE TO SENATOR DENNIS DECONCINI

Mr. DODD. Mr. President, I rise today to pay tribute to Senator DENNIS DECONCINI, whose long record of service to this institution will soon come to an end.

Senator DECONCINI's work in the U.S. Senate has been broad and his achievements many. He has been especially effective in the fight against crime and illegal drug use. His crime-fighting credentials extend back to his days as Pima County district attorney, and he

has never forgotten the evidence he saw there of crime's terrible impact on families and communities.

Senator DECONCINI has provided a strong voice in the fight against illegal drugs and has led efforts to encourage drug-exporting countries to cut off production at the source. He has also successfully pushed for major increases in drug interdiction funding.

It was not until this Congress that majorities of the House and Senate could agree to ban assault weapons, which may belong on the battle field but not the streets of America. But Senator DECONCINI has been trying to ban the sale of these terrible weapons since 1989.

He heard the complaints and fears of police officers about the extraordinary firepower being trained on them by criminals, and he decided to do something about it. It may have taken 5 years for the rest of this Congress to come around to DENNIS DECONCINI's view on this, but the fact that we eventually did stands as a testament to his foresight and courage.

Senator DECONCINI has not only tended to the security of our families but to the security of our Nation. As chairman of the Intelligence Committee, Senator DECONCINI has been thoughtful and persuasive in his contention that our intelligence community must do more to adjust to the post-cold-war world. He has honed in on the cultural and procedural problems at the Central Intelligence Agency that made it possible for Aldrich Ames to go undetected for so many years. He has also supported efforts to reign in the CIA's budget; declassify more of its records, and depoliticize its analysis.

As chairman of the Subcommittee on Children, I will particularly miss Senator DECONCINI's advocacy on behalf of the youngest Americans. He is one of the Senate's foremost advocate of the Women, Infants and Children Program, commonly known as WIC.

Senator DECONCINI has argued eloquently that on this issue at least—making sure infants and expectant mothers have enough to eat—we should agree. And he has succeeded in bringing literally millions more individuals into this program.

He wrote legislation that established a national background check to ensure that persons who work as child-care providers do not have a criminal history of child abuse. He also established Project Alert, a nationwide program to allow retired Secret Service, FBI, and other law-enforcement personnel to help find missing children.

At the same time that Senator DECONCINI acted forcefully on the national stage, he carefully tended to the interests of his constituents. More than anything else, he has said he wants to be remembered as a Senator "who put his constituents first."

He estimates that during his three terms in the Senate, his office has performed constituent service for 100,000 Arizona residents, with Senator DECONCINI personally involved in 15,000 of those.

I know I speak for all of my colleagues when I say that DENNIS DECONCINI will be missed. I wish him well in all his future endeavors.

TRIBUTE TO SENATOR DAVID BOREN

Mr. DODD. Mr. President, I rise to pay tribute to one of our retiring colleagues, DAVID BOREN of Oklahoma. Senator BOREN has been a voice of independence and integrity during his 16 years in the Senate, and he will be missed.

Senator BOREN has shown the same independence and grit shown by the Boomers and Sooners who settled his home State during the last century. He has talked repeatedly about the need for bipartisanship, about the need to do what's right for our country, not what's right for our party.

More than anything else, DAVID BOREN has been a reformer. For the last decade, he has fought with every ounce of his strength to reform our bankrupt system of campaign finance. He has sought to reduce the role of special interest money in the system, to limit out-of-control campaign spending and to cut into so-called soft money donations.

His goal has been to begin the long process of rebuilding the American people's faith in their elected representatives. We did not pass campaign finance this year, but our failure was certainly not due to any lack of effort on the part of DAVID BOREN.

We will get the job done eventually, because the American people are demanding that we act. Those demands are not going away. When we finally do succeed, the memory, inspiration, and eloquent words of DAVID BOREN will be there with us.

Senator BOREN chaired the Intelligence Committee for 6 years, becoming our leading expert on intelligence matters. He sought to improve relations between the executive and legislative branches in this area and help our intelligence community adjust to the post-cold-war world.

In addition, Senator BOREN has been a tough and tenacious advocate for his State and the farmers and oil producers that form its economic backbone. He was the architect of the $4 billion bailout of the farm credit system in the mid-1980's and has stood up for oil producers when he thought they were being unfairly singled out by tax proposals.

Senator BOREN has a long and distinguished career of public service. He served in the Oklahoma House of Representatives from 1968 to 1974. During that time he was also chairman of the government department at Oklahoma Baptist University. After literally campaigning with a broom in hand, he was elected Governor on a reform platform in 1974. He made good on his pledge to make State government more open and accountable.

He then won a seat in the Senate in 1978. He won reelection in 1984 with 76 percent of the vote. That was a record tally for Oklahoma, and it stood until 1990, when he broke his own record with 83 percent of the vote. He carried every county in the State that year.

Senator BOREN will now return to one of his true loves: education. He will become president of the University of Oklahoma, and I am sure he will lead that institution with the same distinction with which he has conducted himself as a U.S. Senator. I wish him well in all his future endeavors, and I want him to know he will be missed here.

TRIBUTE TO SENATOR HARLAN MATHEWS

Mr. DODD. Mr. President, I would like to pay tribute to Senator HARLAN MATHEWS, whose too-brief time serving with us in this body will soon come to an end. Senator MATHEWS was appointed to fill the remainder of AL GORE's Senate term, and he has acted as an honorable and able steward for the people of Tennessee.

Senator MATHEWS has only served here for 2 years, but he has made the most of the time. He has been a strong supporter of deficit reduction and spending restraint. He also provided a strong voice for comprehensive health care reform, measured to protect the environment, and the bill to deregulate the telecommunications industry. In addition, Senator MATHEWS and I worked together on efforts to reform our product liability and securities litigation systems.

I had the pleasure of serving with Senator MATHEWS on the Foreign Relations Committee, where he made a particular contribution to United States-Asian relations. Senator MATHEWS understands the critically important role Pacific trade plays and will continue to play in our economy. He has sought to strengthen the international institutions that undergird that trade. Last June, the Senate unanimously passed a resolution Senator MATHEWS authorized on the Asia Pacific Economic Cooperation Organization. I am proud to note that I was an original cosponsor of the resolution, which called on the President to reaffirm the U.S. commitment to make the organization an effective tool for increased trade and lowered tariff barriers across the Pacific rim.

Before coming to the Senate, HARLAN MATHEWS had a long and distinguished career of public service in Tennessee. He began working for the State in 1950 and joined Governor Frank Clement's budget staff in 1954. He was the State's

commissioner of finance and administration from 1961 to 1971 and State treasurer from 1974 to 1987. He also served as cabinet Secretary to Gov. Ned McWherter.

I know I speak for all of my colleagues when I thank HARLAN MATHEWS for his 2 years of dedicated service to this institution. I want to extend him my congratulations for a job well done and to wish him well in all his future endeavors.

COL. ALAN P. SULLIVAN—A DISTINGUISHED CAREER IN THE MARINES

Mr. KENNEDY. I welcome this opportunity to recognize the dedication, public service, and patriotism of Col. Alan P. Sullivan of the U.S. Marine Corps, who is retiring after over 24 years of outstanding service to the Nation. Although he is leaving the Pentagon, I am pleased that he is not leaving Government service, and will soon become Director of the White House Military Office.

Colonel Sullivan is a native of Groveland, MA. He graduated from Villanova University and was commissioned as a second lieutenant in the Marine Corps in June 1970. After completing flight training, he reported to his first A-6 squadron, an aircraft he would fly throughout his career. Colonel Sullivan served with combat units based in the Philippines and Japan.

While based at the Marine Corps Air Station in Cherry Point, NC, Colonel Sullivan served as the Schedules Officer, Aviation Safety Officer, and Aircrew Training Officer. He graduated from the Marine Corps Staff and Command College in 1983 and from the Naval War College with distinction in 1989. During his Marine career, Colonel Sullivan also earned two masters degrees, including an M.B.A. from New York University.

Most recently, Colonel Sullivan has served in senior managerial posts in the Marine Corps and in the Office of the Secretary of Defense. In 1989, he was assigned responsibility for development of the Marine Corps Program Objective Memorandum. Beginning in March 1992, he served as Military Assistant to the Director of Defense Research and Engineering in the Office of the Secretary of Defense. In that capacity, his consummate leadership, intellect, and integrity ensured the effective selection and utilization of scarce research and development funding during a period of major defense restructuring. Working closely with Congress, Colonel Sullivan helped to obtain Senate and House support for critical defense research projects, and his effective work has contributed directly to the future readiness and success of our troops in the field.

Colonel Sullivan's awards include the Legion of Merit, the Meritorious Service Medal, the Navy Achievement Medal, and several unit awards.

I know that Colonel Sullivan's wife, Kathy, and his sons, Matthew and Christopher, are proud of his many accomplishments, and so are the Marine Corps and the Nation. His distinguished service will be genuinely missed in the Department of Defense, and all of us who know him wish him every success in his new responsibilities at the White House.

UNFUNDED MANDATE LEGISLATION

Ms. MIKULSKI. Mr. President, I hope we can pass the unfunded mandate bill. The Senate has a historic opportunity to provide relief to our State and local governments and restore a genuine sense of partnership.

I oppose unfunded mandates. Every time I travel in Maryland, one message comes through loud and clear from local governments—"put your money where your mandates are." Too often, Washington pushes off obligations on State and local governments without any thought as to what it will cost. This bill corrects this problem by requiring a cost estimate for every mandate bill that is considered.

We need to know what kind of burden we might be imposing on State and local governments before we act. If the burden is too high, we need to consider that.

This bill restores fairness and honesty to the Federal-State partnership without jeopardizing our ability to meet vital needs. That is why the Nation's governors, mayors, and legislators support this bill—and it is why I support this bill.

INDIAN GAMING REGULATORY AMENDMENTS

Mr. INOUYE. Mr. President, I rise today to join the vice-chairman of the Committee on Indian Affairs, Senator JOHN MCCAIN, in sharing with our colleagues, our efforts to address the matter of amendments to the Indian Gaming Regulatory Act of 1988.

Those of our colleagues who are well-versed in matters of Indian gaming know that almost before the ink was dry on the President's signature—on a bill that sought to establish a comprehensive framework for the conduct of gaming activities on Indian lands—there have been continuous calls for amendments to that Act.

Many of these overtures were prompted by the rulings of various Federal courts that were confronted with interpreting the Federal law as it interacts with State law.

For those that are less than well versed in matters of Indian gaming, it is important to understand the fundamental structure of the Act. It is based on the concept of equal protection as well as the public policy of each State.

That is, Indian tribal governments are authorized to conduct those games that are not against the public policy of the State in which the tribe's reservation is located and which are not criminally-prohibited as a matter of State law.

It is that sense that the Indian nations are afforded the equal protection of the laws of each State—by operation of the Federal law, tribal governments are authorized to conduct those games that are permitted to be played by anyone else in the State for any purpose.

When a State and a tribal government disagree as to which games are permitted to be played pursuant to State law, one task of the Federal courts is to examine the public policy of each State, and then turn to a more specific analysis of State gaming law.

The policy objective of the Indian Gaming Regulatory Act is thus based upon the premise that the citizens of each State have, by the exercise of their votes, made a determination as to the State's public policy with regard to gaming generally, and have also made specific decisions about which games are to be permitted and which games are to be prohibited by criminal sanction. The Federal law thus looks to the State's law to define the parameters of Indian gaming in each State.

This matter has come to be known as the "scope of gaming," and has become perhaps the most challenging controversy associated with the act.

The tribal governments, I think, would maintain that they seek only to engage in those activities that are permitted to other citizens of the State.

From a State perspective, the Federal courts are not construing State law and public policy in a manner that is consistent with the State's own interpretation of its laws.

The challenge posed to the committee is to amend the Federal act in such a way as to reduce or even eliminate the latitude with which courts interpret State public policy as it relates to gaming and the construction by the Federal courts of State gaming laws.

It is the resolution of this issue which, after hundreds of hours of dialog amongst representatives of State and tribal governments, has proven elusive.

The second matter that has been a source of considerable concern, at least for those tribes that are affected by such Federal court rulings, is the assertion by some States of the 10th and 11th amendments to the constitution as defenses to Federal court jurisdiction.

Two of the circuit courts of appeals have now ruled and are in agreement on the 10th amendment, while four of the circuit courts of appeals have now ruled on the 11th amendment and have come to different conclusions.

Thus, while it is likely that the Supreme Court will be addressing the conflict between the circuits on the 11th amendment, there have been a number of tribal governments who have called upon the committee to legislatively address this matter through amendments to the act.

Another area of concern to those States along the east coast is the effect of the 1988 Gaming Act on the terms of previously-enacted Indian Land Claims Settlement Acts.

The Supreme Court has not acted to deny certiorari in the challenge by the State of Rhode Island to the application of the Indian Gaming Regulatory Act to the extent that it is inconsistent with the provisions of the Rhode Island Indian Land Claims Settlement Acts, thereby letting stand the ruling of the first circuit that the Indian Gaming Regulatory Act impliedly repeals a portion of the Rhode Island Settlement Act.

And while there are other matters of concern to the States and the tribes, there is one matter that is important to everyone who has some involvement in Indian gaming—to the tribes and the States, to the managers and the patrons.

This is the matter of federally established minimal standards that would apply to the governmental regulation of Indian gaming—whether regulation is the responsibility of a State government, a tribal government, or both—and which would of course apply to the Federal Government in equal measure.

We have proposed the formation of an advisory committee of tribal, State, and Federal Government representatives to formulate these standards and recommend their adoption.

To those critics of minimal standards who suggest that it is somehow unfair or discriminatory to single out Indian gaming for compliance with standards for regulation, I would comment that if I were chairman of a committee with broader jurisdiction over all gaming, I would be equally supportive of minimal Federal standards for all gaming.

My jurisdiction as chairman of the Committee on Indian Affairs is, however, limited, and thus I am constrained by the scope of my authority.

These are the primary issues with which we have been engaged over the past year, and although the tribal-State dialog process that vice chairman MCCAIN will detail did not come to fruition, I believe that there remains the will and the commitment on the parts of the States and the tribes to continue to work with the committee, so that we may have a measure ready for introduction in January.

In the interim, I want to express my deep appreciation and gratitude to those who have committed their time and energy, measured in hundreds if not thousands of hours, to the development of legislation to amend the Indian Gaming Regulatory Act of 1988.

This includes Governors and attorneys general, tribal government leaders and their attorneys, representatives of the Federal agencies, and last but certainly not least the members and staff of the Committee on Indian Affairs and those who have graciously lent their advice and counsel to the committee.

I also want to thank our colleague, Senator HARRY REID, for his forbearance in proceeding with his own legislation to amend this act, while this process of State-tribal dialog was ongoing. I hope that we can develop a measure that will address his concerns, and which will strike the proper balance between the interests of the Federal, State, and tribal governments in their capacities as sovereigns.

THE INDIAN GAMING REGULATORY ACT OF 1988

Mr. MCCAIN. Mr. President, before the 103d Congress comes to a close, I would like to take this opportunity to inform my colleagues and the American people about the efforts of the Committee on Indian Affairs to enact amendment to the Indian Gaming Regulatory Act of 1988.

Since the enactment of the Indian Gaming Regulatory Act in 1988, there has been a dramatic increase in the amount of gaming activity among the Indian tribes. Indian gaming is now estimated to yield gross revenues of about $4 billion per year and net revenues are estimated at $750 million. There are about 160 class II bingo and card games in operation and there are now over 100 tribal/State compacts governing class III gaming in 20 States, including my own State of Arizona. Indian gaming comprises about 3 percent of all gaming in the United States. Gaming activities operated by State governments comprise about 36 percent of all gaming and the private sector accounts for the balance of the gaming activity in the Nation.

Indian gaming has become the single largest source of economic activity for Indian tribes. Annual revenues derived from Indian agricultural resources have been estimated at $550 million and have historically been the leading source of income for Indian tribes and individuals. Annual revenues from oil, gas, and minerals are about $230 million and Indian forestry resources revenues are estimated at $61 million. The estimated annual earnings on gaming now equal or exceed all of the revenues derived from Indian natural resources. In addition, Indian gaming has generated tens of thousands of new jobs for Indians and non-Indians. On many reservations gaming has meant the end of unemployment rates of 90 or 100 percent and the beginning of an era of full employment.

Under the Indian Gaming Regulatory Act, Indian tribes are required to expend the profits from gaming activities to fund tribal government operations or programs and to promote tribal economic development. Profits may only be distributed directly to the members of an Indian tribe under a plan which has been approved by the Secretary of the Interior. Only a few such plans have been approved. Virtually all of the proceeds from Indian gaming activities are used to fund the social welfare, education, and health needs of the Indian tribes. Schools, health facilities, roads, and other vital infrastructure is being built by the Indian tribes with the proceeds of Indian gaming.

In the years before the enactment of the Indian Gaming Regulatory Act and in the years since its enactment we have heard concerns about the possibility for organized criminal elements to penetrate Indian gaming. Both the Department of Justice and the FBI have repeatedly testified before the Committee on Indian Affairs and have indicated that there is not any substantial criminal activity of any kind associated with Indian gaming.

Some of our colleagues have suggested that no one would know if there is criminal activity because not enough people are looking for it. I believe that this point of view overlooks the fact that the act provides for a very substantial regulatory and law enforcement role by the States and Indian tribes in class III gaming and by the National Indian Gaming Commission in class II gaming. The record clearly shows that in the few instances of known criminal activity in class III gaming, the Indian tribes have discovered the activity and have sought Federal assistance in law enforcement.

Nevertheless, the record before the Committee on Indian Affairs also shows that the absence of minimum Federal standards for the regulation and licensing of all Indian gaming has allowed a void to develop which will become more and more attractive to criminal elements as Indian gaming continues to attract more patrons and generate increased revenues.

Mr. President, during the 102d Congress, the distinguished chairman of the Committee on Indian Affairs, Senator INOUYE, convened three oversight hearings on the implementation of the Indian Gaming Regulatory Act of 1988. Those hearings revealed that most States and Indian tribes were working with each other to resolve disagreements and enter into compacts to govern class III gaming. The Department of Justice advised the committee that there was no evidence of substantial criminal activity associated with Indian gaming. Appointments to the National Indian Gaming Commission had been delayed, but the Commission was finally up and running and in the final stages of issuing the regulations necessary to regulate class II gaming and carry out the act by late 1922.

The hearings in the 102d Congress also revealed that the act had resulted in substantial litigation between Indian tribes and States over the issue of the scope of gaming activity that should be subject to negotiation for inclusion in a class III compact between an Indian tribe and a State. Under the 1988 act, the scope of permissible gaming is determined by reference to State law in accordance with the 1987 decision of the U.S. Supreme Court in the case of Cabazon Band of Mission Indians versus California. In States such as Wisconsin and Connecticut the litigation over the scope of gaming ultimately resulted in final determinations by the Federal courts of the so-called "scope of gaming" permitted under State laws. In other States such as New Mexico, Florida, and Alabama no final determinations about the scope of gaming have been reached through negotiation or litigation. In these other States the provisions of the act which provide for a final determination by the Federal courts have been frustrated by the assertion by the States of defenses based on the 10th and 11th amendments to the U.S. Constitution.

Early in the 103d Congress, the Committee on Indian Affairs was called on by State and tribal leaders to consider amending the act to resolve issues related to the scope of gaming and the 10th and 11th amendments to the Constitution. In addition, legislation was introduced in both the House and Senate to amend the act to address these issues and concerns about the adequacy of regulation of Indian gaming. Here in the Senate, S. 1035 was introduced by Senators REID, BRYAN, GRAHAM, and SIMPSON on May 26, 1993.

In March 1993, Senator INOUYE initiated a series of meetings with Governors, State attorneys general, Federal officials and tribal leaders to see if a dialog among all of the parties would yield a consensus on amendments to the act. After a series of separate meetings with each of the parties, the Committee on Indian Affairs convened a joint meeting of the parties on July 2, 1993. That meeting resulted in the establishment of State and tribal work groups and negotiation teams to try to hammer out legislative language and a consensus on necessary amendments.

The negotiation teams met for a week during July 1993 and agreed upon a conceptual framework for amendments. In subsequent meetings during July and early August, substantial progress was made toward the development of legislative language. Unfortunately, at the National Governors Association meeting in August 1993, the Governors rejected the proposed compromise. After that, little progress was made until October, when the committee again convened a meeting of the Governors, the attorneys general, Federal officials and tribal leaders to see if the impasses could be broken.

At the meeting the Governors suggested a new framework for an agreement on the scope of gaming issue which the tribal leaders agreed to consider. A followup negotiation session was held in November but it quickly resulted in another impass. The committee urged the parties to meet again early this year, but no negotiations were convened.

When it became apparent that the parties could not reach agreement, Senator INOUYE and I announced that the Committee on Indian Affairs would hold hearings in April and May to provide all interested parties with an opportunity to formally identify problems with the 1988 act and to propose solutions. Based on the record of those hearings, the prior negotiations between the tribes and the States, and the recommendations of Federal officials, Senator INOUYE and I introduced S. 2230, the Indian Gaming Regulatory Act Amendments Act on June 23 of this year.

As introduced, S. 2230 provided for a major overhaul of the Indian Gaming Regulatory Act of 1988. It authorized a direct Federal presence in the regulation and licensing of class II and class III gaming as well as all of the industries associated with such gaming. This would be accomplished through the establishment of an expanded Federal Indian Gaming Commission which would be funded through assessment on Indian gaming and fees imposed on license applicants.

The bill also provided a new process for the negotiation of class III compacts which would allow the States to opt out of the negotiations if they so choose. Consistent with the 1987 decision of the U.S. Supreme Court in the case of Cabazon Band of Mission Indians versus California, the bill contained new provisions intended to reduce disagreements between tribes and States over the scope of gaming and to provide for prompt resolution of any disputes which may arise. Provisions of the Bank Secrecy Act will be applied to Indian gaming activities to the same extent that the act is applied to any other gaming activity.

The Committee on Indian Affairs held hearings on the bill on July 19 and July 25. Following those hearings, we developed a proposed amendment in the nature of a substitute and circulated it to interested parties during the August recess for review and comment.

Mr. President, it is important to understand this background in order to understand that the Committee on Indian Affairs has made every effort during this Congress to find a consensus on amendments to the Indian Gaming Regulatory Act. We have been assisted in our efforts by outstanding leaders such as Governor Mike Sullivan of Wyoming who represented the National Governors Association; Attorney General James Doyle of Wisconsin who represented the National Association of Attorneys General; Mr. Rick Hill, president of the National Indian Gaming Association, and Mr. Gaiashkibos, president of the National Congress of American Indians. Several members of the Committee on Indian Affairs, including Senators RIED, CAMPBELL, WELLSTONE, DOMENICI, and GORTON have expended countless hours of their time on this issue. Despite all of these efforts by all of these individuals, it is now clear that we will not be able to secure passage of legislation to amend the Indian Gaming Regulatory Act in the few days which remain in this Congress. I deeply regret that this is the case because I believe that the need for amendments is urgent.

I also believe that the States and the tribes have generally been in agreement for most of the past year on the need for amendments to the act. Agreement exists on the need for a new process for the negotiation of class III compacts and the determination of the scope of gaming activity permitted under the laws of a State. There is also agreement on the need for minimum Federal standards to govern the regulation of Indian gaming.

Despite these areas of agreement, it has not been possible to reach agreement on legislative language. When S. 2230 was introduced it was strongly opposed by the Indian tribes. The proposed amendment in the nature of a substitute which was circulated in August is strongly opposed by the States.

Agreement on bill language has proven elusive for several reasons, not the least of which is the complexity of the act itself. The delicate balance of tribal and State interests and authority also makes this a difficult issue. Notwithstanding these obstacles, I have observed that at several points during the past 2 years that the parties were extremely close to agreement, only to find a blizzard of legal technicalities raised by those, including some lawyers, who believe that their interests would be better served by litigation rather than by amendments to the Act.

This is not a strategy which has the development of sound public policy as its objective. Inevitably the Supreme Court of the United States will be called upon to review the constitutional issues which have arisen under the act. Once the court rules, the losing side will be before us seeking relief. Whether that is the States or the tribes, it is not likely that this Congress will be able to fashion any remedy which is more balanced than those already agreed to in concept by the tribes and States and contained in S. 2230 or the proposed substitute. Those who favor continued litigation rather than legislation will primarily succeed in enriching lawyers and creating animosity between the Indian tribes and States rather than providing a sound

basis for the regulation and conduct of Indian gaming.

The failure to enact amendments to the Indian Gaming Regulatory Act will be viewed by the proponents of more litigation as a victory. I want to caution everyone that it is a hollow victory. It is also a victory which may ultimately lead to the demise of Indian gaming. The act must be amended to address the issues of scope of gaming and the compacting process.

More importantly, it must be amended to establish minimum Federal standards for the regulation of Indian gaming. In the absence of such standards it will only take one serious incident to call into question the integrity of all Indian gaming. Once that occurs the non-Indians who so avidly patronize Indian gaming will look elsewhere to spend their gaming dollars. The single greatest economic opportunity the tribes have had will fade away.

The Congress has an obligation to the Indian tribes and to the patrons of Indian gaming to make sure that Indian gaming activity is regulated in a manner which minimizes the chances for any criminal activity to occur. If such activity should occur we must also have the procedures and mechanisms in place to deal with it promptly and effectively. I believe that the tribes and some States are doing an adequate job at present, but as Indian gaming continues to grow the ever larger cash flow will become increasingly attractive to criminals. The time to act to ensure the integrity of Indian gaming is now. If we wait until there is a crisis, it will be too late.

I urge the States, the Indian tribes, Federal officials and all of my colleagues to join Senator INOUYE and I in the 104th Congress as we continue to seek to strengthen the Indian Gaming Regulatory Act.

THE YAKIMA RIVER BASIN WATER ENHANCEMENT PROJECT

Mr. BRADLEY. Mr. President, I am very concerned about the passage of a provision of S. 1146 regarding the Yakima Basin Water Conservation Program. As you know, despite the fact that at least one Senator had put a hold on this very contentious provision, and there were holds on other provisions of S. 1146, it was passed inadvertently by the Senate in the end-of-session confusion on Tuesday night.

First, no hearings have been held in the Senate on this very costly and controversial legislation which was referred to the Subcommittee on Water and Power, which I chair, of the Senate Energy and Natural Resources Committee.

Second, there has been a loud outcry of opposition from the national and Washington State environmental community, including American Rivers, the Sierra Club, the National Wildlife Federation, the Natural Resources Defense Council, Friends of the Earth, Trout Unlimited, the Environmental Defense Fund, and Waterwatch. Their opposition is based primarily on the fact that the bill grants tens of millions of dollars to the irrigation community with no guarantee that water conserved at public expense will go to the endangered Yakima fishery or to cure the serious water quality problems in the basin.

I have many questions of the Senator from Washington, that because of the peculiar nature of its passage, remain unanswered such as:

Are the bill's target instream flows for the endangered Yakima fishery greater than current river conditions?

Can the Bureau of Reclamation succeed in acquiring water for the fish from voluntary leases or purchases as the bill requires when the Bureau has been unable to buy or lease any water in the Snake this year, and it is expected to be even more difficult to do so in the Yakima?

If the fish, wildlife, and recreation purposes of the bill shall not impair the operation of the project to provide water for irrigation purposes and shall not impact existing contracts, is it possible that the bill may actually result in more irrigation in the basin, and thus even less water in the river?

I am also concerned that this bill takes us back in time to another era because of its lack of certain critical features contained in the Central Valley Project Improvement Act, which this body enacted over 2 years ago. This bill has no provision for a habitat restoration fund; no insurance that dry year reductions will not be disproportionately visited on the fishery; and no biological goals for fish recovery.

Early in the next Congress I intend to reopen the debate on the Yakima in order to address these questions.

Mrs. MURRAY. I share many of the concerns Senator BRADLEY expressed regarding the Yakima Basin Water Conservation Program. In condoning the passage of this legislation, I think we are supporting a strong step forward toward resolving the complex issues facing water appropriation in the Yakima Basin. In addition, I welcome hearings on this measure early in the next Congress and will support efforts by you and others to improve the legislation, particularly to ensure that conservation efforts in the basin result in more beneficial flows for endangered fisheries. I look forward to working closely with the Senator and the subcommittee to address the many legitimate concerns raised by you and the national and Washington State environmental organizations.

MAJORITY LEADER GEORGE MITCHELL

Mr. HEFLIN. Mr. President, when majority leader GEORGE MITCHELL announced that he would not be seeking reelection this year, it sent shockwaves through this body and the Washington political establishment. Democrats and Republicans alike were shocked because we have come to appreciate and respect his strong leadership, honesty, and principled partisanship. We have become comfortable with his soothing style and his judicious manner and temperament. Although he has only been majority leader since 1989, he has in those short 5 years become synonymous with the body like few others have, and we have come to take him for granted in many ways.

When most people use the term "partisan," they do so in the pejorative sense. They use it to imply blind allegiance to a political party or cause, without regard to right and wrong, or what is in the best interest of the country as a whole. Senator GEORGE JOHN MITCHELL, however, is a partisan in the very best sense of the term, In the sense that it was meant before it became distorted by the politics of obstruction and destruction.

GEORGE MITCHELL's partisanship is guided by principles—his own personal principles and the principles of the Democratic party to which he is so committed and which he loves so dearly. He is fiercely loyal to the broad goals that every Democrat professes to stand for—equal opportunity, liberty, fairness, and improving the lives of average Americans. In upholding his party's principles, he is also strictly guided by his own set of principles—honesty, integrity, forthrightness, and, above all, personal honor.

If GEORGE MITCHELL has appeared excessively partisan to Members on the other side of the aisle during his 5 years as majority leader, it is because he believes passionately in the Democratic party and what it stands for, and has been unwavering in supporting our party's goals. He has been anything but a blind partisan; there is not a hint of impaired political vision on his part. On the contrary, his brand of partisanship comes from his soul as clear, strong, principled leadership.

GEORGE MITCHELL's rise to the top leadership post in the Senate was meteoric, and a dramatic testament to the ability and legislative skill of the former Federal judge. When the venerable Senator Edmund S. Muskie left the Senate in 1980 to become President Carter's Secretary of State, GEORGE was appointed to his Maine seat. At that time, he had never won an election. In 1982, he won a full term with 61 percent of the vote against a proven campaigner. Just as he has as majority leader, GEORGE that year demonstrated steadiness and good humor in endearing himself to the Maine electorate.

He became chairman of the Democratic Senatorial Campaign Committee after the 1984 mid-term elections, and in 1986, the Democrats recaptured the

Senate with 55 seats. Almost no one had thought that possible when GEORGE took on the task. He later distinguished himself on the Iran-Contra Committee, where I had the privilege of working with him and getting to know him better.

GEORGE MITCHELL comes from one of the most humble backgrounds in the Senate. His father was an orphan who worked as a janitor at Colby College and his mother was a Lebanese immigrant. He grew up in the small town of Waterville, a poor athlete in an athletically conscious family. Many of his strong Democratic principles come from growing up among the hard-working poor. There is no doubt that when he evokes the principles of his party, he speaks from a heart shaped by personal experience.

After working his way through Bowdoin College in Maine and law school at Georgetown University, he served with the United States Army counter-intelligence corps in Berlin, Germany. He got his start in politics as a protege of Senator Muskie, another immigrant's son, became Democratic State Chairman in 1966, and then State attorney general. He ran an unsuccessful campaign for Governor in 1974, but 5 years later, after practicing law and serving for a time as U.S. attorney, was named a Federal judge by President Carter. It was from the Federal bench that he came to the Senate.

GEORGE MITCHELL is one of those Senators who many of us thought would be here for a very long time to come, and when he steps down next year he will leave a void that will be difficult, if not impossible, to fill for the foreseeable future. The Democratic Party will lose perhaps its most effective unifying force at bringing all of our diverse factions together. Our party will also lose one of its most accomplished orators and debaters on a host of issues.

The U.S. Senate will lose an impeccable ethical leader who is respected and admired by both parties. The country will lose a true national leader guided by traits such as intelligence, industry, and integrity.

GEORGE MITCHELL doesn't come close to setting any records for length of service in this body, something that we traditionally associate with so-called Senate giants. But he will leave an uncommon mark of distinction nonetheless, and will surely assume his place among the ranks of the giants who have dedicated themselves to this institution.

EDWARDS-LEAHY DIGITAL TELEPHONY BILL—H.R. 4922

Mr. LEAHY. I rise today to urge the Senate to pass H.R. 4922, the Edwards Leahy Digital Telephony bill, to expand privacy protection for our phone and computer conversations and to preserve law enforcement's ability to execute court orders for wiretaps.

Our law enforcement and intelligence agencies have sounded alarm bells about losing their ability to conduct wiretaps because new communications features and services are being deployed with no thought as to how they might affect law enforcement.

I, for one, do not want law enforcement to lose its capability to use this powerful tool in its crime-fighting arsenal.

Wiretaps produce powerful evidence against our most dangerous criminals, at the lowest risk to the agents involved. We don't have to make deals with criminals, protect witnesses, or expose agents to danger when police can convict criminals with tapes of their own conversations.

At the same time that I want to preserve law enforcement's wiretap capability, I want to make sure we do not jeopardize important privacy rights of all Americans or frustrate the development of new communications technologies.

I have worked very closely with Congressman DON EDWARDS to craft a bill to revise our wiretap law so that law enforcement's ability to execute court orders for wiretaps is preserved while expanding our privacy protections.

First, to ensure law enforcement's continued ability to conduct court-authorized wiretaps in light of new and emerging digital technologies, the bill sets forth four wiretap capability requirements that telecommunications carriers would be required to meet.

This means that when the phone companies set about designing and deploying new services or features, they must consider law enforcement's needs among the numerous other factors that go into such designs.

Just as phone companies make sure that when they plug-in new services, the phone system is not shorted out, so, too, we do not want to short-change the American people's need for effective law enforcement.

Second, on the privacy front, the bill expands privacy and security protection for our telephone and computer communications in ways that were first recommended to me by a Privacy and Technology Task Force I organized in 1991. The protections of the Electronic Communications Privacy Act are extended to cordless phones and certain data communications transmitted by radio. In addition, this bill increases the protection for transactional data on electronic communications services by requiring law enforcement to get a court order for access to those records.

The bill further protects privacy by requiring telecommunications systems to protect communications not authorized to be intercepted and by restricting the ability of law enforcement to use pen register devices for tracking purposes or for obtaining transactional information.

The bill sets up a mechanism for ensuring law enforcement's wiretap capability needs while at the same time deferring to industry to decide how best to meet law enforcement's wiretap needs. No Government official will be put in charge of the future of our telecommunications industry. This legislation leaves it to industry in the first instance. If industry is ready to deploy a new phone feature or service, but cannot yet figure out how to give law enforcement access for lawful wiretaps, a court must take that into consideration and may not stop deployment of the service. On the other hand, if industry can fix the service to assist law enforcement, it must do so.

This bill preserves a legitimate law enforcement tool without jeopardizing privacy rights or frustrating innovation and the development of new technologies or undercutting the competitiveness of America's high-tech industries. Finally, the bill improves the privacy of mobile phones by expanding criminal penalties for stealing the service from legitimate users.

Third, to encourage innovation in telecommunications services, the bill states expressly that law enforcement agencies may not require the specific design of telecommunications systems or features, nor prohibit adoption of any such design, by any telecommunications provider.

At the same time that I want to preserve law enforcement's wiretap capability, I want to make sure we do not jeopardize important privacy rights of all Americans or frustrate the development of new communications technologies.

I have worked very closely with Congressman DON EDWARDS to craft a bill to revise our wiretap law so that law enforcement's ability to execute court orders for wiretaps is preserved while expanding our privacy protections.

I urge my colleagues to support this measure.

I want to thank Senator HATCH and Chairman BIDEN, who are co-sponsors, and Senator SIMPSON for supporting and working with me to ensure passage of this important legislation. Senator HATCH, in particular, has been essential in clearing this matter of last minute problems and allowing for the action we take today. He understands the importance of the legislation and has worked hard to persuade our colleagues that we should pass this measure without delay.

I especially want to commend a retiring colleague of ours from the House, the distinguished DON EDWARDS. This measure could not have been developed without his commitment and dedication to resolving an impasse that had plagued law enforcement, telecommunications providers and privacy advocates for years. At a time when he

could have sat back and enjoyed accolades for his longstanding public service in defense of individual rights and freedoms, he took on a daunting task.

And in typical fashion, DON EDWARDS' good sense, keen insight and determination made possible the joint drafting and revision of this important legislation and successful House passage.

I also commend Chairmen BROOKS and DINGELL and Congressman MARKEY of the House for their commitment to seeing this matter through to conclusion. They have each worked to improve the bill and we are grateful for their efforts and cooperation in moving this matter forward when we could have been sidetracked in jurisdictional disputes or distracted by some who continue to seek to defeat this measure through delaying tactics.

Most importantly, I need to acknowledge the efforts of our director of the Federal Bureau of Investigation Louis J. Freeh for working tirelessly and in good faith to craft the best legislation that we all could. It was Judge Freeh who sounded the call on this issue earlier this year. He and the dedicated men and women of the FBI, the National District Attorneys Association, the International Association of Chiefs of Police, and countless prosecutors, sheriffs, police chiefs, state and local public officials and concerned citizens have participated in our hearings and proceedings and shared with us their views.

All have been helpful but this bill is being considered today for final passage in no small measure because of the personal attention and commitment to effective law enforcement of Louis J. Freeh. The American people are well served by this tough and fair man, a person I am proud to call my friend.

I would be remiss if I did not also mention the important contributions of the Attorney General and the White House to the progress of this legislation. Attorney General Reno has been most supportive of our efforts.

The Vice President, who had worked on these matters while our colleague here in the Senate, was extremely helpful and attentive and helped keep us all on track. Finally, I wish to thank the President and his Staff Secretary, my good friend John Podesta, for their constant commitment to improving privacy protections while preserving law enforcement's ability to execute lawful, court-ordered wiretaps. Without their active participation, we would not be here today.

I thank all those who have worked with us over the last several months to try to find a solution to what had seemed an insurmountable problem for more than 4 years. The Business Software Alliance, the Electronic Frontier Foundation, and telecommunications companies who have worked with us to clarify the bill and resolve initial concerns are particularly to be commended.

Finally, I want to acknowledge publicly a few people whom I will be thanking personally for their extraordinary contributions. The principal staff work on this most difficult measure has been performed by my senior counsel Beryl Howell and Jim Dempsey from Congressman EDWARDS' staff.

Along with them Nelson Cunningham from Chairman BIDEN's staff and Ken Mendelson from Chairman BROOKS' staff, Manus Cooney of Senator HATCH's staff, Warren Schaeffer of Senator SIMPSON's staff, John Windhausen from Chairman HOLLINGS' staff, David Leach of Chairman DINGELL's staff and Gerry Waldron from Congressman MARKEY's staff, have all helped produce a bill of which we can all be proud. Beryl is a former Federal prosecutor whose practical experience and creative problem solving were indispensable to this project. Her House counterpart, Jim Dempsey, is a veteran of these wars whose depth of understanding of both the technological and legislative issues is unequalled. Together their persistence, patience and professionalism made this possible.

S. 1976, THE PRIVATE SECURITIES LITIGATION REFORM ACT

Mr. HATCH. Mr. President, I rise to support and to cosponsor S. 1976, the Private Securities Litigation Reform Act of 1994. I understand that this bill has not yet been considered by the Banking Committee and is unlikely to pass this session of Congress. However, when this measure is taken up, I hope that Senators, while acting on the many meritorious provisions of this bill, will also take into account several reservations that I, and I am sure others, have.

The proposed Private Securities Litigation Reform Act contains what I believe are worthwhile provisions that are designed to protect the interests of investors and preserve the integrity of the securities market. These include, in part, alternative dispute resolution procedures to settle implied right of actions under section 15(c) of the Securities Exchange Act of 1934 and added protection for accountants and auditors when diligence is practiced and the procedures established by this bill and the Commission are followed. A system of accountant self-regulation and discipline is established.

However, there are certain other provisions in this proposed measure that are troubling. For instance, the bill denies small investors access to the Federal courts for certain types of securities fraud. The bill also establishes what appears to me to be overly strict standards for fraud pleadings.

Nonetheless, because the bill does contain positive corrections to security law procedures, it is my hope that this measure will be reintroduced in the next Congress, fully considered, and passed. I commend the sponsor of S. 1976, Senator DODD, for his leadership and look forward to working with him on this legislation next year.

THE 25 PERCENT SELF-EMPLOYED HEALTH INSURANCE DEDUCTION

Mr. ROTH. Mr. President, I am removing my objections to proceeding with the Securities and Exchange Commission's 1995 fiscal year funding bill. The only objective I have had is salvaging the 25-percent health insurance deduction for the self-employed that expired at the end of 1993.

This issue is very misunderstood, and I think it is essential that people understand how vitally important an extension of the self-employed health insurance deduction is. The Congress' failure to pass this measure, which expired at the end of last year will potentially mean that millions of farmers and small business people will lose this benefit. It may also mean that they will have considerably more paperwork because when we retroactively reinstate the deduction for 1994 next year, millions of farmers and small business people will have to file amended returns. In short, the loss of this tax provision means a loss of millions of dollars every day to small business and farming, and new bureaucratic nightmares from Washington.

In addition, it is incredibly unfair that these businesses do not get to deduct 100 percent of their health insurance just like every corporation in America. The 25-percent deduction is something that must be extended at a minimum. At a time when we are urging employers to provide health insurance for their workers, we should not be pulling the rug out from under those who do buy health insurance.

Earlier this week, I asked that a number of proposals I have been working on to improve the Earned Income Tax Credit be estimated by the Joint Committee on Taxation. I would consider these proposals to be loophole closers, because, quite frankly, there is a lot of waste in this $20 billion a year program. I received back my estimates today. They raise plenty of money, not only to pass the 25-percent health insurance deduction, but a number of other expiring provisions as well. And by passing my Earned Income Tax Credit reforms, we will put to an end a number of unfair and abusive things that are currently allowed.

Right now, unfortunately, we are at a very late hour. The House is going to adjourn shortly, and has no hope of considering my proposals to fix these problems. It is clearly good tax policy for us to pass my whole package to extend these expiring tax provisions, and

I would hope we could get a commitment to do just that when we come back early next year.

Mr. MOYNIHAN. Senator ROTH has worked tirelessly to try to solve the problem faced by the self-employed small businesses and farmers in this country regarding their health insurance. I have supported him in his efforts to resolve this issue, but he is absolutely right that it is now impossible for us to act, and have any hope that the House could also complete action before their adjournment.

Senator ROTH has a splendid record on our committee, the Finance Committee, and I commend him for his efforts. He has an astute understanding of our tax laws. I would like to assure him and all of the other Members of the Senate, that as soon as it is possible—early next year—I will convene the Finance Committee and see to it that the self-employed get their 25-percent tax deduction retroactively back to January 1994. I will also promise you that we will take a very close look at his proposals to improve the earned income tax credit.

I have been working to solve the tax inequity for self-employed individuals for many years. The Finance Committee passed a bill in July of this year that would have raised the deduction from 25 percent to 100 percent of the health insurance costs of the self-employed. That continues to be my goal. Early next year, I will work to reinstate the 25-percent deduction as a starting point to getting a full deduction for these costs.

Mr. ROTH. Mr. President, I know that we have no other choice in this matter for this session. I am very happy to have the chairman's commitment to take up the self-employed health insurance deduction. I would emphasize that I feel we must do this right away—in January—so that farmers and small business people do not have to amend their tax returns. I look forward to working with him early next year to solve this problem.

DEMOCRATS DELIVER REAL LEADERSHIP

Mr. DASCHLE. Mr. President, it is in times of change and uncertainty that solid and decisive leadership is most important. The election of 1992, which ushered in the new Democratic administration, was a referendum on change and the American people voted yes. They voted yes to a stronger economy; yes to a leaner and more efficient Government; and yes to the financial freedom and dignity to control their daily lives and individual destinies.

Democrats have a proud, distinguished history of advocacy on behalf of American workers. Democratic values have always meant fighting for more jobs at higher wages; fighting to make sure that those who do the labor share in the prosperity; and standing up for the vulnerable against the powerful.

President Roosevelt responded to the crisis of the Great Depression with the policies of the New Deal which returned the dignity of work to millions of unemployed, hungry Americans. President Johnson enacted Medicare and Medicaid to bring health care to Americans who were sinking into poverty as a result of medical costs. And President Clinton has responded to the crises of the 1990's with policies to empower middle America through job creation, a smaller deficit, economic growth, and higher wages.

With the leadership of this new Democratic President, the 103d Congress has already accomplished significant changes in our economy, in our Government, and in our political system. The American people asked for a Government that delivers on its promises and provides real solutions—not just rhetoric. They asked for a Government that makes the tough financial trade-offs that American families have to make every day. They asked for a Government that begins to live within its means, fulfills its responsibilities, protects its citizens, and promotes the, quality of life of its people.

And Democrats are delivering.

Newsweek applauds this Democratic President's legislative accomplishments saying "Bill Clinton has already achieved more domestically than John F. Kennedy, Gerald Ford, Jimmy Carter, and George Bush combined. Although Richard Nixon and Ronald Reagan often have had their way with Congress, Congressional Quarterly says it's Clinton who has had the most legislative success of any president since Lyndon Johnson."

ECONOMIC GROWTH

Historically, America's economy has done better under Democrats than under Republicans. President Clinton's administration is no exception.

Under President Clinton's administration, the economy is growing at a strong and steady clip. A record 226,000 jobs have been created every month—the highest ever—for a total of well over 4 million jobs.

The jobless rate fell to 5.9 percent in September, the lowest rate in 4 years, the Bureau of Labor Statistics reported this morning. The report showed 239,000 net new payroll jobs last month; 174,000 in the private sector.

So far, more than 4.6 million jobs have been created under the Clinton administration.

This year alone, 2.5 million jobs have been created—that's more than during the entire Bush administration.

In January 1993, when President Clinton took office, the unemployment rate was 7.1 percent.

In August 1993—before the economic plan was passed—the rate was 6.7 percent.

In September 1994—it is 5.9 percent.

And these are good jobs.

Manufacturing jobs are up 139,000 this year. Manufacturing employment—especially autos—has rebounded since the economic plan passed.

Autos jobs—(motor vehicle employment)—increased by 6,000 last month and is only 2,000 jobs short of its highest level since 1979.

BLS reports that since January 1994, 72 percent of all net new jobs have been in managerial or professional occupations.

The Democratic economic growth and deficit reduction plan passed last August is working.

The deficit is down dramatically, the jobs outlook is much brighter, and the economy under Clinton has been growing faster than during any administration since Kennedy-Johnson. In fact, economic growth under Clinton is better than any Republican administration since World War II.

And not one Republican voted for the economic plan.

Under this administration, business investment is growing almost twice as fast as under any postwar administration of either party. In fact, under almost every single Democratic administration, except for the Truman administration, real business investment has grown faster than under Republican administrations.

DEMOCRATS OUTSHINE REPUBLICANS ON THE ECONOMY

Under every Democratic administration, the number of jobs has grown more quickly than under every Republican administration.

The average growth rate for private-sector jobs under Democratic administrations is more than double the average under Republican administrations.

Manufacturing jobs have declined under every Republican administration, except for Nixon's when they edged up a mere 0.1 percent annual rate. But manufacturing jobs have never fallen under a Democratic administration.

Under Democratic administrations, real GDP has grown faster than under Republican administration.

Productivity has grown more than a third faster under Democratic administrations than under Republican administrations.

Average growth of real after-tax income has been faster under Democrats than under any Republican administration.

Under Democratic administrations, living standards on average have grown faster than under every Republican administration in recent history.

Democrats promise change and economic growth and Democrats deliver.

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Democrats promise change and economic growth and Democrats deliver.

This week, Republicans went to the steps of the Capitol to unveil their most recent scheme. They call it a contract with America and the promises they made are virtually the same promises, with the same contradictions, they made over a decade again. They are the same tax breaks for the rich, that drove the country into massive debt; the same promises of a smaller government, that actually got bigger; and the same promises of a better economy that, under Republican leadership, experienced stagnation and decline.

It reminds me of an old story about a man who walked down his street one day and fell into a big hole he didn't know was there. The next time he carefully tiptoed around the hole. But the next day, he fell in again. Finally, he just got up and walked down a different street.

The American people have learned where these Republican policies will lead them. And they are not going to walk down that same street again.

This Democratic Congress has enacted laws which have already had, and will continue to have, real results in the lives of American families. It has not been an easy session. We have worked very hard and made difficult choices. But those difficult choices have reaped rewards. We have begun to put America's fiscal house in order; passed a comprehensive crime bill; lowered taxes for millions of Americans; and restored tax fairness.

Those are the facts.

In a review of these accomplishments, Newsweek notes "The standard for measuring results domestically should not be the coherence of the process but how actual lives are changed. By that standard, he [President Clinton] is doing well."

LOWER TAXES

The tax cut for working Americans that never materialized under the Republicans finally came through under this Democratic administration. Known as the earned income tax credit, this tax cut for the working poor has already provided tax relief for 20 million working households.

Under this administration, the trickle down policies of the 1980's have been turned around and tax fairness has been restored. According to the Economic policy Institute, regressive Federal tax changes for 1977 to 1989 amounted to a $52,000 tax break in 1989 for the richest families. The Clinton administration has reversed these policies and is giving the tax breaks to those who really need them.

The smaller government that Reagan only promised is actually happening under this Democratic administration. With the thoughtful leadership and pragmatic decision making of the President and the Vice President, the Government is becoming leaner and more efficient. Over 100 programs will be completely eliminated. Under this administration, the Federal Government will be smaller and leaner than it has been since John F. Kennedy was President. And the deficit has gone down for 3 straight years.

President Clinton has been the education President, that President Bush only promised to be. Already, he has increased investment in education and job training from Head Start to apprenticeship programs. He has revamped the student loan system. And passed a national service program that, in its first year, will have more youths in a domestic peace corps than the Peace Corps did in its biggest year.

If a government fails to protect the liberty of its citizens, it has failed in one of its most basic duties. Yet for 6 full years, Washington gridlock held anti-crime legislation hostage.

During the 103d Congress, because of the tenacity of this President and his willingness to go to the mat for the people, Democrats enacted legislation to address the Nation's enormous crime problem. The Violent Crime Control and Law Enforcement Act of 1993 will put more cops on the street, build more prisons, ban 19 specific assault weapons, toughen penalties for criminals, and begin to return control of communities to law-abiding citizens.

The bill, supported by every single law enforcement association in the United States, is funded with the money saved from the administration's reinventing Government initiative. Yet, Democrats passed this comprehensive anti-crime legislation over the opposition of all but a few Republicans in the Senate.

The Brady bill, enacted earlier this year, is already working to keep handguns out of the reach of criminals by requiring a 5-day waiting period so that law enforcement officials can conduct criminal background checks.

The Democratic Congress reached out to millions of disenfranchised voters by enacting the motor-voter legislation. This bill makes it easier to register to vote by allowing people to register to vote at motor vehicle agencies, armed services recruitment offices, at other public offices and by mail.

Predictably, Republicans opposed this measure as well and attempted to obstruct its passage.

It has taken 2 years to turn the ship. We are by no means done with the job. But we are making progress.

Changing the course of a Nation; reforming a Government; cutting billions of dollars from the deficit; and achieving results—these are not tasks which can be accomplished by rhetoric. They take hard work, thought and vision.

On these fronts, Democrats have delivered.

TRADE NEGOTIATIONS WITH JAPAN

Mr. DOLE. Mr. President, although the administration declared victory in the 15-month trade negotiations with Japan, I am afraid there is far less here than meets the eye. Naturally, one would expect U.S. negotiators to hail any agreement as a landmark achievement that fulfills every negotiating objective. Unfortunately, the only real achievement was that Japan dodged another bullet.

I take no issue with Ambassador Kantor's efforts on this matter. I believe he performed as well as possible under extremely difficult circumstances. A large part of the difficulty was the seemingly complete absence of a clear and unwavering strategy on the part of the administration to deal with the serious, long-running problem of Japan's closed markets.

Instead, the world watched and was treated to a 15-month exercise in rhetoric, posturing, grand predictions and overreaching, occasionally punctuated by false deadlines, jittery markets and needless brinkmanship. The tremors that shook the financial markets in February of this year were a harrowing experience that seemed to startle the administration about the real and dangerous consequences of a cavalier approach. So finally, to nearly universal relief, the administration decided to ring down the curtain, declare victory and go home.

After all the pomp and ceremony, the administration will take only minimal action: A section 301 investigation will begin of the Japanese "aftermarket" for auto parts. Otherwise, the agreements reached in the other sectors—government procurement, insurance and flat glass—are notable only because they lack the essential ingredient of any deal: A way of measuring progress. The Japanese completely rejected any numerical measurement or target of any kind, and they completely prevailed. The administration now denies ever seeking numerical targets.

Mr. President, whether or not one believes that numerical targets in trade agreements are effective, one thing is certain: United States and Japanese negotiators will be back at the table a year from now in deep disagreement over the fulfillment of the terms of the deal. The section 301 case on auto parts could last as long as 18 months, after which sanctions are possible.

So as the press conferences announcing this tremendous success come to an end, and the microphones are unscrewed from the podiums, and the video cable is rolled up and the negotiators wearily leave the stage and head home, one is left with a familiar feeling: once again, Japan has bought time.

In view of the nearly two decades of U.S. efforts to open up Japanese markets and the continuing trade deficit

with Japan projected to reach $60 billion this year, the feeble agreements reached last weekend seem designed to ensure further repetition of an exceedingly tiresome pattern.

SUPERFUND

Mr. DOLE. Mr. President, this week we ran out of time to do meaningful superfund reform for this year.

But I want to make clear that superfund reform has not died because we were unable to get a bill through this year. We were in the fortunate position of not being forced to act right now. Superfund taxes do not expire until December 31, 1995. So we still have time to get it right.

A lot of very useful work has been done already. These early efforts have served to help us understand the problems we are facing better.

Almost everyone agrees that superfund is a bad law, in both the way it has been structured and implemented. Superfund reform has not worked to date, despite repeated tries, because it has been based on retroactive liability, inflexible and gold-plated remedial action inappropriate to the situation, and an unfair liability and payment scheme always subject to dispute.

I want to commend the efforts of the coalition of interested parties that was formed to identify areas of concern and suggest important steps forward. I have heard from a number of coalition members and know how strongly they felt about the proposal they had worked out.

While I applaud these initial efforts, I also heard just as vehemently from many other groups. They objected to the process by which the agreement was reached, which excluded many groups. Even Senate staff was excluded. Many of those not at the table felt that special deals were cut that would benefit those included at the expense of other private parties and the taxpayers.

I had heard from many of my colleagues who want to reform superfund the right way and were troubled that we might have rushed the bill through before we dealt with the fundamental problems that remain.

Some of the larger areas of concern involved the enlargement of the Federal bureaucracy, the interrelationship between States and the Federal Government—including the issue of cleanups at Federal facilities that troubled many of my colleagues, the need to ensure that sites addressed present real risk or that the sites with the greatest risk are cleaned up first, the need to assure that costs will be reasonable, authorizing new unfunded programs costing more than $500 million, owner-operator participation in the allocation process, other equity issues involving both private and public parties, and the tremendous uncertainties posed by the environmental insurance resolution fund [EIRF], including the constitutionality of a retrospective wholly new tax.

We now can use the time available to us in the next session to make constructive changes in these and other areas of concern.

The efforts of the past year were not wasted. But let's do superfund right. The bill reported was not yet real reform. Nobody was interested in killing superfund. We want to take this opportunity to get something meaningful. That is what I am committed to do.

SERVICE PERSONS READJUSTMENT ACT OF 1994

Mr. DOLE. Mr. President, it might be a little early to be outlining legislative priorities for the 104th Congress, but I want to take a moment to inform the Senate that next year I will introduce the Service Persons Readjustment Act of 1995, a measure which will provide education benefits to our brave service men and women comparable to the benefits that were once earned by their parents and grandparents. In my view, this measure is long overdue.

Fifty years ago, Congress and the American Legion worked diligently to pass the Servicemen's Readjustment Act of 1944, better known as the "GI bill of rights." The original GI bill has been recognized as one of the greatest pieces of legislation ever enacted. By educating America's veterans, the United States was able to transform the country from an industrial giant to a technological world leader. When first passed, the GI bill covered 100 percent of a veterans educational assistance.

Over the past 18 years however, the cost of a 4-year college education, including tuition, room, and board has increased a total of 240 percent. On the other hand, education benefits under the GI bill have increased by only 3.6 percent. Today's educational benefits cover only 37 percent of 4 years of college. Because the current benefit only provides $400 a month for 36 months, 62 percent of eligible veterans cannot afford to go to college.

Last year, Congress enacted legislation to create new nonmilitary programs for "paid" volunteerism with educational, health, and child care benefits for community service. Now let me be clear, I am all for young people volunteering to serve their communities. However, in my view, the ultimate form of national service is military service, and as such, we should provide benefits accordingly. Many young adults now question whether 8 years of their lives, a $1,200 contribution, the rigors of military life, and the frequent deployments to hostile environments—like the Persian Gulf, Somalia, and now Haiti—are worth the benefits of the current GI bill.

Last month, Labor Secretary Robert Reich expressed his concern about the widening of the wage gap between workers with a college degree and those without. The administration's solution is to increase funding for different social programs and to transform the unemployment insurance system to provide more income assistance. Well Mr. President, I think a new GI bill can do a lot to close the wage gap. By providing proper funding for our Nation's veterans we will increase opportunities for America's young men and women to gain an education, we prepare them to compete in the private sector and to gain high paying jobs. We empower them to fulfill their dreams, to become entrepreneurs and small business owners, and to even be captains of industry.

The American Legion has repeatedly asked Congress to increase education benefits for our brave men and women who have served honorably. The legislation which I will introduce will not only increase benefits, but will also teach young men and women the values of working hard and saving money to reach one's goals and dreams. It will create economic equality among all Americans. It will allow for those who are less fortunate to earn an education rather than being dependent on social handouts.

A new GI bill is a wise investment in America's future. People who are trained and educated make more money, pay more taxes and spend more money. Not only will the legislation be good for our Nation's veterans, it will be good for the United States of America. I look forward to working with my colleagues to ensure passage of this legislation.

NEW STRATEGIES NEEDED TO EMPLOY THE DISABLED

Mr. DOLE. Mr. President, the National Organization on Disability recently released an update of the groundbreaking 1986 Louis Harris survey of disabled Americans. The 1986 survey asked people with disabilities for the first time how they saw their lives and what was important to them. Taken together, the 1986 and 1994 Harris surveys allow us to determine America's progress in closing the gap in participation by those with disabilities—and the work that remains.

GOOD NEWS AND BAD NEWS

There is both good and bad news. First, the good news. Education levels have risen—the percentage of people with disabilities who have completed high school has grown from 60 to 75 percent. And fully 60 percent say things have changed for the better—including access to businesses, attitudes, public transportation, and portrayal of people with disabilities.

But there is bad news as well. In 1986, 33 percent of disabled Americans were

working. In 1994, 31 percent. That is right—over the past 8 years employment among people with disabilities has not improved.

Mr. President, Humphrey Taylor, CEO of Louis Harris, presented other survey findings at a congressional briefing. I ask unanimous consent that his remarks be included in the RECORD at the end of my statement.

(See Exhibit 1.)

WHAT'S WRONG?

Mr. President, these employment findings have particular significance this month. In 1945 Congress first designated October as "National Disability Employment Awareness Month." Frankly, after 49 years, I would hope we would not still need a reminder of the importance of employing people with disabilities.

Something is wrong. Indeed, 10 years ago, I created the Dole Foundation because of my concerns, which is the only private foundation devoted to employment of people with disabilities.

Mr. President, we have to start by asking how well the Federal Government is doing its job. Today, it spends billions to promote employment of people with disabilities. We fund vocational rehabilitation programs run by the States, the Social Security Administration, and the VA. We give tax credits and contract preferences to businesses that hire the disabled. The Small Business Administration makes loans to businesses operated by or for people with disabilities. And since 1973, Congress has required nondiscrimination and even affirmative action in Federal hiring and hiring by Federal contractors.

Perhaps all these programs work great. I do not know. But I do know that too few people with disabilities have jobs. If the Federal Government passed out a lot of medicine and not many people got well, we might think new medicine was needed.

WE NEED A NATIONAL STRATEGY

In my view, the new medicine we need is a national strategy on employment of people with disabilities. A year ago, I suggested we translate our good intentions into a national goal. Consider again that goal—by the year 2000, employment among the disabled will increase to that of the nondisabled. That would involve putting perhaps 8 million people to work.

Alan Reich, president of the National Organization on Disability, has called for a goal of 2 million. Less ambitious, but maybe more realistic.

But the point is the same. Let us set a goal, then figure out how to reach it. If a program makes a difference, fine, let us keep it. If not, let us spend our money another way and try something else.

NEXT YEAR

Mr. President, in my maiden Senate speech 25 years ago I said, "We in America are far from the half-way point of assuring that every [person with a disability] can become as active and useful as his abilities will allow."

In my view, we still have not reached that halfway point—and we will only reach it when employment among people with disabilities is at least half that of people without disabilities.

Next year, I understand it is the intention of the Labor Committee to undertake a sweeping reexamination of the Nation's employment and training programs. I encourage them to look at the effectiveness of these programs for people with disabilities.

EXHIBIT 1

REMARKS BY HUMPHREY TAYLOR, CHAIRMAN AND CEO, LOUIS HARRIS AND ASSOCIATES, JULY 21, 1994

In 1986, Louis Harris and Associates conducted what we believe was one of the most important and valuable surveys we have conducted in the firm's 38-year history—the "ICD (International Center for the Disabled) Survey of Americans with Disabilities." This was the first nationwide survey of a cross-section of people with disabilities to measure the quality of their lives their financial and social status, their lifestyles, their needs, their problems and their attitudes.

That survey has been widely quoted and widely used. It has been presented several times in testimony to Congressional committees. It was widely used in the debate about the Americans with Disabilities Act (the ADA) and other legislation. Indeed, I have been told that it had a major influence on the passage of the ADA.

One of the most eloquent and effective users of that survey and other surveys of and about people with disabilities—many of them commissioned by him—has been Alan Reich, President of the National Organization on Disability (N.O.D.). I was, therefore, very delighted to be asked by Alan and N.O.D. to conduct a new study to update and build on our 1986 survey. The result is this new survey, the 1994 "N.O.D/Harris Survey of Americans with Disabilities." Like the 1986 survey, it is based on interviews with just over one thousand (1,021) people with disabilities who are not institutionalized. The definition of disability, as in 1986, was based on various Federal Government definitions (which are described in detail in the report). Fifteen percent of the interviews were conducted with someone else in the household who could speak for the person sampled; many of these "proxy interviews" were for people with severe disabilities which made it difficult or impossible for them to be surveyed.

Our survey was designed to be as representative as possible of all Americans with disabilities aged 16 and over excluding the institutionalized population (whether in nursing homes, hospitals or other institutions).

I believe this is an important and valuable survey. And on this fourth anniversary of the ADA, it is certainly timely. I would stress that it would not have happened without an enormous effort of will (and fund raising) by Alan Reich. Many others in the disability community had talked about doing a new version of our 1986 survey—to cover new ground and measure changes over the last 8 years. Only Alan Reich and N.O.D. made it happen.

There is much more in this survey than I can mention today. We asked a total of 256 questions (although no one person answered more than about 120) on many different subjects. What follows, therefore, is my personal summary and selection of findings not, in any sense, a definitive one.

A VERY HETEROGENEOUS GROUP

Americans with disabilities are not a homogeneous group. They differ very widely in many ways and, of course, they include members of all races, gender, ages and every demographic group.

Our sample of non-institutionalized Americans with disabilities includes people with hundreds of different disabilities:

40% have multiple disabilities.

Their primary, or most disabling, conditions include 54% with many different kinds of physical disabilities, 8% with sensory impairment, 7% with mental disabilities, 10% with cardiovascular disease, 5% with respiratory disease, 3% with cancer, and 4% with diabetes.

Twenty-one percent were born with their disability (6%) or had their disability start in adolescence or childhood. At the other extreme, over a quarter (28%) had no disabilities until they were over 55 years old.

Eleven percent describe their disability as "slight." Most describe their disabilities as either very severe (24%) or somewhat severe (35%).

Seven percent say their disabilities do not limit their activities at all. Half (49%) say their disability prevents them completely from working, going to school or taking care of the house.

Given the very heterogeneous population I hope you will forgive me for talking about them as though they are a homogeneous group, which they are not.

QUALITY OF LIFE

A finding of fundamental importance—if no surprise and totally consistent with our 1986 survey—is that people with disabilities do not, as a group, enjoy the same quality of life as other people. There are, of course, dozens of different definitions of quality of life. Some of those we measured are

Americans with disabilities have much lower incomes. Forty percent live in households with incomes of $15,000 or less, compared to 18% of Americans with no disabilities. Only 10% have household incomes of $50,000 compared to 22% of people with no disabilities.

A quarter (25%) of Americans with disabilities did not graduate from high school compared to 12% of other Americans.

Only one-third (31%) of Americans with disabilities aged 16 to 64 are working although the great majority want to work.

Only 35% are very satisfied with their lives in general compared to 55% for people without disabilities.

Two-thirds (64%) say their disabilities prevent them from getting around, attending events, and socializing as much as they would like. Comparisons with surveys of Americans with no disabilities show that indeed they socialize with friends less often (30% vs. 14% for "less than once a week"), visit supermarkets less often (43% vs. 15% for "less than once a week"), go to restaurants less often (35% vs. 55% once a week or more often), go to movies less often (42% vs. 71% once or more in the last 12 months), go to sports events less often (28% vs. 56% once or more in the last year), and attend church or synagogue less often (36% vs. 43% once a week or more).

When asked about the severity of various problems in their lives, fully 40% say that not having enough money is a major problem. Other major problems for substantial

numbers of people with disabilities which they mention include inadequate health insurance (26%)—even though fully 86% of people with disabilities have some health insurance—inadequate work opportunities (21%) and inadequate transportation (14%).

Only 47% of people with disabilities believe that others treat them as equals—as opposed to feeling sorry for them or being embarrassed.

Over half (58%) say they need help from someone else in work, school, housework or other activities (most, I'm glad to report, say they get this help).

STRONG PERCEPTIONS OF IMPROVEMENT

Given the seriousness and difficulty of the many problems so many people with disabilities face, their positive attitudes are remarkable. For whatever combination of reasons, societal or personal, objective or subjective, there is a strong sense that things have gotten much better for people with disabilities and that they will go on improving. Fully 60% say that in general "things have changed" for the better for Americans with disabilities in the last ten years. Only 15% say things have gotten worse.

More specifically most people with disabilities, when asked about specific changes, see improvements over the last four years:

75% see better access to public facilities like restaurants, theaters, stores and museums.

63% see improved public attitudes toward people with disabilities.

63% see improvements in quality of life.

60% see improved access to public transportation.

59% and 56%, respectively, see improvements in the portrayal of people with disabilities by the media and in advertising.

The future (or their own futures) is somewhat more uncertain. While a plurality of 48% believe the quality of their lives will improve, a large minority (35%) think it will get worse. However, the negative responses mostly come from people aged 45 or older. More than two-thirds of those under 45 expect the quality of their lives will improve.

IMPROVED EDUCATION STATUS

One reason—and it is a very good one—which justifies the sense of improvement and optimism is that people with disabilities are making major gains in education, even if they still compare unfavorably with other Americans. Since 1986, the proportion of people with disabilities who did not complete high school has fallen from 40% to 25%, while those with at least some college education has risen from 29% to 44%.

This is probably the most encouraging single finding in the survey—and certainly the best objective (as opposed to attitudinal) one.

Having said that, it is equally important to note that people with disabilities are, as a group, still substantially less well educated (and, therefore, disadvantaged in the labor market) than other Americans, only 12% of whom did not graduate from high school. But this gap has narrowed since 1986.

MOST AMERICANS WITH DISABILITIES NOT WORKING: NO IMPROVEMENT SINCE 1986

If the improved educational attainment of people with disabilities is the most positive finding of this research, the failure of this improvement to translate into improvements in employment and, therefore, financial advantage is the most disappointing finding.

Indeed, the actual survey numbers are slightly worse in 1994 than they were eight years earlier even if the difference is well within possible sampling error.

In 1986, only 33% of disabled Americans of working age (that is, aged 16 to 64) were working. In 1994, only 31% are working.

Whatever else the ADA may have done, and whatever it may do in the future, it does not seem, as yet, to have resulted in many new jobs for Americans with disabilities.

However, it is possible that there are other forces here which are working against the employment of people with disabilities. The proportion (of working age people with disabilities) who say that they are unable to work because of their disability has increased from 29% to 35%. And the proportion of people who describe their disability as (very or somewhat) severe has risen from 52% to 59%. One possible trend, therefore, is that—perhaps because of the improved ability of medicine to increase life expectancy—the severity of disability in the population is increasing.

BARRIERS TO THE EMPLOYMENT OF PEOPLE WITH DISABILITIES

Whatever the explanation, the absence of improvement in the employment of people with disabilities is obviously a finding which should trigger further discussion and action. When we reported the 1986 survey results, we highlighted the large gulf that exists between people with disabilities who work and those who do not—a financial and quality of life gulf which caused us to conclude that "not working is the true definition of disability." This is equally true today.

What can be done to change this dismal state of affairs? The survey points to several barriers to employment which, in turn, suggest possible remedies. But it is important to recognize that some barriers will be very difficult to eliminate. While the great majority of people with disabilities in the working age population want to work, many (the number varies somewhat in reply to different questions) don't believe they could work. Some of those not working (18%) say they don't want to work. Of the remainder half (51%) say they would not be able to work even if "suitable jobs" were available in their area. There are many problems which relate to the supply side—the supply of labor—not just to the demand side—the demand from employers for workers with disabilities.

Having said that, this survey highlights substantial problems which discourage the employment of people who want to work. Forty-seven percent of working age people surveyed who are not working (and many of those who are) say employers are insensitive to people with their particular disabilities.

A quarter (24%) say they have encountered physical barriers which prevented them from working effectively. A third (30%) of working age people with disabilities say they have, at some time, encountered job discrimination because of their disability (but that means that two-thirds have not). Mostly this involved (at least as the job applicant perceived it) the refusal of a job. A third (33%) including a third of those now working, say they have encountered unfavorable attitudes in the workplace, most often from supervisors and co-workers who id not think they could do the job.

Over a third (38%) say they don't have the skills, education or training they need to get full-time jobs. More than a quarter (28%) cite lack of accessible transportation to get to work, and 18% say they would risk losing benefits or insurance if they worked.

This question—potential loss of benefits as a disincentive to work—is a very tough one, and I don't want to claim that this survey can provide a definite answer on what motivates people not to work, let along on what policy changes, if any, are called for. However, I note that fully 57% of those of working age who are not working say they would lose some income or insurance coverage if they took a full-time job.

COMPUTERS, INFORMATION TECHNOLOGY AND SPECIAL EQUIPMENT

One set of findings in the survey which suggest new employment opportunities relate to computers, information technology, and special equipment. One-fifth (20%) of those working full-time say they were able to work because they obtained equipment which they needed to work, communicate or get around. A quarter (26%) of the working age population that is working or wants to work say they need special equipment or technology to perform effectively at work. While this refers to many different things, from special furniture, wheelchairs, transportation assistance, respiratory aids or screen enlargers, it refers most often to personal computers or lap-top computers—not unlike many other working people.

The greater availability and use of such equipment holds promise of increasing the employment of people with disabilities.

THE AMERICANS WITH DISABILITIES ACT (ADA)

It may seem strange that I have said so little about the ADA. One reason is that the survey doesn't have very much to say about it. People in Washington may be astounded to learn that in this 1994 survey only 40% of people with disabilities say they have heard or read anything about a law called the Americans with Disabilities Act (42%) or believe that any laws have been passed in the last 4 years to give protection to people with disabilities. Only among people with a college education is there a majority who have heard of the ADA.

Among those who have heard of it, almost half (49%) do not believe it will make their lives better or worse, 35% think it will make their lives better; only 1% (the real cynics about government) think it will make their lives worse.

The true impact and value of the ADA will not be known for some years to come, and I have no crystal ball which gives me any special insights as to how well it will work. However, it is possible that the belief we found in this survey that access to public facilities, public transportation, and (among a plurality) work opportunities have all improved in the last four years would not have been as strong if the ADA had not passed.

THE FUTURE

Apart from this speculation about the impact of the ADA, this new N.O.D. survey prompts a few other thoughts about the future.

It underlines the critical importance of employment, and the need to substantially increase it. It points to changes that are needed in the attitudes of employers and co-workers. It underlines the crucial importance of further improvements in education and job training. It highlights the need to change the attitudes and motivation of people with disabilities themselves; if more of them believed they could work and were more assertive, more of them would probably find work. It suggests the use of computers and more special equipment to increase employment. And it underlines the need to change the attitudes of many Americans who, many people with disabilities believe, do not accept them as equals.

A GROWING SENSE OF IDENTITY

While it is critical to stress that Americans with disabilities are a very heterogeneous group, one of the key findings of

this survey is that there is a growing sense of common identity among them.

Some seven years ago, when we presented the results of the N.O.D./Harris research on the Participation in Voting and Elections by Disabled Americans, Alan Reich and I used the phrase "sleeping giant" to describe the population of Americans with disabilities. Sleeping because it exerted very little impact on the political process, on elected officials or on policy formation, but had the potential to do so.

That, it seems, is changing. In 1986, 40% of Americans with disabilities told us that they felt a somewhat (20%) or very (20%) strong sense of identity with other people with disabilities. That 40% has risen over the last eight years to 54%. A modest majority now feels a very a strong 25% or somewhat strong (29%) sense of identity with other Americans with disabilities.

Alan Rich of N.O.D. has perceptively and accurately used the phrase "the awakening giant" to describe this new phenomenon—as America's largest disadvantaged minority seeks to participate in, and contribute more fully to, American life.

My colleagues at Harris are proud of this survey and we are grateful to N.O.D. for asking us to do it.

On the fourth anniversary of the ADA, I sincerely hope you make good use of it. If you do, all of us, with and without disabilities, will be winners.

IN SUPPORT OF BANKRUPTCY REFORM BILL, H.R. 5116

Mr. DOMENICI. Mr. President, I rise today to express my support for the bankruptcy bill now before us. After over 3 years of work, it appears we are about to pass comprehensive reform of the Bankruptcy Code. I applaud the efforts of those who worked so hard to get this done.

We passed by 94-0 a version of this bill in the spring. I thought it was a good bill then, and I still think it's a good bill. But after we passed it, a loophole in the Code was brought to my attention by a constituent in New Mexico.

I want to briefly tell you this man's story, because it illustrates very well the serious problem this loophole can create.

It has been alleged that my constituent's daughter had been sexually molested by another individual. When that individual heard of my constituent's intention to file a criminal complaint and a civil suit for damages arising out of the molestation, the alleged perpetrator filed for bankruptcy protection Chapter 13.

This section of the Code allows you to use your income, beyond what you need to live, to pay as much of your debt as possible over a fixed time. After that time is up, so is your obligation to pay. This is called a "wage earner's plan."

If you reach the end of that fixed period and haven't paid your debts fully, that doesn't matter. The Code gives you a "fresh start." All debts, except for a few like those for child or spousal support, can be erased in this manner.

My focus today is on those debts which cannot be avoided through the use of this part of the Code.

I mentioned child support. When Congress enacted the Bankruptcy Code, it decided that parents should not be able to avoid their obligations to their dependent children by using the bankruptcy laws. The interests of children and their well-being outweighed giving the parents a "fresh start" financially. Therefore, the responsibility to pay these types of debts is not eliminated by the bankruptcy process.

Amazingly, if you commit a willful and malicious act against someone, like an innocent child, you still can get that "fresh start," and the victim will be left with a meaningless and uncollectible right to damages.

Imagine that. Child molesters can avoid full civil liability for their actions merely by filing for personal bankruptcy. That's what may happen to my constituent in New Mexico.

While this Chapter 13 works well for individuals who may have made some bad financial decisions and need to get their personal finances in order, it should not be used by individuals who willfully and maliciously injure other people to avoid full liability.

I say no "fresh starts" for child molesters or anyone else who knowingly commits a violent act against another person.

Upon hearing of this problem the Code, I proposed that we amend Chapter 13's laws to make sure that debts arising out of willful and malicious acts are not forgiven. That proposal has not found its way into this bill.

I have been told that this bill increases the amount of debt which must be paid to creditors under Chapter 13 from $350,000 to $1 million. Presumably, this will give victims of intentional and malicious acts a greater chance for a full recovery of their claim.

However, it does not, as I believe it should, assure victims of complete compensation.

The bill's report also cautions bankruptcy judges, lawyers, and debtors that the bankruptcy laws should not be used as an artifice to avoid civil liability for intentional misconduct. I commend the authors of the report for including this language.

I hope that Federal bankruptcy judges will closely scrutinize these cases and properly penalize those debtors who in bad faith use the Code solely to avoid liability for their intentional acts.

I appreciate the difficult compromises which must be made to pass this type of comprehensive legislation and believe that this bill's approach to the problem is a step in the right direction. However, I would prefer to assure victims of willful and malicious acts that they will be fully compensated for their injuries, not merely increase their chances of success.

For that reason, I intend to continue to push for a change in this area of the law in the 104th Congress.

Today, however, the interests of comprehensive bankruptcy reform are more important than disagreement over a single issue or provision. This bill contains important changes agreed upon after years of work, and I won't stand in its way.

HUMAN EMBRYO RESEARCH AND BIOETHICS

Mr. HATFIELD. Mr. President, the Nation's attention has once again focused on a controversial research proposal which raises enormous moral and ethical questions: Federal funding of human embryo research. An advisory panel at the National Institutes of Health recently released recommendations for the conduct of this research. Once again, our traditional notions of life are being pushed to the limit by the scientific and technical advances that are now possible in medicine.

I raise this issue today not to criticize or applaud the work of the NIH advisory panel. Rather I do so to reiterate my belief that our Nation needs an independent ethics advisory board to evaluate and debate the difficult moral issues that are being raised more and more frequently in biomedical research.

Society will reap great benefits from advances made by modern science. Cures for hereditary diseases, a revolution in agriculture, miracle drugs, and an end to human infertility are all being predicted for our future. History has taught us, however, that new technologies often bring with them costs as well as benefits. New capabilities often pose dilemmas for society because they exceed the ethical and legal parameters we have in place to deal with them.

I have watched these advancements with great inspiration and continue to be one of the leading proponents of Federal biomedical research funding in the Congress. At the same time, however, I have watched as the Federal Government has allowed many of the most difficult biomedical ethical questions of our time to linger with little Federal guidance or dialogue. While society struggles to cope, public officials have too often preferred to allow such issues to be decided by default in a vacuum of leadership. We cannot continue to allow this to happen.

In each session of Congress since 1987, I have introduced legislation to place a moratorium on allowing the Patent and Trademark Office to issue patents on living organisms. Until this year, Harvard University had received the only such patent for the so-called Harvard Mouse. I did not introduce this so-called animal patenting legislation to object to the research that is being conducted using these creatures. My

record shows that I am committed to the advancement of scientific research. I believe, however, that the elected members of Government have a solemn duty to ensure that serious social and ethical issues are addressed. For me, the idea of issuing patents on living creatures that have been somehow altered by man raises many serious ethical questions related to human life and the natural order.

Those who have followed the rapidly advancing field of biotechnology know that ethical parameters are very difficult to formulate. However, I believe that Congress bears a large part of the responsibility for seeing that ethical issues such as these are raised and, where appropriate, lines are drawn.

In order to provoke greater discussion of the ethical implications of biomedical research, I joined my colleagues Senator KENNEDY and Senator DECONCINI in requesting two reports from the Office of Technology Assessment. In its first report, "Biomedical Ethics in U.S. Public Policy," which was released in October 1993, the OTA reviewed the different governmental approaches to issues of bioethics, including the so-called President's Commission and the now defunct Biomedical Ethics Board. OTA found that the United States is virtually alone in the industrialized world in not having a commission to examine bioethics issues. OTA will release a more detailed review of the ethical, privacy, environmental, and policy issues involved in different areas of biotechnology later this year.

In addition, two Senate committees have held hearings on these issues. The first hearing was held by Senator DECONCINI in the Judiciary Committee's Subcommittee on Patents, Copyrights and Trademarks on September 22, 1992. The purpose of this hearing was to examine the ethical issues of gene patenting. A second hearing was held on October 12, 1993, by Senator KENNEDY in the Labor and Human Resources Committee. This hearing focused on the findings of the OTA report mentioned above and the feasibility of creating a standing Ethics Advisory Board. Both of these hearings were constructive and helpful in raising the visibility of biomedical ethics issues.

It has been my goal to foster dialogue on the difficult bioethical issues faced by this country. My hope is that these efforts will result in the establishment of a permanent body assembled to study bioethical policy issues and make recommendations to the administration and Congress.

That is why I was pleased to take a step toward these objectives by introducing legislation to establish a national Ethics Advisory Board to be located within the Department of Health and Human Services. The Board established in this legislation would be composed of 15 members. While located under the umbrella of HHS, the Board would report to the administration and to Congress.

The Board would be part of the Federal research review process already in place at HHS. It would also take requests for review from Congress and would have the authority to choose issues to review on its own motion, but would have no authority to veto research initiatives. The purpose of such a Board would be to promote the dialogue that is lacking on so many ethical issues today. This is dialogue that must take place if we are to have any hope of rational and informed decision-making in the field of bioethics.

The reestablishment of a permanent commission is not a universally supported idea. Students of this issue know that past attempts have taken place with mixed, and at times dismal results. Let me make it clear that I am not wedded to the idea of a permanent Ethics Advisory Board, although the information I have reviewed leads me to believe it is the best approach. One of may purposes in introducing this legislation is to provide a tangible proposal to be debated and considered as we continue the discussion on the ethics of biomedicine.

At this point, that debate is advancing. Senator KENNEDY has agreed that an Ethics Advisory Board could be an appropriate mechanism for evaluating biomedical ethics issues. I am working with him to move my legislation forward. In addition, the Clinton administration, led by Jack Gibbons, the President's adviser for Science and Technology, has recently published a proposal in the Federal Register which would create an agency-wide Ethics Advisory Board within the Office of Science and Technology Policy. The head of the National Institutes of Health's National Center for Human Genome Research, Dr. Francis Collins, has also been very interested in our efforts, because some of the most difficult ethical issues we will face will be in the area of genetics.

In closing, let me reiterate that I am not arguing against advances in biotechnology or other advancing areas of science. I am simply saying that society must carefully evaluate new breakthroughs in science and technology and the implications of these new developments. Although it is difficult to legislate in these complex areas, Congress—as the elected Representatives of the people—must play a role in seeing that a forum for discussion is provided and that these important issues are addressed openly.

TRIBUTE TO GORDON B. AVERY, M.D., PH.D. A LEADER IN PEDIATRIC HEALTH CARE

Mr. DURENBERGER. Mr. President, today I would like to invite my colleagues to note a milestone in the career of a nationally known leader in pediatric health care, Dr. Gordon B. Avery, M.D., Ph.D.

Launching a career that included a residency at Bethesda Naval Hospital and service as chief of pediatrics at Quantico Naval Hospital in Quantico, VA, Dr. Avery has successfully labored to provide outstanding leadership in a career that spans four decades.

Born in Beirut, Lebanon, on December 10, 1931, Gordon Avery completed his secondary education in Massachusetts, and went on to receive a bachelor of arts degree from Harvard College, a degree in medicine and a doctorate in embryology from the University of Pennsylvania in 1958 and 1959.

Currently the chief of medicine and pediatrician-in-chief at the Children's National Medical Center, Dr. Avery's achievements on behalf of our children and academic medicine are especially noteworthy. This year, Dr. Avery marks 30 years of service to the Children's National Medical Center. Families whose critically ill children are healed at the Children's National Medical Center owe Gordon Avery a debt of gratitude for his work as both a researcher and clinician, and as a nationally recognized pioneer in the field of neonatology.

Gordon Avery is a dedicated clinician. Under his leadership, Children's National Medical Center was one of the few regional referral centers that helped develop extracorporal membrane oxygenation, or ECMO. Today, ECMO is a well-established technology—a mini heart, lung, and blood machine, with well-trained medical professionals practiced in its effective use to save the lives of premature infants born with under-developed lungs. Over many years, Dr. Avery built and organized a cadre of some of the most talented and committee physicians in the world to pioneer the proper care and optimal administration of health services for newborns.

He is a physician who has led his profession in defining the scope and critical issues in the subspecialty of neonatology. His lectures and publications are not narrowly confined, but instead cover almost the entire scope of what was once a new subspecialty.

Dr. Avery has written and lectured on a variety of topics, including: Transport issues for the high-risk infant; developing and managing the neonatal intensive care nursery; automation in the clinical pediatric laboratory; ethics in the intensive care nursery; moral issues in newborn care; sepsis; apnea in the newborn; and nutrition in the premature infant, to name but a few.

In addition to his 120 published journal articles, he authored and edited a textbook, some would say the textbook on neonatology, "Neonatology, Pathophysiology and Management of

the Newborn." Now in its fourth edition, this text has been translated into Spanish, Portuguese, and Italian.

Dr. Avery holds the post on interim chairman of pediatrics at the George Washington University School of Medicine, and is also the chief operating officer of the Children's Research Institute [CRI] at Children's National Medical Center. CRI is a unique national resource with state-of-the-art facilities and a direct link to a 279-bed pediatric specialty care hospital in the heart of the Nation's Capital. CRI is a privately supported undertaking with six centers and endowed research chairs in areas such as immunology and virology conducting critical pediatric health research.

I have named but a few of the contributions that Dr. Avery has made to the field of neonatology and the effective practice of pediatric medicine. In marking 125 years of service to children, Children's National Medical Center is very proud of this physician's contribution to the institution, our children and the field of neonatology.

Mr. President, I rise today to add my name to the long list of people, including parents, children, and colleagues who applaud the dedication and achievements that mark 30 years of uninterrupted service by Dr. Gordon Avery.

VICTIMS OF REICHSBANKNOTES

Mr. MURKOWSKI. Mr. President, I rise today to speak out on a matter of great importance to a multitude of the people of Taiwan and many Taiwanese-Americans. My long held admiration for the courage of the people of that nation is no secret and so I have become greatly troubled that I have not received an answer from the Government of Japan regarding the circumstances underlying the allegations of the forced issuance of Reichsbanknotes in Taiwan by the Government of Japan.

At issue, Mr. President, is the revelation that the Government of Japan, beginning in 1924, mobilized their colonial police and the military policy in Taiwan to compel the Taiwanese to sell their farm lands and other properties to raise cash to buy German Reichsbanknotes. This saga goes back to 1922 and 1923, when Reichsbanknotes, the German currency in circulation at that time, were given to the Japanese Government by the defeated German Government to fulfill a portion of Germany's obligation of reparation to Japan under the provisions of the Versailles Treaty. In Taiwan, Japanese governmental enterprises, including the Taiwan Sugar Co., the Taiwan Tobacco and Wine Monopoly Bureau, and the Taiwan Salt Co., paid a portion of employee salaries to its Taiwanese employees by the transfer of Reichsbanknotes.

The Government of Japan has in recent years acknowledged its obligation to redeem these Reichsbanknotes because similar notes held by citizens of South Korea were retired in August 1965 when diplomatic relations between South Korea and Japan were established. Reichsbanknotes sold to the Taiwanese by the Japanese, however, have not been retired as of this date even though several demands have been made upon the Japanese Government by the Taiwanese Reichsbanknotes Creditors Association since 1973.

Mr. President, because of the compelling evidence presented to me and my colleague, Senator ROBB of Virginia, the Foreign Relations Committee's East Asian and Pacific Affairs Subcommittee on which we serve has made not one, but two direct inquiries to the Japanese Ambassador regarding this matter. To date, we have received no response from the Government of Japan.

At this time, Mr. President, I ask unanimous consent that a translated version of a news story that appeared in the December 25, 1993, edition of the Mainichi Shinbun be printed in the RECORD. This news article documents first hand accounts of how parents of surviving Reichsbanknote holders were forced by Japanese colonial police to buy Reichsbanknotes from the Japanese Government 70 years ago.

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

Lin Mu-Zon: Born July 31, 1933, Resides in Pintung County, Taiwan.

Grandfather owned and operated coal mining in Taipei and grandfather and father owned 960,000 square meters (237 acres) of land for rice and sugar cane plantation. Japanese police and neighborhood unit head forced my grandfather to buy Reichsbanknotes. My grandfather refused and then Japanese military police joined Japanese police, if my grandfather refused to buy, they will put my grandfather into prison. So, in order to satisfy demand of the Japanese police and Japanese military police, my grandfather sold one third of land for 5 luggagefuls of Reichsbanknotes.

The land my grandfather sold was turned over to Taiwan Sugar Co. (Japanese Government Enterprises) and the land today is still owned by Taiwan Sugar Co. The current value of land sold by my grandfather is estimated at 20 billion Taiwanese yen (U.S. $800 million).

Ask to return my grandfather's land to my family.

Chen Chi-Yao: Born March 7, 1925, Resides in Kaohsiung, Taiwan City.

Drafted by Japanese Army. There was a typhoon upon returning home after World War II, I discovered a bagful of Reichsbanknotes stored in the attic of my home.

According to my mother, my father was doing trading rice and sugar with Japan. Instead of cash, Japan pay one third at the beginning and later one half of payment to my father in Reichsbanknotes. At the beginning of trading, rice and sugar suppliers accepted a portion of payment in Reichsbanknotes, but later the suppliers refused to accept Reichsbanknotes. due to this my father sold property to cover the loss and send my two aunts to be employed by other to earn living.

Chen Tien An: Born October 10, 1921, Resides in Tainan County, Taiwan.

My father owned and operated family grocery store with average income. Japanese police and neighborhood unit head came and forced my father to buy Reichsbanknotes which my father left when he passed away. I was mechanics employed by Japanese Navy Base in Kaohsiung during World War II. Japan can afford to buy back Reichsbanknotes from us now.

Chen Chin Shan: Born November 15, 1927, Resides in Ping-tung County, Taiwan.

My father owned 500 ton ship and was doing trading. My family was wealthy so I went to Japanese school with Japanese children instead attending Taiwanese school for Taiwanese children.

My father was forced to buy these Reichsbanknotes currently owned by my family by Japanese Government. My wife's family also owned Reichsbanknotes. My father-in-law's elder brother was mayor of township and Japanese Government forced him to buy Reichsbanknote.

Liu Jin-Chang: Born March 6, 1923, Resides in Hsin Chu County, Taiwan.

Farm income alone can not support the family therefore my father went to Taiwan Sugar Co. and A-Li Shan Railway Co. to work as a temporary employee. One third of my father's salary was paid in Reichsbanknotes. My father died when I was a child. My mother kept Reichsbanknote in the cabinet believing that Japan will repay for Reichsbanknote.

JAPAN'S RULE ON TAIWAN AND REPAYMENT

Colonial Rule: After Sino-Japanese War in 1894, China ceded Taiwan to Japan. Japan established Taiwan Governor's office to rule Taiwan for 51 years. During that time native (Abroginees) revolted against Japan and were crushed by Japanese Army (Wu-Shia Incidence). Japan's policy was to force Japanese culture and language on Taiwanese.

Demands for Repayments: 1952 peace treaty was signed between Japan and Taiwan. Demand for repayment on property was to be determined separately. In 1972 Japan established diplomatic relations with People's Republic of China and terminated its diplomatic relation with Taiwan. Due to this, this problem is still unresolved.

Approach to Demands: Japan paid 2,000,000 yen for family of each person who died while serving in Japanese army. Military savings, salary and pensions shall be paid in accordance to wholesale price index. Victims demand 2000 times and Japanese Government is asking for 20 times of the amount of 1945 price.

Mr. ROBB. Would my distinguished colleague yield for a moment? I thank the Senator.

As my friend from Alaska, the ranking Republican on the East Asian and Pacific Affairs Subcommittee, knows, I too, consider myself a friend of Taiwan and would like to associate myself with my colleague's remarks in that regard. Senator MURKOWSKI and I are not the only Members of this Body who have sought to determine the true circumstances surrounding this matter of post-World War I reparations and the Government of Japan's use of Reichsbanknotes in Taiwan. Our Department of State has approached the Government of Japan about this controversy. Let me quote what the State Department was told,

The Government of Japan has researched this issue previously and found no evidence that the activities which form the basis of the Taiwan Reichsbanknote Creditors Association's allegations against Japan took place.

Mr. President, despite the Japanese Government's statements to the contrary, I have in my possession a transcribed news story from the Taiwan Daily News dated August 19, 1930. The headline reads and I quote, "One Million and Five Hundred German Bonds received from Germanys as Reparation Payments to be Sold to the General Public by Japanese Government." Mr. President, I ask unanimous consent that this news story, too, be printed in the RECORD. I thank the Senator from Alaska for yielding to me.

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

[From the Taiwan Daily News, Aug. 19, 1930]

ONE MILLION AND FIVE HUNDRED BONDS RECEIVED FROM GERMAN AS REPARATION PAYMENTS TO BE SOLD TO GENERAL PUBLIC BY JAPANESE GOVERNMENT

(Telephone From Tokyo on 18 (August 1930))

Government of Japan has decided to sell German Bonds paid to Japan between April and August this year to be sold to public and announced that applications must be submitted to Ministry of Finance by August 31 (1930) and terms are as follow:

Qualification—Creditable merchants who has been engaged trading with Germany for last three years.

Commodities purchased by merchants from this Reparation credit must exclude luxurious items.

Minimum purchase to be 50,000 Marks.

The purchasers to receive Reparation Credit from Japanese Imperial Government Reparation Material Transfer Commission in London.

Mr. MURKOWSKI. Mr. President, I thank the Senator from Virginia. I hope that the Government of Japan will be responsive to the subcommittee's requests for information so that we can make an informed decision as to the proper role for our Government in resolving this dispute.

Mr. President, I yield back the floor.

CHARITABLE MEDICAL CARE ACT

Ms. MOSELEY-BRAUN. Mr. President I am pleased to join my distinguished colleague from Missouri, Senator DANFORTH, in introducing the Charitable Medical Care Act of 1994. This legislation is designed to ensure that licensed providers, who, in good faith, provide medical treatment without compensation, are not sued. Currently, because of malpractice concerns, health care professionals have a disincentive to volunteer their services. Further, this act does not apply in situations of gross negligence or willful misconduct.

Protection from liability for voluntarily providing uncompensated care is not a new idea. Currently, eight States, including my home State of Illinois, have laws in place that free doctors, who practice voluntarily and in good faith, from at least some part of malpractice liability. These States include: Virginia, Utah, North Carolina, Florida, Kentucky, South Carolina, Iowa, and Washington, DC.

Our legislation builds upon existing Good Samaritan laws. Good Samaritan laws prevent an individual who acted in good faith to be held liable in the event a mishap occurs. In 1959, California enacted the Nation's first Good Samaritan statute. Today all 50 States, including Washington, DC, have adopted some form of a Good Samaritan statute. These statutes exempt the volunteer from tort liability for ordinary negligence in rendering emergency aid to an individual. The rationale for these laws is to encourage health professionals to aid persons in need of assistance.

The need for free clinics and volunteerism by health professionals has never been more striking. The number of uninsured increased from 35.4 in 1992 to 37.4, an increase of 2 million in 1 year. Volunteerism by health care professionals has been instrumental in providing health care to a portion of the uninsured. Free clinics and medical volunteers focus their services on preventive and primary care. Free clinics offer an alternative to emergency rooms and represent an enormous savings to the entire health care system. In the tradition of family doctors, these clinics offer a primary care continuum.

Free clinics supplement community clinics that provide care to those without insurance as well as those on Medicaid. Together these clinics provide the majority of care in underserved communities. More than 1,500 free and community clinics serve over 10,000,000 individuals each year in this country. In my State of Illinois last year, 17,350 people were served and over $600,000 worth of care was provided.

The potential impact of charitable care is not insignificant. It is estimated that charitable medical care meets the needs of 30 percent of the currently uninsured population. Free clinics have served a valuable service and will continue to provide vital access to health care for the poor. While I am a firm supporter of universal coverage, it appears that, at least for a while, millions of Americans will remain uncovered. The number of uninsured increased from 35.4 million in 1992 to 37.4 million in 1993 representing an increase of 2 million uninsured individuals. These figures are expected to continue to increase.

The role of free clinics and volunteerism by professionals is, and will remain, an important part of the health care delivery system. This is particularly true in urban and rural underserved areas. Thus far, free clinics have been very successful in serving the community. Their success is due to their broad-based community support and the volunteerism of the medical community. Medical liability suits are very rare.

Doctors and other medical personnel who volunteer their services to provide quality medical care to the poor are an essential component of free/community clinics. Free clinics cannot provide services, however, if barriers to volunteerism remain. The only way we can increase volunteerism to individuals is to offer some protection from liability. It is critical that we encourage doctors to volunteer their services to those who cannot afford such care. I believe the legislation I am introducing today with Senator DANFORTH will go a long way toward achieving this goal.

Mr. President, I would like to conclude my remakes today by thanking my friend, Senator JOHN DANFORTH, for his leadership and hard work in the area of health care. His sponsorship of this legislation on one of his last days in the Senate illustrates his compassion and dedication to improving health services for all Americans.

I urge my colleagues to join us in support of this important legislation.

ALBANIA'S TREATMENT OF ITS GREEK MINORITY

Mr. PRESSLER. Mr. President, I call attention to particularly troubling reports of the abuse of human rights in Albania. I had the opportunity to discuss, at length, the deterioriating situation between Greece and Albania with King Constantine of Greece on September 7. On that same day, an Albanian court found five ethnic Greeks guilty of espionage and imposed prison sentences ranging from 6 to 8 years in a trial which, according to Minnesota Advocates for Human Rights, was marred by procedural inadequacies and substantive shortcomings.

The five male defendants, all members of the ethnic Greek organization Omonia, the civil rights organization of the ethnic Greek minority in Albania, originally were charged with treason and illegal possession of weapons. Albanian prosecutors dropped treason charges, which carry the death penalty, after objections from Athens. The men, Vangjel Papakristo, Panajot Marto, Kosta Qirjako, Irakli Sirma, and Theodhori Bezhani, were arrested after a raid on an Albanian conscripts' camp in April. Two Albanian soldiers were killed in that raid.

The judge said the Greek Government had given three of the five men $130,000 to buy rifles in the Greek town of Ioaninna near the Albanian border. He claims their mission was to arm ethnic Greek Albanians to secede from Albania.

Greece has accused Albania of staging this political trial to strike fear in

the heart of the Greek minority in southern Albania. Greece has deported some 70,000 Albanians, mostly illegal immigrants since the dispute erupted in August. In addition, Greece has tightened border controls and blocked European Union aid to Albania.

The Balkans historically have been a very volatile region. The most recent tensions created by the Albanians have thrown fuel on the fire. Kangaroo courts have no place in today's civilized world. The Albanian trial clearly was a sham, concocted for purely political purposes. It had no relationship to the standard concepts of justice observed in democratic countries. That trial and the subsequent convictions appear to be part of an effort to intimidate ethnic Greeks to abandon their homes in Albania and move to Greece. We have seen this type of intimidation before. It is the prelude to ethnic cleansing. Let us not allow the situation to deteriorate any further.

Mr. President, I ask unanimous consent that an article by Nicholas Gage from the New York Times appear in the RECORD.

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

ANOTHER BALKAN FLASH POINT

The conviction of five leaders of Albania's ethnic Greek community on espionage charges in a political show trial has aggravated tensions between Greece and Albania and set in motion repercussions that could affect the entire Balkans and even the United States.

Observers from half a dozen foreign human rights groups have described the trial, which ended Sept. 7 with sentences of six to eight years in prison, as a gross violation of international standards. Albanian opposition leaders called the trial a political maneuver.

The defendants said they were physically and psychologically tortured during detention, and during the trial they were denied the right to question the prosecution's witnesses or to present their own. A representative of Amnesty International, Bjorn Elmquist, declared that the trial was "a staged process" that the authorities manipulated for propaganda. And Minnesota Advocates for Human Rights said in a report that "despite broad accusations and strong rhetoric, the prosecution did not present direct evidence of the charge." The defendants were convicted even though there was never proof that they were in any position to know Government secrets, much less pass them on to Greek agents.

Why did the Government try these men? They are the most vocal leaders of the civil rights organization Omonia (Greek for harmony), founded by the Greek minority in Albania. (The number of Greeks in Albania, located mostly in the southern region called Northern Epirus, is put at 400,000 by Athens, 60,000 by Tirana and 280,000 by the Central Intelligence Agency.)

These convictions (whose appeal is being considered this week) are part of a wave of persecution of Albania's Greek minority launched by the Government of President Sali Berisha. Since he came to power in 1992, he has forced virtually all Greek officers out of the armed forces, has drastically reduced Greek representation in the police, judiciary and public administration, and has cut back Greek-language schools.

All these measures, including the trial, are intended to make ethnic Greeks in Albania feel that the are powerless, have no hope of retaining their ethnic identity and must abandon their homes and move south to Greece.

The trial so angered the Greek Government that it expelled more than 70,000 illegal Albanian workers. Critics in Europe and the U.S. called the expulsions excessive. But Athens argues that other European countries have refused to accept Albanian workers, while Greece took in 400,000, who send home more than $350 million a year.

Why would Mr. Berisha provoke Greece and lose a major part of Albania's vital income? The most credible explanation is that the pressure on ethnic Greeks to abandon their homeland is the first step in his plan to enlarge Albania dramatically.

He hopes to force the Greeks out in order to secure the southern flank. Then he can encourage Albanian enclaves in the former Yugoslavia to revolt and seek union with Albania without worrying that Greece will take advantage of the unrest to occupy Northern Epirus.

MIDDLE EAST PEACE PROCESS

Mr. PRESSLER. Mr. President, I rise today to speak about the Middle East peace process. I must confess that on the question of peace in the Middle East, I have been a skeptic. Yet now, over a year after the signing of the Declaration of Principles between Israel and the Palestinian Liberation Organization, I am pleased to say that some—though not all—of my skepticism has dissipated.

In the last few days alone, the six nations of the Gulf Cooperation council have renounced the secondary and tertiary boycott of Israel. Should they have done so long ago? Without a doubt. Should they now renounce the direct boycott of Israel? Absolutely. But let us not damn them with faint praise: even these small moves have taken the courage to move away from long standing policies.

In addition, the Israelis and the Jordanians are fast approaching a peace treaty. There are further agreements on border crossings and tourism. King Hussein and Prime Minister Rabin have met again. Even Tunisia, former headquarters of the PLO, has agreed to exchange interest sections with the Israelis. Again, it is not a whole loaf, or even half, but it is a good beginning.

To see these kinds of developments, to watch lifelong enemies of Israel begin to face the reality of her existence, is quite uplifting. There is, however, another side to the peace process story.

For those of us who have watched the PLO over the years, watched Yasser Arafat go from one terrorist act to another, it was difficult to imagine him being able to make the transition from murdering to governing. We could not imagine it, and they have not yet done it. Arafat has conferred an interesting title on himself—"the President and the Symbol". Yet he shows few of the traits one expects of a modern political leader. In fact, Arafat is perilously close to being little more than a dictator.

We are told repeatedly that Palestinians will gauge the peace process by the change they feel on the ground. Give me money, Arafat says, or my people will turn on the peace process. Please note, Mr. Arafat, that nations have fallen all over each other to give you money, with the sole proviso that you put standard principles of economics and accounting ahead of posturing and political rhetoric. You have refused to do that.

Political posturing on the issue of Jerusalem caused the breakdown of the recent donors' meeting in Paris. Failure to guarantee open accounting has held up implementation of Israeli-Palestinian agreements. The few ministers Arafat has named have expressed frustration with his governing style, his autocracy and his conduct of Palestinian international relations. Arafat has shut down newspapers that disagree with him and shown a disturbing preference for leadership through secret police, armed militia, and the like.

I could go on with a litany of complaints about Arafat and the Palestinian Authority—the failure to change the Palestinian Covenant, Arafat's failure to condemn acts of terror, etc. The bottom line seems to be that governing is not glamorous and that running the Palestinian Authority is not the same as running the PLO.

Israel has taken great risks to move along the peace process. More Israelis have died in the year since the Declaration of Principles than died in the previous year of the Intifada. In spite of that sorry situation, the Israeli Government has stood firm in its pursuit of regional peace and stability. That steadfastness has begun to produce concrete results.

The United States must stand firm with Israel. I will continue to urge the Clinton administration—and its successors—to honor our commitments to Israel's security. I also will continue to urge that decisions must be made by all the parties involved. We must let the parties involved work out their peace.

We also must stand firm on another issue: Jerusalem must remain the undivided capital of Israel. Only once has Jerusalem been divided, from 1948 to 1967. Since Jerusalem was reunited by Israel in 1967, its holy sites have been open to all religious pilgrims. We must never allow Jerusalem to be divided again.

For that reason, last March I urged the administration to veto a U.N. resolution that referred to Jerusalem as occupied territory. Our Government should not undermine the status of Jerusalem as Israel's undivided and eternal capital.

I have noticed that the Government of Syria, which seems to be facing up to the need for accommodation with Israel, apparently expects a payoff from the United States in return for peace. President Assad, you better not start spending yet.

Syria wants the Golan Heights, and it wants aid and arms from the West. Syria will not get the Golan unless Israel chooses to cede that strategic territory. It most certainly will not get a penny from American taxpayers unless it gives up terror and drug trafficking and conforms to accepted standards of behavior in the civilized world. In addition, requests for American troops to serve as a buffer force between Syrian and Israeli forces in the Golan area must be examined carefully by Congress and the American people. The Golan Heights are not the Sinai desert. I hope no commitment is made by our State Department to introduce troops into that area unless such an action has had the benefit of ample public analysis and scrutiny.

We all want peace in the Middle East, but peace must be made by the nations of the Middle East. The Palestinians, Syrians, and Lebanese must realize—as have the Jordanians and Egyptians—that peace with Israel brings its own rewards; not necessarily massive external aid, not necessarily arms, but certainly a brighter, more secure future for their children.

AMERICANS MISSING IN CYPRUS

Mr. PRESSLER. Mr. President, I rise today to acknowledge the recent passage of S. 1329, the Missing in Cyprus bill. This important legislation will take a critical step forward in investigating the disapperance of the five Americans who have been missing since the illegal Turkish occupation of Cyprus in the summer of 1974. The establishment of an independent investigative commission will help ascertain the fate of those missing Americans. Their families hopefully will receive a long overdue accounting of their loved ones. It is doubtful that the personal wounds caused by this brutal conflict can ever be healed, but this bill is a step in the right direction. In addition, the same type of investigation needs to be undertaken to establish the whereabouts of the 1,614 Greek-Cypriots still missing since 1974.

The United Nations Commission on the Missing in Cyprus has reached no conclusion as to the whereabouts of the missing Americans and Greek-Cypriots. The past 20 years have yielded no viable resolution of this matter. S. 1329 directs the U.S. State Department and the appropriate international organizations to investigate and determine the fate of these missing individuals. It is time we knew the truth about the atrocities committed by the Turkish military in 1974 and the subsequent coverup by the Turkish Government.

I have introduced legislation, S. 2300, which would provide a strong incentive for the Turkish Government to comply with S. 1329. My bill would eliminate all United States military and economic assistance to Turkey until the five missing Americans and 1,614 Greek-Cypriots have been accounted for, released, and returned home. I ask my colleagues to consider my bill as a complement to S. 1329 in solving this important issue.

After a decade of unproductive dialog, the United States should reexamine its policy toward Turkey. The Government of Turkey keeps very precise records on all prisoners, both criminal and political. For that reason, it should not be difficult for the Government of Turkey to provide an accounting of the missing persons. Adherence to basic principles of human rights should continue to be a fundamental pillar of U.S. foreign policy. S. 1329, along with my bill, will provide a framework to end the trail of tears caused by this illegal occupation.

THE RETIREMENT OF SENATOR DENNIS DECONCINI (D-AZ)

Mr. THURMOND. Mr. President, I rise today to pay tribute to a fellow member of this body. DENNIS DECONCINI, who will retire from the U.S. Senate at the end of this Congress.

A native of Tucson, AZ, DENNIS established an impressive record of public service prior to his election to the Senate in 1976. His background includes a stint in the U.S. Army and Army Reserve; serving on the staff of the Governor; and, being elected Pima County attorney. Such experience has served DENNIS well in the Senate, particularly in his roles as a member of the Judiciary and Intelligence Committees, where he has done a fine job.

Mr. President, it has been a pleasure for me to serve with Senator DECONCINI a man of integrity, ability, and dedication for almost two decades, and we will all miss him. I wish DENNIS good health, happiness, and success in all his future undertakings.

REPRESENTATIVE BUTLER DERRICK

Mr. THURMOND. Mr. President, I rise today to pay tribute to a friend of mine, Representative BUTLER DERRICK of South Carolina, who will retire from the House of Representatives at the end of the 103d Congress.

The South is known as a small and friendly place where everyone knows one another, and that is certainly the case in the county—Edgefield—from which BUTLER and I hail. I have known the Derrick family for years, and BUTLER all his life, and there is one thing that every person in Edgefield County knows, the Derricks are people of integrity, ability, and dedication.

These qualities are ideally suited for a career in public service, and that is the road that BUTLER has taken. A graduate of the University of Georgia's law school, BUTLER served in the South Carolina House before his election to the U.S. House of Representatives in 1975. A hard working man, BUTLER steadily climbed the ladder of the Democratic House leadership to the position he holds today, that of chief deputy whip.

Mr. President, we are proud of BUTLER's many accomplishments in public service and thank him for his loyal service to his State and Nation. He leaves Washington knowing that he has worked hard for his constituents and I wish him and his lovely wife, Beverly, good health, happiness, and success in all their future undertakings.

REPRESENTATIVE ALEX MCMILLAN

Mr. THURMOND. Mr. President, I rise today to pay tribute to a good friend of mine, a man who I hold in high esteem, Representative ALEX MCMILLAN of North Carolina, who is leaving the House of Representatives at the end of the 103d Congress.

A successful businessman from Charlotte, NC, ALEX was first elected to Congress in 1984 after establishing an impressive record for public service. As a Member of the House, ALEX earned the reputation of being a bright and diligent Congressman, and he quickly gained important positions on some of the most significant committees in the House of Representatives.

Mr. President, ALEX MCMILLAN is a man of integrity, ability, and dedication. He has done an able and commendable job representing the people of North Carolina's Ninth Congressional District. His successor will certainly have big shoes to fill. I wish ALEX, and his lovely wife, Caroline—who is one of the finest and most attractive women I know—good health, happiness, and success in all their future endeavors.

REPRESENTATIVE ARTHUR RAVENEL

Mr. THURMOND. Mr. President, I rise today to pay tribute to a loyal Republican, an able and dedicated Congressman, and a very good friend of mine, Representative ARTHUR RAVENEL of South Carolina, who will leave the House of Representatives at the end of the 103d Congress.

ARTHUR was elected to the House in 1989 after establishing an impressive record for public service that included serving in the U.S. Marine Corps and in both Houses of the South Carolina State Legislature. A fiercely proud and patriotic Charlestonian and Southerner, Arthur diligently represented the interests of his district and was a

loyal member of the South Carolina Congressional Delegation. If there was an issue before the Congress that would benefit our State, ARTHUR RAVENEL was always ready to fight for its victory.

Mr. President, South Carolina's First Congressional District is one of the most beautiful and historic regions in the United States, if not the world. Much to his credit, ARTHUR RAVENEL not only used his position to advocate historic and natural preservation and conservation that would keep the South Carolina lowcountry beautiful; but, he also worked hard to bring new commerce to this area so that the people of his district and State could enjoy better and more prosperous lifestyles. Few people worked harder than ARTHUR RAVENEL to bring much needed disaster relief to Charleston and other South Carolina towns and cities after Hurricane Hugo wrought such devastation on the Palmetto State. Never was it more evident that ARTHUR's folksy campaign slogan of "I be for you" was the truth, than in the aftermath of Hugo and his tireless efforts to help victims of this destructive storm.

During his tenure in the Congress, ARTHUR RAVENEL was an important ally to the people of his District, and the State of South Carolina. I will miss ARTHUR's wit and humor, but he may leave here knowing that he did an outstanding job of representing the people of the First Congressional District. I commend him on his accomplishments for the public, and on the fine family that he and his first wife Louise raised. I wish ARTHUR and his lovely wife, Rick, good health, happiness, and success in all their future endeavors, and look forward to visting them whenever I am in Charleston.

IN HONOR OF SENATOR DAVID BOREN

Mr. SASSER. Mr. President, I rise today to honor my distinguished colleague, DAVID BOREN, of Oklahoma on the eve of his retirement from the United States Senate to become President of the University of Oklahoma. It has indeed been a pleasure to work with DAVID for the last 16 years.

His education as a Rhodes Scholar and experience as a political science professor prepared him well for his work in politics. In 1966, Senator BOREN began his long and fruitful career in public service. He was a three-term Representative to the Oklahoma House of Representatives, served as Governor of Oklahoma for 4 years and then began his 16-year tenure in the U.S. Senate. During his years in the Senate, DAVID BOREN has worked tirelessly to support Oklahoma's interests while maintaining his commitment to serving the entire United States.

DAVID BOREN has traditionally been a moderate who favors a bipartisan approach to solving tough legislative problems. He was Chairman of the Select Intelligence Committee for six years where he distinguished himself as a knowledgeable and fair leader. He also served on the select committee named to investigate the Iran-Contra affair.

In recent years, DAVID BOREN has not hesitated to criticize Congressional procedures. He was the moving force behind the Joint Committee on the Organization of Congress, which examined Congressional procedures and made suggestions toward the improvement of the legislative process, and I was pleased to work with him on the Committee. In this capacity, DAVID BOREN's guiding principle was to restore the reputation of the U.S. Senate and help members of Congress better serve their constituents. He has rightly pointed to partisanship as one of the many obstacles to Congressional efficiency, and he believes members of Congress too often use Congressional rules to hinder legislative action.

As issue that DAVID BOREN has also been steadfast in supporting is campaign finance reform. During the Reagan and Bush Administrations, he fought to enact legislation in this area, and, after years of often heated debate, a campaign finance reform bill was passed during the 102d Congress only to be vetoed by President Bush. With the support of President Clinton, Senator BOREN has continued his work for reform of the campaign system during the 103d Congress—I commend his commitment to this endeavor and back him in his efforts.

Senator BOREN will be sorely missed in the Senate, and I believe the State of Oklahoma will be hard-pressed to find a comparable replacement. However, our loss in Congress will certainly be the University of Oklahoma's gain, and I wish Senator BOREN the best in his new position as President of the University.

GATT: A FACT CHECK

Mr. HOLLINGS. Mr. President, On Wednesday, October 5, Ambassador Mickey Kantor appeared before the Committee on Commerce, Science, and Transportation to testify on the Uruguay round of the General Agreement on Tariffs and Trade [GATT].

I have been friends with Ambassador Kantor for over 20 years, and we continue to be good friends. But he and I draw different conclusions about our trade policy, and about the direction of our economy. Ambassador Kantor was very generous with his time on Wednesday, but due to the large number of Senators in attendance at the hearing, I did not have time to fully debate every point with him. Today, I would like to outline some of the differences of opinion I have with the Ambassador based on his testimony.

First, sovereignty. Ambassador Kantor claims that our sovereignty is "more protected under the Uruguay round and this implementing legislation than it has been for 47 years." I wholeheartedly disagree with this assessment, and in fact I think it is a very dangerous and misleading assessment.

Ambassador Kantor claims that our sovereignty is protected because section 102 of the implementing bill provides that no provision of the Uruguay round nor the application of it that is inconsistent with any law of the United States shall have effect. That is just palaver. The dispute resolution panels under the World Trade Organization [WTO], meeting in secrecy in Geneva, will not care one hoot about what section 102 of our implementing bill says. A WTO panel can declare our Federal, State, and local laws inconsistent with the rules of GATT, and—unlike the current GATT regime—there will be two powerful incentives for the United States to change our laws. First, we will no longer be able to block a panel decision because under the new WTO rules there must be consensus to block a decision. And since the United States is always the good Boy Scout of the world, we know that there will be strong political pressure to fall in line with whatever the WTO says. Second, the new WTO rules will authorize cross-retaliation, so that, for example, if another country brings a successful challenge against a U.S. environmental regulation, that country can retaliate against U.S. intellectual property. We all know that the result will be a massive lobbying effort by the U.S. intellectual property industries to lobby the Congress to weaken environmental laws.

The pressures to change our laws are great even under the current GATT rules, despite our current ability to block panel reports and despite the current unavailability of cross-retaliation under GATT rules. I happen to be chairman of the committee that authorized the Marine Mammal Protection Act [MMPA], and I am well aware that there were voices within the current administration arguing that the United States should amend the MMPA to conform to the two GATT panel decisions finding it GATT-illegal.

In further defense of the WTO, Ambassador Kantor points out that the first sentence of article IX of the WTO rules says that the WTO will operate by consensus. He needs to read a little further, because the second sentence provides that, "where a decision cannot be arrived at by consensus, the matter at issue shall be decided by voting." Here is where I have tremendous concern over the procedures of the WTO. The WTO will be a commercial United Nations, with each of the 117 nations having one vote. But unlike the United Nations, where the United

States has veto power in the Security Council, the United States will have the same voting power as Cuba, or Sri Lanka, or Macau. In other words, Castro's vote cancels out our own vote. Furthermore, over half of these 117 nations have voted against us three quarters of the time in the United Nations.

Second, manufacturing jobs. Ambassador Kantor stated before our committee that the number of manufacturing jobs in the United States has increased over the last 11 months. This is a very clever way for him to put it because the truth of the matter is that we have fewer manufacturing jobs today than when President Clinton took office. In January 1993, we had 18,094,000 workers in manufacturing; the latest figures from the Bureau of Labor Statistics show 18,077,000 in manufacturing.

More important is the long-term decline in manufacturing jobs. Since 1960, our manufacturing sector has dropped from 26 percent of our work force to 16 percent. And when we passed the last round of the GATT, the Tokyo round in 1979, we were promised a great renaissance of American industry, but instead we have lost 3.2 million manufacturing jobs and have racked up a total trade deficit of $1.4 trillion.

As President Clinton himself has said, "most people's wages aren't going up because they're set in a competitive global economy." That's couching it in soft terms. Most working Americans have seen their wages decline by about 20 percent in real terms over the past 20 years. Worst of all, the gap between the rich and the poor in the United States is the widest documented since the Census Bureau started keeping these statistics following World War II. During the 1980's, the incomes of the richest 1 percent of Americans grew 63 percent, while the bottom 60 percent of families experienced a decline in income. These are the devastating effects of deindustrialization.

Third, the CAFE decision. If you picked up a newspaper in Europe last Saturday, you would have read that the United States lost the case before a GATT panel on our corporate average fuel economy [CAFE] standards for automobiles. However, the headlines in the United States read that we won. Why? Because the office of the U.S. Trade Representative did not release the decision to the public until it had done a snow job on the members of the press corps, who evidently didn't care to take time to read the opinion themselves.

Our fuel efficiency standards, which save the Nation some 2.5 million barrels of oil each day and save consumers some $40 billion per year in gasoline costs, apply equally to U.S. and foreign car manufacturers. Nevertheless, the Europeans challenged our CAFE laws at the GATT, claiming that they discriminate against their less fuel-efficient cars. Despite what U.S.T.R. says, the GATT panel severely weakened our CAFE laws by finding that the method used to calculate penalties is discriminatory and therefore GATT-illegal. And while Ambassador Kantor downplayed the importance of adverse GATT decisions before the Commerce Committee by saying that the tuna-dolphin case would have cost us only $250,000, I would like to point out that fines against the United States for our CAFE law could run over $291 million, and we all know that Japanese manufacturers already have expressed their intentions to challenge under the WTO any future United States policies designed to increase CAFE standards.

Fourth, effect of delaying GATT. I am flabbergasted to hear Ambassador Kantor report that the Department of the Treasury claims that delaying implementation of GATT in the Congress will cost us $70 billion in economic growth. How can that be when no other major industrialized country in the world has ratified GATT? How can this be when the World Bank's estimate of GATT's increase to U.S. GNP is $160 billion over 10 years? Does Secretary Bentsen really believe that we will lose $70 billion of that $160 billion in the next few months—months in which no country is even obligated to implement the Uruguay round? And let me remind Ambassador Kantor and Secretary Bentsen that the $160 billion figure has been termed overly optimistic by most economists—even the pro-GATT economists. The Institute for International Economics has estimated the gains of GATT to be $42 billion over 10 years, while the Economic Policy Institute projects a lower gain of $7 billion over 10 years. The wizards at Treasury somehow get a 70 billion dollar loss out of this before any major country ratifies GATT—and, of course, it is all the fault of Congress because we have decided to take the time guaranteed to the congressional committees under fast track to examine the 641 pages of the implementing bill and the 455 pages of the statement of administrative action. Instead of fast track, the administration wants instant track.

Fifth, the stock market. Before our committee, Ambassador Kantor attributed Tuesday's drop in the stock market to rumors that the House would delay a vote on the GATT. This interpretation was contrary to every news analysis I heard, each of which attributed the drop to inflation. Furthermore, I would like to point out that the day I announced that the Committee on Commerce would hold the GATT implementing bill for its full 45 days, the stock market rose 14 points. And the market dropped precipitously last month upon release of figures from the Department of Commerce indicating that the United States is racking up its largest yearly trade deficit ever.

So I could well draw conclusions opposite of those of Ambassador Kantor on what is important to Wall Street. Perhaps the more important point is that by engaging in this sort of debate, we only encourage Wall Street to act on the rumor of the day. Our debate about GATT should be about the long-term economic interests of this country and not about unfounded temporary jitters of Wall Street.

Sixth, GATT as a "tax cut." The administration has characterized the GATT as a $36 billion "tax cut" for Americans. Before our committee, Ambassador Kantor agreed that we would be more accurate in describing tariff cuts as decreases in costs to the consumer. The problem with this analysis is that it assumes that the savings will indeed be passed on to the consumer. My office is filled with clothes whose prices prove the consumer rarely gets the savings. Instead, the retailer gets to pocket the mark-up. For example, I have two identical women's jackets, one made in the United States where labor costs are around $8 per hour, and the other made in El Salvador where the labor costs are around 60 cents an hour. Yet both jackets cost $108. The retailers are pocketing the difference, sticking it to the consumer, and putting the consumer out of a job all at the same time.

Seventh, textile exports. Ambassador Kantor may be correct in saying that textile and apparel exports have increased 7.58 percent for 1993 and 1994, while imports have increased 4.45 percent. This is only half of the math problem, though. Since imports are at $36.07 billion while exports are at $10.3 billion, the truth is that imports are up $1.6 billion while exports are up $781 million.

A close analysis of apparel exports shows what is really going on in the global market. In 1993, the United States exported $4.9 billion of apparel. Of that, $143 million was simply reexports of foreign apparel. Of the remaining $4.8 billion, $3.1 billion consisted of exports of cut parts. In other words, the fabric was cut here and sent to low-wage countries to be sewn. Of the $1.7 billion of exports of finished apparel, over 95 percent went to Canada, Europe, and Japan. Only a paltry amount of $77 million went to the rest of the world.

Eighth, the future of trade policy. Ambassador Kantor said on Wednesday, "The definition of insanity is doing the same thing over and over again and expecting a different result." But that is exactly what we will be doing if we pass the Uruguay round. As Sir James Goldsmith testified immediately following the Ambassador, the WTO will continue the current policy and take it from a trot to a gallop. It will intensify the deindustrialization of the United States by making it even easier for U.S. manufacturers to move off-shore. And it will not open new

markets for the United States to the extent claimed by the administration because the GATT is structured on an Anglo-American free market system while there is a whole other world out there operating under a different economic system. The GATT will knock down United States tariffs and subsidies, while leaving intact the structural, nontariff barriers favored by Japan and other competitors. Case in point: If the GATT is so great, why do we need a new bilateral trade agreement with Japan? It is time to abandon our current high-minded, self-sacrificial free trade policy and unabashedly rebuild the industrial strength of this Nation.

WTO AND PUBLIC PARTICIPATION

Mr. HOLLINGS. Mr. President, I would like to submit for the RECORD a letter to President Clinton from Paul McMasters, national president of the Society of Professional Journalists; John Seigenthaler, chairman of the Freedom Forum First Amendment Center at Vanderbilt University; and 51 other press leaders and press organizations regarding public access to decisionmaking under the proposed World Trade Organization, which will supplant the General Agreement on Tariffs and Trade [GATT] if Congress passes the Uruguay round implementing legislation.

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

September 14, 1994.

President BILL CLINTON,
The White House,
Washington, DC.

DEAR MR. PRESIDENT, As advocates for openness in government, we would like to register our deep concern about the dispute settlement process proposed as part of the World Trade Organization agreement. As it now stands, this proposal is riddled with provisions denying access to governmental deliberations that are an affront to the democratic traditions of this nation.

This unprecedented secrecy is particularly offensive, given the vast powers to punish and penalize that this body will hold, not over just the federal government, but state and local ones, too. Maximum access should be required in this dispute resolution process for the following reasons:

(1) The proposed process would have the power to determine the legality of a wide variety of laws at the local, state and federal levels, although officials from all levels would not be able to take part in the deliberations.

(2) The deliberations affect not only trade issues, but consumer, worker and environmental protections as well.

(3) Penalties exacted in this process could be severe.

We urge you to insist that signatories to this agreement understand that when state and federal laws are subjected to an international authority to the extent proposed in this document, that citizens of the United States have a constitutional right to access to those deliberations. Here are some of the secrecy and confidential provisions of the agreement that we hope will be revised to conform with democratic practices and traditions:

(1) The public and press should be able to monitor deliberations of the dispute settlement panels. Under the present proposal, those sessions would be closed to both the public and the press.

(2) Documents presented during panel deliberations should be made available to the public as they are in the U.S. judicial proceedings. The decisions of the panels in this process have the force of law, with serious penalties for a non-complying nation, yet the only concession to demands for openness on this point has been a proposal to provide a summary of this information. That falls far short of the public's needs in such critical matters.

(3) The American public's First Amendment right to petition the government should be made a part of this proposed agreement. As it stands, there are no means of direct input from the people, no right of public comment or amicus briefs.

(4) Provision should be made for conflict-of-interest disclosure requirements. As the proposal stands, there is no way for the public to determine whether panelists deciding an issue have economic or other interest in that matter. You may recall that the NAFTA dispute settlement panel operates like the one proposed for the WTO, and during a recent timber subsidy case between Canada and the United States it was discovered belatedly that two attorneys on the panel worked for the Canadian lumber industry.

(5) Documents relating to appeals of WTO panel decisions should be made public. Under the current proposal, all of the appeal process is conducted in secret.

The First Amendment advocates whose names appear below take no position, as a group, on the World Trade Organization agreement itself. Some may support it, others may oppose and still others may be undecided. But all of us, as a group, urge you and your negotiators to restore democratic openness to this crucial process. To do otherwise would break a sacred pact with the American people.

Sincerely,

Paul K. McMasters, National President, Society of Professional Journalists; Jo-Ann Huff Albers, President, Assoc. of Schools of Journalism and Mass Communication; Paul Anger, President, Associated Press Sports Editors; Gilbert Bailon, President, National Association of Hispanic Journalists; John Seigenthaler, Chairman, The Freedom Forum First Amendment Center at Vanderbilt University; Diana Baldwin, Chairman, Oklahoma Project Sunshine, Oklahoma City, OK; David Bartlett, Radio-Television News Directors Association, Washington, DC.

Maurine H. Beasley, Professor of Journalism, University of Maryland College of Journalism, 1993–1994 President, Association for Education in Journalism and Mass Communication; Lawrence K. Beaupre, Editor, The Cincinnati Enquirer, Vice President, Associated Press Managing Editors; Susan Bischoff, President, American Association of Sunday and Feature Editors; Ron Bridgeman, Editor, The Oak Ridger, Oak Ridge, TN; Benjamen Burns, Michigan FOI Committee, Inc., Northville, MI; Colorado Press Association, Colorado Freedom of Information Council, Denver CO; Lucy Dalglish, National Chairwoman, Freedom of Information Committee, Society of Professional Journalists; Kathleen Edwards, Manager, Freedom of Information Center, Columbia; MO; Dinah Eng, President, Asian American Journalists Association.

Gregory Favre, President, American Society of Newspaper Editors; The Florida First Amendment Foundation; Miami, FL; John R. Foreman, Editor, Champaign-Urbana News-Gazette, Illinois State Chairman for Project Sunshine; Terry Francke, Executive Director, California First Amendment Coalition; The Freedom of Information Foundation of Texas, Dallas, TX; Joseph E. Geshwiler, Editorial Associate, Atlanta Constitution, President, National Conference of Editorial Writers; Loren Ghiglione, The News Southbridge, MA; Bob Giles, Editor and Publisher, The Detroit News, Chairman, The Foundation for American Communications; Dorothy Gilliam, President, National Association of Black Journalists; Kelly Hawes, Metro Editor, Muncie Star, Muncie, IN.

William Hilliard, Former Editor, The Oregonian, Portland, OR; Max Jennings, Editor, Dayton Daily News, Dayton, OH; Ron Johnson, President, College Media Advisers; Gary Klott, President, Society of American Business Editors and Writers; Bill Kovach, Curator, The Nieman Foundation, Cambridge, MA; Linda Lightfoot, Baton Rouge Morning Advocate, Baton Rouge, LA; Michael Loftin, The Chattanooga Times, Chattanooga, TN; Bill Loving, President, FOI Oklahoma, Inc.; Diane McFarlin, Sarasota Herald Tribune, Sarasota, FL; Robert G. McGruder, Managing Editor, Detroit Free Press.

Karen Lincoln Michel, President, Native American Journalists Association; The National FOI Coalition; Ohio Coalition for Open Government, Dayton, OH; Burl Osborne, The Dallas Morning News, Dallas, TX; Geneva Overholser, Vice President and Editor, The Des Moines Register, Des Moines, IA; Peter Prichard, Editor, USA TODAY; Hyde Post, Managing Editor, Atlanta Constitution, President, Georgia First Amendment Foundation; Charles Rowe, Fredericksburg Free Lance Star, Fredericksburg, VA; Edward Seaton, Editor in Chief, The Manhattan Mercury, Manhattan, KS; John Simpson, Editor, USA TODAY International; Timothy Smith, Director, Ohio Center for Privacy and the First Amendment.

Dick Smyser, The Oak Ridger, Oak Ridge, TN; State of Connecticut, Freedom of Information Commission, Hartford, CT; Frank Sutherland, Editor, The Tennessean, Nashville, TN; William B. Toran, Professor Emeritus, Columbus, OH; Georgiana Vines, Immediate Past President, Society of Professional Journalists, Managing Editor, Knoxville News-Sentinel, Knoxville, TN; Pete Weitzel, Senior Managing Editor, Miami Herald, Miami, FL.

TRIBUTE TO SENATOR HARLAN MATHEWS

Mr. SASSER. Mr. President, I want to take a moment to reflect on the contributions of my esteemed friend and colleague, Senator HARLAN MATHEWS,

who will be leaving the Senate at the end of the session.

President Woodrow Wilson once said,

There is no cause so sacred as the cause of a people. There is no idea so uplifting as the cause of humanity.

In a State rich in patriotism and duty, HARLAN MATHEWS has been one of Tennessee's most dedicated public servants. He leaves behind him a legacy of service that challenges all who follow.

Senator MATHEWS began his illustrious career in public service in 1950 as a member of the planning staff of Governor Gordon Browning. And in 1954, he was named to the budget staff of Governor Frank Clement.

Senator MATHEWS also served for 10 years as Commissioner of Finance under Governors Clement and Buford Ellington—the longest tenure of any commissioner of that department.

HARLAN MATHEWS kept breaking records, and in 1974, he was elected State Treasurer and served in that office for a record 13 years.

Then in 1987, HARLAN MATHEWS joined the staff of Governor McWherter as Deputy to the Governor, serving as Secretary of the Cabinet until his appointment to the Senate in January 1993.

Like many of our best public servants, HARLAN is a modest man—a man of the people who never forgot his Alabama and Tennessee roots.

Senator MATHEWS brings a great spirit of humanity to the task of government. He brought to the Senate that tough compassion, tenacity and quiet strength that is characteristic of our great people.

Through a keen mind and dint of hard work, Senator MATHEWS served well the people of Tennessee during his all too brief tenure in the United States Senate.

I certainly could not have asked for a greater ally for deficit reduction than Senator MATHEWS. And he certainly can take a well deserved bow for his role in passing the largest deficit reduction package in history and for helping to fire up the engines of economic growth, creating tens of thousands of new jobs in Tennessee over the past 20 months.

Senator MATHEWS and I did not always agree on the various issues brought before this great body. But our differences of opinion certainly ended when it came to Tennessee.

There could be no greater advocate of Tennessee than Senator MATHEWS. There could no more dogged supporter of the Volunteer State, its people and its commerce than Senator MATHEWS.

Senator MATHEWS and I worked closely to bring the first non-stop air route from Nashville to London. And we worked side-by-side to provide for the civilian use of the Millington Naval Air Station.

Few people outside of this body know that Senator MATHEWS has the distinction of serving on three major Senate Committees: Energy and Natural Resources, Foreign Relations, and Commerce, Science and Transportation.

He used his seat on those Committees as a voice for his fellow Tennesseans. Whether it was promoting foreign trade or R&D at Oak Ridge, preserving the Great Smoky Mountain National Park or helping our transportation industry maintain its competitive edge, HARLAN MATHEWS was Tennessee's champion.

Like all of my colleagues, I wish Senator MATHEWS and his wonderful wife Patsy all the best in their future plans.

And I am sure Senator MATHEWS will be adding to the impressive list of accomplishments and contributions which I so briefly touched upon today.

Mr. President, I am proud to have called HARLAN MATHEWS "colleague."

ON UNFUNDED FEDERAL MANDATES

Mr. KENNEDY. Mr. President, I regret that we have not been able to move forward on consideration of the Federal Mandate Accountability and Reform Act of 1994.

Many mayors and other municipal officials from Massachusetts have told me about the difficulties they are having in paying for both federally mandated requirements and local priorities such as education and law enforcement. I am deeply concerned that the costs of meeting Federal requirements are making it harder and harder for many communities to hire more teachers, more police officers, or more firefighters. While it is important for the Federal Government to meet its national responsibility in protecting the environment, ensuring worker safety, preventing discrimination, and securing other basic rights for all citizens, Congress must also be sensitive to the burdens Federal legislation may impose on State and local governments.

I have consistently fought for more Federal funding to help Massachusetts communities meet Federal requirements such as those under the Clean Water Act. But I also believe that the time has come for Congress to review the entire problem of unfunded mandates more carefully. That is why I support S. 993, the Glenn-Kempthorne Federal Mandate Accountability and Reform Act of 1994.

I appreciate the efforts of Senators GLENN and KEMPTHORNE to craft a balanced and fair approach to the problem of unfunded mandates. By requiring Congressional Budget Office estimates of the State and local costs of new legislation, and providing for a specific vote if those expenses are not financed through savings or authorizations, their bill will ensure that Congress deals more effectively with the problems faced by States, cities, and towns in complying with new Federal laws.

The Glenn-Kempthorne bill is supported by the Clinton administration and by Members of both parties. It has been strongly endorsed by the major organizations representing State, county, and municipal officials. It is a good bill that addresses a serious problem for States and local governments, and it deserves to pass.

THE NATIONAL AFRICAN AMERICAN MUSEUM ACT

Mr. SIMON. Mr. President, as I said last night, I would have liked to reach agreement with my colleague from North Carolina on the National African American Museum. I am disappointed that agreement could not be reached.

It is unfortunate that the Senate is not able to pass the National African American Museum Act prior to adjournment. I urge those interested in donating artifacts or collections to the National African American Museum, to keep the Smithsonian in mind. It is too bad the American people, the Smithsonian and its millions of world-wide visitors have to lose out to this delay. My colleague in the House, Representative JOHN LEWIS, and I will be offering legislation again next year.

The debate on the museum has gone on far too long. I respect the right to filibuster; however, that right has been abused. The time has come for this country to have a national museum to honor and document the heritage of this country's 30 million African Americans.

I appreciate the strong bipartisan efforts of my colleagues in support of this museum over the past 5 years. I would specifically like to thank Senator JOHN MCCAIN and Senator WENDELL FORD for their efforts in support of this legislation. They have been helpful since I first introduced legislation in 1989.

Some will continue to ask why this museum? Why not an Irish American or a German American museum? The history of the United States unfortunately shows us that two groups were severely mistreated and had a very different American experience. Their experience should be remembered and their heritage should be remembered. One group, Native Americans, has been successful in having its story told nationally by the Smithsonian. The second, African Americans, will be remembered appropriately when this act is signed into law.

Museums are tools of immense power to educate and enrich. An African American Museum would help to educate all Americans about the contributions of African Americans. The museum will help facilitate the knowledge and understanding of African American culture that may change unhealthy attitudes and help foster better relations between people of all races.

African Americans make up 12 percent of the population in the United

States, and there are over 29 million African American citizens. Of the over 40 million schoolchildren in the United States, 16.2 percent are African American. These children need to learn about their ancestors' role in shaping this Nation. All Americans would be enriched by this knowledge. In addition, of the 30 million visitors to the Smithsonian every year, many are from other countries. These travelers also use museums to gain cultural impressions and information. If we are to preserve and present the American heritage to all Americans and to the world, then we must include the contributions of African Americans.

We often describe American culture as a multi-patterned quilt, intertwined with many fabrics. A fundamental thread of the American fabric is the history, culture, and art of African Americans. The heritage of African Americans is unique. If we are to educate Americans about our history and culture, and if we wish to present to the world an accurate picture of American heritage, we must show the African American experience in a national museum.

I thank my colleagues again for their support, and look forward to enacting the National African American Museum early next year.

HONORING DR. NINA McCLELLAND

Mr. RIEGLE. Mr. President, on Wednesday, October 19, colleagues, family, and friends of Dr. Nina McClelland will gather to pay tribute to her in honor of her retirement from National Science Foundation [NSF] International. It is my distinct pleasure to join them in honoring her distinguished career and major achievements in the fields of public health and the environment.

Dr. McClelland began her career as a chemist-bacteriologist at the Department of Health in Toledo, OH, in 1951. From 1956–63, she served as the chief chemist at Toledo's wastewater reclamation facility. But her work would not remain at the State level for long. In 1968 she was named Director of the Water Research Program at NSF International. Her commitment and excellence in this position earned her regular promotions within the agency, where she went on to serve as Director of Technical Services, Vice President of Technical Services and Treasurer. In 1980, she was appointed Chairman of the Board of Directors and Executive Committee, President, and Chief Executive officer; she has served in this capacity for the past 14 years. It is her exceptional leadership in this post that NSF International now must seek to replace. The task will be easy.

Throughout her career, Dr. McClelland has been sought after by the academic and international community. Since 1971, she has lectured frequently at the University of Michigan's School of Public Health, first as a nonresident lecturer and later as an adjunct professor. And in 1986, she served as a consultant to the United Nations on the interregional symposium on improved efficiency in the management of water resources. Her achievements in science are notable, but it is her ability to communicate her professional knowledge and experience as both instructor and consultant that truly demonstrates the depth of her talents.

Moreover, Dr. Nina McClelland has devoted a tremendous amount of her time and energy to community and professional organizations. She has served on boards and committees for a myriad of organizations: the Centers for Disease Control, the National Academy of Sciences, the U.S. Environmental Protection Agency, and the United Way, to name only a few. She has received honors and awards too numerous to mention for her vast contributions in the fields of public health and the environment. And she has worked tirelessly with local, national, and international professional organizations for years.

Mr. President, Dr. McClelland has had a truly remarkable career. We have all profited from her unswerving commitment to improving public health and the environment. Her work has been an inspiration to countless colleagues and students, and she is admired by us all. I am honored to have this opportunity to pay tribute to Dr. McClelland. Her tireless efforts and service have made our community a better place to live, and I wish her a long happy, and fulfilling retirement.

STATEMENT OF SENATOR CHRISTOPHER J. DODD—TRIBUTE TO MY STAFF

Mr. DODD. Mr. President, in the midst of our busy schedules, we do not pause often enough to thank the people who make this institution run: the Senate staff. These are people who toil for long hours for far less money than they could earn elsewhere. They display a splendid dedication to public service and the democratic process.

Outside this Chamber, there are five portraits hanging in the reception room. Those portraits reflect the decision by a committee that several decades ago decided who had been the most effective Members of the U.S. Senate in our history. Then Senator John F. Kennedy chaired that Commission. The Senators chosen were Senator Taft, Senator Calhoun, Senator Clay, Senator Webster, and Senator La Follette.

There is no such facility, that I know of, where Members of the Senate staff are so recognized for their contributions. They are rarely, if ever, mentioned in the press. They never get an opportunity to give a speech on the Senate floor. But I know each and every one of my colleagues deeply appreciates the work that the staff does.

I am deeply appreciative of my staff, both for their dedication to me and to this institution. I want to especially single out a few individuals who have recently left my staff or will be departing at the end of this Congress.

Bob Dockery served as my senior foreign policy adviser virtually since my arrival in the Senate in 1981. His knowledge of Latin America, sound political judgment, and utter reliability are legendary in the Senate. He is also a man of unparalleled principle and professionalism.

Sarah Flanagan has served the last 18 months as the staff director of the Subcommittee on Children, Family, Drugs and Alcoholism, which I Chair. One of the Senate's leading experts on education policy, she has played a key role in a number of major initiatives, including the Safe Schools Act, the Elementary and Secondary Education Act, and the ounce of prevention component of the crime bill.

Patty Cole was a longtime staffer of the Subcommittee on Children. She was a key mover behind a wide range of social legislation, including child care and early childhood education. Just this year, we passed a reauthorization bill that greatly expanded and improved the Head Start Program, and it was due in no small part to Patty's hard work.

Doug Sosnik was my administrative assistant for nearly 3 years. He took a leave of absence during that time to manage my successful reelection campaign in 1992.

I also want to thank a number of other departing staffers, all of whom we miss: Sira Berte, my scheduler; Gia Daniller, a legislative correspondent; Monica Guthrie, who worked in my reception area; Matt Hersh, a foreign policy legislative assistant; Jeanne Ireland, a fellow who worked on health care reform legislation; George Kramer, a fellow who worked on securities litigation; Sara Lanza of my foreign policy staff; Jorge Lopez, a fellow specializing in violence prevention; Erin Martin, my deputy press secretary, and Daniel Wirls, a fellow who worked on congressional reorganization.

In addition, I wish to pay tribute to the rest of my personal and committee staff for all of their hard work and commitment: Jill Adleberg, Chuck Bunnell, Adria Deasy, Suzanne Day, Sheila Duffy, Carolyn Egan, Marvin Fast, Bob Gillcash, Joan Gillman, Pat Gilory, Del Greer, Michelle Halloran, Holly Hanson, Cory Heyman, Diana Huffman, Stanley Israelite, Donna Jones, Kathy Keup, Michael Leahy, Jane Loewenson, Ed Mann, Katherine McCarron, Barbara McCredie, Tom Mezzio, Janice O'Connell, Tony Orza, Joe Palmore, Belinda Parker, Dana

Petaway, Michael Powell, Lee Reynolds, Christopher Ross, Lois Santiago, Andrea Siaflas, Deya Smith, Ashley Smoot, Mark Stephanou, Suzanne Stokes, Rick Van Ausdall, Pat Walsh, Courtney Ward, Ted Webber, and Emily Wolf.

TRIBUTE TO REAR ADM. ROBERT C.J. KRASNER, ATTENDING PHYSICIAN TO CONGRESS

Mr. HEFLIN. Mr. President, I want to take a moment to pay tribute to Rear Adm. Robert C.J. Krasner, who has served Congress tirelessly as its attending physician. Unfortunately, Admiral Krasner will be leaving his position after this session of Congress ends.

Robert Krasner was born in New Jersey, where he graduated from Lafayette College with a degree in history and literature. He attended medical school at the University of Maryland. In the early 1970's, after completing his medical degree, Dr. Krasner was commissioned under the Berry plan as a lieutenant in the medical corps of the U.S. Naval Reserves. He went on active duty in 1973.

By the end of a tour in London, he had become Lieutenant Commander Krasner. He transferred to the Bethesda Naval Hospital for training in internal medicine, eventually earning a diploma in tropical medicine from the Walter Reed Army Institute of Research. While on a tour in Indonesia, he was selected for promotion to commander.

Commander Krasner then served as staff physician in the Office of the Attending Physician. In 1982, he was assigned to be a staff internist at the Naval Hospital in Oakland, CA, serving there for 4 years.

In 1986, by-then Captain Krasner was sent back to the Office of the Attending Physician as director of clinical services. In May 1990, he was appointed the attending physician and promoted to the rank of rear admiral.

Admiral Krasner's decorations include the Navy Commendation Medal, the Meritorious Service Medal, and the Legion of Merit. He is a fellow of the American College of Physicians, a member of the Academy of Medicine of Washington, and a member of the International Society of Travel Medicine.

Dr. Krasner took great personal interest in each of his patients. Every time a blood test was performed, he personally got back to the Member and let him or her know the results. Any time a Senator or Congressman was referred to a specialist, he always followed-up and impressed everyone with his detailed, personal approach to every problem. I particularly remember while a patient at Bethesda Naval Hospital when he came by to check on me on a Saturday night around 1 a.m. after having attended a Navy function in Annapolis. Early the next morning, he was back at Bethesda Naval Hospital checking on my condition again. He was a tireless worker.

He took every step possible to guarantee the privacy of each Member's medical condition. Realizing that medical conditions demand complete privacy and that the Halls of Congress are full of a wide and large array of gossipers, he took great steps to guarantee that there were no leaks out of his office and that the right of privacy was fully and constantly protected.

Members of Congress have been very fortunate to have had the outstanding services of Admiral Robert Krasner over the last 8 consecutive years, particularly his last four as attending physician. we will miss him, we wish him well, and we offer our congratulations and thanks for a job well done.

REFERENCE SECTION 309 OF H.R. 5116, BANKRUPTCY AMENDMENTS ACT OF 1994.

Mr. THURMOND. Mr. President, I wish to congratulate the chairman of the Judiciary Committee's Courts and Administrative Practices Subcommittee on passing H.R. 5119, the Bankruptcy Amendments Act of 1994, in the Senate last night. I wish to ask the distinguished chairman one question relating to the amendment which I offered on the bankruptcy bill relating to the exception from discharge of certain fees and assessments which become due to condominium, cooperative and similar membership associations. Mr. Chairman, is it not correct, that although section 309 of H.R. 5116 as passed in the House and the Senate refers in particular to condominium and cooperative housing, that the section is broad enough to cover and intended to cover a variety of residential housing community associations?

Mr. HEFLIN. You are correct, Senator THURMOND. As long as the residential housing community association has the attributes of condominium and cooperative associations, including mandatory membership and mandatory assessments for maintaining common areas, which run with the land, section 309 would apply to the members of the association. The type of housing association makes no difference to the underlying purpose of section 309, which is to avoid the unfair burden on the other members of the association which results from discharging the debtor's assessments in the situations specified in section 309.

SECTION 216 (STATUTE OF LIMITATIONS) OF H.R. 5116

Mr. HEFLIN. Mr. President, I rise today to speak about section 216 of H.R. 5116 regarding limitations on avoiding powers of the bankruptcy trustee or estate representative.

The overriding purpose of any statute of limitations is to provide a definite and reasonable period of time for a plaintiff to provide potential defendants with notice of the time during which they may be at risk of suit so that they may take steps to preserve documents and witnesses necessary for their defense. The majority of circuits which have ruled on the issue regarding the statute of limitations contained in section 546(a) have held that, an avoidance action must be brought within two years of the filing of a chapter 11 petition, even if a trustee or other estate representative is subsequently appointed or the case is later converted, is intended to facilitate prompt and efficient resolution of bankruptcy cases. A need to provide a period of time for a later appointed bankruptcy estate representative to investigate and institute actions has been identified; this balances the rights of all parties by preserving the two year statute of limitations for estate representatives, and by providing for a maximum of 3 years if a trustee or estate representative is appointed during the initial 2 year period. This amendment prevents prejudice against potential defendants that would result from having to defend stale actions and should encourage estate representatives to investigate and resolve actions earlier in a bankruptcy case, thus minimizing estate expenses and maximizing the value of the estate to all creditors.

NORTH AMERICAN FREE-TRADE AGREEMENT IMPLEMENTATION ACT

Mr. STEVENS. The State of Alaska has an interest in resolving a question which has arisen regarding implementation of a statutory change made last year in connection with NAFTA. Section 521 of the North American Free-Trade Agreement Implementation Act, Public Law No. 103–182, amended 19 U.S.C. 58c(a)(5) to impose a $6.50 fee for the arrival of each passenger aboard a commercial vessel or aircraft from outside the customs territory of the United States. The reason for this change was to recover a portion of the revenue lost as a result of the elimination of a series of duties and tariffs under NAFTA.

NAFTA imposed a new fee of $6.50 for cruise passengers arriving in the United States from the Caribbean, Mexico and Canada. Previously, such passengers were exempt from the Customs user fee. The law also raised the fee for both air and sea passengers arriving from other foreign destinations from $5.00 to $6.50.

As a result of the wording of the NAFTA implementing legislation enacted by Congress last year, the Customs Service is claiming authority to collect the Customs user fee multiple

times during the course of the same voyage. Substituting the phrase "from outside the customs territory of the United States" for the phrase "from a place outside the United States", had this unintended consequence.

This point is particularly important to cruise passengers in Alaska where this interpretation could require the Customs user fee to be assessed more than once in a single voyage. For example, during the course of an Alaska voyage when the vessel may call in Ketchikan, Juneau, Valdez, Seward, and Sitka and may sail outside the customs territory of the United States between each of those Alaskan ports as part of one continuous cruise voyage, under the Customs Service interpretation the fee would be collected three, four, or even five times. This was not Congress' intention. Could the distinguished chairman of the Finance Committee please clarify if it was the intent of Congress to require multiple collection of the $6.50 Customs user fee?

Mr. MOYNIHAN. The changes in the passenger processing fee that were approved in the NAFTA legislation were intended only to increase the fee temporarily and eliminate the existing exemptions from the fee, again temporarily. They were not intended to alter the manner or frequency of collection, with one exception.

The NAFTA legislation replaced the phrase "from a place outside the United States" with the phrase "from outside the customs territory of the United States" to clarify that the passenger processing fee would be applicable to passengers on so-called "cruises to nowhere." These cruises are not traditional cruises, but rather cruises that simply leave a U.S. port, venture outside the customs territory of the United States, and then return to the original port of departure.

Mr. STEVENS. Do you believe Congress needs to enact a clarifying technical amendment in order to limit the collection of this fee to once per voyage?

Mr. MOYNIHAN. If the Customs Service attempts to impose the fee multiple times in the course of a voyage between ports in the United States, I would be pleased to work with the senior Senator from Alaska, as always in a bipartisan fashion, to enact legislation during the next session to clarify that there would be a single collection to cover the costs incurred by Customs in processing arriving passengers.

FEDERAL MANDATE ACCOUNTABILITY AND REFORM ACT OF 1994

Mr. DURENBERGER. Mr. President, I rise today to join the U.S. Conference of Mayors, the National Association of Cities, the National Association of Counties, the National League of Cities, and countless State and local governments in support of S. 993, the Community Regulatory Relief Act of 1993.

During my years in the U.S. Senate, I have seen the burden of unfunded Federal mandates grow dramatically and have fought to return fiscal priority-setting and decision-making to the levels of government closest to the people. As chairman of the Senate Subcommittee on Intergovernmental Relations, I raised the consciousness of members to the growing threat of Federal mandates—a term which had only become a part of the intergovernmental lexicon a few years earlier. I sponsored and promoted legislation which addressed unfunded mandates in spite of opposition from those who refused to acknowledge the seriousness of the issue.

Beginning in the 98th Congress with my sponsorship of the Intergovernmental Regulatory Relief Act, I sought to not only determine the costs to State and local governments of complying with Federal regulations, but I demanded that the Federal Government assume the costs of new regulations and create a 10-year schedule for reducing the costs of compliance with existing regulations as well. Again, in the 100th and 101st Congress, I introduced regulatory relief bills which addressed what was finally becoming a concern to members outside the Governmental Affairs Committee. This year, in addition to my cosponsorship of the bill currently before us, I cosponsored a similar bill by Senator COVERDELL and sponsored the Preemption Clarification and Information Act of 1993 with Senator LEVIN.

As a member of the Advisory Commission on Intergovernmental Relations, I maintained my strong opposition to unfunded mandates and argued that this issue is not about political turf protection—rather, it is about accountability. One level of government should not decide what is in the public interest, while another level is required to fund it.

There was a time when Federal mandates were imposed on State and local governments and funding was provided through block grants and revenue sharing programs. Funding for these programs ended in the 1980's even as Federal aid to State and local governments sharply declined. Adding insult to injury, 100 new mandates were forced on States during the same decade. Although Federal aid to State and local governments has increased in the last several years, in real terms, it is still significantly below its earlier levels.

Mr. President, if the past is prologue, unfunded mandates will pose an even greater threat in the decades ahead. While we are unable to undo the damage which has already been done, we can—today—protect the fiscal viability and autonomy of State and local governments in the future. The Community Regulatory Relief Act accomplishes this and more.

First, this legislation requires Federal agencies to include cost-benefit estimates in proposed or final regulations that impose costs of $100 million per year or more on State, local, or tribal governments. Not only does this ensure that estimates of immediate and future compliance costs are included with a regulation, but it tells people what economic benefit the government thinks they'll be getting for their money—not simply an altruistic or ambiguous benefit.

Second, CBO would be directed to prepare estimates of the cost of Federal mandates not only on State, local, and tribal governments, but on the private sector as well. Federal mandates are more than a threat to the budgets of governing bodies—the repercussions of even a small mandate are felt throughout the economy. A recent study found that the costs of Federal regulations to our economy exceed $500 billion per year, or $5,000 per household. Clearly, no study of mandates is complete without a measure of its impact on the private sector.

Finally, and most significantly, S. 993 provides a majority point of order to lie against any bill which fails to include funding proposals to cover State, local, and tribal governments' costs. My mail is replete with pleas from State and local officials in Minnesota whose budgets stand at the brink of bankruptcy. New Federal mandates threaten to break their budgets or force them to slash vital funding for locally recognized needs. Needs that we in Washington, with out bloated budget deficits and burgeoning public debt, conveniently ignore or downplay.

Mr. President, I do not question the intentions of those who introduce legislation to promote public health and safety, protect the environment, ensure fair labor practices, or prohibit discrimination—I myself have sponsored or voted in favor of numerous measures which I felt improved the quality of life for not only my constituents in Minnesota, but for all citizens. I only ask that we in Congress do that which is responsible and fund those objectives that we deem worthy of mandating.

"National Unfunded Mandates Week" is this coming October 24 to 30. This year, let's not have this week serve only as a reminder of the burden the Federal Government has placed on State and local governments. Let's make this a turning point by showing our commitment to relieving this burden by passing the Federal Mandate Accountability and Reform Act of 1994.

State and local governments are not asking for a handout—they are simply asking that the Federal Government return to them their ability to address the unique concerns of their respective

regions. I do not believe this is asking too much.

FINAL PASSAGE OF ESEA CONFERENCE COMMITTEE AGREEMENT AND GENERAL COMMENTS ON EDUCATION REFORM

Mr. DURENBERGER. Mr. President, on Wednesday I voted to pass the conference committee report on H.R. 6—legislation reauthorizing the Elementary and Secondary Education Act [ESEA].

Again, I want to thank Senators KENNEDY, KASSEBAUM, PELL, and JEFFORDS for their leadership during this long and at times, contentious process. They hung tough in shaping this legislation despite very strong opposition from the House of Representatives and from some Members in this body as well.

It has been a privilege and a pleasure to serve with my colleague on the Labor and Human Resources Committee. Our ability to work together on a bipartisan basis has resulted in some very important legislation. From Direct Lending and National and Community Service to Goals 2000 and ESEA, we have made a contribution to reforming education in this country.

HIGHLIGHTS OF THE BILL

While some provisions in this bill concern me, overall I am pleased with its final form.

Unfortunately when it comes to formulas, there will always be winners and losers. The title 1 formula in this bill seems to focus on Federal money to the poorest children and the communities and States most in need of assistance. My own State of Minnesota tells me that this is a formula that they can live with.

Reasonable compromises were reached on a number of difficult social issues including school prayer, school violence and school health related issues.

There are provisions which address one of my great concerns—federalizing education. Senator GREGG's amendment regarding unfunded mandates is now part of this legislation. It is clearly stated that if any requirement in this bill results in an unfunded mandate, affected States and communities don't have to comply. In addition, the Secretary of Education may not decide what standards or assessments a State may use. Finally, the bill prevents federally mandated opportunity to learn standards.

INCLUSION OF CHARTER SCHOOLS AND THE COMMUNITY SCHOOLS PARTNERSHIP ACT

There are two provisions in this bill I want to briefly discuss. I am very pleased that my recommendations regarding the Charter Schools Program were accepted by the conference committee. The changes I proposed authorize a stronger role for States in awarding grants, defer to States what public agencies may charter schools, and promote a stronger leadership role on charter schools for the U.S. Secretary of Education.

The legislation makes clear that charter schools must be non-sectarian, may not charge tuition and may not discriminate in admitting students. Charter schools have been authorized in 10 States and a dozen or more States are actively considering legislation to authorize charter schools.

I am also excited about inclusion of the Community Schools Partnership Act which creates and develops community-based, volunteer operated foundations in primarily low-income neighborhoods, towns and cities throughout the United States. These partnerships will improve education achievement levels and increase access to educational opportunities for all students.

CONGRESS CONTINUES TO STRUGGLE TO DEFINE A PROPER FEDERAL ROLE

Mr. President, I noted at the beginning of my remarks that this legislation was developed over a period of many months in a bipartisan process involving the Clinton administration and both Republicans and Democrats on the Senate Labor and Human Resources Committee.

Even though I don't agree with every item in this bill, I respect the process that produced it. I feel that I have had a sufficient opportunity for input—many of my own ideas were incorporated. And I believe it now deserves to become law.

On a more personal note, ESEA also represents my last opportunity to vote on a major education bill before I leave the U.S. Senate. I can't let that opportunity pass without offering at least a few more general comments on the Federal Government's role in helping to prepare future generations of Americans for work and for life.

Sixteen years ago, I entered the Senate at a time when much of the so-called education debate in this chamber was about creating a Federal Department of Education.

I supported creating that Department, Mr. President. And, I opposed efforts early in the 1980's to dismantle the new Department once it had been created. I continue to support a limited and appropriate Federal role in education to this day—most recently exemplified by my support for cloture and final passage of the ESEA reauthorization bill now before us.

ESSENTIAL PRINCIPLES FOR REFORM: COMPETITION AND CHOICE

A second major education issue during that period, Mr. President, was what role vouchers and tuition tax credits might play in expanding educational choices for America's parents and students.

I was an active participant in that debate on the side of those who wanted to expand parent choices—not just beyond traditional public schools but among public schools as well.

One of my mentors in those days—and still a frequent advisor—was Joe Nathan, a former teacher and administrator in the St. Paul public schools who now heads the Center for School Change at the University of Minnesota.

Back in the early 1980's Joe Nathan wrote a far-reaching book called "Free to Teach" in which he outlined the kinds of reforms in education needed to make it possible for both teachers and students to do their jobs better.

I talked about that book in a speech I gave at Hamline University in St. Paul 10 years ago next month. And, at the risk of repeating a gross overgeneralization, I described Joe Nathan's ideas as falling under two simple principles.

"One of those principles focuses on the student and one on the teacher," I told the audience at Hamline. "One is 'choice and the other is competition'."

About a year before I gave that speech, many Americans were shocked to learn that we were "A Nation at Risk." A blue ribbon commission appointed by President Reagan identified a whole litany of flaws and short-comings in our Nation's education system summed up by the following chilling quote:

"If an unfriendly foreign power had attempted to impose on America the mediocre educational performance that exists today, we might well have viewed it as an act of war."

A NEW EMPHASIS ON IMPROVED PERFORMANCE AND QUALITY

Despite this strong indictment—and a whole host of other reports from a variety of credible critics—it wasn't until the Education Summit called by President Bush in 1989 that an appropriate role for the Federal Government in addressing these shortcomings began to emerge.

Out of that Education Summit—involving the President and the nation's governors—came our first National Education Goals.

To help achieve those goals, President Bush and Education Secretary Lamar Alexander then launched a proposal they called America 2000.

I was a strong supporter of the Bush-Alexander initiative and proud that it was unveiled at the Saturn School of Tomorrow in St. Paul, MN. Beyond all the bells and whistles and rhetoric, the President used this opportunity in St. Paul to introduce a new national purpose in education.

Previously, the Federal Government's interest and involvement in education focused primarily on equalizing access to opportunity for every American child—the traditional goal of chapter I, special education, and other Federal education programs.

The Federal Government's interest in education was now being extended to quality—to results—to setting goals and measuring improvement in what students actually learn.

Most important, the Federal Government's role was to be enabling and empowering—for States, for school districts and individual schools, for parents and teachers and students—the Federal Government setting broad goals, creating opportunities, providing modest resources—but leaving decisions on how to achieve those goals up to those who know best—in each local community.

A NEW, BROADER DEFINITION OF "PUBLIC EDUCATION"

One of the central themes of the Bush-Alexander initiative was school choice—harkening back to the voucher-tuition tax credit debate of the early 1980s, but also incorporating new lessons that were being learned about school choice in various States including Minnesota.

Unfortunately, the Bush-Alexander initiative did not incorporate one of the key lessons being learned as States began to allow parents more control over which schools or programs their children attend.

Put simply, as the Bush-Alexander initiative bogged down in the Congress over whether choice programs should include both public and private schools, States like Minnesota were moving beyond that debate to fundamentally redefine American public education.

Minnesota did that first with its Post-secondary Options Program—allowing juniors and seniors in high school to attend public or private post-secondary institutions at State expense.

Minnesota also moved quickly to encourage new and alternative ways of delivering public education—through private, non-profit organizations under contract with local districts, through new area learning centers, that serve at-risk students and students who have dropped out of high school, and—in a landmark piece of legislation adopted in 1991—by allowing parents and teachers to form new, innovative "charter public schools."

Tying these new ways of delivering public education together is Minnesota's Open Enrollments Program—which allows students to cross district boundaries and attend the public school of their choice—anywhere in the State where there is room for them.

Taken together, then, Minnesota meets the challenging principles for reform summarized in Joe Nathan's book, "Free to Teach"—choice and competition.

No longer do Minnesota public school districts have an exclusive franchise on public education within a pre-defined geographic area. Minnesotans now have not just choice—but a number of ways of creating more choices.

To help promote the charter school idea nationally, I joined with Senator LIEBERMAN in 1991—and with a larger bipartisan group of both Senators and Representatives in 1993 to introduce what I then called the "Public School Redefinition Act."

As I noted earlier, this legislation—creating a new Federal grant program to support the start-up of charter schools—is now incorporated into H.R. 6.

MAJOR EDUCATION INITIATIVES IN THE 103D CONGRESS

Before I close, Mr. President, I'd like to briefly note the other major accomplishments of this Congress in the broad area of education and education reform. Despite the partisanship and legislative gridlock we're experiencing in a number of important issue areas, I'm pleased that there has been a great deal of bipartisanship, cooperation, and action on a number of major education initiatives in this 103d Congress.

The first of these initiatives—launching a new direct student loan program—actually had its roots in legislation initially authored by Congressman TOM PETRI. Senator PAUL SIMON and I introduced similar legislation to the Senate in the fall of 1991. The Petri/Simon/Durenberger "Income Dependent Education Assistance (IDEA) Act" was designed to reduce costs and offer needed flexibility for students burdened by ever-rising levels of debt and student loan defaults.

The Congress incorporated a pilot program modeled on the IDEA proposal in the Higher Education Amendments of 1992. And, the same concepts were then picked up by President Clinton and introduced in the spring of 1993 and incorporated in last year's major budget initiative. I was pleased to be the lead Republican cosponsor of this important proposal, along with Senator KENNEDY, the chair of the Labor and Human Resources Committee.

Renamed the Ford Direct Loan Program, a growing percentage of student loans will now be directly by the Federal Government through schools. And consistent with the flexibility offered by the Petri/Simon/Durenberger IDEA proposal, students will be able to repay their loans as a percentage of their post-college incomes.

In addition to reducing the level of student loan defaults, this new program will eventually save several billion dollars a year in administrative expenses—making an important contribution to deficit reduction at the same time we're improving access to an important Federal program.

A second major initiative in this Congress, Mr. President, is the National and Community Service Trust Act. Again, I felt privileged to be the lead Republican cosponsor of this legislation, along with Senator KENNEDY, that was given final approval just over a year ago. The first national service participants—in the new program called AmeriCorps—were sworn in by President Clinton earlier this fall.

I'm especially pleased that at my insistence, this legislation incorporated the word Community into its purpose and its title—as well as the name of the Corporation for National and Community Service that will give this program its overall guidance and direction. And, I'm pleased that the legislation included a series of studies and demonstrations I suggested as a way of refining and focusing the mission of this important new initiative prior to its first reauthorization in 3 years.

While most of the attention given to this new program is going to the stipended service opportunities it offers, I continue to believe its greatest contribution will come through its Educate and Serve America programs—grants to States, schools, community organizations and others to help integrate community service opportunities into the elementary, secondary and post-secondary school curriculum.

These goals were given an added boost through legislation that Senator WOFFORD and I introduced last year called the Wofford-Durenberger Service Learning Act. Portions of that legislation were included in both the National and Community Service Trust Act and the ESEA reauthorization legislation.

My own State is a national leader in service learning, Mr. President—an aspect of this movement that's a critical element in broader education reform. If young people are given the opportunity to serve their communities, I believe they can be a powerful force for change and improvement in their lives and in the quality of life for all those around them. And, if properly incorporated into the school curriculum, I'm convinced that community service opportunities can help produce improved educational results.

A third major educational initiative in this Congress, Mr. President, was the School to Work Opportunities Act. I was again pleased to act as the lead Republican cosponsor of this legislation—once more linking up with my distinguished colleague from Illinois, Senator PAUL SIMON.

The School to Work Opportunities Act assigns a limited but collaborative role to the U.S. Departments of Labor and Education to encourage States and local communities to start local workplace learning initiatives including youth apprenticeships.

These new initiatives are aimed at the majority of young people who will never finish college. Most of them won't even begin college, yet there's a growing recognition that today's competitive marketplace requires employees who have skills that go well beyond the capacity of many high school graduates.

I'm especially pleased that this new legislation includes sections I authored creating a national clearinghouse for information on work-place learning, as well as expanding eligibility under this legislation for workplace learning programs that begin at a younger age and

that link the large number of young people who work part-time to teachers and others who can make that work experience a part of their education. And, I was pleased to make several major contributions to the governance sections of the bill—more clearly focusing accountability and responsibility for these programs within State government.

A fourth major education initiative in this Congress, Mr. President, was passage of legislation reauthorizing the Federal Head Start Program. While this legislation continued to expand the authorized funding level for this vital program, it also paid increased and needed attention to Head Start Program quality and accountability.

That's essential, Mr. President, if we are to begin to achieve the first of our National Education Goals—ensuring that every child starts school ready to learn.

My own contributions to the Head Start reauthorization were largely based on the input I received from Minnesotans—particularly on the need to encourage a greater degree of collaboration between Head Start, federally subsidized child care programs, and other programs that assist low-income children and their families.

I was pleased to discover during this reauthorization that at least some collaborative activity is now going on. But the changing needs of today's low-income families will require more—including linkages and even comingling of funds from child care and Head Start programs, more flexibility in offering full-day Head Start services for parents who are in school or working, and increased access to at least some Head Start services for families who are income-eligible, but not formally enrolled in a Head Start Program.

A final important education initiative in this Congress, Mr. President, is the Goals 2000 legislation that was approved earlier this year.

Members of this body worked long and hard to make sure Goals 2000 would not become a new Federal license to run local schools. I believe we succeeded—by eliminating much of the prescriptive language preferred by the House. In particular, I'm pleased we were able to keep the role of input-oriented Opportunity to Learn Standards to a minimum—clearly an optional part of state and local reform initiatives.

And, I'm especially pleased that the final version of Goals 2000 includes the provisions I had suggested that authorizes the use of school improvement funds to help start charter schools and other innovative public schools, to support public school choice, and to help launch programs that offer parents and students useful consumer information to help them make wise educational choices.

I'm also pleased that Goals 2000 includes a provision I authored along with Senator HATFIELD that makes it possible for up to six States to be delegated authority to waive Federal rules and regulations. Minnesota has indicated to me that they are interested in being one of those six "super ed-flex" States.

Mandate reform is a part of all the major education initiatives we've adopted this year, Mr. President. That affirms the reality that the best way the Federal Government can be supportive of State and local education initiatives is to simply get out of the way.

Let me conclude these comments where I began, Mr. President, with an appeal to my colleagues on both sides of the aisle to continue the work we have begun to design an effective and proper role for the Federal Government in education.

Flexibility, choice, competition, parent and teacher empowerment, making the whole community the classroom—these are the essential elements of education reform.

We can encourage high standards, we can give support and encouragement, we can help equalize access to resources, and we can help communicate what works and what doesn't.

But, we can't decide what will work where. And, we can't second guess local communities on how best they will respond to the challenges or opportunities we send forth.

If we follow that guidance, Mr. President, the national government can play a useful and supportive role in improving results—in meeting the challenges articulated by Joe Nathan and A Nation at Risk and the National Education Goals and the needs and aspirations and potential of every American child.

THANK YOU TO JON SCHROEDER

Before I close, I want to thank a key member of my staff, Jon Schroeder, who has been my policy advisor and now State director since 1984. Education has always been Jon's No. 1 issue, in terms of both interest and expertise. His efforts over the past 10 years have been instrumental in shaping my own views on this and a number of other important issues. With his help, I have been able to push Minnesota's forward-looking education reform agenda. And I have been able to accomplish important education reforms on a national level—national and community service, direct lending, results oriented education, choice and headstart among others.

His efforts to promote interest in charter schools on a nationwide basis, is particularly notable. Jon serves me effectively in many ways, but he has truly excelled in his efforts to help me achieve many of Minnesota's education priorities. I wish him well in his new career endeavors.

Thank you, Mr. President. I yield the floor.

AWARD TO CALIFORNIA TAQUERIA

Mr. BOND. Mr. President, I rise today to pay special recognition to the recipient of this year's Retail Firm of the Year Award given by the Minority Business Development Agency of the U.S. Department of Commerce. I am very pleased to be able to recognize California Taqueria, a mexican restaurant in Kansas City, MO.

This family-run business was started by Vincent Ramirez nearly 10 years ago as a small fruit and doughnut stand. Ramirez's wife, Marcella, and daughter, Rosina Valdivia, are partners in California Taqueria. With hard work and an untiring commitment, the Ramirez's dream has now grown into one of Kansas City's most successful restaurants. California Taqueria now seats 60 people, but due to its growing popularity, the restaurant will move at the end of the year to a new location that will seat 150 people, including patio seating and a rooftop deck.

The Ramirez family epitomizes the kind of dedication, work ethic, and ideals necessary to achieve the level of prosperity of California Taqueria. This Kansas City family is a fine example of hard working, goal driven individuals who banded together to surmount difficulties in order to fulfill their aspirations. California Taqueria recently was named the Chicago regional winner during Minority Enterprise Development Week from among businesses in 10 different States. Winners from the five regions then competed for the national award, ultimately claimed by California Taqueria. Vincent Ramirez and his family will be honored in Washington next week with this year's national award for the Retail Firm of the Year. It is my great pleasure to congratulate the Ramirez family and California Taqueria for this significant accomplishment.

SOUTH DAKOTA ASSOCIATION OF TELEPHONE COOPERATIVES

Mr. PRESSLER. Mr. President, I would like to take this opportunity to express my gratitude to the South Dakota Association of Telephone Cooperatives [SDATC]. At their 1994 annual meeting, SDATC adopted a resolution of appreciation for the work my staff and I did on S. 1822, the Communications Act of 1994.

We worked with Senator STEVENS, Senator EXON, Senator ROCKEFELLER, Senator DORGAN, and Senator KERREY of Nebraska, the so-called Farm Team, to incorporate certain rural safeguards in S. 1822. All Farm Team Senators were original cosponsors of S. 1822 and committed to the overall competitive policy goals of that legislation.

At the same time, we all represent sparsely populated States that may not support competition in all regions. Some areas of our States would not have had electricity or telephone service without the Rural Electrification

Administration [REA]. Rural telephone cooperatives have taken the lead in upgrading their networks, deploying fiber optic cable, and installing digital switches. We must ensure they can continue to do so. Our Nation's communications policy must ensure that the benefits of advanced telecommunications services are shared by all Americans.

I ask unanimous consent that a letter from Don Lee, administrator of SDATC, and SDATC 1994 Resolution No. 24 be placed in the RECORD at the conclusion of my remarks.

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

SOUTH DAKOTA ASSOCIATION OF TELEPHONE COOPERATIVES, INC.,
Mitchell, SD, September 1, 1994.

Senator LARRY PRESSLER,
Room 133—Senate Dirksen Building, 1st and C Street, NE, Washington, DC.

DEAR MR. PRESSLER: Enclosed please find a copy of the Resolutions adopted by the SDATC while convened at their 1994 Annual Meeting in Pierre.

We appreciate your support, both in the past and future.

If you have any questions or comments, please feel free to contact me at 605-995-2573.

Sincerely,

DON LEE,
Administrator.

SDATC 1994 RESOLUTION

Whereas, Senator Larry Pressler and his staff have worked diligently to protect the rural industry in the hearing markups and deliberations on the U.S. Senate on SR1822 and,

Whereas, SDATC members desire to show their appreciation to Senator Pressler and his staff for their diligent work and invaluable assistance to the Farm Team on this legislation. Therefore be it

Resolved, That SDATC hereby expresses its gratitude and appreciation for the work done by Senator Pressler and his staff on SR1822.

GEN. BUSTER GLOSSON

Mr. HELMS. Mr. President, I am grateful for the leadership of the distinguished chairman of the Senate Armed Services Committee, Mr. NUNN, as well as that of the remarkable senior Senator from South Carolina [Mr. THURMOND].

They have advised on and consented to the nomination of Gen. Buster Glosson to retire as a lieutenant general, a wise and informed position the Senate will do well to follow.

General Glosson's career has been spectacular. He has led people at the highest levels of Government both in peace and in war.

His career began in 1965 when he was graduating from the ROTC Program at the University of North Carolina State. From that day on, his life has been a series of successfully completed missions and assignments. An extraordinary ability to inspire the confidence of his superiors and the loyalty of his subordinates have characterized his entire service.

Success, Mr. President, is not always an unalloyed advantage. It has at least one negative effect. Those who cannot replicate it often feel constrained to denigrate it. In a pyramidal structure like the Air Force any senior officer is in a position of extreme visibility, a target, and inevitably attracts competition. And so it was with General Glosson.

It is unfortunate that in the process of reviewing the general's qualifications, every possible decision was informed, or rather misinformed by the general's detractors rather than illuminated by his own performance and the testimony of those who knew him best. Otherwise, we would not now be discussing his nomination, for he would not have resigned.

One of the most moving tributes that I have ever read was volunteered to the Senate Armed Services Committee by five pilots who flew, under General Glosson's direction, the previously untried F-117's, called by the world "stealth bombers."

These are the aircraft that won the gulf war, aircraft Glosson had to send out knowing each pilot in them knew there was a high possibility he might not come home, not because of anything wrong with the planes or their pilots, but because the triple A was sometimes so thick in the air a bee would have been in danger.

He instructed them not only in how to fly missions, but how to report on them on return—truthfully, whatever mistakes occurred. Mr. President, I would like the Nation to read that letter.

Mr. President, I ask unanimous consent that that letter be printed at this point in the RECORD.

If my grandchildren ever enter the armed services of their country, this is the kind of man I want them under, a man who tells his subordinates that their most important mission in life—not just in battle, but in life—is to take care of their people: a fighter pilot with over 3,800 flying hours who has never lost a wingman; a man who told a thousand fighter pilots a few hours before sending them to war:

There is not a damn thing in Iraq worth dying for until the first soldier, marine, or airman crosses the border * * * then your responsibility has no limit * * * good luck and Godspeed.

Success, Mr. President, is not always an unalloyed advantage. It has at least one negative effect. Those who cannot replicate it often feel constrained to denigrate it. In a pyramidal structure like the Air Force any senior officer is in a position of extreme visibility, a target, competition. And so it was with Glosson.

It is unfortunate that in the process of reviewing the general's qualifications, every possible decision was informed, or misinformed by the general's detractors rather than illuminated by his own performance. Otherwise, we would not now be discussing his nomination, for he would not have resigned.

Mr. President, I ask unanimous consent that the general's biography and related materials be included in the RECORD at this point.

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

SEPTEMBER 20, 1994.

Hon. SAM NUNN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: We are Desert Storm veterans who are concerned at the continuing negative portrayal of Lt. Gen. Buster Glosson's integrity and offer our own experience in Desert Storm in rebuttal. Each of us worked closely with General Glosson during the war and personally observed his honesty. It seems incomprehensible to us that the leader we knew and observed under intense pressure during the war, would be accused of ducking truthfulness. Two examples attest to General Glosson's integrity under fire.

In the final days before the war, General Glosson, as the 14th Air Division Provisional Commander, took it upon himself to brief his flying wings. During these personal visits to each Air Force fighter wing in theater, General Glosson explained the pending campaign, emphasized the difference between bravery and stupidity, and stressed the importance of integrity in war. On integrity, he told us that we were human and would make mistakes. When they happened, we had to admit them or suffer the same consequences as his generation for their lack of integrity during Vietnam or after the Panama F-117 incident. He stated, if a mosque was accidentally bombed, tell your commander. Admit your mistakes so we can all finish his war with our integrity intact.

This same spirit and honesty and willingness to bare all was also evident later in the war while General Glosson was running the "Black Hole" as Director of Campaign Plans. Each night, General Glosson personally reviewed the gun cameras film of the F-117, F-111 and F-15B pilots. These were the crews dropping precision weapons on the most difficult targets, with some F-117 targets in urban, downtown Baghdad. We worried about incidents of pilots mistakenly dropping their bombs on the wrong target, and the potential for collateral damage and civilian loss of life. As the 14th Air Division Provisional Commander of all AF fighter wings in theater, General Glosson was personally responsible for his pilots' errors. Yet, in each case where bombs went astray. General Glosson did not hesitate. He forwarded the gun camera film to higher headquarters for public release.

Detractors during the war and after have angrily accused General Glosson of being blunt, tactless, intolerant of sloppy work, and impatient with individuals who cannot give a straight answer. Yet, even these rivals will admit that no commander has been more honest and forthright with his troops. Many Desert Storm veterans—soldiers, sailors, airmen, and marines alike—owe their lives to General Glosson's integrity and sound decisions.

Having witnessed General Glosson's performance and truthfulness under the pressure of war, we can only come to one conclusion—he must be innocent. Please allow Lt.

Gen. Glosson to retire in grade, as he deserves.

Sincerely,

ROBERT D. ECKRIDGE,
Lieutenant Colonel, USAF.
THOMAS R. O'BOYLE,
Major, USAF.
GREGORY A. ——,[1]
Lieutenant Colonel, USAF.
GARY W. GREEN,
Lieutenant Colonel, USAF.
—— ——,[1]
Major, USAF.

[1] Illegible signature.

[Biography]

SECRETARY OF THE AIR FORCE,
OFFICE OF PUBLIC AFFAIRS,
Washington, DC.

LIEUTENANT GENERAL BUSTER C. GLOSSON

Lieutenant General Buster C. Glosson is deputy chief of staff for plans and operations, Headquarters U.S. Air Force, Washington, DC. He is responsible to the secretary of the Air Force and chief of staff for the planning, operations, requirements and force structure necessary to support the warfighter with air and space power. As the Air Force operations deputy to the Joint Chiefs of Staff, he determines operational requirements, concepts, doctrine, strategy, training and the assets necessary to support National Security Objectives and Military Stategy.

The general entered the Air Force in 1965 as a distinguished graduate of the University of North Carolina State Reserve Officer Training Corps program. He flew combat missions as a flight commander in both North and South Vietnam. He commanded the Air Force Fighter Weapons Squadron and two tactical fighter wings. During the Gulf War, he commanded the 14th Air Division (Provisional) and was director of campaign plans for U.S. Central Command Air Forces, Riyadh, Saudi Arabia. He is a command pilot with more than 3,600 flying hours primarily in the F-4, F-15C and F-15E.

General Glosson and his wife, Vicki, are both from Greensboro, NC. They are the parents of a son and a daughter.

Education

1965—Bachelor of science degree in electrical engineering, North Carolina State University.

1977—Armed Forces Staff College, Norfolk, Va.

1981—National War College, Fort Lesley J. McNair, Washington, DC.

Assignments

1. March 1965–July 1966, student, pilot training, Moody Air Force Base, Ga.
2. July 1965–December 1967, instructor pilot, T-38, 3500th Pilot Training Squadron, Air Training Command, Reese Air Force Base, Texas.
3. December 1967–September 1971, T-38 Instructor, academic instructor and flight examiner; assistant operations officer, then operations officer, 3250th Fighter Training Squadron, Air Training Command, Tyndall Air Force Base, Fla.
4. September 1971–April 1972, student, USAF Operational Training Course, F-4, 4435th Tactical Fighter Squadron, Tactical Air Command, George Air Force Base, Calif.
5. April 1972–September 1972, aircraft commander, F-4E, 4th Tactical Figher Squadron, Pacific Air Forces, Takhil Royal Thai Air Force Base, Thailand.
6. September 1972–April 1973, air operations officer, 366th Tactical Fighter Wing, Pacific Air Forces, Takhil Royal Thai Air Force Base, Thailand.
7. April 1973–September 1974, chief, fighter and forward air controller, standardization and evaluation, Headquarters 13th Air Force, Pacific Air Forces, Clark Air Base, Philippines.
8. September 1974–July 1977, executive officer to the director; special assistant to the director, legislative liaison, Washington, DC.
9. July 1977–January 1978, student, Armed Forces Staff College, NDU, Norfolk, Va.
10. January 1978–August 1978, student, USAF Operational Training Course, F-4D, 307th Tactical Fighter Squadron, Tactical Air Command, Homestead Air Force Base, Fla.
11. August 1978–August 1979, chief, Standardization and Evaluation Division, 58th Tactical Fighter Wing, Tactical Air Command, MacDill Air Force Base, Fla.
12. August 1979–June 1980, executive officer to the commander, USAF TFWC, TAC, Nellis Air Force Base, Nev.
13. June 1980–August 1980, chief, Standardization and Evaluation Division, 414th Fighter Weapons Squadron, Tactical Air Command, Nellis Air Force Base, Nev.
14. August 1980–July 1981, commander, 414th Fighter Weapons Squadron, TAC, Nellis Air Force Base, Nev.
15. July 1981–June 1982, student, National War College, Fort Lesley J. McNair, Washington, D.C.
16. June 1982–July 1983, chief, Tactical Forces Division, deputy director for forces, Headquarters U.S. Air Force, Washington, D.C.
17. July 1983–August 1984, chief, Programs Division, Deputy Director for Resources, Headquarters U.S. Air force, Washington, D.C.
18. August 1984–July 1986, vice commander, then commander, 347th Tactical Fighter Wing. Tactical Air Command, Moody Air Force Base, GA.
19. July 1988–June 1987, commander, 1st Tactical Fighter Wing, Headquarters Tactical Air Command, Langley Air Force Base, VA.
20. June 1987–September 1988, deputy chief of staff, plans and programs, Headquarters U.S. Air Forces in Europe, Ramstein Air Base, West Germany.
21. September 1988–July 1990, deputy assistant secretary of defense (legislative affairs), OSD, Washington, D.C.
22. July 1990–August 1990, deputy commander, Joint Task Force Middle East, USCENTCOM.
23. August 1990–May 1991, CENTAF director of campaign plans, USCENTCOM, and commander, 14th AD (Provisional), Riyadh, Saudi Arabia.
24. May 1991–May 1992, director, Legislative Liaison, and director AF Issues Team, the Pentagon, Washington, D.C.
25. June 1992–present, deputy chief of staff for plans and operations, Washington, D.C.

Flight information

Rating: Command pilot
Flight hours: More than 3,600
Aircraft flown: F-4, F-5, F-15C, F-15E and T-38

Major awards and decorations

Distinguished Service Medal
Defense Superior Service Medal
Legion of Merit with two oak leaf clusters
Distinguished Flying Cross
Defense Meritorious Service Medal
Meritorious Service Medal with two oak leaf clusters
Air Medal with three oak leaf clusters
Air Force Commendation Medal
Presidential Unit Citation
Air Force Outstanding Unit Award with "V" device and two oak leaf clusters
National Defense Service Medal with service star
Vietnam Service Medal with service star
Republic of Vietnam Gallantry Cross with Palm
Republic of Vietnam Campaign Medal
Kuwait Liberation Medal

Recent publication

"Impact of Precision Weapons on Air Combat Operations," Air Power Journal, Summer 1993.

Effective dates of promotion

Second Lieutenant, Jan. 23, 1985
First Lieutenant, Sept. 6, 1966
Captain, May 25, 1988
Major, Aug. 1, 1976
Lieutenant Colonel, Dec 1, 1979
Colonel, Oct 1, 1982
Brigadier General, July 1, 1988
Major General, Jun 1, 1991
Lieutenant General, Jun 1, 1992
(Current as of October 1993).

YAKIMA PROJECT ACT

Mr. GORTON. Mr. President, late Wednesday night the Senate approved several Bureau of Reclamation authorization measures, including the Yakima River Basin Water Enhancement Act. I would like to take time today to mention one provision of that act and, as the bill's author, discuss the intent behind it.

The act includes language authorizing the electrification of pumps at the Chandler Pumping Plant near Prosser, WA. That action is intended to free up water to use instream for fish enhancement purposes. The bill's language directs the Bonneville Power Administration to provide for project power needed to effect the electrification of the pumps at that facility.

The delivery of wholesale power to consumer-owned distribution systems is central to Bonneville's mission. It is not in the region's interest to have Bonneville compete with such systems to serve new load directly to end-use customers—whether public or private. Bonneville agrees with this and, as a matter of policy, prefers not to violate the service territory of preference power systems.

Currently, the Chandler Pumping Plant is within the service territory and is served by the Benton Rural Electric Association. While the act requires Bonneville to provide for project power for the plant, nothing in the act precludes Bonneville from serving those pumps through Benton REA. At the same time, as a member of the Senate Appropriations Subcommittee on Energy and Water, it is my hope to minimize the costs associated with this project.

In order to serve both the goals of keeping costs down and respecting the service territory of consumer-owned distribution systems, I would expect Bonneville to serve the Chandler Pumping Plant through Benton REA unless, in consultation with the Bureau

of Reclamation, they find that the cost of such service is substantially more than the cost of service directly form BPA. I have confirmed that this is also the expectation of the House sponsor, Mr. INSLEE.

I thank the Chair for this opportunity to provide explanation of a small but important part of this bill.

PRESIDENTIAL SIGNING OF COMMUNITY DEVELOPMENT AND BANKING LAW

Mr. PELL. Mr. President, I speak today to bring attention to what turned out to be an almost unnoticed event when it occurred recently: the signing of the Riegle Community Development and Regulatory Improvement Act of 1994. While not able to compete with the more demanding news items of the day, such as the events in Haiti or the developments in the O.J. Simpson case, this act will have significant, lasting, and positive effects on the daily lives of millions of Americans.

The Community Development initiative will give much-needed access to credit and financial services to individuals previously left out by established banking practices. Our inner cities, the working poor, minorities, and women have too often been left unfairly behind in the pursuit of the basic lending services available to the more traditional customer. This program will help alleviate that disparity and in the process, provide the basis for community development in the distressed communities of our country that need it most.

I commend the President for making good on his campaign promise to make this a priority in his administration. He has delivered quickly and effectively. I also salute the Banking Committee and in particular, its chairman, Senator RIEGLE, who has worked diligently to see this proposal through a difficult legislative process. I also wish to commend those in the private sector who worked side by side with the President and the Congress to make this vision of hope into a concrete, workable plan in reality. I am particularly proud of the efforts of a banking concern in my home State, the Fleet Financial Group, for being in the forefront of this process and indeed for implementing earlier this year a comprehensive $8 billion program, called Fleet INCITY, in this very area. Terry Murray, the chairman and chief executive officer of Fleet, and Agnes Bundy, the director of Fleet INCITY, deserve special praise for putting together this program and making the idea of community banking a reality. I look forward to the day when we can point to revitalized cities and empowered individuals and say with satisfaction that they were, in part, a result of the work done this year to try to bring lending and financial services to all.

Once again, I commend all involved for the achievements and advancements made in community development and banking. With them, a new day is dawning for our inner cities and for those least advantaged in our society, with the ultimate benefit, of course, coming to society at large.

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

THE WHITE HOUSE,
Washington, DC, October 5, 1994.

Hon. CLAIBORNE PELL,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Administration is committed to maintaining close consultations with the Congress on major foreign policy and national security issues, but consultations between the Executive and the Legislative branches are never perfect. In particular on the ABM Treaty demarcation discussions and the Nuclear Posture Review, consultations were not held with the Senate Foreign Relations Committee. We are working to assure that this does not occur again.

We are committed to a regular dialogue with the Committee on all foreign policy and security issues and will make special efforts to improve serious two-way communication on arms control issues.

Sincerely,

SAMUEL R. BERGER,
Deputy Assistant to the President for National Security Affairs.

TIME FOR A REVIEW OF UNITED STATES POLICY TOWARD CUBA

Mr. PELL. Mr. President, this morning the Senate Foreign Relations Committee held a hearing on United States policy toward Cuba. I believe a serious review of United States policy toward Cuba is long overdue and I hope today's hearing will serve as a starting point for that process. I have traveled to Cuba three times since the revolution, meeting with President Castro and other high-level officials, dissidents, political prisoners, and members of the religious community. I have been frustrated by the Cuban Government's failure to implement political reforms and demonstrate respect for human rights. I believe current policy, however, is counterproductive to promoting a peaceful transition to democracy and improving human rights.

A recent CIA report warned President Clinton could face a major crisis in Cuba. Serious instability 90 miles away, could lead to a mass exodus of refugees—far more than we saw in August—and spur demands for a United States military intervention. I think we are heading along a dangerous path and I urge the Clinton administration to reassess its approach.

I am deeply troubled by the Clinton administration's recent tightening of sanctions and its unwillingness to enter into broad talks with the Cuban Government. I was pleased, however, that the United States took one small step in the right direction by finally reaching an agreement this week to expand telecommunications between our countries.

It is my view that the embargo hurts more than it helps. We should move toward lifting an embargo which provides the regime with a convenient scapegoat for its economic woes and a rallying point for Cuban nationalism. Rather than isolating the island, we should be expanding contact with the Cuban people. By flooding the island with people, ideas and information, we will better undermine the Castro regime.

The approach I outlined has bipartisan support and I would point out that previous administrations, Democratic and Republican, have understood that it is in the United States interest to normalize relations with Cuba. Pierre Salinger recently wrote in the Washington Post August 28, 1994 that President Kennedy, who imposed the embargo, realized he made a mistake. Five days before his death, Kennedy sent a note to Castro calling for negotiations to normalize relations. In his posthumously published book "Beyond Peace," former President Nixon wrote that we should have an open door policy toward Cuba, dropping the embargo and opening the way to trade, investment and economic interaction. Officials who served in the Reagan and Bush administrations have likewise criticized the embargo calling for a change in policy as has the Wall Street Journal, The Washington Post, the New York Times, USA Today, the Economist, the Journal of Commerce, the Chicago tribune and U.S. News and World Report.

We heard testimony today from several Members of Congress who have a keen interest in Cuba, including Senator MACK. We also heard from two former government officials, William D. Rogers, who served as Assistant Secretary for Inter-American Affairs under the Ford administration and Wayne Smith, who as a foreign service officer, served as Chief of the U.S. Interests Section in Havana during the Carter administration and the beginning of the Reagan administration. It was of particular interest to hear the lessons they learned from their experience in dealing with Cuba and their recommendations for where our policy ought to be headed.

Secretary Rogers noted that the original reasons for our policy have evaporated. He believes the embargo is counterproductive and should be dismantled and he called for opening diplomatic communication. He emphasized that we must learn from the fall of communism in the Eastern bloc noting that Eastern Europe collapsed not because we blocked communication but because we kept those lines open. As he so eloquently stated, Communist regimes can end with a wimper rather than a bang, and the United States is contributing to a hard landing rather

than a soft one. He warned that our current policy is increasing the likelihood of violence and having a polarizing effect in Cuba.

Dr. Smith noted that United States policy is all stick and no carrot and urged the United States to respond to positive steps, including Cuba's cooperation on stopping the refugee flow, its initiation to the UN Human Rights Commissioner to visit Cuba, the opening up of the agricultural sector to the private sector, its expansion of freedom of religion and its dialog with some members of the Cuban American community. Contrary to some Members of Congress who believe the embargo should be expanded internationally, he pointed out that the international community is adamately opposed to the United States embago and that the United Nations condemned the embargo by a vote of 88 to 4. He believes the embargo should be lifted lock, stock and barrel. If that is not politically possible, he called for lifting the ban on remittances, abolishing travel restrictions, ending the ban on the sale of food and medicines, and closing TV Marti.

Our colleague Senator SIMON pointed out that our policy is more national passion than national interest. He urged the lifting of the travel ban, which he believes is unconstitutional and plays into the hands of the Cuban regime, and the embargo on the sale of food and medicine.

Mr. President, I hope my colleagues will join me in taking a hard look at United States policy toward Cuba and support a policy that will promote a peaceful transition to democracy in Cuba.

CONSULTATION BETWEEN THE BRANCHES

Mr. PELL. Mr. President, over a number of years, the Committee on Foreign Relations and other committees of the Congress have had difficulty in ensuring effective and meaningful consultations by the Executive Branch on key issues. Over time I, as chairman of the committee, as well as other members have expressed dissatisfaction with the consultation practice and there have been some improvements in certain areas. Unfortunately, the situation has remained far from satisfactory.

In the last year, several events have drawn attention to the problem. Last November, the administration decided to seek changes in the 1972 Anti-Ballistic Missile Treaty and dispatched a National Security Council staffer to broach the subject with the Russians. That negotiation was in process before the Committee on Foreign Relations was informed as to the administration's thinking on the matter and the decision to proceed was taken without particular regard for whether members of the committee agreed with the approach and the decision.

A second problem occurred more recently, when the committee learned of the administration's nuclear posture view from the newspapers. We were subsequently informed that the Pentagon had been tasked to tell us about this view but failed to carry out the assignment.

It might well be that decision makers, including the President, could make more informed decisions if they were to receive the benefits of the committee's assessment when significant foreign policy issues are faced. It might even be that the ensuing decisions could be better. In any event, they certainly would be the product of serious attention by both the Members and the officials of the Executive Branch.

A nominee recently considered by the Senate has certain responsibilities with regard to consultation, and the Senator from Illinois (Mr. SIMON) and I raised the matter of consultation with him. It soon became clear that corrections should be sought from the White House to ensure that all departments of the government understood the necessity of true consultation with the Committee on Foreign Relations as well as other committees. At Senator SIMON's request, the Deputy Assistant to the President for National Security affairs, Samuel R. Berger, provided assurances to the Committee. I ask unanimous consent that Mr. Berger's letter to me be printed in the RECORD following my remarks.

Mr. President, there are a number of people of good will and good intent in this administration. I know that they do not truly desire a situation in which information is shared grudgingly and belatedly. They would desire a situation in which information was shared more openly and true consultation was arranged when appropriate.

Too often the Congress and the Executive Branch are in needless and pointless conflict as they attempt to chart the proper course in matters central to our national interests. I take Mr. Berger's communication to this committee as a genuine commitment to seek a better way that will be of benefit both to the Executive Branch and the Congress, and by extension the Nation.

Thank you, Mr. President.

TRIBUTE TO SENATOR DECONCINI

Mr. PELL. Mr. President, I wish to salute my old friend and colleague, the senior senator from Arizona, DENNIS DECONCINI, on the occasion of his retirement from the Senate.

Senator DECONCINI family were among my earliest supporters when I first ran for the Senate and when he himself later came to the Senate we found ourselves joined in many common causes.

In his capacity as chairman of the Intelligence Committee and as chairman of the Commission on Security and Cooperation in Europe, Senator DECONCINI frequently dealt with matters that also were of concern to the Committee on Foreign Relations. I always found him well briefed and articulate in putting forward his viewpoint in support of worthy and humanitarian programs.

He has always been a cheerful presence in our midst and I have appreciated the Arizona oranges which arrived on my birthday with special greetings from DENNIS and his wife Susan. When my oldest son took up residence in Arizona a few years ago, DENNIS was quick to claim him as a constituent.

I am sorry that DENNIS DECONCINI has decided to leave the Senate. I wish him a long and productive retirement in the Arizona sunshine.

TRIBUTE TO SENATOR MITCHELL

Mr. PELL. Mr. President, it is with a real sense of loss and regret that I rise in tribute to our very distinguished colleague and highly respected leader, GEORGE MITCHELL, on the occasion of his retirement from the Senate.

As I said here when we first learned of his decision to leave, the Senate is a better place for having had the benefit of his steady leadership and his special gift for effective advocacy. He addresses the issues before this body with precision, clarity and, for most of us, great persuasiveness.

And he has run the cumbersome machinery of the Senate with great skill, fairness, and consummate patience. He has always been a faithful and ardent advocate for his party's priorities, while maintaining a solid base of good faith on both sides of the aisle.

All in all, it seems to me that GEORGE MITCHELL has exemplified all of the best characteristics of an effective legislative leader, especially in the fluid and sometimes volatile environment of the U.S. Senate. He leaves a new standard of performance that his successors hopefully will emulate.

I might add that I have been especially appreciative of the leader's stalwart support of a number of pieces of legislation in which I have had a special interest, such as the landmark reauthorization of the Elementary and Secondary Education Act on which we took final action just this week. And I also particularly appreciate his support of the work of the Foreign Relations Committee as we strive to define the role of the United States in the post cold war world. In all of this, he has been unfailingly courteous and considerate.

For all of these reasons, I am truly sorry to see GEORGE MITCHELL leave this body. We shall miss him. But I wish him well in his future endeavors and hope that the Nation will continue

to be the beneficiary of his great skills and many talents.

TRIBUTE TO SENATOR DANFORTH

Mr. PELL. Mr. President, I salute our departing colleague, the senior Senator from Missouri, JOHN DANFORTH. Although we often have found ourselves on opposite sides of the issues, I have great respect for him and for the sense of probity he has brought to this body.

Senator DANFORTH has been a force for the good here in the Senate, and I have appreciated the fact that he crossed party lines to support my efforts on such matters as control of drunk driving and education for prisoners. His perspective as a member of the clergy has been, I believe, a positive contribution to the life of the Senate.

I wish JOHN DANFORTH well in all his future endeavors.

TRIBUTE TO SENATOR BOREN

Mr. PELL. Mr. President, I rise in tribute to my friend and colleague, the senior Senator from Oklahoma, DAVID BOREN, who will soon be leaving the Senate to begin a new career as president of the University of Oklahoma.

I have shared a number of interests with DAVID BOREN since he came to the Senate in 1979. In his capacity as chairman of the Select Committee on Intelligence, he was concerned with many issues that were also of concern to the Committee on Foreign Relations.

I especially appreciated his concern that the United States might lapse into a state of isolationism in the wake of the cold war. And in that connection, I share his interest in the concept of U.S. participation in a standing international military force.

Our shared concern about world affairs culminated last year in a memorable around-the-world tour that took us to China, southeast Asia, the Mideast, and Europe.

Another notable aspect of DAVID BOREN's Senate career has been his unabashed commitment to reform, both as chairman of the Joint Committee on the Organization of Congress and as the principal sponsor of campaign finance legislation. It is a sad irony that both of these good causes have fallen victim to procedural impasses in the final days of Senator BOREN's tenure. It remains for those of us who stay to continue his fight.

I extend all best wishes to DAVID and Molly BOREN as they move on to a new life and new challenges.

TRIBUTE TO SENATOR HOWARD METZENBAUM

Mr. SASSER. Mr. President, I rise today to pay tribute to my good friend from Ohio, Senator HOWARD METZENBAUM. Senator METZENBAUM is retiring at the end of this session, closing his public career as one of America's leading advocates for the common man.

Whether he's fighting on behalf of the American worker or taking on the powerful special interests, Senator METZENBAUM brings a dogged determination rarely seen in the Senate. He has especially been an effective advocate for the forgotten people in our society—the poor, the elderly, women, minorities, and those who could not afford high-priced lobbyists to represent their interest. Of course, they didn't need to, they had HOWARD METZENBAUM in their corner.

His tenacity of purpose and strength of will has been both a blessing and an annoyance, depending on one's point of view. During debate on the Senate floor, his knowledge of Senate rules and sharp wit can either be powerful allies or difficult obstacles to overcome. Regardless of how one stood on the issues, no one expressed their conscience, their values, or their ideals more effectively or purposely than HOWARD METZENBAUM.

During his tenure in the Senate, HOWARD METZENBAUM has been one of the most productive Senators in passing or improving legislation. As chairman of the Senate Subcommittee on Antitrust, Monopolies and Business Rights, he led efforts to protect workers' insurance benefits at bankrupt companies. He also investigated price fixing among companies and oversaw restructuring of the savings and loan industry.

As chairman of the Senate Subcommittee on Labor, HOWARD METZENBAUM helped enact important legislation to improve the lives of workers. Senator METZENBAUM was instrumental in passing a bill requiring advance notice to workers of plant closings. He also used his position on the subcommittee to produce compromise legislation revising a Supreme Court ruling that allowed age-based discrimination in employee benefits.

Most important, HOWARD puts his own special touch on every piece of legislation he comes across, and we are better for it. Countless times, he has stayed on the Senate floor ensuring that nothing slips through in the dead of night. He is aptly named the Senate watchdog and his efforts have probably saved the American taxpayers over a billion dollars.

Now, he leaves us to spend more time with his wife and family, a prospect I know many of us envy. However, I'm confident we have not heard the last of HOWARD METZENBAUM. His voice will always be ready to speak up for the downtrodden, the discriminated, and the forgotten people of our Nation. It has been an honor and a privilege to serve with him all these years, and I will miss him deeply. I wish him well in his future endeavors.

CONNECTICUT'S BLUE RIBBON SCHOOLS

Mr. LIEBERMAN. Mr. President, I rise today to recognize eight Connecticut elementary schools that yesterday received Blue Ribbon School awards from the U.S. Department of Education. This year 276 schools from 45 States and the District of Columbia were honored by the Blue Ribbon School Program for their excellence in leadership, school organization, teaching, curriculum, and parental involvement. The selection was based on evaluations of written materials from nominated schools and reports of experienced principals who conducted site visits.

The program also recognized three schools for excellence in mathematics and three for excellence in science. I am especially proud that two of the three schools receiving special honors in mathematics were from Connecticut. Improving student achievement in mathematics is a critical goal given our need to stay competitive in a technologically advanced global economy.

At a time when American parents are concerned about the challenges facing today's schools and schoolchildren, it is important to identify and learn from those schools that have achieved excellence. I commend the teachers, parents, students, and administrators of Connecticut's Blue Ribbon Schools for their accomplishments and congratulate them for their awards. Connecticut's Blue Ribbon Schools are: Anna M. Reynolds School, Newington; Flanders Elementary School, East Lyme; Mitchell Elementary School, Woodbury; New Canaan Country School, New Canaan; Noah Wallace School, Farmington; the Rectory School, Pomfret; Roger Sherman School, Meriden, and Stratfield School, Fairfield. The two schools awarded special honors in mathematics are Mitchell Elementary School and Noah Wallace School.

THE USE OF PERMANENT PAPER FOR HISTORICAL DOCUMENTS

Mr. MOYNIHAN. Mr. President, I was recently contacted by the New York Public Library regarding the Federal Government's policy on the use of recycled paper and a possible conflict between the President's Executive order on recycling, Executive Order 12873, and the requirement of Public Law 101-423 that permanent paper be used for historical documents. Happily, this matter seems to have been resolved to the satisfaction of all parties concerned. Fran McPoland, Federal environmental executive at the Environmental Protection Agency, has written the New York Public Library that the requirement for the use of recycled paper does not conflict in any way with the requirement for the use of permanent paper for historical documents. The administration fully intends to use

permanent paper for documents of enduring historic value.

The Federal environmental executive was appointed by the authority of Executive Order 12873. One of the roles of the Federal environmental executive will be to assist individual agencies in the development of specifications to fulfill the requirements of both the Executive order on recycling and the joint resolution on permanent paper. Executive Order 12873 also called for the appointment of agency environmental executives in each executive department and major procuring agency.

Mr. President, for the information of all Senators, I ask unanimous consent that a letter from Federal Environmental Executive Fran McPoland to Paul LeClerc, president of the New York Public Library, be printed in the RECORD.

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

OFFICE OF THE FEDERAL ENVIRONMENTAL EXECUTIVE,
Washington, DC, July 19, 1994.

Mr. PAUL LECLERC,
President, The New York Public Library, New York, NY.

DEAR MR. LECLERC: As the Federal Environmental Executive appointed by the authority of the President's Executive Order on Recycling, I am in the receipt of your communication regarding the necessity to ensure that the federal government's use of recycled paper not be perceived to be in conflict with P.L. 101-423's requirement to use permanent paper for documents of enduring historical value. I am writing to assure you that there is no such conflict, and to tell you of the steps this Administration is taking to ensure that the recycled paper requirements are not implemented in such a way as to result in the inappropriate use of acidic paper.

The Administration is completely aware of and strongly supports the Joint Resolution on permanent paper and its goals. Paper which contains recycled material and is either permanent of alkaline is available for purchase, and it is our intention to continue to use these papers for documents of enduring value.

I will be working with the individual agencies to develop specifications to fulfill the goals of the Executive Order and the Joint Resolution. Executive Order 12873 called for the appointment of Agency Environmental Executives for each Executive department and major procuring agency, in addition to a Federal Environmental Executive within EPA, the position to which I have recently been appointed. I intend to transmit a copy of this letter to all Agency Environmental Executives in order to restate our position that the requirements for use of recycled paper are not to conflict in any way with the concurrent requirement for permanent paper use. Furthermore, I am meeting this week with the Agency Environmental Executives, and I intend to discuss and reaffirm our commitment to the use of permanent or alkaline paper during this meeting. I will be continuing to work closely with these executives to ensure on-going sensitivity to this issue as we implement Executive Order 12873.

I very much appreciate your interest and concern for the permanence of historical documents, and applaud your efforts to reduce the use of acid papers by the federal government. We fully share your concern, and I look forward to continuing to work with you on issues of recycling and paper permanence.

Sincerely,

FRAN MCPOLAND,
Federal Environmental Executive.

THE CASE FOR AMMUNITION CONTROL

Mr. MOYNIHAN. Mr. President, 3 weeks ago, the city of Chicago became the first in America to ban the sale of handgun ammunition. I rise today to congratulate the Chicago City Council for this courageous action, which I hope will prompt other cities and towns to follow suit.

Chicago has long been a pioneer in seeking innovative ways to fight gun violence; 12 years ago, the city banned the sale of all handguns. That was a step in the right direction, but as we all know, such a move could only have had a limited effect. There are roughly 70 million handguns in circulation in the United States. Unless abused, they will last almost indefinitely.

That is why we must go after the bullets. A gun is useless without ammunition. If we have perhaps a two-century supply of handguns, but only a 4-year supply of ammunition, then clearly gun control must lead to ammunition control. The Chicago City Council has displayed foresight in recognizing this inevitable fact.

Mr. President, ammunition control is not a new idea. Indeed, many local jurisdictions already employ efforts to regulate ammunition. The District of Columbia and some other cities prohibit a person from possessing ammunition without a valid license for a firearm of the same caliber or gauge as the ammunition. Beginning in 1990, the city of Los Angeles banned the sale of all ammunition 1 week prior to Independence Day and New Year's Day in an effort to reduce injuries and deaths caused by the firing of guns into the air.

Such efforts are laudable, but these are isolated attempts to cure what is in truth a national disease. The scourge of gun violence now affects even the most tranquil of our neighborhoods. So we must press for national laws, as the Senator from New York has done over the last decade. I have repeatedly introduced legislation to ban or heavily tax some of the most pernicious types of bullets. And I will continue to push for Federal legislation to restrict those rounds most often used in the commission of crimes as well as particularly dangerous rounds such as Black Talons and bullets capable of piercing the soft body armor worn by police officers.

The city of Chicago deserves high praise for the precedent it has set. As Daniel Kotowski, project coordinator for the Illinois Council Against Handgun Violence, has said, "A city can only do so much to control handguns, but Chicago has done all it can." I commend the Chicago City Council for their brave decision and I hope that the rest of the country will not be far behind.

THE RETIREMENT OF THE MAJORITY LEADER

Mrs. MURRAY. Mr. President, it is with great admiration and respect that I rise today to honor our esteemed Majority Leader, Senator GEORGE MITCHELL, on his retirement from the Senate.

When I first came to the U.S. Senate almost 2 years ago, I was unsure what my reception would be. The Majority Leader and his staff quickly put me at ease. He treated everyone, veterans and newcomers alike, with dignity and respect. He dispelled many of the myths about the good old boys network. The Leader immediately gave every member of my freshmen class a part in the decisionmaking process.

I have had the privilege of serving with him for only the past 2 of this 12 years. Even in this short time, I have stood in awe of his unending patience, fairness and perseverance. Nowhere were these qualities more apparent than in his effort to shepherd comprehensive health care reform through the legislative and political thicket. Although the legislation did not pass, his leadership laid a strong foundation upon which we will build a successful bill next year.

He has championed numerous other issues during my tenure. His commitment to women's issues and a woman's right to choose has been unshakeable. He made the landmark Family and Medical Leave bill the first order of business of the 103rd Congress. He withstood filibusters and threats from the gun lobby to push the Brady bill to passage, and his persistence brought us a major anti-crime bill with an unprecedented ban on assault weapons.

High on his accomplishments list should also be many significant environmental and infrastructure bills, and his unceasing attempt to reform Congress and campaign financing. His roots as a son of immigrant parents are reflected in his deep devotion to defending civil rights and to improving education and the lives of average, working Americans.

It is with fondness and some sadness that I wish the Majority Leader well on his departure from the Senate.

NATURAL RESOURCES AND WASHINGTON STATE IN THE 103D CONGRESS

Mrs. MURRAY. Mr. President, Washington State is a special place to live. Perched on the edge of the Pacific Ocean, it looks west across that vast body of water toward Asia. It is bisected by towering peaks, across which

glaciers march and streams tumble. Islands dot its western shores, and open spaces stretch from border to border. The air is clean. The water is clear. Wildlife abounds.

Simply stated, Mr. President, Washington State is defined by its natural resources. Whether people hail from small towns or metropolitan Puget Sound, they all recognize that few places offer the diversity of climate, culture, geography, or economics of Washington State.

This situation puts my State in a quandary. Natural resources make Washington a great place live; unfortunately, there are many different ideas regarding how these resources ought to be used.

Long before I ran for office, my State was divided by conflicts over natural resource management. It is a part of life; after all, the Federal Government is the largest single landowner in the State. During the past two decades, natural resources policy has dominated public discourse, usually with mixed results.

During 1993 and 1994, Congress and the executive branch of Government have faced some big natural resource challenges affecting Washington State. We confronted one of the longest-running disputes ever—the Old Growth forest debate; and, we began to address what is perhaps the most complex—the Pacific Salmon crisis.

Mr. President, I am going to spend a few minutes summarizing the actions, accomplishments, and shortfalls of the past 2 years, and talk about some of the challenges we will face in the next 2 years. This is very important, because how this Government handles these issues has—and will have—a direct effect on the quality of life for everyone in Washington State.

CLINTON FOREST PLAN

In 1992, the situation in our Federal forests was nearly impossible. Court injunction had brought everything to a halt. We faced the consequences of a decade of over-cutting, 5 years of mismanagement, inaction, litigation, and social divisions.

President Clinton pledged his leadership to the Old Growth forest issue. He didn't have anything to gain by stepping in, other than trying to set forest policy back on its feet. The inherent controversy of the issue virtually guaranteed that one—or both—sides would be angered by his actions. The President's goal, in his own words, was to resolve the stalemate and bring the 25 million acres of national forest under a scientifically credible, legally responsible, and economically sustainable management plan. This is a goal I supported at the time, and one I still support today.

After convening a "forest summit" in Portland during April 1993, the administration created the Forest Ecosystem Management Assessment Team. This team was composed of a variety of scientific experts and agency personnel. Its charge was to create a set of options for ensuring multi-species habitat conservation on the national forests, while permitting a sustainable timber harvesting program.

The plan has not been without its critics. In fact, there have been no less than 15 challenges in Federal courts to the forest plan in the past summer from environmental groups and the timber industry lawyers alike. But, through unprecedented cooperation between Federal and State Governments, industry, private landowners, and communities throughout the Northwest, the plan is moving forward slowly but surely.

On June 6, 1994, Judge William Dwyer issued an order dissolving the injunction banning timber sales from Federal lands. From that point forward, the forest plan went into effect. The first step toward resuming the timber sale program has been watershed analysis. This involves doing biological assessments of some 150 key watersheds throughout the region. Funds have been appropriated for these purposes the past 2 years.

It is hoped these actions will result in a gradual resumption of timber sales to a sustainable level of 1 billion board feet per year. In the short term, such sales will include off-the-shelf sales that have been sold but not harvested, or that have been prepared but not sold. Added to an eastside harvest of several hundred million feet, the total amount is certainly more than we've seen in recent years. In the absence of the Clinton Forest Plan, I believe this entire issue would remain tangled in the courts, with little prospect of resuming timber management.

Oral arguments on the legal validity of the plan will take place November 10, 1994. All of the pending challenges have been consolidated into one case. I eagerly anticipate a final ruling by Judge Dwyer before the end of this year on the plan.

Government policies—first through in-action and now through action—have created serious economic hardship in timber communities in Washington State since 1989. Therefore concurrent with the formation of the forest plan, President Clinton crafted the Northwest Economic Adjustment Initiative. This economic development aspect of the President's plan recognizes the responsibility of Government in helping these areas manage change constructively.

The initiative establishes a framework to assist workers, businesses, and communities that rely on a forest-product based economy to adjust to their changing economies. The impacted timber communities can access funds through 18 existing Federal loan and grant programs. Since last year, counties and municipalities throughout the Pacific Northwest using resources under the plan have begun escaping the burdens of the timber sale injunctions.

Under the initiative, more than $1.3 billion will be provided through congressional appropriation from 1993 through 1997 to the Pacific Northwest. In fiscal years 1994 and 1995, the Federal Assistance package was nearly $250 million each year.

The fundamental principle of this plan is stewardship, and the key to its success is job creation. By taking care of our natural resources, we will be taking care of the towns and people who depend on them. Watersheds are being rebuilt and soil erosion is being controlled. Incentives are provided for non-Federal land managers to implement habitat conservation plans. Our forests are being managed to ensure biodiversity, high water quality, and a healthy environment over the long term.

Programs provide displaced timber workers and their families with rent and mortgage assistance, job retraining benefits, additional funds for food banks, and a flexible mitigation fund, providing funds that otherwise would be locally unavailable to assist impacted families and individuals. Other programs address the needs of communities to replenish and diversify their economies. Grants and low interest loans fund the development of industrial areas, the redevelopment of downtowns, as well as developing the infrastructure of tourism.

A big part of implementing the initiative successfully has been identifying barriers to participation and eliminating them. Some are administrative, and others are statutory. We haven't found them all, but we have over come several.

On the administrative front, the Secretary of Agricultural signed an order early this year allowing watershed restoration contracts to be offered with a local award preference. This has been critical to ensuring job opportunities favor dislocated workers.

Legislatively, obstacles were identified in the Forest Service Community Assistance Program and several Rural Development Administration [RDA] programs. Last year, I authored legislation with Senator MARK HATFIELD and Rep. NORM DICKS to resolve the forest service issue in favor of communities such as Pt. Angeles and Aberdeen. This year, we passed a similar bill to open RDA programs to all timber communities.

Earlier this year, I received a letter with good news from the city of Forks, one of several cities on the Olympic Peninsula hard bit by years of Federal timber policy mismanagement. They were celebrating the ground-breaking in March for a new mill. This mill will be the largest mill on the Northern Olympic Peninsula. It will create 42

jobs, and give the city of Forks the opportunity to market themselves to the secondary growth manufacturing sector. This would not have been possible without the $280,000 Rural Business Enterprise Grant to the city of Forks for the development of the Forks Industrial Park.

Throughout the region, the initiative is designed to provide 31,000 new job opportunities over 5 years. This morning I heard the national unemployment rate had fallen to a 4-year low of 5.9 percent. In Washington State, unemployment trend has been very promising. When I came to the Senate 2 years ago, double-digit unemployment rates were prevalent in counties throughout timber country. Last month, rates in these counties ranged from 5.1 percent in Clark, to 5.3 percent in Snohomish, to 5.9 percent in Jefferson, to 7.0 percent in Lewis, to 7.5 percent in Skamania county. Statewide, the rate was 6.1 percent last month, compared with 7.5 percent 1 year ago.

Housing starts in Washington State are up 3.1 percent over the past year, compared with annual 3 percent decreases over the previous 4 years. The bottom line, Mr. President, is after years of conflict and controversy, things in my State are looking up.

Mr. President, I have received other letters like this, as well as a year-end report summarizing Northwest Economic Adjustment Initiative. Each of these reports different successes of the program over the past year. I now ask unanimous consent that these materials be included in the RECORD.

Mr. President, this plan is by no means perfect. It is very complex, and slow to implement. The region will endure years of transition in the future, and it should be clear to everyone the problems of the past cannot be cured quickly. However, we have made great progress from where we were in 1992. There has been a sea-change in forest policy, and a shift in direction for the land management agencies. I believe these changes are welcome in a region that has been rife with controversy for too long.

SALMON RECOVERY

The forest plan set a precedent for resource management that will serve us well long into the future. This year, and in coming years, we will face what is perhaps the most complex natural resource question—the Pacific Salmon crisis.

Everywhere we look along the Pacific coast today, we see salmon runs in trouble. In the smallest coastal streams, to the most distant inland tributaries, returning wild salmon have dwindled year after year.

In 1990, petitions were filed with National Marine Fisheries Service proposing Endangered Species Act protection for five salmon stocks. In December, 1991, the Snake River Sockeye were listed under the Endangered Species Act. In early 1992, they were joined by the Snake River Spring and Fall Chinook. Most recently, the National Marine Fisheries Service has announced plans to look at the prospect for extinction for every run of anadromous fish-all salmon, steelhead, and sea-run cutthroat trout—in the west.

The seriousness of the situation struck home this spring, when the entire coastal fishing season was shut down as a result of poor ocean conditions. This led five counties and the State of Washington to declare a state of emergency. Commercial and recreational fishing interests went along with this policy, because they recognized the dire situation was are facing.

In response to the problem, the Department of Commerce assembled a $15.7 million assistance package for fishing communities. This package hasn't been everything people would have liked, but it showed once again a government willing to step up and deliver when Government policies lead to economic hardships.

The future for salmon is in doubt if there is not a comprehensive, coordinated plan that looks at each phase of the salmon life cycle. Such a plan can work on each agency of Government at each level works to solve the problem.

Let me give an idea of how complex this issue has become:

This year, there were three major court decisions finding the Government in violation of salmon-protection laws.

There are no less than five Federal agencies with legal responsibility for keeping salmon healthy.

There are four laws and two treaties binding us to salmon recovery, not including the Endangered Species Act.

There are three administrative processes currently underway to address salmon recovery: the Recovery Plan for ESA-listed stocks; the Northwest Power Planning Council's Strategy for Salmon; and the Bonneville Power System Operational Review, a comprehensive EIS covering the entire Columbia/Snake River system.

If any of these latter processes are remotely inconsistent, chances are that legal wrangling over salmon will continue.

This past spring, U.S. District Court Judge Malcolm Marsh delivered a resounding wake-up call to the Northwest regarding salmon. He ruled on a suit brought by the States of Oregon and Idaho against the 1993 biological opinion for salmon. Judge Marsh found, among other things, the National Marine Fisheries Service relied on flawed data to guide its conclusion that power dams pose "no jeopardy" to listed salmon. Overall, the judge condemned Government action to date by saying current efforts are "too heavily geared toward a status quo that has allowed all forms of river activity to proceed in a deficit situation—that is, relatively small steps, minor improvements and adjustements—when the situation literally cries out for a major overhaul."

More recently, another sobering call echoed in the ears of the Federal agencies that manage Columbia River fish. The 9th U.S. Court of Appeals ordered the Northwest Power Planning Council to reconsider its strategy for salmon. Among other things, the Council was found at fault for not establishing biological objectives for salmon, and for not giving sufficient credence to recommendations by the affected tribes and States agencies.

These decisions—when taken together are at once damning, sobering, and enlightening. They leave the Pacific Northwest one judicial step removed from total power system paralysis.

This is the new reality we must face: the courts have effectively taken control of the issue. The 1994 biological opinion is based on the same flawed data used in the 1993 opinion, and several groups have already filed notice of intent to file suit against it; the status quo in the power system is now recognized as insufficient by the Federal courts.

Mr. President, as I have said before, salmon are the lowest common denominator in our region. We must collectively decide—as a region and a people—that we are dedicated to recovering this species, and agree to put everything on the table to achieve this goal. All of us together must ask ourselves whether we are committed to recovering salmon to healthy, harvestable populations. It we are, then we must be willing to face the costs, consider every available option, and find a way to share the burden with equity.

There is no silver bullet. A strong, broad-based recovery strategy is needed that addresses each phase of the salmon life cycle. Most importantly, all of these actions must be coordinated rationally to ensure that future crises are handled correctly. Each plan—the Recovery Plan, the United States-Canada Treaty, the Forest Plan, and the Power Planning Council's Strategy for Salmon—must all be coordinated together to ensure maximum benefit to the salmon. We must constantly remind ourselves the cost of acting now may be infinitely less than being forced to act later.

This fall and winter, several critical decisions will be made affecting the course of the salmon debate. This December, the Power Planning Council will unveil its revised Strategy for Salmon. At roughly the same time, the National Marine Fisheries Service will unveil its draft final recovery plan. Finally, the settlement negotiations currently underway before Judge Marsh should yield an agreement for a multiyear river operating plan with biological objectives.

Each of these plans must complement the others. They must all be

consistent, and they must be coordinated. We will know very early next year whether significant progress has been made. I am committed to working with my colleagues in Congress and the Clinton administration to review these events next year and act as necessary to steer the region toward a rational salmon policy.

ENDANGERED SPECIES ACT

One issue that faced more attention in Congress over the last 2 years than any other is the Endangered Species Act. If there is one State that has experienced the highs and lows of ESA more than any other, it is my State of Washington. People live in Washington because it is special. It is blessed with incredible natural beauty, and it provides a unique quality of life for all its citizens.

Since enactment of ESA 20 years ago, to its saving of the bald eagle, to its role in the spotted owl debate, to the endangered salmon crisis today, it has always been part of the Washington State policy landscape.

At the heart of almost any natural resource conflict you will find ESA. This is particularly true in my State. In the case of salmon, changing the Endangered Species Act [ESA] would only address the symptom, not the cause. Even without the ESA, we would still have a crisis on our hands. There are critics on the right who appear to be interested in repealing ESA, or gutting its essential principles; there are others on the left who don't want it touched. Let me be very clear on this: neither extreme is going to solve the problem.

The problem we are facing is balancing competing values. The fundamantal premise of ESA remains valid: that by taking care of our ecosystems, we are ultimately taking care of ourselves. I truly believe each generation must leave the environment in no worse condition for the next. We also have economic development values that are fundamental to a democratic, free market society. Sometimes, these two sets of values come into conflict.

Some have suggested that when such conflicts occur, the ESA is at fault, and therefore it must give way. We should not be so quick to generalize. As I mentioned above, there are a number of other Federal laws requiring actions to protect natural resources. These include the Northwest Power Planning and Conservation Act, the Magnuson Fisheries Conservation and Management Act, the United States-Canada Treaty, and United States treaty obligations under the Boldt decision, the National Environmental Policy Act, and the National Forest Management Act. The existence of these laws demonstrate that America has always placed a high priority on protecting the environment, and continues to do so.

Until now, ESA has functioned as a fire alarm, going off when species are on the brink of extinction. Inevitably, this is a result of mismanagement, lack of coordination, or litigation. And it creates confusion, controversy, and acrimony. In short, a train wreck. Clearly, this is a problem. It affects the lives—and livelihoods—of many Washingtonians. Clearly we must find a way to make this law work better for people.

I believe a little preventive medicine would make ESA work much better than driving an ambulance to the crash site every time. I've spent my whole life dealing with kids. Believe me when I tell you everybody wins when a child gets prenatal care, preventative health care, and head-start. I think the same would be true of ESA. If the agencies work together, ahead of the curve, sharing information and recognizing their mutual interests, I believe we can achieve the goals of ESA without creating economic chaos.

I am prepared to support a moderate, thoughtful approach to ESA reauthorization that balances these competing concerns and enables the agencies of Government to work better for people in this country.

CONCLUSION

Mr. President, I have not begun to scratch the surface of all the natural resource issues facing Congress. The 104th Congress will no doubt spend innumerable hours wrestling with the challenges I have discussed here. But it will also be faced with many others.

The Clean Water Act must be re-visited. Wetlands policy will continue to confound. The Farm bill will surface issues ranging from soil erosion, to pesticide use, to water quality. And we have a number of pollution-control laws in need of review.

In the past 2 years, I have seen this system of government attempt to come to grips with environmental conflicts. It has not been easy. But I believe progress has been made on several fronts, and I will always subscribe to the theory that reasonable people can come together to solve problems. We almost saw it happen with the Superfund re-authorization bill this year.

We had a number of small victories as well. In addition to the community assistance bills I mentioned above, I pushed through a bill to preserve the ban on log exports from public lands. I also introduced early retirement legislation to help the Forest Service downsize to meet its changing mission and budget structure. This bill was enacted early this year as part of a larger Government downsizing program. And finally, like so many other years, Congress used its power of the purse to steer environmental policy. The Interior appropriations subcommittee, on which I am privileged to serve, has provided funding to support the forest plan and help communities pursue conservation goals throughout the country.

I look forward to the coming Congress with anticipation. There will be many on-going issues to monitor, especially involving forest policy and salmon recovery. The U.S. Senate and the House of Representatives should be the places where society finds its compromises. As always, the heart and soul of my home State will be at the center of our debates. I hope, as an institution, we will be able to work through our differences and find solutions that serve the interest of our States, our constituents, our families, and future generations.

The material follows:

THE PRESIDENT'S ECONOMIC ADJUSTMENT INITIATIVE FOR THE PACIFIC NORTHWEST AND NORTHERN CALIFORNIA—IMPLEMENTATION IN WASHINGTON STATE—FISCAL YEAR 1994

Timber impact areas: Chelan; Clallam; Columbia; Cowlitz; Ferry; Grays Harbor; Kittitas; Klickitat; Lewis; Mason; Okanogan; Pacific; Pend Orielle; East Skagit; East Snohomish; Stevens; Whatcom; Yakima; Quilcene, Queets, Clearwater in Jefferson County * * *.

PREFACE

Washington state has been responding to the impacts of federal forest management policies since 1989. Programs provide displaced timber workers and their families with rent and mortgage assistance, timber retraining benefits, additional funds for food banks, and a flexible mitigation fund. This fund provides resources that otherwise would be locally unavailable to assist impacted individuals and families.

A notable success in this area is the "New Chance" Program. New Chance is a 10-week program for unemployed men and women who need or want help in exploring retraining options and new career opportunities. Coursework is customized to meet individual needs, and may include self-esteem assessment, life planning, interest inventories, reading, writing, math and computer training, as well as education and training exploration.

Other state programs address the needs of communities to replenish and diversify their economies. Grants and low interest loans fund the development of industrial areas, the redevelopment of downtowns, as well as tourism support facilities.

An example of a success in this area is the partnership between the Timber Public Works Trust Fund and the Community Economic Recovery Board to finance a water project for the City of Omak in Okanogan County. The project resulted in a new water supply for the city so that it could pursue its economic diversification strategy. It also gave Omak Wood Products the means to retain 400 jobs and satisfy Environmental Protection Agency water discharge requirements.

Another state priority is the development of value-added forest products industries. The state's Forest Products Program provides technical assistance, grants and loans to firms wishing to diversify, retool, expand into new markets and develop new product lines.

The example from Forest Products program:

During the 1993 state legislature two programs were created with the goals of habitat restoration and job creation. To date, the program has granted a total of $8,398,033 to 30 projects utilizing $6.5 million appropriated

to Jobs of the Environment and $8 million for fish restoration. These projects will create 359 new jobs of displaced forest products workers.

The state continues its commitment to the timber impacted workers, communities and businesses of the state. The President's Initiative enhances these efforts.

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THE WA-CERT

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Appendix B provides the complete listing of these projects and their status at the close of the federal fiscal year.

HIGHLIGHTS OF 1994

This section highlights accomplishments in four broad categories: 1) Workers and Families, 2) Communities and Infrastructure, 3) Business and Industry and 4) Ecosystem Enhancement.

Workers and family

The Department of Labor awarded two grants through the Se Title III Secretary's Reserve. The first grant was to the Olympic Consortium. The Olympia Consortium serves Clallam, Jefferson and Kitsap Counties. The $1.2 grant will be used to provide retraining assistance to workers.

The second grant of $600,000 was awarded to the Pacific Mountain blank blank. The PTC is using the funds to augment an earlier grant received when the ITT Rayonier plant closed in Grays Harbor County.

Of the $12 million available to the region in DOL Title III monies, $1.2 million were allocated in Washington state.

Communities and infrastructure

Funding in this category is available the Economic Development Administration (EDA), the USDA Farmers Home, Rural Development Administration (RDA), the US Forest Service (USFS) and state resources.

The US Forest Service awarded $2.7 million in grants to projects in timber impact counties. Awards range from an $18,000 grant to the Skamania Economic Development Council for the Downtown Stevenson Improvement Project, to a $40,000 grant to the City of Cosmopolis in Grays Harbor County for and Inflow and Infiltration Study, the first step towards the community solving a sewer system problem.

The Cosmopolis project is one example of agencies working together to benefit a community. When the USFS funded study is complete, RDA will step to the table to begin structuring the financial package for construction phase of the project.

Another example of partnering is the City of Oroville's Dorothy Scott Airport Light Industrial Park. This project got its start prior to the Initiative when the state's Timber Public Works Trust Fund and Community Economic Revitalization Board provided $175,000 in loans and $500,000 grant to the project. Then the USFS stepped to the table with a $150,000 grant. The final piece of the financing puzzle is a $790,000 EDA grant, which is imminently pending. The project will foster creation of 175 jobs.

Of the $3 million available to the region in EDA Technical Capacity grants were awarded to jurisdictions in Washington state.

RDA has been very successful in investing its allocations in Washington state. Highlights include a $2,399,400 Community Facilities loan to the Quinault Indian Nation for consolidation of its administrative buildings, a $280,000 Rural Business Enterprise Grant to the City of Forks for the Forks Industrial Park Project, and a $1,200,000 Water and Wastewater grant and $2,102,600 in loans to the Malaga Water District in Chelan County.

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Ecosystem enhancement

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The USFS allocated $6,327,000 to 202 Jobs in the Woods contracts. Nearly all the program was through small contracts to local individuals and businesses. Wages ranged from $10.64 to $24.95, with most over $15.43 plus fringe benefits. Projects occurred in the Gifford Pinchot, Okanogan, Olympic, Mount Baker-Snoqualmie and Wenatchee National Forests. Overall, the USFS employed displaced timber workers on restoration projects.

The USFS entered into a partnership with the Pacific Mountain PIC and the Grays Harbor Reemployment Center. The success of this effort is described below.

PARTNERING FOR SUCCESS

(By Glenda Burch)

The Olympic National Forest (USFS) and the Pacific Mountain Private Industry Council (PIC) entered into a Participating Agreement to complete USFS restoration projects while providing, as well as training and development, to dislocated timber workers who lack adequate skills to compete for public or private sector jobs in the field of ecosystem restoration.

The Agreement was reached after numerous discussion with the Governor's Timber Team, the USFS, and later the PIC and members of the WA-CERT. As the USFS has the responsibility for administration of lands in the National Forest, and the PIC has a large population of dislocated timber workers, it seemed that each entity could possibly benefit the other. They realized the advantages of forming a partnership to accomplish individual goals.

The USFS agreed to provide technical oversight of specific projects and to reimburse the PIC for expenses incurred on a time and materials basis (versus putting jobs out for bid). The PIC agreed to recruit, train, employ and supervise local dislocated timber workers to complete USFS restoration projects.

As a result of this Agreement, ten local dislocated workers are employed at family wage jobs. In addition, participants receive coverage through the Washington State Basic Health Plan, standard unemployment insurance coverage, and Workmen's Compensation Coverage. The workers demonstrated the ability to quickly learn the complex and specialized tasks involved in watershed and timber restoration and receiving college credit for their training.

This Agreement allows the USFS to: a) participate in the restoration of the resource bases and the economies and lives that have long depended on that base, and b) meet the goals set for it by the Administration of using currently appropriate funds to the benefit of dislocated timber workers and their communities.

This project demonstrates the value of forming partnerships which create win-win situations for all: the dislocated timber workers, timber impacted communities, local and federal agencies, and the natural resources base.

It shows what can be done when people are willing to work together.

JOBS IN THE WOODS, FISCAL YEAR 1994—U.S. FOREST SERVICE IN WASHINGTON STATE—WATERSHED RESTORATION CONTRACT ACTIVITY SUMMARY ESTIMATED FOR SEPT. 30, 1994

	GIP	OKA	OLY	MBS	WEN	Totals
Number contracts	35	14	66	47	40	202
Number people					76	
Hourly wages		$10.64 to $24.95—most over $15.43 plus fringe benefits				
Pieces equipment					76	
Days worked					800	
Dollar awards to date	$300,000	$64,000	$513,000	$1,300,000	$800,000	$2,977,000
To be awarded	500,000	450,000	1,200,000	700,000	500,000	3,350,000
Total dollars	800,000	514,000	1,713,000	2,000,000	1,300,000	[1]6,327,000

[1] Please note that this is direct dollar amount to contractors. Total appropriation for the Forests in the State was $8,300,000 which includes project planning and contract administration.

Note.—Nearly all the program was through small contracts to local individuals and businesses. There were a few agreements with "Private Industry Councils", "WA Conservation Corps" and others (less than 5 percent) who hire woods workers direct. The attached report from the Wenatchee National Forest provides an example of the magnitude of the program and how successful it was at targeting jobs in the impact countries. "Competition territory procedures" on the attachment were used.

WENATCHEE NATIONAL FOREST FISCAL YEAR 1994 JOBS IN THE WOODS

Contract no.	Contractor county	County of award	Award amount	Wage from	Wage to	No. employees	No. equipment	Work days
1	Yak	Chel	$6,400	14.09		1	1	Incomp
2	Yak	Chel	12,600	14.09		1	1	Incomp
3	King	Kit	12,000	16.43		1	1	Incomp
4	Kit	Yak	127,000	16.18		3	2	Incomp
5	Kit	Kit	10,700	16.18	22.00	1	1	Incomp
6	Yak	Yak	7,400	22.05		1	1	Incomp
7	Yak	Yak	14,900	22.05		1	1	Incomp
8	King	Kit	25,000	15.43	21.25	2	2	21 days
9	Chel	Chel	59,000	13.71	22.31	10	10	Incomp
10	Chel	Chel	116,000	17.86	25.80	2	2	Incomp

WENATCHEE NATIONAL FOREST FISCAL YEAR 1994 JOBS IN THE WOODS—Continued

Contract no.	Contractor county	County of award	Award amount	Wage from	Wage to	No. employees	No. equipment	Work days
11	Chel	Chel	65,000	17.86	25.80	2	2	Incomp
12	Chel	Chel	7,000	19.58		1	1	Incomp
13	Chel	Chel	80,000	19.58		9	9	Incomp
14	Chel	Chel	29,000	17.86	25.80	2	2	Incomp
15	Chel	Chel	73,000	13.71		1	1	Incomp
16	Pierce	Kit	21,800	16.18	22.00	1	1	Incomp
17	Oka	Chel	80,000	17.86	25.80	7	7	Incomp
18	Yak	Yak	4,000	10.64		3		36 day
19	Chel	Chel	12,000	18.45		1	1	14 day
20	Chel	Chel	12,000	18.45		1	1	11 day
21	Chel	Chel	4,400	18.45		1		9 day
22	Yak	Yak	13,000	24.95		1	1	14 day
23	Yak	Yak	8,000	24.95		1	1	21 day
24	Yak	Yak	8,000	24.95		1	1	21 day
25	Chel	Chel	20,000	18.45		1	1	14 day
26	Snoh	Kiti	16,000	16.88	22.00	1	1	Incomp
27	Yak	Yak	17,000	18.00	22.00	1	1	Incomp
28	King	Yak	6,000	18.00	22.00	1	1	Incomp
29	Yak	Yak	6,000	18.00	22.00	1	2	Incomp
30	Kiti	Kiti	7,000	22.00		1	2	Incomp
31	Yak	Yak	46,000	18.00	22.00	1	2	Incomp
32		Nach	20,000	18.00		1	1	Incomp
33		Nach	15,000	16.88		2	1	Incomp
34		Nach	5,000	16.88		1	1	Incomp
35		Nach	15,000	22.00		1	2	Incomp
36		Chel	130,000	16.88	22.00	4	4	Incomp
37		Chel	9,000	18.00		1	1	Incomp
38		Cle	10,000	16.88		1	1	Incomp
39		Cle	9,000	18.00		1	1	Incomp
40		Cle	48,000	16.88	18.00	1	2	Incomp
Actual award total			925,000					
Estimated 9/30 total			1,300,000			56	51	

Note.—The awarded amounts are probably higher by now due to modifications.

K. 15 CERTIFICATION OF LOCATION WITHIN "COMPETITION TERRITORY"

Definition. The term, "Competition Territory," as used in this solicitation, means the geographical area within which the offeror must have an existing and ongoing place of business, so as to qualify the offeror as being eligible to be considered for contract award.

Competition is limited to individuals and businesses within the following counties:

Washington: Okanogan, Douglas, Chelan, Kittitas, Yakima, Klickitat, Skamania, Clark, Cowlitz, Wahkiakum, Pacific, Lewis, Pierce, Thurston, Grays Harbor, Mason, Jefferson, Clallam, Kitsap, Island, San Juan, King, Snohomish, Skagit, and Whatcom;

Oregon: Wasco, Jefferson, Deschutes, Lake, Klamath, Jackson, Josephine, Curry, Coos, Douglas, Lane, Linn, Benton, Lincoln, Marion, Yamhill, Polk, Clackamas, Multnomah, Hood River, Tillamook, Washington, Columbia, and Clatsop;

California: Siskiyou, Shasta, Tehama, Glenn, Lake, Trinity, Humboldt, Del Norte, and Mendocino.

Certification. The offeror certifies that it [] IS [] IS NOT located in the competition territory counties as listed above.

Penalty for False Certification. Any contract awarded as a result of a false certification will be subject to termination and reprocurement. Any offeror who falsely certifies will be subject to criminal penalties and all reasonable costs associated with termination and reprocurement.

CLALLAM COUNTY
COMMISSIONERS' OFFICE,
Port Angeles, WA, August 9, 1994.

Hon. SIDNEY R. YATES,
Washington, DC.

DEAR SENATOR YATES: Re: HR 4602. We County Commissioners are on the front lines in our community and have an intimate knowledge of the impacts of the decisions that have created the current need for Northwest Economic Adjustment Initiative (NWEAI) We are aware of the WA-CERT process as we have representatives and observers in attendance at the meetings. You have used the Department of Interior and the United States Forest Service of the Department of Agriculture appropriation's bill in the past to fund the Initiative. We are concerned about funding levels and funding issues in for fiscal 1995 (H.R. 4602) as the United States Forest Service and the Department of the Interior are the two main sources of the funds for the economic initiative. We believe that the very life of our communities depends on the continuance of the Initiative's funding as promised by the Administration

We believe that the process that has been developed by the WA-CERT to disperse the funds is working. As with any new approach to a problem it has taken time for the system to get in place. We believe that many of the barriers and impediments that have slowed the train of funding to the communities have been changed, identified or are in the works to be changed to make the process work. All the agencies that are at the table are working out conflicts in time-tables, accepting responsibility to be lead agency and finding appropriate shortcuts for the applicants to speed-up the process. In some cases, using each other's applications is helping cut down the mountains of paper. We find this very refreshing as opposed to each agency working in isolation. That is not to say that there are not levels of the agencies that seem to still think in old ways.

The exciting thing that is happening on the home front is that all the entities such as the Cities, County, Tribes, Non-profits, groups and individuals with an idea are talking together and no longer working in isolation. The Initiative has caused applicants within a number of county to sit down together and, again, together set priorities for funding requests. This process has helped develop a comprehensive picture of their needs and barriers. As they talk together they are discovering how projects fit together and which should come first in the scheme of things. The priority criterion in the prioritization process is job development. We are delivering projects to the CERT for their consideration that will produce jobs, improve our economy and give our community's stability.

Alaska

We are thankful for the additional $4 million USFS funds for Community Assistance and Old Growth Diversification that the Senate Budget proposed. We suggest that the Conference Committee send funds for Alaska through the Forest Service. Alaska can then develop their own program.

We do not believe that including Alaska's funding in with the three States that have been impacted by the President's Forest Plan is appropriate. Including Alaska could slow the process for the States now under the plan while Alaska works to get on line. We have concerns that their inclusion in the budget for the NWEAI would cause problems for the Alaska People due to the complex process involving local, state and federal people currently in place. We support the aid to the Alaska Communities that have been devastated by mill closures and other forest related problems. We believe they should be funded in a separate line item and based on our experience, as soon as possible.

FUNDS FOR EASTERN WASHINGTON

We urge the Conference Committee to recognize the immediacy of East Side problems and increase the appropriation within the President's Northwest Economic Adjustment Initiative for those areas.

The devastating fires that are still burning have really highlighted the concern many of us have had over the last number of years. That part of the state had already started to feel the impact of changing Federal forest policies and now the fires have created incredible urgency for assistance to that part of the state.

JOBS IN THE WOODS UNDER THE DEPARTMENT OF THE INTERIOR

We urge the Conference Committee to seriously consider funding the full $30 million as requested by the Administration. We understood that the President's Northwest Economic Adjustment Initiative is based on a Memorandum of Understanding with the three states for an annual appropriation of $30 million. This program is vital to the recovery of many timber families. There are plans in the process that will bring together

planners at the federal, state and local levels to develop plans for watershed restoration from the sea to the mountain top. Watershed Restoration is vital to our forest—we must have the funding to accomplish this task. Many of our counties are also impacted by the salmon issue. The Jobs in the Woods program is also beneficial to the fish in the streams that will be enhanced.

USFS STEWARDSHIP PROGRAM

We believe that watershed restoration is the base of the President's Forest Plan and that the Stewardship program assists in the inclusion of the state and private lands in the process. The Stewardship program should be funded at the Administrations requested level of $4 million. Watershed restoration work across the landscape is a vital portion of The Forest Plan. National Forest System Funds can not be used for work on state and private lands. We need the flexibility of Stewardship Funds as we work to accomplish the work of improving the health of our streams and meeting the needs of the various species that use those areas. Again, there will also be jobs available to the workers. Due to the lower elevations of many of these lands, this could stretch the number of months available for working in woods.

OLD GROWTH DIVERSIFICATION FUNDING

We urge the Conference Committee to fund the Old Growth Diversification program at the FY 94 level of $6,410,000. As we work to assist our timber dependent communities, the people that have worked on WA CERT and at home have found that this program has been the most useful one in the NWEAI due to its' flexibility. We believe the amount appropriated by both houses is not sufficient. We understand the need to have a balanced budget. This item is so important we would support the above level even if it was necessary to consider reducing other Initiative programs.

We can give you real-life examples of what we are doing in our county with the help of the NWEAI.

Our families and the County Governments that serve them are struggling with the economic impacts and the social consequences of the Federal decisions that have changed our lives. We are constantly trying to manage with the tighter budgets as are you. We feel the pain of our people as we see them every day. We need the help as indicated above. We thank you for your time as you consider our request and sincerely hope you will provide the economic assistance requested.

LAWRENCE GAYDESKE,
Chair.

TIMBER COUNTY COMMISSIONERS

Asotin County Commissioner Harley Williams.

Columbia County Commissioner George Wood.

Garfield County Commissioner Steve Ledgerwood.

Chelan County Commissioner Tom Green.

Clallam County Commissioner Lawrence Gaydeski.

Clark County Commissioner John Magnano.

Cowlitz County Commissioner Van Youngquist.

Ferry County Commissioner Gary Kohler.

Grays Harbor County Commissioner Dick Dixon.

Island County Commissioner Mike Shelton.

Jefferson County Commissioner Robert Hinton.

King County Councilmember Ken Pullen.

King County Executive Gary Locke.

Kintsap County Commissioner Win Granlund.

Kittitas County Commissioner Don Sorenson.

Klickitat County Commissioner Ron Ihrig.

Lewis County Commissioner Richard Graham.

Mason County Commissioner Marv Faughender.

Okanogan County Commissioner Ed Thiele.

Pacific County Commissioner Pat Hamilton.

Pend Oreille County Commissioner Mike Hanson.

Pierce County Councilmember Dennis Flannigan.

Pierce County Executive Doug Sutherland.

San Juan County Commissioner Tom Starr.

Skagit County Commissioner Harvey Wolden.

Skamania County Commissioner Dean Evans.

Snohomish County Councilmember Karen Miller.

Snohomish County Executive Bob Drewel.

Stevens County Commissioner Fran Bessermin.

Thurston County Commissioner Dick Nichols.

Wahkiakum County Commissioner Red Almer.

Watcom County Councilmember Bob Imhof.

Whatcom County Executive Shirley Van Zanten.

Yakima County Commissioner Chuck Klarich.

OKANOGAN COUNTY
COMMISSIONERS' OFFICE,
Okanogan, WA, August 23, 1994.

To: Members of the Interior Appropriations Conference Committee.

From: Timber County Commissioners in Washington State.

Re: HR 4602.

We County Commissioners are on the front lines in our community and have an intimate knowledge of the impacts of the decisions that have created the current need for Northwest Economic Adjustment Initiative. (NWEAI) We are aware of the WA-Cert process as we have representatives and observers in attendance at the meetings. You have used the Department of Interior and the United States Forest Service of the Department of Agriculture appropriation's bill in the past to fund the Initiative. We are concerned about funding levels and funding issues in for fiscal 1995 (H.R. 4602) as the United States Forest Service and the Interior are the two main sources of the funds for the economic initiative. We believe that the very life of our communities depends on the continuance of the Initiative's funding as promised by the Administration.

We believe that the processes that have been developed by the WA-CERT to disperse the funds are working. As with any new approach to a problem it has taken time for the system to get in place. We believe that many of the barriers and impediments that have slowed the train of funding to the communities have been changed, identified or are in the works to be changed to make the process work. All the agencies that are at the table are working out conflicts in timetables, accepting responsibility to be lead agency and finding appropriate shortcuts for the applicants to speed-up the process. In some cases, using each other's applications is helping cut down the mountains of paper. We find this very refreshing as opposed to each agency working in isolation. That is not to say that there are not levels of the agencies that seem to still think in old ways.

The exciting thing that is happening on the home front is that all the entities such as the Cities, County, Tribes, Non-profits, groups and individuals with an idea are talking together and no longer working in isolation. The Initiative has caused the applicants within each county to sit down together, and again, together set priorities for funding requests. This process has helped develop a comprehensive picture of their needs and barriers. As they talk together they are discovering how projects fit together and which should come first in the scheme of things. The priority criterion in the prioritization process is job development. We are delivering projects to the CERT for their consideration that will produce jobs, improve our economy and give our community's stability.

FUNDS FOR EASTERN WASHINGTON

We urge the Conference Committee to recognize the immediacy of East Side problems and increase the appropriation within the President's Northwest Economic Adjustment Initiative for those areas. The devastating fires that are still burning have really highlighted the concern many of us have had over the last number of years. That part of the state had already started to feel the impact of changing Federal forest policies and now the fires have created incredible urgency for assistance to that part of the state.

JOBS IN THE WOODS UNDER THE DEPARTMENT OF INTERIOR

We urge the Conference Committee to seriously consider funding the full $30 million as requested by the Administration. We understood that President's Northwest Economic Adjustment Initiative is based on a Memorandum of Understanding with the three states for annual appropriation of $30 million. This program is vital to the recovery of many timber families. There are plans in the process that will bring together planners at the federal, state and local levels to develop plans for watershed restoration from the sea to the mountain top. Watershed Restoration is vital to our forest. We must have the funding to accomplish this task. Many of our counties are also impacted by the salmon issue. The jobs in the Woods program is also beneficial to the fish in the streams that will be enhanced.

USFS STEWARDSHIP

We believe that watershed restoration is the base of the President's Forest Plan and that the Stewardship program assists in the inclusion of the state and private lands in the process. The Stewardship program should be funded at the Administrations requested level of $4 million. Watershed restoration work across the landscape is vital portion of The Forest Plan. USFS funds can not be used for work on state and private lands. We need the flexibility of these funds as we work to accomplish the work of improving the health of our streams and the meeting the needs of the various species that use those areas. Again, there will also be jobs available to the workers. Due to the lower elevation of many of these lands, this could stretch the number of months available for working in the woods.

For the impacts and future benefits please see the letter from Ron Nielsen, Executive Director of Olanogan County Council for Economic Development.

EDWIN E. THIELE,
Chairman.
RONALD V. WEEKS,
Member.
DAVE SCHULZ,
Member.

OKANOGAN COUNTY COUNCIL
FOR ECONOMIC DEVELOPMENT,
August 19, 1994.

Commissioner ED THIELE,
Okanogan, WA.

In response to Harriette Buchmann's letter dated August 1994.

DEAR COMMISSIONER THIELE: Regarding the President's Federal Economic Adjustment Initiative (NWEAI), we are still very early in the program to give you detailed analysis of benefits. However, here's what I can provide as of this moment.

There were 16 Okanogan County applications submitted in February of 1994, of which two applications have been awarded. The two applications are:

The City of Oroville's request for funding associated with their industrial park. The city was awarded $790,000 from the Economic Development Association from the US Department of Commerce and a $150,000 grant from the US Forest Service Department of Agriculture.

The other award was made to our office in the amount of $60,000 to develop and implement a business investment plan for the communities of Oroville and Twisp Industrial Parks. OCCED will also serve as the focal point of coordination in Okanogan County for the Federal Economic Adjustment Initiative.

Anticipated benefits from this program would be as follows:

In the City of Oroville the Federal funding filled the financial gap to complete the construction of the Industrial Park, which should begin the later part of this year or the beginning of 95 (weather permitting) with the park expected to be the turn key in the later part of 95 or the early part of 96. The Federal investment of $940,000 was a significant portion of the overall $1.6 million to build the park without that there would be no Oroville Industrial Park. Regarding OCED's work in the recruitment of industrial tenants, we anticipate that we will have two anchor tenants creating approximately 60 new jobs with an estimated annual payroll of $1.5 million which will be directly infused into the area economy. Using the economic multiplier of 2.1, the estimated economic value realized by Okanogan County would be $3,150,000, and its anticipated that the employment in the park the second year could conservatively double.

In closing please remember we are still very early in the program and will be glad to give you a more detailed analysis at a later date. If you have any questions please feel free to contact me.

Regards,

RON NIELSEN,
Executive Director, OCCED.

PEND OREILLE COUNTY,
BOARD OF COMMISSIONERS,
Newport, WA, August 15, 1994.

To: PATTY MURRAY.

We, Pend Oreille County Commissioners, are on the front lines in our community and have an intimate knowledge of the impacts of the decisions that have created the current need for Northwest Economic Adjustment Initiative (NWEAI). We are aware of the WA-CERT process as we have representatives and observers in attendance at the meetings. You have used the Department of the Interior and the United States Forest Service of the Department of Agriculture appropriations bill in the past to fund the Initiative. We are concerned about funding levels and funding issues in fiscal 1995 (H.R. 4602) as the United States Forest Service and the Interior are the two main sources of the funds for the economic initiative. We believe that the very life of our communities depends on the continuance of the Initiative's funding as promised by the Administration.

We believe that the processes that have been developed by the WA-CERT to disperse the funds are working. As with any new approach to a problem it has taken time for the system to get in place. We believe that many of the barriers and impediments that have slowed the train of funding to the communities have been changed, identified or are in the works to be changed to make the process work. All the agencies that are at the table are working out conflicts in timetables, accepting responsibility to be lead agency and finding appropriate shortcuts for the applicants to speed up the process. In some cases, using each other's applications is helping cut down the mountains of paper. We find this very refreshing as opposed to each agency working in isolation. That is not to say that there are not levels of the agencies that seem to still think in old ways.

The exciting thing that is happening on the home front is that all the entities such as the Cities, County, Tribes, Non-profits, groups and individuals with an idea are talking together and no longer working in isolation. The initiative has caused the applicants within each county to sit down together and again, together, set priorities for funding requests. This process has helped develop a comprehensive picture of their needs and barrier. As they talk together they are discovering how projects fit together and which should come first in the scheme of things. The priority criterion in the prioritization process is job development. We are delivering projects to the CERT for their consideration that will produce jobs, improve our economy and give our communities stability.

Alaska

We are thankful for the additional $4 million USFS funds for Community Assistance and Old Growth Diversification that the Senate Budget proposed. We ask that you accept their recommendation and divide the amount equally among the four states. We encourage you to earmark the funds for the three states impacted by the President's Forest plan through the NWEAI and send funds for Alaska through the Forest Service. Alaska can develop their own program.

We do not believe that including Alaska's funding in with the three states that have been impacted by the President's Forest Plan is appropriate. Including Alaska could slow the process for the States now under the plan while Alaska works to get on line. We have concerns that their inclusion in the budget for the NWEAI would cause problems for the Alaska people due to the complex process involving local, state and federal people currently in place. We support the aid to the Alaska communities that have been devastated by mill closures and other forest related problems. We believe they should be funded in a separate line item and based on our experience, as soon as possible.

FUNDS FOR EASTERN WASHINGTON

We urge the Conference Committee to recognize the immediacy of East Side problems and increase the appropriation within the President's Northwest Economic Adjustment Initiative for these areas. The devastating fires that are still burning have really highlighted the concern many of us have had over the last number of years. That part of the state had already started to feel the impact of changing Federal forest policies and now the fires have created incredible urgency for assistance to that part of the state.

JOBS IN THE WOODS UNDER THE DEPARTMENT OF THE INTERIOR

We urge the Conference Committee to seriously consider funding the full $30 million as requested by the Administration. We understood that the President's Northwest Economic Adjustment Initiative is based on a Memorandum of Understanding with the three states for an annual appropriation of $30 million. This program is vital to the recovery of many timber families. There are plans in the process that will bring together planners at the federal, state and local levels to develop plans for watershed restoration from the sea to the mountain top. Watershed Restoration is vital to our forest. We must have the funding to accomplish this task. Many of our counties are also impacted by the salmon issue. The Jobs in the Woods program is also beneficial to the fish in the streams that will be enhanced.

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OLD GROWTH DIVERSIFICATION FUNDING

We urge the Conference Committee to fund the Old Growth Diversification program at the FY 94 level of $6,410,000. As we work to assist our timber dependent communities, the people that have worked on WA-CERT and at home have found that this program has been the most useful one in the NWEAI due to its flexibility. We believe the amount appropriated by both houses is not sufficient. We understand the need to have a balanced budget. This item is so important we would support the above level even if it was necessary to consider reducing other initiative programs.

We can give you real-life examples of what we are doing in our county with the help of NWEAI.

Our families and the County Governments that serve them are struggling with the economic impacts and the social consequences of the Federal decisions that have changed our lives. We are constantly trying to manage with the tighter budgets as are you. We feel the pain of our people as we see them every day. We need the help as indicated above. We thank you for your time as you consider our request and sincerely hope you will provide the economic assistance requested.

Sincerely,

MIKE HANSON,
Chairman.

MICAHEL D. KEOGH,
Member.
KARL D. MCKENZIE,
Member.

TRIBUTE TO MAJORITY LEADER GEORGE MITCHELL

Mr. SASSER. Mr. President, like many of my colleagues, I was surprised and saddened when I learned that my good friend, majority leader GEORGE MITCHELL, decided not to seek reelection.

I say this with a sense of personal regret, because Senator MITCHELL is indeed my good friend. I will miss his counsel and his good company. But he and I will remain friends as he pursues other interests and opportunities.

We Senators lose a colleague. For the Senate and the Nation, the loss is far greater. GEORGE MITCHELL is probably the finest, most dedicated public servant I have known. As majority leader, he has brought together a subtle understanding of the law with a profound human sympathy and compassion. As a man, he combines an acute intelligence, a ready wit, and an absolute devotion to principle.

During his brilliant career in the Senate, GEORGE MITCHELL has established an enviable record of legislative accomplishment. That record was highlighted, I believe, by his leadership of the historic 103d Congress.

GEORGE MITCHELL led the effort for reauthorization of both the Clean Air Act and the Clean Water Act. He worked to strengthen the laws against discrimination in employment and for the passage of the landmark Americans with Disabilities Act.

During his time as leader the Congress has enacted a higher education bill that expands college opportunities for millions of Americans and a major transportation bill that is helping create jobs and rebuild our crumbling infrastructure. In this Congress alone, he has helped pass into law the Motor Voter bill, Family and Medical Leave, and the largest deficit reduction bill in history. In part because of his leadership, our economy is experiencing a sustained recovery that has resulted in 2 million new jobs.

Mr. President, Senator MITCHELL has been guided in this important work by one principle: to extend the American dream to all of our citizens.

GEORGE MITCHELL knows just what the American dream is—he has lived it. His mother came to this country from Lebanon. His father was the son of Irish immigrants. Both worked hard to provide increased opportunities for their son.

He attended Maine public schools and Bowdoin College. After service as an officer in the U.S. Army Counter-Intelligence Corps, he attended Georgetown University law School, receiving his degree in 1960. He later became executive assistant to our former colleague, Ed Muskie.

GEORGE MITCHELL later returned to Maine, eventually becoming a U.S. attorney. In 1971, he was appointed U.S. district court judge. In 1980, he was appointed to the Senate when Ed Muskie was appointed Secretary of State. A short 8 years later, he was chosen by his colleagues to be majority leader.

Through it all, he has served with quiet dignity, with good humor, and with brilliance. Both we and the country owe him a tremendous debt of gratitude. It may seem early to say so, but I think history will record that Congress has lost one of its great statesmen.

So, Mr. President, I wish him well, and I trust that the country will continue to benefit from his leadership and good judgment in the future.

UNITED NATIONS INTERNATIONAL CONFERENCE ON POPULATION AND DEVELOPMENT

Mr. KERRY. Mr. President, last month over 160 countries debated and signed a powerful and far-reaching document that will direct global efforts to curtail population growth and overconsumption problems for the next 20 years. This document was the outgrowth of the International Conference on Population and Development [ICPD] which I believe was one of the most successful U.N. conferences in recent history.

As the chairman of the Senate delegation, I was pleased to join Senator ALAN SIMPSON and other Members of Congress and the U.S. delegation—which included administration officials and a wide array of nongovernment organization representatives—in attending the Cairo conference. I would like to take a few minutes to share my thoughts on this important and historic gathering that I believe will make a significant contribution toward addressing the critical population and development issues into the 21st century.

First, let me say that the United States was very well represented by its delegation led by Vice President AL GORE. I particularly want to thank Under Secretary of State Tim Wirth, who did an outstanding job of consensus-building and helping to deliver a final product that I believe will prove enormously valuable as time progresses. I worked closely with Under Secretary Wirth during the time I was in Cairo and I know that he and his staff and the United States delegation members worked extremely long hours, often under trying circumstances, to maneuver through the labyrinth of diverse interests, and to bring the vast majority of parties to agreement. In addition, I want to commend President Mubarak and the Egyptian people for their warm hospitality that was evident everywhere and for the great effort that they invested to host such a successful conference.

Today, the world's population is over 5.5 billion people. In just 1 year's time, that number will grow by over 90 million people—the equivalent of adding the populations of California, New York, New Jersey, Texas, and Florida combined. Reliable projections estimate that the world's population will double by the middle of the next century. While these figures are staggering in and of themselves, they are even more sobering when one takes into account that this growth is occurring after a two-decade effort to promote family planning worldwide.

Most of the increase in population will occur in less-developed countries in Africa, the Indian subcontinent, the Middle East and Latin America—those areas which are least prepared to accommodate such growth and whose governments currently have trouble meeting the basic needs of their citizens today. In many of these areas population problems are exacerbated by institutional and cultural factors that inhibit the equality of women. For instance, in some countries it is illegal for men to have vasectomies and women need the written permission of their husbands to have medical procedures producing sterilization. Another area of grave concern is the proliferation of the traditional practice of female genital mutilation which poses enormous psychological and public health dangers. There are more than 100 million women and girls alive today who have been affected by this harmful medical procedure, the vast majority in Africa. Without increased education and awareness, an additional 2 million girls will be subjected to this inhumane custom each year. In addition, deaths of women from pregnancy complications and from unsafe abortions now total hundreds of thousands per year.

Of equally significant concern are the U.N. projections that, while the global population is increasing, the world's natural resources base is on a steady decline. The U.N. food and agriculture organization predicts that by the year 2010 the world will be subjected to a double digit net loss per capita—ranging from 10 to 30 percent—in renewable resources, including fish catch, irrigated land, cropland, rangelands and pastures, and forests. In addition, 26 countries currently have insufficient renewable water supplies within their own territories to meet the needs of a moderately developed society at their current population size, much less after further growth.

Unchecked human-induced environmental degradation will lead to environmental decline which will bring about additional widespread flooding and erosion caused by deforestation and overgrazing; worsened drought and crop losses from desertification; as well

as pervasive marine pollution and fisheries losses from wetlands destruction and overfishing. Ultimately these disasters will lead to massive problems of famine, disease and other human hardships.

With these looming global crises, the United Nations in 1991 called for a conference to address the critical problems of overconsumption and overpopulation. For the past 3½ years, delegates from around the world have been meeting to develop an all-encompassing program of action to present to participants at the Cairo meeting. In the interim the United Nations also held a global sustainable development conference—often called the Earth Summit—in Rio de Janeiro in June, 1992. The Rio conference, while focusing on sustainable development, did not specifically address the growing population crisis but acknowledged that population issues were a critical component of sustainability and would be addressed through the global forum in Cairo.

The final preparatory committee meeting, prior to the Cairo conference, was held last April and succeeded in producing a draft document of which 92-percent received unanimous agreement—a major accomplishment given a text of 16 chapters and over 115 pages with issues ranging from migration to environment to adolescent education.

In light of the enormous success of the preparatory meetings, it was indeed regrettable that so little press coverage of the Cairo conference focused on the areas of unanimous agreement and so many stories focused exclusively on one contentious issue—abortion. This is particularly true since the United States position was quite clear: the United States does not view abortion as a component of family planning. It is true that the press did not have to go far to find critics who were willing to air their views, because the conference's message—increasing womens' individual freedoms and economic opportunities—was not welcome in many male-dominated nations and within the hierarchy of the Roman Catholic Church.

Unfortunately, by focusing so exclusively on one narrow aspect of the crosscutting document, I fear the press wasted an important opportunity to enlighten citizens about the global issues or sustainable development, adolescent education of boys and girls, child health and infant mortality, and refugees that impact the population debate. I find it amazing and distressing that in reporting about such a sweeping document with such widespread support through an open, conciliatory process the media would focus so much of their coverage on only one controversial facet.

Ultimately, after much dialogue and debate, a compromise was reached which was supported my many countries with predominantly Muslim and Catholic populations, including Brazil with the world's largest Catholic population and Pakistan, a Muslim country which played a key role in advancing the negotiations. In fact, the Vatican ultimately endorsed major portions of the Cairo document that included sections on, for lack of a more descriptive term, the empowerment of women—the first time the Vatican has ever supported such an international statement on this topic. Empowering women refers to increasing opportunities for women to become better educated and to increase their decision-making and economic opportunities and means. This is critical to reducing population growth since studies have shown a direct correlation between education and lower birth rates.

So, what is in this global consensus document and why is it important for countries to fulfill the commitments made in Cairo?

In my view, the international conference on population and development made enormous strides in focusing the world's attention on the urgency of the population crisis and in establishing a global framework within which to address our world's population problems.

The final document embraces a new approach which couples a continuing emphasis on family planning and other health services with the previously undervalued but important roles of education and empowerment of women—areas that will enable women to take more responsibility for their own lives. This is a major step forward from past population conferences.

At the 1974 population conference in Bucharest, when many countries were wary of any effort to address such issues, the agenda focused primarily on promoting family planning services.

In 1984 the United Nations gathering was held in Mexico City. Under the control of the Reagan-Bush administration, the United States delegation split from the majority of nations which called for global efforts to address population problems and withheld its support for many international family planning initiatives.

However, in 1994, the United States played a key role in advancing the new emphasis of empowering women and winning over many of the more conservative countries that initially had withheld support for some of the key provisions in the document. Among the factors in this outcome was the expertise of the U.S. delegation's nongovernmental organization representatives, whose participation was critical.

The final program of action is an all-encompassing document that goes far beyond previous efforts. In addition to providing universal access to family planning programs, it stresses the need for increased efforts in maternal and child health care. It has been demonstrated many times that when families believe their children will live to adulthood, they will take steps to ensure they will have fewer children.

This conference, following up on the call at the Earth summit in Rio to address the need to link population and consumption issues with environmental concerns, focused on the need for sustainable development. Expanding on the efforts of the Rio summit, the Cairo document states that, to achieve sustainable development and a higher quality of life for all people, countries should reduce and eliminate unsustainable patterns of production and consumption. Also, countries are urged to promote appropriate population-related policies and to work to eradicate poverty as an indispensable requirement for sustainable development.

Several chapters of the Cairo document are focused on the need for universal access to health-care services, including those related to reproductive health care and family planning. Included in this measure is a call to address the issue of unsafe abortion in the 172 countries that allow some form of legal abortions. Much time at the conference was spent grappling with language about unsafe abortions, and the final document acknowledged each country should establish practices for safe abortions that are consistent with its own national laws. Successfully addressing this problem would have a significant impact on the 200,000 women who die each year from unsafe abortion. In addition, there was a call to reduce the demand for abortion by providing universal access to other critical health care and family planning services. This also would help to reduce the 500,000 deaths per year due to complications from pregnancies. The Cairo document recommends making family planning and other reproductive health services more widely available and broadening accessibility to underserved groups such as teenage youth, including young men, and indigenous peoples.

Another important aspect of the document is its assessment of existing resources and specific resource needs for family planning, reproductive health services, sexually-transmitted disease prevention including HIV-AIDS, and biomedical and social science research.

So, the pertinent question, now that this conference has concluded successfully, is where do we go from here? What follow-up steps should the United States be taking to fulfill our Cario commitments? The Federal Government must significantly expand its efforts to work with the private sector as well as to reach out to the bilateral organizations and multilateral institutions such as the World Bank to encourage them to make population a significant consideration in their work. In addition, we must seek ways to enhance the effectiveness of our ongoing

efforts and to improve our coordination with and outreach and technical assistance to southern countries. And we must better educate the American people concerning the importance to all Americans of the U.S. investment in this global effort to meet the goals set forth in the Cairo action plan, which are expected to cost $17 billion per year by the turn of the century.

This is an daunting challenge, but if each country accepts an appropriate share of the responsibility, we can realize enormous benefits for the quality of life of all humankind. I believe the United States can and must continue to provide strong leadership to accomplish these objectives. I hope that the Senate, in the months ahead, will join me in helping us achieve this new world vision.

URBAN INSTITUTE REPORT ON COSTS OF UNDOCUMENTED ALIENS

Mr. GRAHAM. Mr. President, on September 14, the Urban Institute released the second part of its study on the fiscal impact of undocumented aliens in seven States, including my home State of Florida. The Urban Institute study was initiated by and prepared for the Office of Management and Budget [OMB], and its purpose is to develop both reliable estimates of States' costs for services provided to undocumented aliens and a uniform methodology for calculating these costs.

The principle findings include:

An estimated 3.4 million undocumented aliens lived in the United States in October 1992, and the population grew by an estimated 299,000 each year between 1988 and 1992. Florida had 322,000 undocumented aliens, 9.5 percent of the total undocumented population and 2.3 percent of the total State population.

An estimated 21,395 illegal aliens were incarcerated as of March 1994, at an annual cost of $471 million. The report estimated that Florida had 951 incarcerated illegal aliens and that Florida's cost of incarceration was $11.8 million.

An estimated 641,000 undocumented alien children were enrolled in public primary and secondary schools at a total State and local cost of $3.1 billion. Florida had 97,000 undocumented aliens enrolled in public schools, 107 percent higher than the State's estimate of 47,000 students. The estimated cost was $424 million, 135 percent higher than the State's estimate of $180 million.

Although the report revealed that $1.9 billion was collected from undocumented aliens for sales, property, and State income taxes, in Florida, undocumented aliens paid only $277 million in taxes, less than 2 percent of the total taxes collected.

Mr. President, during the 103d Congress, I have worked with my colleagues from the six other States who are primarily impacted by Federal immigration policy in an attempt to force the Federal Government to live up to its responsibility. In many cases, we have had little success, and a major obstacle to our efforts has been the lack of reliable information about the numbers and costs of illegal immigration. I am hopeful that this report will finally put to rest any doubts about the true impact of illegal immigration on our State and local governments.

The report overwhelmingly support Florida's estimates of the costs of providing services to illegal immigrants. In every category, the report found that Florida had either accurately or underestimated its costs. For years, Florida has repeatedly asked the Federal Government for assistance in bearing these costs, without adequate response. In March 1994, as a last resort, the State filed a lawsuit against the Federal Government for the unreimbursed costs of providing education, law enforcement, and health care services to undocumented aliens.

In the past month, Florida narrowly avoided a tidal wave of uncontrolled immigration from Cuba that threatened both the security of Florida communities and the lives of refugee rafters. Although a new agreement between Cuba and the United States promotes a legal, limited, and orderly process of immigration and lessens the threat of dangerous, illegal immigration, this policy represents a potential burden that Florida taxpayers should not be asked to shoulder. The agreement does not change Florida's most important priority: to compel the Federal Government to pay the price for the unfair burden immigration places on the State.

As an article from the September 10 Miami Herald states,

> Cuba and the United States talked for seven days. Now Florida will pay the price. As the state with the highest concentration of Cubans, Florida will attract the majority of the approximately 29,000 refugees who will come from the island over the next year. And the 20,000 every year after that * * *. [Although] legal immigrants are eligible to receive some cash, medical help, and job training from the federal government, the aid runs out after eight months. Then it's up to the state and local governments to step in.

The Clinton administration was the first administration to take partial responsibility for the costs of illegal immigration. However, recent influxes of Cubans and Haitians have intensified the impact of immigration on Florida's communities, and the burden remains overwhelming. Alice Rivlin, the Acting Director of OMB, expressed her hope that this report will contribute to shaping the policy and budgetary decisions of the executive and legislative branches. I share her hope that this information will finally convince the administration and the Congress that our States and localities are facing an emergency situation and can no longer bear the burden alone.

WHEN EPA EXAGGERATES RISKS

Mr. FAIRCLOTH. Mr. President, I would like to bring the attention of my Senate colleagues to an op-ed written by Kent Jeffreys of the Alexis de Tocqueville Institution entitled, "When EPA Exaggerates Risks."

We are now spending close to $150 billion annually in public and private resources to comply with environmental regulation. We need to make sure that this money is being spent to reduce real risks to human health and the environment, not exaggerated risks. Enhanced risk assessments would target scarce resources, thereby strengthening our environmental protection efforts.

In this article, Mr. Jeffreys summarizes the finding of a major study he conducted for the Alexis de Tocqueville Institution entitled "Science, Economics, and Environmental Policy: A Critical Examination." This study critiqued the scientific methods that form the basis of the EPA's risk assessments and cost-benefit test for environmental tobacco smoke, radon, pesticides, and hazardous waste clean-up under the Superfund law. This report found that the EPA's assessment of potential risks in these four areas was based on faulty scientific analysis and selective use of date. Further, in the instances where the EPA did conduct a cost-benefit analysis, the purported benefits were greatly overstated.

Mr. President, as this session of Congress draws to a close, there may be a last ditch effort to consider several pieces of environmental legislation, including the Safe Drinking Water Act reauthorization. In my view, if these environmental bills are to pass the Congress, they should at the very least include sound risk and cost-benefit analysis provision. That only makes common sense. I ask unanimous consent that Mr. Jeffrey's article be printed in the RECORD immediately following my remarks.

I yield the floor.

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

[From the Journal of Commerce and Commercial, Sept. 15, 1994]

WHEN EPA EXAGGERATES RISKS

(By Kent Jeffreys)

Opinion polls consistently show that Americans are cynical toward government. Too often such cynicism is well-earned. Yet, one policy area that might deserve even more cynicism is environmental regulation. There is substantial evidence that the American people are not getting accurate and complete information from the government when it comes to environmental risks. Remarkably, however, the government is not ignoring large risks but greatly exaggerating tiny ones.

With the Sept. 13 release of the Environmental Protection Agency's new report on

the health risks of exposure to dioxin, the public debate over environmental risks is likely to reach a fever pitch in the coming weeks. Yet, given EPA's track record, this new risk assessment should be viewed with a healthy dose of skepticism.

At the Alexis de Tocqueville Institution, we recently completed a review of the EPA's risk assessments of four specific environmental issues: "environmental" tobacco smoke, indoor radon, pesticide residues on the food supply and hazardous waste cleanup under the federal Superfund law. In each case, the human health risks have been greatly exaggerated and the resulting costs from regulations have vastly exceeded the potential benefits.

As a first example, consider pesticides. Under the so-called Delaney clause of the federal Food, Drug and Cosmetics Act, a zero tolerance is established for any chemical linked to cancer in laboratory animals, regardless of the dose actually tested in the experiment. Yet when the Delaney clause was adopted as law, scientists could only detect chemicals at fairly high levels. Thus, the regulation provided the desired margin of safety with little impact on food production and processing.

Today, much smaller quantities are routinely analyzed, often detecting a few molecules per quadrillion. In other words, "zero" has gotten much smaller and therefore much harder to achieve. Indeed, under the Delaney clause, many useful agricultural chemicals must be banned lest they somehow be detected in processed foods. No health consequences can be shown for such small amounts; they can only be assumed.

Even when the potential health risk arises from nature itself, the environmental bureaucracy consistently overstates the risks. Radon, a naturally radioactive gas that is constantly seeping out of most soil and rock formations, can accumulate in the lower level of man-made structures. Potentially a health risk can arise, since high doses of radioactive gases in the air can increase the risk of developing lung cancer.

Yet the EPA and its environmental allies insist that a single molecule of radon can cause lung cancer. In other words, there is no "safe" exposure level. Although EPA concedes the reality that no one could achieve radon-free indoor air—after all; the outdoor air has measurable quantities of radon—it still insists that all homes and schools should be tested. Even if the tests show low to moderate readings of radon, EPA "recommends" that expensive remediation work be performed, especially if the home is to be sold on the open market.

This is unnecessary for several reasons. First, the EPA's recommended action level was based on an assumption of 70 years of constant exposure. Few people are so homebound. Even worse, the EPA's research data came from studies of underground mining operations with extremely high exposure levels. It should become apparent that the average home does not closely resemble a mine shaft. The needless expenditures by worried homeowners have run into the hundreds of millions, even billions, of dollars.

Perhaps no less more perfectly displays the problem of exaggerating health risks than the fight over smoking in public. The latest weapon in the war on tobacco seems to be an unfortunate willingness to distort the truth.

Almost everyone now admits that heavy smoking is detrimental to the health of millions of Americans. Thus, the facts about smoking should be sufficient to make the point: If you smoke, you should probably stop. There is a widespread effort under way, however, to prohibit smoking universally, regardless of the willingness of the smoker to assume the risks.

The EPA and its partners in the anti-tobacco war have seriously exaggerated what is known about secondhand smoke. For example, standard procedures for estimating the possibility of radon error were altered by the EPA so that it could assert its findings on secondhand smoke were "statistically significant." Yet, even if one uncritically accepts the EPA's conclusions, the resulting increase in risk is about the same as the lifetime risk of being killed while riding a bicycle.

If the EPA were trying to prove that secondhand smoke can be an annoyance to many people, then it would be on solid ground. But the EPA is attempting to prove that serious medical risks are created by even casual exposure to secondhand smoke. In its effort to do so, the EPA has manipulated selected portions of the existing literature until it produced the desired result. Whatever the motivations of the EPA officials in this matter, it is unacceptable to distort the science for the sake of a policy goal. The EPA's stance on secondhand smoke has an Alice in Wonderland quality of "sentence first—verdict afterwards."

Even among those of us who don't smoke, there is reason to be concerned with the direction of the debate over tobacco. This issue is much bigger than tobacco itself because if science is distorted in an effort to "do good," society ultimately may be left much worse off. Skeptics should consider that whenever a tobacco company makes a statement about smoking and health, it is generally discounted because of the "special interest" it holds in the issue. This is no less applicable to the "special interests" of the EPA. The bureaucrats are strongly interested in justifying their budgets and generating favorable publicity. Yet that does not excuse flagrant disregard for the scientific method.

EPA officials have a duty to conduct the best science possible and report the results fully and honestly. One would hope they would avoid unnecessarily alarming the American public over issues of health. That has not been the case with most low-level environmental risks. Sadly, the EPA itself is becoming a health risk by distracting Americans from the true hazards.

REGULATION OF INTRASTATE MOTOR CARRIER SYSTEMS

Mrs. MURRAY. In the weeks since Congress passed the Federal Aviation Administration Authorization Act of 1994. H.R. 2739, I have had concerns raised by constituents in Washington State regarding whether this law preempts State and local regulatory authority of the transportation of garbage and refuse, and the transportation for collection of recyclable materials that are part of a residential curbside recycling program.

Mr. FORD. I can assure the Senator it was not the intent of Congress to preempt State and local regulation of the activities that the Senator just mentioned. As a matter of fact, the Senate recently passed an amendment in the nature of a substitute to H.R. 5123, which I did not feel was necessary, but made it abundantly clear to everyone the transportation of garbage and refuse was not affected by H.R. 2739.

Mr. GORTON. Senator FORD, as you know, it was my intent to offer an amendment to clarify the recycling issue during the last Commerce Committee markup, but I was assured by DOT and ICC that such an amendment was not necessary. Is that the Senator's recollection as well?

Mr. FORD. Yes, and I would like to add that the Interstate Commerce Commission [ICC] has issued a legal opinion that title VI of the Federal Aviation Act of 1994 does not preempt a State or municipality from regulating curbside collection for recyclable. According to the ICC, "recyclable segregated from trash for curbside collection should not be deemed to be property under the ICC precedent and as such would not come within the purview of title VI of the FAA Act."

Mrs. MURRAY. I want to thank the Senator for making it clear that it is not the congressional intent of section VI of the FAA Act to preempt State and local regulation in the areas we just mentioned.

RESPOND ACTIVELY TO THE FACTS AS THEY ARE: A PRAGMATIC APPROACH TO CREATING JOBS AND OPPORTUNITY IN PENNSYLVANIA

Mr. WOFFORD. Mr. President, as Congress prepares to adjourn, it is important to take stock of what we have accomplished and what more must be done to continue to build our economy and create jobs.

We have had significant successes. To paraphrase Vice President GORE, what should be up and what should be down is down."

But we cannot be satisfied with the progress we have made. Too many businesses are struggling, too many workers are underskilled, underemployed, or undereducated. Much work remains to be done.

What worries people, what angers people most today is not just crime, or health care, or even jobs. It is the fact that Government seems incapable or unwilling to solve these problems. Petty, partisan bickering gets in the way.

The crime bill was a welcome exception. It took 6 years, but Congress finally came up with a tough, smart law that reasonable people on both sides of the aisle could support, whatever their personal qualms about particular details. I was pleased to join moderate Republicans like Pennsylvania's senior Senator, ARLEN SPECTER, to finally win passage of this bill, which will make a difference in every community.

Now, it is time to apply that same bipartisanship and pragmatic action to America's economic needs. It is time to stop bickering, and start building.

Before I got this job, I worked for 4½ years as Pennsylvania's Secretary of

Labor and Industry. When Governor Casey first approached me about that job, I had my doubts. Pennsylvania had a reputation for poor labor-management relations. And the labor and industry job itself had long reflected the division.

But Governor Casey made an offer I could not refuse. He told me that Republican Governors choose their Labor and Industry Secretaries from the House of Business and Democratic Governors choose theirs from the House of Labor. He wanted someone who was part of neither and could bring them together.

It was the same point President Kennedy made when I had worked for him. Instead of being a liberal or a conservative, he said, be responsible in the sense of responding actively to the facts as they are.

That is what I tried to do as Secretary of Labor and Industry. And that is what I have been doing since I came the Senate.

We have made progress in the last 3 years. Business investment and job creation are up. The deficit and interest rates are down.

But we cannot be satisfied. When leading Pennsylvania employers like Boeing and Scott Paper continue to announce major layoffs, there is a lot more we need to do. Not enough Pennsylvanians are seeing their own quality of life improve.

Our challenge today is to position our economy where the jobs and opportunities are going to be in the future so that we can sustain our recent economic gains and expand them to more Pennsylvania companies and families.

How do we do that?

By investing in the fundamentals of our economy. By making sure businesses have the capital they need to grow and create good jobs. By investing in new technologies and in training and education so that people can use them. And by reaching out to tap emerging new markets around the globe.

Government cannot achieve those goals by itself. But Government has a responsibility to be a good partner. It should help individuals and companies acquire the tools and the opportunities to succeed. It should invest in the basic building blocks of a strong, competitive economy. It should pursue trade policies that give American companies and workers the chance to compete fairly. And then, it should get out of the way.

In other words, it should respond actively to the facts as they are.

I. WHAT WE HAVE DONE

Expanding access to capital—the record:

What does responding actively to the facts mean?

For one thing, it means acknowledging that it takes more than hard work to turn a good idea into a business. It takes capital.

In 1991, when I came to the Senate, however, it was often impossible for businesses to get the money they needed to grow, no matter how creditworthy they were. Years of increasingly unbalanced Federal budgets had quadrupled our national debt, forcing the Government to borrow heavily and eating up too much of the available capital.

To free up capital for investment, I voted last year for the largest deficit reduction plan in our Nation's history. The plan is projected to reduce the deficit by $700 billion over 5 years. It will cut 272,000 Government jobs, paring the Federal bureaucracy to its lowest levels since the Kennedy administration. And it makes cuts in 300 different programs, including every major entitlement program.

The plan is working. Already, the deficit is $85 billion less than it would have been if we had done nothing. Unemployment is down nationally and in Pennsylvania. Corporate profits and investment in new plants and equipment are up. Interest rates—both short- and long-term—are the lowest they've been since the 1970's. And the Federal deficit is decreasing. If we stay on track—and indications are we will—next year will mark the first time since Harry Truman was in the White House that the deficit has gone down 3 years in a row. By 1999, the projected deficit will be cut in half.

We are putting less money into the bureaucracy and more money into the hands of the people who create jobs.

We are also working to target capital where it is often most needed, and where it will create the greatest number of jobs: small business.

I voted to create a new 50-percent capital gains tax cut for people who make long-term investments in small businesses.

I also worked closely with the administration to ease the credit crunch by eliminating unnecessary regulations that prevented banks from making loans to small businesses.

And, as a member of the Senate Small Business Committee, I am fighting to make sure that Pennsylvania's small businesses get their fair share of Small Business Administration loans.

After hearing from one after another Pennsylvania business owner who had been turned down for an SBA loan, I discovered that, despite ranking fifth nationally in the number of small businesses, Pennsylvania ranked only 14th in the number of SBA loans. And the percentage of Pennsylvania businesses approved for SBA loans had been less than half the national average.

Now, with the help of a new SBA loan program called Low Doc, for low documents, I hope that will change. The program provides loans of up to $100,000 to creditworthy small businesses. Just as important, it replaces the endless loan application forms businesses used to fill out with one simple form, so that employers in Pennsylvania and across the country can spend less time filling out forms—and more time creating good jobs.

Investing in competitiveness—the record:

Responding actively to the facts also means acknowledging that we can't keep our economy moving if our roads, rails and waterways are falling apart.

In 1991 Congress passed the Intermodal Surface Transportation Efficiency Act—ISTEA in Washington-speak, to rebuild America's crumbling roads and bridges—the backbone of our economy—and to improve our railways and ports.

This Marshall plan for American transportation will pump billions of dollars into Pennsylvania over 6 years for highway and mass transit projects. Among the benefits: upgrading and maintaining all 5,388 miles of interstate highway in our State.

I have worked to expand the Federal investment in Pennsylvania's basic infrastructure in a number of other key areas as well, including: dredging the Delaware River channel to keep Philadelphia's ports competitive; modernizing locks and dams along the Monongehela River outside Pittsburgh; and building a new Pittsburgh Airport Busway, just to name a few.

We are also investing in America's technological infrastructure. Japan and Western Europe have already demonstrated the benefits of linking public and private resources to develop new technologies and target them to the marketplace.

The National Competitiveness Act, which I worked to pass in the Senate, is designed to level the playing field and restore U.S. leadership in manufacturing and technology. Modeled after the Industrial Resource Centers, the Ben Franklin Partnership, and other market-driven, public-private partnerships we created in Pennsylvania, the act helps manufacturers develop and market new technologies and cut costs.

Another way to make Pennsylvania companies competitive is by making Pennsylvania communities competitive.

That is why I voted to establish 9 empowerment zones and 95 enterprise communities to attract new jobs where they are most needed by combining tax benefits, social service grants and improved program coordination.

Training a skilled work force—the record:

Responding actively to the facts means overhauling our education and training systems so that workers and companies can remain competitive in a rapidly changing economy.

A top executive at Bell of Pennsylvania once told me his company had to interview thousands of applicants just to find a few hundred entry-level workers with the most basic reading, math,

and social skills. And they are not alone.

As Secretary of Labor and Industry, I worked with Bell and other leading Pennsylvania employers and unions to make sure that workers had the skills to get good jobs, and keep them, in today's work place.

In the Senate, I used that experience to fight for the Nation's new School-to-Work Opportunities Act. Modeled largely after the Youth Apprenticeship Program we started in Pennsylvania, the School-to-Work Opportunities Act helps States develop apprenticeship programs and tech-prep programs for the more than 50 percent of young people who do not go on to college. By linking high schools with local employers and combining classroom study with hands-on learning-by-doing, the school-to-work bill will help give employers the skilled workers they need, and give many more young Americans the chance to succeed in the world of work.

At the same time, we helped make college more affordable for middle-class families by changing the rules governing financial aid and reforming the Direct Student Loan Program. The result is a major savings to taxpayers and lower cost loans for students.

And I am proud to have played a leading role in enabling students to pay for college with their own "sweat equity," by serving their communities for a year or more in demanding, well-organized youth corps. AmeriCorps brings the spirit of the Peace Corps home to deal with problems facing American communities. It is a goal I have fought for over 30 years, since I helped Sargent Shriver found the original Peace Corps during the Kennedy administration. Now it is a reality.

Reaching new markets—the record:

Responding actively to the facts means answering the challenges—and seizing the opportunities—in today's rapidly changing global marketplace. That means first, ensuring that other nations do not employ unfair trading practices, and second, helping U.S. firms identify and reach new export markets.

As chairman of the Senate Small Business Subcommittee on Export Expansion, I'm committed to opening more foreign markets to American products—through negotiation if possible, through our own trade laws if necessary.

Last year, Rhom & Haas, the Philadelphia chemical giant, ran into a major problem when the Government of Honduras wrongly blocked the company from shipping products into that country and collecting payment on a timely basis. I went to work with our Ambassador and the U.S. trade representative, and we quickly put an end to the illegal obstructionism.

Right now, trade with Chile—mostly fruit shipped through Philadelphia ports—pumps $100 million a year into southeastern Pennsylvania's economy and is responsible for about 1,000 jobs.

I coauthored a bill with Representative GEPHART to boost those numbers by authorizing the President to negotiate a free-trade agreement with Chile. Because expanding trade on a level playing field with other countries can benefit all of us.

But where the playing field is not level, where there has been unfair foreign competition, I have been fighting for Pennsylvania's workers and industries. The steel industry is just one example. I have worked closely with USX, Bethlehem Steel, and other domestic manufacturers to stop illegal foreign dumping, open new markets, and enforce our trade laws. Given the chance, American steelmakers can not only survive, but thrive in a global economy.

In addition, I cowrote the new law requiring the Department of Commerce to step up its efforts to increase the sales of American-made auto parts to Japanese car manufacturers—a measure that is especially important to the 17,000 Pennsylvania workers who are employed in auto-related manufacturing.

II. NEXT STEPS

Most importantly, responding actively to the facts as they are means accepting that our work is never finished. In a time when new technologies can become obsolete in a year and new markets are appearing around the globe, rebuilding Pennsylvania's economy must be an ongoing business.

Again, Government's role is limited—but important. Here are some steps I believe Government must now take to sustain the progress we've made and expand the benefits of the current recovery to more people.

Expanding access to capital—next steps:

Congress was right in 1993 to extend the Federal research and development tax credit. Now we need to go further and make the tax credit permanent.

We should also pass a balanced budget amendment to the Constitution. Congress ought to have the fiscal discipline to balance its books without, in effect, holding a gun to its head. But experience has shown that it does not. A balanced budget amendment may force Washington to develop the habit of discipline. At the very least, it will force Government to live within its means and prevent it from borrowing heavily and driving up interest rates.

Most importantly, we need to stop the ruinous inflation of health care costs. A report by the National Governor's Association makes the case starkly: Unless Washington and the States bring Medicaid costs under control, everything else we do to control the deficit will fail.

Health care reform ought to make it possible for other Americans to have the same kind of affordable coverage and choice of private health plan that Members of Congress have arranged for themselves. Indeed, the Federal Employees Health Benefits plan—which covers some 9 million people—provides a good model for our efforts. It is a private, employer-based, consumer-choice system that uses its bargaining power to actually bring costs down.

While bitter partisanship inside Congress and powerful special interests outside have so far succeeded in blocking health care reform, there are a number of commonsense steps Congress can take now toward bipartisan health reform. These steps include opening up the Federal employees plan to small businesses and individuals, as well as children; reforming the insurance market to end unfair and discriminatory insurance practices such as exclusions for preexisting conditions; 100 percent deductibility of insurance premiums for the self-employed and other sole proprietors; administrative simplification that uses the private sector—rather than a Government bureaucracy—to computerize and streamline today's mass of health care paperwork. These are steps we can and should take sooner rather than later. The cost of doing nothing is too high for families and companies alike.

Investing in competitiveness—next steps:

ISTEA is the road map America needs to create the best transportation network in the world—better than Germany, better than Japan, better than anyone. A critical piece of the plan is the proposed National Highway System linking economically important highways coast-to-coast.

A map of the proposed system has already been drawn up. Congress should sign off on that map now. If it does not do so by October, 1995, Pennsylvania will lose $211 million a year in Federal highway funds, and the Nation will lose a total of $6.5 billion a year.

The 1995 farm bill provides a different—but equally important—map, a map that will guide agriculture and rural development into the next century. The farm bill will provide farmers with access to the latest in agricultural research and technology, and help in marketing their goods.

In Pennsylvania, where agriculture is the No. 1 industry and agriculture processing is No. 2, that kind of planning and assistance is essential to a healthy economy. I want to see the farm bill on the top of the Senate's agenda next year.

Sometimes the most effective thing Government can do to encourage competition is just to get out of the way.

Congress should pass the National Cooperative Production Act. That act builds on the 1984 National Cooperative Research Act, which relaxed antitrust regulations and encouraged United States and foreign companies to cooperate on research and development

projects. Together, the two acts will increase U.S. competitiveness by allowing American companies to share the risks and costs of developing new products and bringing them to market.

I want to see Congress pass the Superfund reform bill I helped draft as a member of the Senate Environment and Public Works Committee. The bill includes a responsible brownfields propose that encourages the reuse of old industrial sites by protecting new owners from liability for contamination by past owners and setting new clean-up standards that are predictable, flexible, and tailored to the intended new use of the property.

Beyond that, we need to expand the Industrial Development Bond Program to help communities finance critical building and infrastructure projects, and encourage flexibility and innovation in Federal economic development programs. One-size-fits-all approaches aren't nearly as effective as solutions that are tailored to fit communities' specific needs.

Training a skilled work force—next steps:

As Secretary of Labor and Industry I helped turn Pennsylvania's unemployment offices into one-stop job centers. In 1992, the job centers were hailed as one of the 75 top innovations in State and local government by the Ford Foundation and Harvard's Kennedy School of Government.

It's time to apply that same kind of common sense to the way the Federal Government supports worker training. We can fill gaps, eliminate costly duplication of services, and develop accurate new ways to measure results by coordinating the current patchwork of 154 Federal employment and training programs. The programs are now spread out over 14 departments and independent agencies, with a combined budget of $25 billion. As it was in Pennsylvania, cutting out this overlapping bureaucracy and improving the effectiveness of these programs will be among my high priorities in the next Congress.

Reaching new markets—next steps:

The benefits of the recovery are coming perhaps most slowly to those connected to exporting. The United States racked up the second-worst merchandise trade deficit in history in July, 1994.

As chairman of the Senate Small Business Subcommittee on Export Expansion, I have seen how Government can get in the way and prevent business from seizing opportunities in the new global marketplace. I want to change that.

We need to modernize and simplify our whole system of controls over the export of technology. The current system is a cold war relic that's often irrelevant and counterproductive.

The United States also needs to be more vigilant about monitoring foreign countries' compliance with trade agreements and, if violations are found, imposing penalties on the offending nation's exports to the United States.

III. CHANGING WITH THE TIMES

We live in a time of unprecedented change. At the same time political forces are redrawing the world's map, technological and economic changes are dramatically reshaping the world marketplace.

I believe Pennsylvanians can not only compete in this new world economy, but lead it—if we respond actively to the facts as they are. I am pleased that Washington has begun to apply so many of the commonsense lessons we pioneered in job training and other fields in Pennsylvania.

But what's more important than what we are giving to Washington is what Pennsylvanians are finally starting to get from Washington—a fair return on our investment of tax dollars.

I want to continue to work with business leaders to invest in the fundamentals of Pennsylvania's economy and respond actively to the facts as they are. Because the goals of business and Government are the same; creating good jobs for our people and new opportunities for our companies, now and in the future. Let us pursue those goals by turning away from the partisanship and division that has characterized far too much of our public discussion, and build on the common ground of commonsense action on the challenges facing our Commonwealth and our country.

LOBBYING DISCLOSURE ACT

Mr. LEVIN. Mr. President, earlier today the Senate failed in a second attempt to invoke cloture on the Lobbying Disclosure Act of 1994. This occurred despite a good faith offer to meet the stated concerns of the opponents with respect to the provisions on grassroots lobbying. We were unable to obtain the necessary unanimous concurrent resolution to strike the provisions they said they were concerned about in the conference report.

The outcome of this legislative battle is, of course, deeply disappointing. Senator COHEN and I and other members of the Governmental Affairs Committee, in particular Chairman GLENN and Ranking Republican ROTH, have worked long and hard on this legislation. The bill was first introduced in early 1992, following a series of hearings we held on the problems with lobbying registration laws. We held a hearing on that bill, S. 2279, that same year. As a result of that hearing, we introduced a revised bill, S. 2766, which was approved unanimously by the Oversight Subcommittee on June 16, 1992 and by voice vote of the Governmental Affairs Committee on June 25, 1992. The 102d Congress adjourned without final action on that bill. Senator COHEN and I then reintroduced the Lobbying Disclosure Act early in 1993 with Senators GLENN, ROTH, BOREN, CAMPBELL, MCCAIN, STEVENS, and DECONCINI. S. 349 was reported by the Governmental Affairs Committee by voice vote on February 25, 1993, and passed the Senate on May 6, 1993, after three days of consideration by a vote of 95–2.

This bill was the product of lengthy and thoughtful deliberations which reflected just what the legislative process should be. It was only in the final days that the process went terribly awry when largely the same bill that had passed the Senate by a vote of 95–2 was sacrificed for political purposes.

This setback, however, is only temporary, and we will be back early in the next Congress.

I want to take this opportunity to express my appreciation and admiration for my colleagues and their staffs who contributed so much to getting us this far. First, I want to thank my principal sponsor, Senator COHEN, for his leadership, commitment, and steady support. He never wavered in his support of this legislation and in his willingness to work to advance it. His advice was always helpful, and his good judgment always welcome.

Second, I want to thank Congressman JOHN BRYANT who labored so diligently for this bill in the House. He is one of the finest Members of Congress with whom I have worked. I value his commitment, his common sense, and the ease with which he navigated the challenges we faced.

I also want to thank Senator GLENN, the Chairman of our Committee, and Senator ROTH, the Ranking Republican. They provided the leadership and support we needed to get this legislation through the Committee and onto the Senate floor.

My appreciation also goes to the Senators who served on the Conference Committee—Senators AKAKA and STEVENS. All five Senators on the Conference Committee signed the Conference Report. We had some differences of opinion on some of the provisions, but we were able to work those differences out with sometimes lively, but largely successful, debates.

Mr. President, the leadership and support of Majority Leader MITCHELL is also greatly appreciated. He was extraordinarily effective in getting this legislation to the floor.

Of course, Mr. President, the staff representatives of all of these Members were key to the progress we did make. My thanks goes to Paul Brubaker and Dave Wilby of Senator COHEN's staff; Len Weiss and Brian Dettelbach of Senator GLENN's staff; Frank Polk and J.C. Boggs of Senator ROTH's staff; Paul Drolet and David Naimon of Congressman BRYANT's staff; Nancy Langley of Senator AKAKA's staff; Christine Piccone and Pat Raymond of Senator

STEVENS' staff; and Jim Weber of Senator MITCHELL's office.

Finally, Mr. President, I want to thank Peter Levine and Linda Gustitus of my subcommittee staff. They brought this issue to my attention back in 1989 when we were looking into the contracting and lobbying practices of the Wedtech Corporation. When we learned that persons who are paid to lobby executive branch agencies aren't required under current law to register, we decided to try to change the lobbying laws. The more we looked into these laws, the worse the picture became. We finally decided that an overall reform was necessary. We started with that reform back in 1990, and Peter and Linda pursued this matter from beginning to end. They have worked long and hard on this legislation, and I sincerely appreciate their effort. We all look forward to success next year.

Their effort has been inspiring. Night after night, week after week, Linda devoted precious hours she would have loved to have been spending with her husband Bob, and her children R.J. and Sandra, instead to the cause of lobbying and gift reform, and Peter, whose wife Mary Ellen is expecting a child in but a few months, took untold hours he would have loved to be spending with her, and gave them to this cause instead.

We owe it to our country, first and foremost, to reform lobbying disclosure laws and gift laws; we owe it next to this institution and to ourselves. But we finally also owe it to our staff and their families.

TRIBUTE TO HOWARD METZENBAUM

Mr. DECONCINI. Mr. President, as the 103rd Congress draws to a close, I want to pay tribute to one of my colleagues on the Judiciary Committee who will be retiring at the end of the session, Senator HOWARD METZENBAUM.

Howard was elected to his first full term in the Senate, as I was, in 1976. We were both appointed to the Senate Judiciary Committee where we have served for 18 years. While we have been on opposite sides of issues from time to time, HOWARD and I came to know and respect one another and to better understand the constituencies we represented.

I do not think there is a Member of the Senate who would not prefer to have HOWARD as an ally rather than an adversary. We all know HOWARD as a fighter. He was tireless and tenacious. A formidable foe, we know HOWARD will go to the mat fighting for the things in which he believes so deeply. If you're in the ring with HOWARD, you know it will be a 10-round bout. HOWARD is persistent, sometimes pugnacious, sometimes pesky, but always a man of principle.

From his seat on the Judiciary, HOWARD can boast a long list of legislative accomplishments. But among the achievements of which I know he is most proud are his successful efforts to reduce crime in our neighborhoods by eliminating guns on our streets. He was a fierce opponent of the gun lobby. After years of effort to pass legislation requiring a waiting period for the purchase of guns, HOWARD succeeded in enacting the Brady bill, a landmark piece of legislation which he authored and I supported. Battling great odds, HOWARD, Senator FEINSTEIN and I worked together in a successful effort to ban the sale of certain military style, semiautomatic assault weapons. That bill was also enacted into law as part of the 1994 Crime Bill. And HOWARD was successful as well in banning cop killer bullets which earned him numerous rewards from major law enforcement organizations. HOWARD will leave knowing he made an enormous contribution to the Senate with an impressive legacy to safe streets.

A man of considerable wealth, HOWARD chose not to become the protector of the privileged, but chose instead to be the protector of the less fortunate in our society. He chose to be the defender of the defenseless, the voice of the voiceless, the hands of the helpless. During his tenure in the Senate, HOWARD earned a reputation as the champion of the poor, the sick, the disadvantaged, the disabled, the disenfranchised, the consumer, the worker and women and children. Time precludes me from a recitation of HOWARD's legislative successes in helping these groups. Suffice it to say that HOWARD's name or his fingerprints were on every significant piece of legislation to enhance the quality of life for the less fortunate in our society. From civil rights to worker rights; from consumer protection to protection of the environment; from health security to pension security; from child labor laws to women's health, HOWARD was in the vanguard.

One of reasons that HOWARD has decided to leave the Senate is to spend more time with his family. His love for children is legendary. I would like to share with you a personal experience in this regard. In 1988, I had a fundraiser here in Washington hosted by a number of my colleagues to which one of my staff brought his 7-year-old son. It didn't take HOWARD long to greet me and my guests, and then gravitate to the child with whom he spent the rest of the evening, entertaining him with pictures and stories of his own children and grandchildren.

Trying to define Senator METZENBAUM is no easy task. He has earned many nicknames—the Conscience of the Senate, the Tiger of the Senate, Senator No, Senator Can-Do, among others. My staff affectionately referred to him as the Senate Ombudsman. That title grew from HOWARD's long and lonely vigil at the end of each session of Congress, checking every bill and every amendment under a microscope to ensure that no special interest legislation was snuck through the legislative process in the final hectic days and hours of a congressional session. As Senator BYRD has said of HOWARD, "I have often felt that if we did not have a HOWARD METZENBAUM in the Senate we ought to somehow make one."

HOWARD METZENBAUM's retirement from the Senate will leave a void in this Chamber that will not soon be filled. He will be sorely missed, but he leaves behind a legacy of impressive legislative accomplishments as well as many friends and admirers, including this Senator. As we walk out the door together, I want to wish HOWARD and his devoted wife Shirley every success and happiness. Enjoy your grandchildren and smell the roses!

TRIBUTE TO SENATOR HARLAN MATHEWS

Mr. DECONCINI. Mr. President, the poet Oliver Wendell Holmes once described the importance of acting on a commitment or an ideal: "I find the great thing in this world is not so much where we stand, as in what direction we are moving. We must sail sometimes with the wind and sometimes against it—but we must sail, and not drift, nor lie at anchor." When HARLAN MATHEWS was appointed 2 years ago to fill the unexpired term of Vice President GORE, he came to the Senate with a determination to act on his convictions. At the beginning of his tenure, he stated three primary goals he wished to pursue during his term in office: reduce the deficit, address the Nation's health care crisis, and look after the needs of his fellow Tennesseans. He has followed that course with distinction.

HARLAN came to the Senate with an outstanding background in economic policy. He served his State of Tennessee as Commissioner of Finance for 10 years, a position he held longer than any commissioner of that department to date. He was subsequently elected state treasurer. His 13 years in that position made him the longest holder of that office in Tennessee history. In his home state he made his mark as a sound fiscal conservative and continued his commitment to fiscal responsibility when he came to the U.S. Senate.

HARLAN MATHEWS has been a strong voice for economic accountability, cosponsoring a balanced budget amendment and calling on this nation to square its accounts. From his seat on the Foreign Relations Committee, Senator MATHEWS has fought to improve America's economy by improving our trade performance. He sponsored a Senate Resolution emphasizing the importance of trade relations between the

United States and the Asia Pacific countries, a critical ingredient for the U.S. to remain competitive in the 21st century. As a member of the Energy and Natural Resources Committee, HARLAN MATHEWS championed legislation to promote a working partnership among the Department of Energy, American industry, and our educational institutions, thereby allowing our Nation's research labs to spearhead economic growth and keep us economically strong in the global marketplace.

HARLAN MATHEWS has served his constituents in Tennessee with distinction. He has worked tirelessly on issues of vital concern to his home State, including coal production, research and development at the Oak Ridge National Laboratory, revitalization of the Lower Mississippi Delta region, improvement of our rural health care system, and preservation of the Great Smoky Mountains National Park.

It has been a pleasure to serve with my colleague from Tennessee over the past 2 years. He leaves behind a proud and distinguished record of service. I wish him and his family every happiness and success in the years to come.

TRIBUTE TO THE HONORABLE DAVID L. BOREN

Mr. DeCONCINI. Mr. President, it has been said that every job is a self-portrait of the person who did it. When we look at the career of the distinguished Senator from the State of Oklahoma, Senator BOREN, it is quickly apparent that he has excelled in virtually every effort he has undertaken. Senator BOREN graduated from Yale University in the top one percent of his class. He was a Rhodes Scholar and attended Oxford University in England where he received his master's degree in Government with honors. He subsequently attended the University of Oklahoma College of Law and was named by the faculty as the outstanding graduate of his class.

The State of Oklahoma and the nation are the beneficiaries of Senator BOREN's decision to dedicate the next 30 years of his life to public service. Once again, he excelled in his chosen path. After serving with distinction in the Oklahoma House of Representatives, he became the youngest governor in the Nation. Next there would follow 16 years of service in the U.S. Senate. Oklahoma's overwhelming endorsement of Senator BOREN's Senate job performance is reflected in the fact that he made state election history in both of his re-election campaigns, carrying all but two of the State's 2,354 precincts in his last election.

Senator BOREN and I came to the Senate just a few years apart. Together we worked on many issues to reform our system of government. Senator BOREN was a key player in campaign finance reform as well as legislation to streamline congressional operations; limit lobbyists' gifts and travel subsidies to government workers; and to put a rein on the revolving door between public service and private profit. He has done yeoman's work in making government more efficient and responsive to the American people. He has been in the vanguard of the fight to ensure that Federal employees serve the public interest—not special interests.

I had the privilege of succeeding Senator BOREN as chairman of the Intelligence Committee. His genius in foreign policy is widely acknowledged, and his expertise has been tapped by U.S. Presidents, Republican and Democrat alike. President Reagan chose Senator BOREN to be advisor on U.S. policy during the Philippines' transition to democracy. President Bush chose him as informal advisor on South Africa during the transition from President Botha to President de Klerk. Senator BOREN was one of three Senators who first visited China following the events of Tiananmen, and President-elect Clinton acknowledged his expertise by choosing him as an informal advisor on U.S. policy on China.

Teddy Roosevelt once stated that "real success consists in doing one's duty well in the path where one's life is led." Throughout his life DAVID BOREN not only has performed his duties well, he has excelled in virtually every endeavor he has undertaken. I am certain he will continue his outstanding record of success as he assumes the Presidency of the University of Oklahoma. I wish Senator BOREN and his family every success and happiness in the years ahead.

TRIBUTE TO SENATOR DAVE DURENBERGER

Mr. DeCONCINI. Mr. President, as Senator DAVE DURENBERGER prepares to leave the U.S. Senate, I want to pay tribute to his dedicated service is this body and to wish him well as he moves on to new challenges in an already remarkable career.

Senator DURENBERGER is the first Republican in Minnesota's history ever elected to serve three terms in the U.S. Senate. In a predominantly Democratic state, that is a remarkable achievement. What the voters of Minnesota recognized in DAVE DURENBERGER are the same qualities that have earned DAVE the deep respect of his Senate colleagues: intellectual acumen, thoughtfulness, hard work, creativity, effectiveness, and independence. DAVE's willingness to work in a bipartisan manner has made him the linchpin who was able to fore complicated compromises, thereby clearing the way for enactment of such landmark legislation as the Clean Water Act and the Civil rights Act of 1991. His role as a respected mediator and honest broker led to consensus and passage of other major pieces of legislation such as enactment of the Motor Voter bill and Senate passage of Campaign Finance Reform. While Campaign Finance Reform was not enacted due to a filibuster in the waning days of this session, Dave's role in trying to reach a reasonable middle ground is greatly appreciated by those of us who understand that enactment of this legislation is central to restoring confidence in Congress.

I can speak first-hand of DAVE DURENBERGER's commitment to sound environmental policy. In the mid-1980's, we cochaired the National Water Alliance where we worked with business and grassroots organizations to develop responsible and workable policy initiatives to address water quality and access issues. But this is only one small area of DAVE's work on environmental issues. From his seat on the Environmental and Public Works Committee, one can see DAVE's "fingerprints" on every significant piece of environmental legislation passed in the last decade, including Superfund, the Clean Air Act, the Clean Water Act, and the Safe Drinking Water Act.

But I suspect that Senator DURENBERGER will be best remembered for his passionate and tireless efforts to improve our health care delivery system and ensure access to care for all Americans. Even before he came to the Senate, DAVE became involved in the health care issue in Minnesota—long before it was on the radar screen for most politicians. Together with others in the Twin Cities' business community, he initiated a successful experiment in the use of competition and consumer choice in health care purchasing.

Because of DAVE's interest and involvement in health care in Minnesota, he immediately sought a seat on the Senate Finance Committee upon being elected to the Senate in 1978 so he could continue his work in this area. As ranking member of the Finance Subcommittee on Medicare and Long Term Care, he has played a seminal role in developing health care legislation for more than a decade. The knowledge and expertise he has developed will not easily nor soon be replaced. His advice and counsel on health care issues are sought by Republicans and Democrats alike, and his centrist approach to reform is the only realistic way to find a responsible solution to this very complicated problem. Like many of his colleagues, myself included, I know that DAVE is disappointed that the 103d Congress was unable to pass either comprehensive or incremental reform. But he was persistent to the very end, working day and night with the Mainstream Coalition trying to forge a fair and workable reform package. We all owe DAVE a debt of gratitude for his efforts. I am confident that his untiring efforts on

health care will provide a solid foundation on which the Members of the 104th Congress can build. He has left a legacy in this area of which he can be eminently proud.

Teddy Roosevelt once said that "real success consists in doing one's duty well in the path where one's life is led." By that standard, or any standard, DAVE DURENBERGER's life in the Senate has been one of success and great achievement. As DAVE moves on to new challenges, I want to pay tribute to his dedicated service in the U.S. Senate and to wish him and his family every success and happiness in the years to come. Godspeed, DAVE.

TRIBUTE TO SENATOR MALCOLM WALLOP

Mr. DECONCINI. Mr. President, as the 103d Congress grinds slowly to a close, I would like to pay tribute to one of my colleagues who will be retiring with me at the end of this session, Senator MALCOLM WALLOP.

Senator WALLOP and I were both elected to the Senate in 1976 and have served three terms together. Both being from the West, we had many common interests. Ironically, our first Judiciary subcommittee offices were located directly across the hall from one another on the 6th floor of the Dirksen Senate Office Building. We came to the Senate together and we will be leaving together. Like me, I am certain that Senator WALLOP will depart with a sense of great sadness and great expectations—sad to be leaving an institution we love, but looking forward to other challenges in the next phase of our lives.

With the retirement of Senator WALLOP, the citizens of Wyoming are losing a very articulate spokesman and strong advocate of the West. No Member, past or present, has been a more staunch defender of western traditions than Senator WALLOP. His leadership and expertise on issues ranging from mining law, grazing fees and water rights to energy production and the sound management of our public lands are recognized by all who have had the pleasure to serve with him. He has worked tirelessly during his 18 year tenure in the Senate to strike the proper balance between the need to protect our environment and to maintain a viable economy in the western United States. From his position as the ranking member of the Energy and Natural Resources Committee, he had a powerful forum from which to ensure the protection of the most valuable resources of the West. He did so with great vigor and effectiveness and he will be greatly missed.

Senator WALLOP's love for and deep commitment to the preservation of the western way of life are not surprising given that he represents the third generation of a Wyoming pioneer family. After more than 25 years of public service, I know he is looking forward to returning to his beloved ranch and I wish him and his family every success and happiness in the years ahead. Good luck and godspeed.

DR. CHRISTINE WARNKE

Mr. SASSER. Mr. President, it is my pleasure to commend Dr. Christine Warnke on her confirmation as a member to the Board of the National Institute for Building Sciences. Christine began her career working for the then Senate majority leader, Senator ROBERT BYRD, who imparted to her his vast amounts of knowledge about the legislative process, as well as his serious commitment to the spirit of community and national leadership.

Christine is an accomplished professional and prominent community leader. As a champion of youth, Christine serves as a member of the Board for the National Learning Center and Capital Children's Museum here in Washington. She is also the president of the Romanian Children Leukemia Aid Foundation. Christine devotes her time and effort on a pro bono basis to many organizations, including the International Human Rights Law Group. She is currently a governmental affairs advisor with the law firm of Hogan & Hartson. Working full time in Washington, Dr. Warnke last year earned her doctorate degree from the University of Maryland.

I am confident that Christine will be an invaluable member of the National Institute for Building Sciences.

SAFE DRINKING WATER

Mr. DOLE. The effort to pass the Safe Drinking Water Act has been a bipartisan affair. The Senate passed this legislation in May, and the bill recently passed the House. Unfortunately, there was never a conference between Members of the House or Senate on the Safe Drinking Water Act.

Throughout the negotiations on this legislation, I have made it clear the final package must include the Senate-passed version of a Private Property Rights Act. During Senate consideration of the Safe Drinking Water Act in May, a bipartisan amendment was attached which required the Government to conduct an impact assessment before issuing or promulgating any policy, regulation, proposed legislation, or related agency action which is likely to result in the taking of private property. The Senate adopted this amendment on a voice vote. Mr. President, there were no objections to this language.

The private property amendment was supported overwhelmingly by our colleagues. At this time, I would like to introduce for the RECORD a letter from 74 Members of the House of Representatives urging inclusion of the private property rights amendment in any final compromise on the Safe Drinking Water Act.

Time and again, I have heard from people all across America that Congress must do more to stop the tide of infringement on private property rights. I believe we have all heard this message. This provision was a small first step toward ensuring that Government mandates and Government bureaucrats do not continue to run over individual citizens and individual rights. Unfortunately, the average citizen cannot afford to take the Federal Government to court. That is why they have asked Congress to intervene.

Even though this provision was supported by our colleagues in May, there were doubts about keeping it in the legislation. Mr. President, the Safe Drinking Water Act is an important piece of legislation, and I support its intent. But there is no reason why it should not include language to protect the constitutional rights of Americans to keep their property from being taken without compensation. In the end, Congress failed to pass the Safe Drinking Water Act because of those who refused to protect these rights.

U.S. CONGRESS,
HOUSE OF REPRESENTATIVES,
Washington, DC, October 7, 1994.

Hon. MAX BAUCUS,
Hon. JOHN DINGELL,
Hon. JOHN CHAFEE,
Hon. CARLOS MOORHEAD,
Washington, DC.

DEAR COLLEAGUES: As part of the pending negotiations on the reauthorization of the Safe Drinking Water Act, a major issue continues to be the Dole Amendment to S. 2019 regarding the protection of private property rights.

In numerous votes throughout the 103d Congress, the House and Senate have separately shown a strong desire to protect private property rights as provided by the U.S. Constitution. However, the protections separately approved by the House and Senate are still to be enacted into law. Now is an opportunity to pass and enact strong provisions to re-affirm our earlier votes of the 103d Congress.

We urge the inclusion of the Dole Amendment in any final compromise on the SDWA.

Sincerely,

PAT ROBERTS,
(And 73 others).

PRIOR USER RIGHTS ACT

Mr. DECONCINI. Mr. President, the substitute I am offering today to S. 2272, the Patent Prior User Rights Act makes some significant changes to the bill. In particular, it clarifies that good faith purchasers of products resulting from a prior user would not be liable as an infringer—see section 273(b)(2). In addition, the substitute provides that the defense of prior use does not apply to acts of infringement already litigated or to pending litigation for infringement. In any action for infringement in which the defense of prior user

is found to be valid, the court is provided discretionary authority to award equitable compensation.

In the context of subsection (a), the definition of commercially used, the bill eliminates "design or testing" and limits the definition to "used in the production of commercial products". This does not mean that the use of test equipment or design equipment, with respect to the use of the equipment itself, is precluded from meeting the definition of commercial use. The commercial use of test equipment or design equipment prior to the effective filing date of the application for patent would provide prior user rights as to the continued use of such equipment itself to the extent provided for in the statute.

Furthermore, "use in the production of a commercial product" has different implications in different commercial contexts. For example, in the context of expensive and time consuming commercial operations such as pharmaceuticals or biotechnology, the term means the use of a pharmaceutical/biotechnological product or process in the production of a product used in commerce in a commercial context under applicable Federal law.

As to the definition of effective and serious preparation, language relating to "serious plans" and "substantial investment" have been deleted to narrow the scope of conduct that would qualify as a prior use right. The term "* * * a substantial portion of the total investment" is intended to mean that a majority of the investment necessary in producing a commercial product has been expended. For example, in the pharmaceutical and biotechnology industry this would mean that an average investment of something in excess of $100 million. This is so because according to the Congressional Office of Technology Assessment [OTA] it takes, on average, over $350 million and 10 to 12 years to get a commercial product to market in the pharmaceutical or biotechnology area.

To the extent that the language of the bill before us today differs form the bill reported earlier by the Committee on the Judiciary, the explanations offered here are controlling.

Mr. President, this is an important piece of legislation and I hope that it will be enacted this year.

COMMENDING STATEMENT OF MR. WERNER FORNOS

Mr. KERRY. Mr. President, the International Conference on Population and Development, which was recently held in Cairo, Egypt, was one of the most successful U.N. conferences in recent memory. The Cairo conference, I believe, will make a significant contribution toward addressing the critical global population and development issues for the next 20 years.

The program of action which was finalized at the Cairo conference produced statements addressing a wide range of issues, including, for example, universal access to modern family planning services. The Cairo conference issued the strongest international statement yet crafted for empowering women to make vital decisions in their personal lives and in the development process.

The United States delegation to Cairo, under the skillful leadership of Vice President AL GORE and under Secretary of State Tim Wirth, made significant contributions to the consensus-building process that ultimately produced the notable final document. In addition, the U.S. delegation was assisted by numerous representatives from nongovernmental organizations [NGO] whose experience and dedication proved enormously helpful to the U.S. effort.

I would like to commend to my colleagues the statement of Mr. Werner Fornos, which Mr. Fornos delivered at the Cairo conference. Mr. Fornos, a nongovernmental organization representative to the conference, is president of the Population Institute, a nonprofit, Washington-based organization.

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

REMARKS BY WERNER FORNOS, PRESIDENT OF THE POPULATION INSTITUTE

During these still early hours of the 1994 International Conference on Population and Development, many of us sense that we are participating in more than the third decennial United Nations conference on population.

It is our sense and our vision that the final Cairo document will become a milestone in the annals of humankind.

This very meeting may be the last best chance for the nations of the world to shape the principles and the strategies that will result in an equitable balance between the world's population, its environment and resources.

My own expectation is that we will focus sharply on the issue of universal access to family planning. I firmly believe we can develop at this meeting a definitive strategy to achieve such access within the next 5 to 10 years.

Slowing down the rapid growth of human population must be the first and foremost item on our agenda.

Consider that we live today in a world of some 5.7 billion people that last year increased by 93 million—the equivalent of adding to our planet the populations of the United Kingdom, Denmark, Belgium, the Netherlands and Norway.

But only 5 million of these people were added to the industrialized world, where there might have been some hope that they could be reasonably accommodated.

Some 88 million people, however, were added to the world's very poorest countries—those where mere survival is too often a day-to-day struggle.

It is in these countries where each year reproductive related complications claim the lives of up to 1 million women—the equivalent of a World War II Holocaust every 6 years.

It is high time for an iron-clad global commitment to the proposition that every woman who wants to control her own fertility has both the right and the means to do so.

It is high time for the world to ensure universal access to voluntary family planning.

Within this context, we must always reject coercion and we must keep in mind that there are two sides to the coercion coin.

We must neither condone nor tolerate coercion as a strategy for reducing population growth.

At the same time, we must never condone nor tolerate coercive pregnancies that women are subjected to when they are denied access to the methods and means to control their own fertility.

There are two special matters that this conference must deliberate in a courageous and forthright manner.

First, there is the issue of male responsibility. There is virtual worldwide acceptance of an apparent axiom that both the burden of fertility regulation and the burden of rearing children rest solely with women.

Male attitudes must change if there is to be gender equality and a meaningful improvement in the quality of life for the next generation, and generations yet unborn.

Governments can assist in this endeavor by instituting information, education and communication programs that emphasize the importance of male participation, both in the planning of the family and in family life thereafter.

Though serious concern has been directed toward the breakdown of the family unit, I believe the basic family unit can not only survive but actually thrive, as it never has before.

But only if the status of women can be substantially raised. And only if men throughout the world can be convinced that assuming responsibilities in family planning and in family life enhances rather than threatens their masculinity.

Secondly, it is essential that there be a modification of unsustainable consumption practices.

Developing countries are implored to reduce their population growth to avoid an erosion in development gains.

But these same developing countries have every right to question the wasteful consumption habits of industrialized countries—patterns that contribute to draining resources available to the developing as well as the industrialized world.

There can be neither prevention of environmental degradation nor the realization of sustainable development until there is considerable progress in reducing population growth and in reversing current consumption and production patterns.

Finally, each and every one of us must resolve that the 1994 ICPD Program of Action will have a life beyond Cairo. The stakes are too high for this document to remain mere words on paper.

I implore each of you here today to extend your very best effort toward transforming the words we write in Cairo into deeds: viable programs in the cities, towns and villages across the length and breadth of this planet.

We simply cannot afford the luxury of waiting for someone else to follow through on what we have begun.

If the next billion people join us on this planet in 10 years, measurable improvements through development will not be achieved.

Time lost in the struggle to stabilize world population before it doubles again can never be recovered.

We must address the goals of development and slowing population growth simultaneously.

It is by our ability to convert the Cairo Program of Action from rhetoric into reality the work of this conference will be ultimately judged.

The reward for our success in this endeavor will be a better quality of life for people everywhere. The penalty for failure is unthinkable.

TRIBUTE TO DON RIEGLE

Mr. SASSER. Mr. President, I rise today to compliment my friend and colleague, Senator DON RIEGLE. It was about a year ago this time that Senator RIEGLE first announced his retirement. I have wished many times since that he would change his mind.

There is not enough I can say about Senator RIEGLE. As chairman of the Senate Banking Committee, Senator RIEGLE has an unparallel record of legislative accomplishments.

Under his leadership, Congress passed the toughest financial reform bill in 50 years, the Financial Institutions Recovery, Reform and Enforcement Act.

Also during his tenure, Congress passed the Federal Deposit Insurance Corporation Improvement Act which brought important improvements to the way banks are run and regulated, as well as to preserve the ability of the FDIC to protect depositors. This year alone, we have seen enacted into law the Riegle Community Development and Financial Institutions Act and the Riegle-Neal Interstate Banking and Branching Act.

Senator RIEGLE has always been a champion of the working people of both his home State of Michigan and the Nation. In particular, I remember our fight during the last recession to extend the unemployment insurance to help the many families in desperate need. Side by side, time and time again, we supported one another to ensure that the hard working people across the country were not forgotten. In his next pursuits I know he will continue to be a tireless advocate for the forgotten working men and women of America.

Senator RIEGLE always attacked these sometimes difficult issues in a bipartisan manner. He worked with Senators from both sides of the aisle to garner overwhelming support to pass crucial legislation. He is an excellent model of cooperative leadership—leadership that gets things done. And this is evident by the significant number of bills that are now law because of his vigorous efforts.

The Senate will miss him. DON RIEGLE has been an outstanding leader and public servant to the people of Michigan and to the Nation, as well as a good friend and colleague to me. I know DON will take the same vigor and commitment that he has displayed for over 30 years in the House and the Senate to his next endeavors and most importantly, to his young family. I wish him the very best in the years to come.

RETIREMENT OF SENATOR DON RIEGLE

Ms. MOSELEY-BRAUN. Mr. President, I want to take this opportunity to pay tribute to may good friend, Senator DON RIEGLE, the distinguished chairman of the Banking Committee. He has been a leader in the areas of banking, housing, consumer affairs, economic development, health care and child immunization, trade issues, and U.S. competitiveness. He has been a leader for his constituents in Michigan, as well a leader for the entire Nation. He has been a voice for those who are all too often left behind or left out of the process.

While I have not had the pleasure to work with DON RIEGLE as many of my colleagues, I have found him to be a caring and effective legislator. When I came to the U.S. Senate, I had the good fortune of becoming a member of the Banking Committee, and I have learned so much under his outstanding leadership. He has been kind and helpful to me from the start.

As I said on the day he announced his resignation, Senator RIEGLE took me under his wing when I came to the Senate. When people asked how I was received here, I often reflect on my first meeting with him. We discussed the equal opportunity issues we both care so deeply about—how poor people are treated in the financial system and the limited access that women and minority business owners have to capital. He said, "We're going to work together. I'd love to have you on my committee."

Since that meeting, I am proud to say that he has been true to his word in every way. He has been effective in assign legislation, and in addressing issues that protect consumers, that help to ensure fairness, that, in effect, help the "little guy".

When I approached Chairman RIEGLE with the idea of establishing a National Commission on Financial Services, he was a champion. He helped to shepard this bill through the committee as part of the interstate banking bill. This commission would assess the strengths and weaknesses of our financial system, and the public policies that affect that system. Importantly, the Commission's review would be from the perspective of the users of our financial system, and our economy generally, rather than from the perspective of only the current providers of financial services.

I also want to commend his leadership on the Community Development Banking and Financial Institutions Act. This legislation created the Community Development Financial Institutions fund to promote the formation and expansion of community development funds. As we have seen with the South Shore Bank in Chicago, effective revitalization of our urban neighborhoods will only happen when community partnerships are formed among banks, States, local governments and community organizations.

Mr. President, I could continue to list his accomplishments in the areas of banking, securities, consumer protection, affordable housing and trade issues. It is clear that the Senate is losing a powerful voice on these issues.

Because of his dedication to these matters, I know his decision not to seek reelection was not an easy one. His decision to put his family first—to spend more time with his wife and two young daughters is one that I greatly admire. As a mother of a teenage son, I know the pain of missing important events in our loved ones lives.

I am happy for his family; I am sad for his constituents in Michigan, this body and the entire country. He will be missed.

RETIREMENT OF SENATOR DAVID BOREN

Ms. MOSELEY-BRAUN. Mr. President, I rise today to honor my friend and colleague, Senator DAVID BOREN, who will be leaving the U.S. Senate at the end of this session to become the next president of the University of Oklahoma.

Mr. President, the distinguished Senator from Oklahoma began is career in public service in the Oklahoma House of Representatives, where he served with distinction from 1966 through 1974. During his four terms in the Oklahoma legislature, Senator BOREN not only served his constituents in Seminole County in elected office, but also as chairman of the department of government at Oklahoma Baptist University in Shawnee.

Senator BOREN was elected Governor of Oklahoma in 1974, and served in that office until 1979. As the youngest sitting Governor in the Nation, Senator BOREN enacted many progressive government reform laws, which strengthened conflict-of-interest statutes, expanded campaign financing disclosure requirements, and increased the number of contracts open to competitive bidding.

First elected to the U.S. Senate in 1979, Senator BOREN brought his commitment to reform to Washington, where he has led numerous efforts to make Government work better for all Americans. As the chair of the Joint Economic Committee on the Organization of Congress, Senator BOREN conducted a comprehensive review of congressional operations in order to make the institution more efficient and responsive.

In 1991, he introduced legislation to limit congressional campaign spending,

discourage negative campaigning, and abolish PACs. Senator BOREN also introduced legislation to discourage administration and congressional staff from benefiting from Government service by becoming lobbyists.

A leading member of the Senate Agriculture Committee, Senator BOREN authored the Farm Credit Act of 1987, which stabilized the farm credit system and saved thousands of its borrowers from bankruptcy.

Senator BOREN has also worked tirelessly in the Senate Finance Committee to reform our Nation's Federal tax and energy policies and enhance our Nation's competitiveness in the emerging global economy.

As the longest-serving chairman in the history of the Senate Select Committee on Intelligence, Senator BOREN has stressed bipartisan cooperation in U.S. foreign policy. In fact, Senator BOREN helped negotiate the final terms of the Intermediate Nuclear Forces [INF] Treaty, the Conventional Forces in Europe [CFE] Treaty, and the Start Arms Control Treaty.

Mr. President, after 28 years of distinguished public service, Senator BOREN has decided, once again, to help meet the educational needs of our Nation's young people by becoming the next president of the University of Oklahoma.

Although all of us here in the Senate will miss Senator BOREN, we understand and admire his commitment to the education of our Nation's citizens.

Mr. President, I would like to conclude my remarks today by thanking my colleague, Senator DAVID BOREN, for all of his hard work on behalf of the citizens of the United States, and by wishing him and his family all the best.

THE RETIREMENT OF SENATOR DENNIS DECONCINI

Ms. MOSELEY-BRAUN. Mr. President, I rise today to express my sadness that, when the 104th Congress convenes in January, it will be doing so without one of the Senate's most valuable Members, Senator DENNIS DECONCINI of Arizona. Since my election to the Senate in 1992, I have had the pleasure of working with Senator DECONCINI. I know his presence will be sorely missed, not only by those of us in Congress, but by his constituents in Arizona as well, who knew that Senator DECONCINI was always looking out for their interests.

Senator DECONCINI has a long and distinguished career in public service, beginning with his successful campaign to become the Pima County, Arizona, attorney in 1972. It was while serving as Pima County's chief prosecutor that Senator DECONCINI began his efforts to strengthen drug enforcement and consumer protections, efforts that he has continued on a national level to this day. His Pima County office was named the model office of its size in the Nation by the national district attorneys association, and he was named county attorney of the year in 1975.

In 1976, Senator DECONCINI was elected to the U.S. Senate, the first of his three terms. He was not a timid freshman legislator, passing more bills than any other Senator and being named by the Wall Street Journal as the freshman most likely to succeed. Although I don't often find myself in agreement with the Wall Street Journal, as anyone looking back over Senator DECONCINI's long and distinguished career knows—on this occasion at least—they weren't wrong.

Currently the chairman of the Senate Select Committee on Intelligence, Senator DECONCINI has to be one of the busiest Members of this body. In addition to his intelligence duties, he chairs the Judiciary Committee's Subcommittee on Patents, Copyrights and Trademarks, chairs the Appropriations Committee's Subcommittee on Treasury, Postal Service and General Government, while also serving on the Committee on Veterans' Affairs, the Committee on Rules and Administration, and the Select Committee on Indian Affairs. In addition, he heads the Commission on Security and Cooperation in Europe, and cochairs the Drug Enforcement Caucus.

It is particularly fitting that he chairs the Drug Enforcement Caucus, as keeping illegal drugs off the streets—and putting those who distribute them behind bars—has been one of Senator DECONCINI's main priorities during his 18 years in this body. He was the principal author of the Anti-Drug Abuse Act of 1988, including its tough drug interdiction provisions. He has sponsored legislation to ensure Federal funding for State and local law enforcement efforts to fight drugs, and helped divert excess military aircraft to protect U.S. borders from drug smugglers.

Mr. President, since passage of the crime bill, much has been said about the bill's prohibition on the manufacture of 19 deadly semiautomatic assault weapons. That is certainly one of the more popular provisions in the bill, with polls showing that well over 70 percent of the public support a ban on these instruments of mass destruction. I think it is worth noting that Senator DECONCINI was working to ban semiautomatic assault weapons long before it was politically popular. Beginning in the late 1980's, Senator DECONCINI crafted legislation to take these weapons off our streets. His early support of this legislation is a testament to his political courage, and a prime example of why he will be so sorely missed.

Senator DECONCINI has also been a leader on issues affecting our most vulnerable populations, children and senior citizens. His work to help establish the national center for missing and exploited children was but one of the reasons he received a national award for legislative leadership in child abuse prevention. He has repeatedly supported increased funding for education programs, including financial aid to deserving student, vocational, and adult education, and bilingual education. He has opposed efforts to delay cost-of-living increases for Social Security recipients, and is the sponsor of legislation to equalize Social Security benefits for those senior citizens known as notch babies. In addition, he has sponsored legislation, now law, to create the first nationally coordinated program for the prevention, identification, and treatment of abuse against the elderly.

In a time of skyrocketing Federal deficits, Senator DECONCINI has actively searched for ways to reduce Government expenditures. He helped write legislation enabling the Federal Government to employ more aggressive debt-collection methods, and cosponsored legislation establishing an inspector general in the Department of Defense, to uncover fraud and waste. While on the Appropriations Committee, he has helped reduce the amount of money that the Federal Government can spend on consultant services, public relations, printing, and motor vehicles.

But Senator DECONCINI's efforts have not been limited to the problems within the United States. He authored legislation to promote democracy and human rights in the Philippines, South Korea, and Chile. He was the sponsor of a successful resolution to remove Soviet and Cuban troops in Angola, and to encourage a peaceful settlement of that country's civil war. He sponsored legislation, now law, to keep sophisticated U.S. antiaircraft missiles out of the hands of terrorists and to direct U.S. loans to the poorest of the poor in Third World nations, so they can work toward self-sufficiency. So it is not just Arizona's citizens, but citizens in all parts of the world, who are better off due to Senator DECONCINI's service in the Senate.

Those in Arizona who know Senator DECONCINI's family are not surprised by this dedication to public service. Indeed, some might say that his family is an Arizona political dynasty. His father, Evo, enjoyed a long and distinguished legal career, serving as a Pima County Superior Court judge, as attorney general for the State of Arizona, and as an Arizona Supreme Court Justice. His mother, Ora, was the State's Democratic National Committee woman from 1972 to 1980. We certainly owe his mother and father a debt of gratitude for instilling Senator DECONCINI with the will and desire to serve.

Mr. President, the downside of paying tribute to someone with a career as long and distinguished as Senator DECONCINI's is that you will inevitably

leave out many important accomplishments. But my purpose in speaking today is not to recap everything the Senator from Arizona has ever done. Rather, I want to give everyone a sense of why I, personally, will miss him so much. When asked how he wanted to be remembered, Senator DECONCINI replied that he wanted to be remembered as someone who put his constituents first. Whether they were rich and powerful or poor and humble, I was fighting against the Government or with the Government to get what was right.

Mr. President, I would submit that Senator DECONCINI will be remembered as all that and more. I wish him well in all his future endeavors, and hope that he will not hesitate to continue to weigh in on legislation. That way, we can continue to benefit from his insight and wisdom.

THANKING MAJORITY LEADER GEORGE MITCHELL

Ms. MOSELEY-BRAUN. Mr. President, I would like to take a moment to commend our truly distinguished illustrious leader, Majority Leader Senator GEORGE MITCHELL, and tell him how sorry I am that he will no longer be here to lead us when the Senate returns to Washington early next year. I know that I cannot possibly pay tribute to all of Senator MITCHELL's accomplishments in a manageable time. However, I would like to take a moment to comment on at least a few of his many accomplishments.

Senator MITCHELL can rightly claim credit for the passage of the budget bill, the Clean Air Act, NAFTA legislation, and the crime bill. Although these bills were authored by other Senators, none would have passed without the strong leadership of Majority Leader MITCHELL. Indeed, his legacy will extend well into the future.

I very much regret that we were unable to vote on a health care reform bill, but when we act in the next Congress, there is no question that we will be building on the work the majority leader has done and I am convinced that the groundwork he laid will lead to a new health care system that is better for every American and better for our Nation.

GEORGE MITCHELL came to the Senate in 1980 through a special election, and then campaigned and won again in 1982. Early in his Senate career he demonstrated in his strength as a legislator, an ability to bring differing ideas and points of view together, and a judicial bearing that is a consequence of the years he spent as a U.S. attorney and a district court judge.

His previous services as the Maine Democratic Party chairman, and in Senator Ed Muskie's Presidential campaign steeled him for duty as the head of the Democratic senatorial campaign committee, where he engineered the highly successful Democratic senatorial election in 1986. He showed an ability in elective politics that was every bit as strong as his ability as a legislator.

Senator MITCHELL was awarded the title of deputy president pro tempore for the 100th Congress. Two years later he was elected leader, by creating a broad-based, unbeatable coalition.

Since his election to majority leader, GEORGE MITCHELL has been successful in negotiating with and between Members on both sides of the aisle, on and off the Senate floor. He has been simultaneously patient and stubborn, making sure that every Senator's rights are protected, but never allowing his aims in legislation to be sidetracked. Senator MITCHELL has shown versatility in representing concerns ranging from the interests of his constituents in Maine to those of the President. He is indeed a great legislator and a wonderful politician.

In the 2 years since I was elected to the Senate in 1992, I have learned a great deal and one of my greatest teachers has been Senator MITCHELL. He has taught me that there is always more than one way to approach legislation and that it is important to remember that if one is able to maintain a patient and listening attitude, often opposition which seems implacable can be transformed into agreement. It is clear that we are all going to miss GEORGE MITCHELL a great deal. I want to thank him personally for the spectacular job he has done. He has been a superb public servant. Our Nation is a better place today because GEORGE MITCHELL served in the Senate.

DIETARY SUPPLEMENT HEALTH AND EDUCATION ACT

Mr. HARKIN. Mr. President, I am very pleased that today the Senate gave final approval to the Dietary Supplement Health and Education Act. This is an important moment for American consumers and for preventive health care. And it has been a long time coming. My colleague from Utah, Senator HATCH, and I have been working for months to bring about this bipartisan compromise which promotes consumer protection and education and freedom of choice.

The compromise before us is the result of many months of discussions and alterations. It guarantees the American people access to supplements to their diets that promote improved health and well-being. It also takes steps to assure that consumers will receive truth and nonmisleading information about these products without excessive, biased regulation by the Federal government.

Mr. President, there is an overwhelming irony in a government that subsidizes to the tune of a billion dollars a year the advertising and promotion of tobacco, which kills over 450,000 Americans a year, while running roughshod over the promotion of products that aim to promote health and save lives.

Taxpayers are being asked to subsidize activities that are designed to hook our kids on a habit that we know robs health. At the same time the FDA seems to want to deny people access to information they can use to take charge of their own health. Something's out of whack here. And the legislation before us changes that.

As with any compromise, no one is going to be 100 percent pleased with every detail of our efforts. Certainly, if I were able to draft the bill by myself, it would have been different. But given our system, the bill before us is as good as it could be. It responds to the concerns of millions of Americans who want to see our health care system opened up and consumers armed with better information.

I have been a long-time advocate of preventive health care. And this proposal is an important part of that. We don't have a health care system in this Nation. We have a sick care system. We spend billions patching and mending. But we flunk when it comes to helping people stay healthy in the first place. If all we do is change how we pay the bills, we're just rearranging the deck chairs on the *Titanic*. We're going down. The only way we'll really get costs under control is to emphasize prevention and giving people the wherewithal to stay healthy.

Mr. President, I want to commend my colleague from Utah, Senator HATCH, for his tireless and skillful efforts on this legislation. As the author of S. 784, he successfully fought a tough, uphill battle and should be proud of his success in moving the bill forward. I also want to commend my House colleagues for the critical role they played in making passage of this legislation possible. Congressman BILL RICHARDSON authored the original bill in the House and was vital to this successful effort. In addition, this legislation clearly would not have been possible without the cooperation and work of Congressman HENRY WAXMAN and the distinguished Chairman of the House Energy and Commerce Committee, Congressman JOHN DINGELL. These two individuals have been in the middle of virtually every important piece of health legislation over the past two decades.

Again, Mr. President, I am very pleased that the Senate is taking final action on the Dietary Supplement Health and Education Act. This bill is an important step forward in health care policy. I hope the President signs it and makes it the law of the land promptly as possible.

TRIBUTE TO THE MITCHELL FIELD STAFF

Mr. MITCHELL. Mr. President, as I reflect upon my time in the Senate and all of those who have helped me here, I find myself wondering where I would have been without my field staff. Perhaps the more important question is where would the people of Maine have been without them. I have called them my eyes and ears in my home State and indeed they are. They ensure that people of Maine have access to their Federal Government.

I have 8 offices throughout the State, each staffed by extremely dedicated and competent people. My central Maine offices are headed by Tom Bertocci. Tom is well-known for his excellent outreach skills, and he represents me well in many communities throughout his area. In Augusta, Sue Gurney holds down the fort. Her knowledge of immigration procedures is outstanding, and many local families have relied on her assistance to bring their loved ones from foreign countries to Maine.

In Rockland, Jeanne Hollingsworth is renowned for her perseverance and dedication. She fights hard to make sure that Mainers get what they deserve from their government. Elaine Huber-Neville is also in Rockland. Elaine brings a terrific "can-do" attitude to her job, and has been an outstanding caseworker.

My Waterville office is staffed by Janet Dennis. She has been with me since the beginning, and has always attended to the needs of the people of the Waterville area.

My senior field representative, Clyde MacDonald, works out of the Bangor office. His institutional memory is invaluable, as is his willingness to dig into the nitty-gritty of an issue. Clyde is assisted by Margaret Samways, one of the truly nicest people I have ever met. She is also a terrific caseworker, and the people of the Bangor area have benefited greatly from her efforts.

In Biddeford, Judy Cadorette is my field representative. She has worked hard on numerous local economic development issues and has been an excellent representative. She is joined in the office by Ann Paquette. Ann takes great care of my Biddeford-area constituents, and I appreciate it.

Jeff Porter is my field representative in Lewiston. He also serves as my driver while I am in Maine, advancing my trips and working valiantly to keep me on schedule. I am going to miss spending 20 hours in the car with him every weekend. Also in the Lewiston office is Joan Pedersen, a resourceful, efficient, and persistent caseworker.

My Portland office is headed by Margaret Kneeland. She and Sharon Sudbay have been with me forever it seems. They have become trusted employees, working both in the field office and taking time off to work on my reelection campaigns. Margaret and Sharon are hard workers with excellent political judgment whose efforts I very much have appreciated. Also in the Portland office are Joan Beard and John McLaughlin. Joan and John each handle a tremendous caseload, and yet remain cheerful and efficient. They go out of their ways to provide as much help as possible to every person who calls or stops by the Portland office.

All the way at the northern end of the State, Mary Leblanc is my field representative in Presque Isle. She has put too many hours to count into the effort first to save Loring Air Force Base from closure, and then to redevelop the base. I believe that every person in Aroostook County knows Mary and is greateful to her for her outstanding work. She is joined in the Presque Isle office by Marcia Gartley. Marcia is a true professional, who handles a demanding caseload with ease.

Each member of my field staff has made tremendous efforts on behalf of the people of Maine. Each has many stories to tell of successful cases, large and small. I thank them all for their commitment, their dedication and their many years of service.

TRIBUTE TO THE MITCHELL STAFF

Mr. MITCHELL. Mr. President, one of the great pleasures of serving as majority leader of the U.S. Senate is working with the talented and dedicated group of men and women who make this institution run. These outstanding Americans are here every day the Senate is in session, and many days that the Senate is not. They often arrive here early in the morning and stay here late into the night to ensure that we can do our work effectively and successfully.

Many of these individuals could be earning more money in the private sector. All of them could be working normal jobs, living normal lives; instead, they are here serving their country and their government.

They have certainly made my years in the Senate much easier. Therefore, in the closing hours of the 103d Congress, and in my closing hours as majority leader, I want to take a few minutes to thank them for all their help and cooperation.

I begin by thanking my chief of staff, John Hilley. Every Member of this chamber is indebted to John. His political acumen, his keen judgment, his grasp of Senate procedure, and his ability to work with 100 occasionally testy lawmakers made him a logical choice for this demanding position. My faith was not misplaced. I will always remember and appreciate his outstanding service both to me and to the Senate.

Lisa Nolan has the remarkable ability to take the complexities of the budget and make them understandable. Her analytical skills and her grace under pressure have made her an invaluable part of my office. John and I both thank her.

My executive assistant, Pat Sarcone, is the miracle worker every office needs. She has the rare but wonderful ability to simplify the complex, to ease the difficult, and to make routine the extraordinary. She keeps the office, and indeed my life, running smoothly. To work with her is a pleasure—to know her is a delight. I thank her.

John is assisted by Alice Aughtry, whose work and loyalty alone make her indispensable. The positive, pleasant attitude she brings to her job makes her even more indispensable. John appreciates it. I appreciate it.

The staff assistants in the leader's office perform many of the routine but critical tasks. Beth Gentile, Jamillia Ferris, and Elizabeth Harrington all put in long hours and perform their jobs superbly. I appreciate all that they do.

I would like to thank a very special collection of people—my state office staff—for all their help during my years in this chamber. I cannot imagine my being here or remaining here without them. They are highly skilled and dedicated men and women, and they have served both me and the people of Maine tirelessly.

My administrative assistant, Mary McAleney, is a counselor as well as a supervisor, a conciliator as well as a troubleshooter, a puller as well as a pusher, a servant as well as a boss; foremost, she is a blessing.

My legislative staff has been outstanding. Both professionally and personally they are the best there is, and as I leave the Senate, I do so realizing I will leave behind some of the best colleagues I will ever know.

Bobby Rozen has an expert knowledge of everything. I have relied on him mostly for tax, banking, and health care issues. I could have asked him to do anything. I depend on him. I trust him. He has never let me down, and I appreciate it.

Anita Jensen's superb writing abilities and her outstanding work on Judiciary Committee issues has made her an invaluable part of my staff. She has been with me since the beginning, and I thank her for sticking with me, through the bad as well as the good. She has forgotten more about most things than any of us will ever know to begin with. I have counted on her political judgment, her wisdom and her ability to find the right words for any situation. I owe her much, and I thank her.

Anita is assisted by Ashley Abbott, who my staff now likes to call "Anita Junior"—a nickname that is a wonderful tribute to both individuals. Her writing is simply excellent, and her ability to jump in and handle a variety

of diverse issues has been greatly appreciated by everyone, especially Anita and myself.

Grace Reef does it all. Social issues, labor issues, bridges and roads, LIHEAP, welfare reform, unemployment compensation—I could go on and on. She is thorough, conscientious, and incredibly dedicated. The State of Maine and I have been very fortunate to have her. I have said before and will say it again that she truly is "Amazing Grace."

Chris Williams knows more about the need to reform the American health care system than anybody. She was tireless and tenacious during our fight to reform our flawed and failing system. She will never know how much I appreciated her efforts and her strengths during those trying and tiring days.

Chris has been assisted by several bright, capable and effective Fellows. Parashar Patel, Dr. Oliver Fein, and Judy Whang all made invaluable contributions to our efforts, and I thank them for their work.

Sandy Brown handles everything from the arts and humanities to economic development. She works very closely with my field staff on projects of tremendous importance to the State of Maine. She is the person most responsible for the resumption of train service from Boston to Portland. I thank her and look forward to riding the first train with her in the very near future.

Sandy is assisted by Patrick Maxcy. He works on Maine-related economic development issues, as well as covering agriculture and aviation. Patrick has done an outstanding job in fighting for Maine's interests, and I know many people who are grateful to him. I am certainly one of them.

Seth Brewster has done excellent work on trade issues. Between the NAFTA and GATT, this Congress has certainly put his skills to the test. Seth has met every challenge, and I thank him.

Peggy Dorothy is splendid in her work on labor issues and with the fishing industry. These are difficult areas, with their common denominator being the large number of competing interests with which to deal. I thank her for her efforts.

On foreign policy matters, how can I ever express my thanks to Ed King. I have constantly depended on his experience and expertise. His foreign policy, military, and academic experiences have given him both a practical and scholarly background that is heavily utilized on Capitol Hill. During the past year, our ever-changing world has presented constant challenges. Bosnia, Haiti, Cuba, and Korea spring immediately to mind. Ed has responded to each of these challenges like the champ he is. He has been ably assisted by Carol Grigsby and Leah Titerence. I thank them all.

Heidi Bonner has worked on defense and veterans issues for me this year. She has filled the shoes of not just 1 but 2 people, and she became a mother for the first time. She has balanced and juggled, and she has done a remarkable job.

Few people are as concerned with protecting and preserving our precious natural resources as are Jeff Peterson and Ann Tartre. As my environmental issues team, they have handled so many issues that are important to so many people, and so dear to me, that I could not name them all. Jeff and Ann's efforts have helped to make our water and air cleaner, to keep our solid and nuclear waste from overtaking us, and to prevent our Earth's species from vanishing. Many thanks to both of you.

Jeff and Ann have been assisted this year by Ted Lillestolen. He has concentrated on the complexities of Superfund, as well as pitching in wherever else help was needed. He has been a terrific addition to the office, and I appreciate his help.

I have been fortunate to have the services of Jim Weber this year. Jim came to me from the Parlimentarian's office, where I know that he is still missed. He has handled some of this session's most contentious issues, ranging from lobbying reform to the Whitewater investigation. He has done a superb job, and I am grateful to him.

Lauren Griffen returned to my staff this year and is now covering education issues for me. Her work has been excellent and I thank her.

I also express my appreciation for those who perform the essential day to day operations that keeps a Senate office functioning. The diligence and attention to detail required in these jobs would tax not only the patience as well but the sanity of most mortals. They have done them, patiently and successfully.

My office manager, Donna Beck, takes care of the financial matters and the day to day affairs that are instrumental to the smooth operations of an office. She manages to keep all of us in line, and knows the Senate's ethics rules inside and out. As I leave office, Donna will be the last one out the door. I thank her for her past efforts and for the work she will continue to do.

In closing the office, Donna will be assisted by Sally Ehrenfried, who recently returned to my staff. In the past, Sally has served as my page and intern coordinator and has helped Donna in managing the office. Kristi Mashon, my new archivist and a very new mother, will also be critical in retiring my office. I appreciate Sally and Kristi's work.

David Webber is Mary McAleney's assistant. He serves as her gatekeeper, helping to prioritize and handle the overwhelming flow of paperwork and telephone calls into and out of her office. He has a great attitude, and is always willing to pitch in where needed. I thank him.

My correspondence staff is outstanding. Since becoming majority leader, it has been my policy to respond to every piece of mail that I receive. This has often been many hundreds of letters every day, and I could not have done it without the assistance of many dedicated staffers.

Alice Steward oversees the mail operation. The piles of mail on her desk have often seemed insurmountable, but she has worked countless hours making sure that every American received a timely response from me.

My legislative correspondents have performed above and beyond the call of duty. They work long hours for relatively low pay and almost no recognition. My legislative assistants, the American people and I owe them a debt of gratitude.

Josh McIntyre responds to constituents about budget, human resources, housing and urban development, Social Security and public works issues. Jeff Sanders addresses health, labor, science and technology and small business concerns. Joan Sutton is responsible for communications, energy, environment, judiciary and tax mail. Josh, Jeff and Joan each do an outstanding job, and I appreciate their work.

Faye Johnson is the last critical link in the mail operation. She runs the CCMS system, making sure that every constituent receives the appropriate response. She has been with me for many years, and she has been a true pleasure to have in the office. Faye has also volunteered as the Coordinated Federal Campaign coordinator for our office, and I know that many people and charitable organizations in the Greater Washington area greatly appreciate her efforts.

Janie O'Connor is by far the best tour guide on the Hill. She is also my liaison with various school and tour groups, as well as the visitors who happens through my office in quest of seeing their tax dollars at work. Janie has been with me for nearly 14 years—I will miss her.

Diane Smith is the wonder worker who keeps my Maine schedule balanced with the requests and needs placed on me as Majority Leader. It has been a most difficult and demanding job, and she has handled it splendidly. I have said before that I thought she is the one person who could schedule 11 hours of work and travel into a 10-hour day and still leave time for a quick lunch. Now I know that assessment to be wrong. She can schedule 12 hours into a 10-hour day and leave time for a leisurely lunch. I thank her for her many talents and her patience.

My Maine press secretary, David Bradon, and his assistant, John Dougherty, have done excellent work in keeping the people of the state of Maine

aware of our legislative efforts. They have the ability to make the driest piece of legislation interesting, and to communicate that to the people of Maine. It is not an easy task, and I commend them for their efforts.

Jeff Hecker works long and hard to keep our office computer systems functioning. This is work that requires expert knowledge and long hours, usually into the evenings and on weekends when no one else is in the office. Thank you, Jeff.

The staff assistants in my personal office are terrific. Andrew Haggard and Kim Crichton answer the phones which never seem to stop ringing. Charlie Strout and Clay Boothby open the mail which never seems to stop arriving. All 4 have the patience of saints. They give each constituent—and each constituent's letter—the time and respect that they deserve. I thank them for all of their work.

I also want to mention a number of people who have left my staff in the last 6 months since I announced my retirement. Each has gone on to pursue new and existing challenges, and I wish them well in their pursuits. However, I want them to know that I appreciated very much their hard work, professionalism, and dedication during the time they served on my staff. My sincere thanks to Rich Arneberg, Kim Wallace, Bob Carolla, Brett O'Brien, Steve Hart, Paul Carliner, Deb Cotter, Trey Kelleter, Jill Ward and Elizabeth Sutherland.

My driver in Washington, Willie Allen, has made sure that I meet my demanding schedule, and he has done so cheerfully and pleasantly. He tolerates my back seat driving, and I appreciate his long hours.

I should also thank the numerous interns who have volunteered their time here in Washington. Although I cannot possibly name them all, I do hope that they know how much I appreciate the work they have done for me.

My communications office is under the direction of the very capable and tenacious Diane Dewhirst. During my tenure as majority leader, Diane has helped keep the press and the public informed on the workings of this chamber and its achievements, and has effectively promoted the Democratic agenda in the media. In a free society such as ours, the press can be very demanding, and it requires a dedicated professional to meet those demands. Diane has been outstanding, and so has her staff, deputy press secretary Mary Ann Hill, and their capable assistants Mary Helen Fuller, Julie Goldberg, and Jonathan Hale.

Diane and Mary Ann each became mothers this year, and I appreciate the special effort each has made to balance their new responsibilities with their old ones.

Also vital to keeping the public informed about key Democratic initiatives during my tenure has been the work of the Democratic Policy Committee. Under the direction of Vice Chairman Senator TOM DASCHLE, DPC has become an important forum and vehicle for developing and promoting Democratic policies on education, environment, health care, the economy, and other issues. DPC's director of outreach, Debra Silimeo, has brought an energetic devotion to her task. DPC's director of services, Greg Billings, has brought a dedication to his administrative responsibilities.

Debra and Greg are ably assisted by the DPC's policy staff Ken Rynne, Paul Brown, Lauren Griffin, Rindy O'Brien, Jennefer Smith, Tony Morgan, Leah Titerence, Rob Graham, Tricia Moreis, Heather Mayes, and David Corbin. They are assisted by Joy Leach and Joe Stensland.

Working hard to ensure that DPC's publication are developed, produced, printed, and distributed is the publications office. It is headed by Marguerite Beck Rex, who is assisted by Lynn Terpstra, Tim Metrovich, Karen Hutchinson, Bill McCabe, and Chris Bois.

DPC–TV is operated by Michael Mozden and Kirstan Jennings.

Assisting Senators with television communications is DPC broadcast services. This office is headed by the experienced and very capable Kevin McNanus. He is assisted by Christine Deckle, Clare Flood, Kevin Kelleher, and Mark Marchions.

Vote information records are maintained by Marian Bertram, Doug Connolly, Colleen Stephenson, Von Brown, and Rob Sweeney.

Mr. President, for me, representing the people of Maine in the Senate has been the greatest honor of my life. I could not have accomplished all that I have without the help of each of these individuals.

Most of them will never get the attention and recognition that they deserve, nor will they be mentioned in history books. But they are people who help make history every day that they are here. They are the people who make the Senate work.

Each has my most profound and sincere appreciation for the work they do for this body. I commend them for their service to their country and their contributions to the U.S. Senate.

FAREWELL TO SENATOR DAVID BOREN

Mr. MITCHELL. Mr. President, in January, when the 104th Congress is sworn in, Senator DAVID BOREN will instead be sworn in as president of the University of Oklahoma. I certainly wish him well in this new endeavor, but at the same time I know that his presence in the Senate will be sorely missed.

DAVID BOREN has earned a reputation as a "bridge builder." He is known for putting together working groups of Members with different perspectives on an issue. These groups are often able to find common ground and advance their legislative goals by building strong, bipartisan consensus.

Bringing people together is a skill which is all too rare. Assembling a balanced group and helping its members to put aside their differences and focus on commonalities is a test of anyone's leadership abilities. DAVID BOREN has consistently met this test, and his leadership is unquestioned.

To me, it seems clear that Senator BOREN's greatest legacy will be his tremendous efforts to reform the way our campaign finance laws are structured. Nobody understands more clearly than DAVID BOREN the problems inherent in our current system. He has fought hard to remove the overriding influence of money on our system, to take elections out of the hands of political action committees and return them to the hands of the people.

I admire Senator BOREN's willingness to take on this difficult and contentious issue. He has been a tireless campaigner on this issue, and he has brought us to the very brink of success. I regret that it was not possible to complete action on this important measure this year, but I commend Senator Boren for his heroic efforts.

DAVID BOREN has a sharp mind and a keen intellect. I am sure that he will be a strong leader at the University of Oklahoma and a role model to the University's students. I wish him every success in this endeavor.

FAREWELL TO SENATOR JOHN DANFORTH

Mr. MITCHELL. Mr. President, When the 104th Congress convenes in January, the Senate will be without the sound voice of experience of JOHN DANFORTH.

I will be the first to admit that I have not always agreed with the policy positions of my good friend, Senator DANFORTH. He and I have served on opposite sides of the aisle and have disagreed on more than one occasion.

But there have also been many times when we have agreed. And there have been few Members who have been as instrumental in seeking common ground during my tenure as majority leader as has Senator DANFORTH.

I think back to the Civil Rights Act of 1991. JACK DANFORTH worked tirelessly to mediate the differences of those on the left and the right, working between the range of civil rights organizations and those who thought that the very words "civil rights" in fact meant "quota." Although it was a difficult position for him to be in at the time, Senator DANFORTH led the effort to find an acceptable compromise. Without his efforts, there might not have been a Civil Rights Act in 1991.

Senator DANFORTH has also worked to expand the market for American products. His efforts as ranking member of the Finance Committee's trade subcommittee have helped to open the global market to American goods and services. As we all know, a larger market leads to greater demand. His work in this area has been instrumental to many American businesses, and I know that they are grateful to him.

Senator DANFORTH, the only ordained minister now serving in the Senate, has brought a unique perspective to his duties as a legislator. He has represented the people of Missouri both honorably and effectively.

JACK DANFORTH has been a commanding presence in the Senate for more than two decades. I know that he will be sorely missed and I wish him well as he leaves this institution.

FAREWELL TO SENATOR DENNIS DECONCINI

Mr. MITCHELL. Mr. President, the close of the 103d Congress will see the departure of many of our colleagues. Among them will be Senator DENNIS DECONCINI.

For nearly 20 years, the people of Arizona have had a tireless advocate in DENNIS DECONCINI. He has worked hard to make sure his State was not forgotten in matters of public policy of special concern to them.

As chairman of the Treasury, Postal, and General Government appropriations subcommittee, DENNIS has demonstrated his outstanding ability to balance numerous competing demands, including those of Federal personnel, the needs of law enforcement, the modernization of the Internal Revenue Service, and others. He has worked to find adequate funding to meet the needs of the agencies under his subcommittee's domain, while at the same time recognizing the need to reduce expenditures during these difficult budgetary times.

DENNIS has also served as chairman of the Select Committee on Intelligence, advocating for changes in our intelligence operations to meet the shifting demands of our post-cold-war world. His efforts are notable for their focus both on reducing costs and improving effectiveness.

I will always have fond memories of my first foreign trip as a Senator. DENNIS DECONCINI and I, with a number of other Members, went to the Soviet Union in 1984 to meet with Mikael Gorbachev. The conditions were difficult, and the situation was tense in those cold war days. But we had a good and productive trip.

More importantly, I had the opportunity to get to know DENNIS better. Although we didn't have the opportunity to play in the Soviet Union, we discovered a mutual love for the game of tennis. I have enjoyed our many games, and hope that after our retirements we will both have more time to play.

Over the last 14 years, DENNIS has been a good friend. I have enjoyed serving in the Senate with him, and I thank him for his excellent work.

FAREWELL TO SENATOR DURENBERGER

Mr. MITCHELL. Mr. President, when the 104th Congress convenes next January, the senior Senator from Minnesota will no longer be DAVID DURENBERGER. As he retires from the Senate, I want to express my gratitude to him for his efforts on many issues of interest to both of us.

Senator DURENBERGER has been a leader in this Congress on issues of vital importance to all Americans. For many years, he has been committed to reforming our Nation's broken health care system to improve patient choice, to contain costs, and extend care to those who need it but cannot afford it.

In this session, Senator DURENBERGER was instrumental in our efforts to break the gridlock and reach agreement on much needed reforms. He came to the negotiating table with an open mind and with a true understanding of the magnitude of the problem facing our Nation.

He worked tirelessly, investing countless hours in our effort to develop a bill which could attract the 60 necessary votes to overcome the promised filibuster. And I know that he was as frustrated as I was by our inability to complete action on any health care reform proposal.

Senator DURENBERGER rose above party politics and put the good of the American people first. He sought not political advantage, but compromise and action. I cannot fully express how much I appreciated his support and his work during the difficult and trying negotiations.

The people of Minnesota are losing a good friend, and the senior citizens of America are losing a strong voice. Senator DURENBERGER has long been concerned with our Nation's elderly, advocating for long-term care, catastrophic health care coverage, and other programs of benefit to America's fastest growing group of citizens: those over 65.

Senator DURENBERGER has also worked to make higher education available to more American youth by reforming student loan programs. He recognizes that our Nation's future is tied to the ability of young people to get the education they need to be competitive and employable in the 21st century. His efforts have made a significant difference in this area.

In short, Senator DURENBERGER has worked hard to make life better for all Americans. I have very much enjoyed working with him, and I wish him the very best as he returns to private life.

FAREWELL TO SENATOR HOWARD METZENBAUM

Mr. MITCHELL. Mr. President, the end of the 103d Congress will see the retirement of one of the Senate's most visible members, HOWARD METZENBAUM. After nearly 50 years in public service, he certainly has earned his return to private life. However, the Senate without him will be a much different place.

Senator METZENBAUM has been an effective voice for many who might otherwise have been silent in the Senate's deliberations. He has spoken out on behalf of the poor, the elderly, women, and minorities.

I respect his deep commitment to his principles, and I appreciate him for being the kind, compassionate, and caring man that he truly is. These traits have benefited the constituents he has represented for the past 16 years. They have also benefited the Senate as an institution.

HOWARD METZENBAUM has a well developed sense of right and wrong. He loudly cheers those things which are right, and works tirelessly to correct those which are wrong.

Senator METZENBAUM has worked tirelessly to make our Nation a safer place. His outstanding work on behalf of the Brady bill—now the Brady law—was critical in ensuring its passage. He understood all too clearly the need to develop an effective system to keep guns out of the hands of people who were already precluded by law from having guns. He also worked hard to pass the assault weapons ban, recognizing that the guns affected by this legislation were the most deadly on the market.

HOWARD METZENBAUM has been a champion of the American worker. He has led many fights to defend and protect the rights of organized labor. His efforts were essential in passage of the plant-closing notice legislation. He has had far too many other successes to list.

Senator METZENBAUM has been a dynamic Member of the Senate, and his contributions to this institution and to our Nation will not soon be forgotten. He has been an active Member of this body from the first days here in 1976 until the closing days of his final session.

I wish Senator METZENBAUM well in his retirement, and thank him for his dedicated service to his country.

FAREWELL TO SENATOR DONALD RIEGLE

Mr. MITCHELL. Mr. President, with the close of the 103d Congress comes also the close of DON RIEGLE'S career in the Senate. The people of Michigan are losing a strong and effective voice, and the Senate is losing a dear friend and colleague.

It was 28 years ago that Senator RIEGLE, then just 28 himself, was first

elected to Congress. As a Republican. Things have certainly changed.

I like to say that in 1973, DON RIEGLE saw the light and switched to the Democratic party. Since then, we have been pleased to have such a forceful and dedicated legislator in our midst.

Senator RIEGLE's leadership on the Banking Committee has been excellent. He is regarded as intense and hard-working, and deserves much credit for the recently passed interstate banking bill. He enjoys a challenge, and perseveres rather than giving up in the face of adversity.

His constituents have always been foremost in Senator RIEGLE'S mind. He has worked to ensure that American jobs are protected and that the American worker is not exploited. He is fair and level-headed.

DON RIEGLE has brought vision and initiative to the Senate that I know will be missed. I wish him well and thank him for his many contributions to this institution and our nation.

FAREWELL TO SENATOR MALCOLM WALLOP

Mr. MITCHELL. Mr. President, I am sure that the people of Wyoming were saddened to learn that Senator MALCOLM WALLOP would be retiring at the end of the 103d Congress. Since 1976, he has been a strong voice for the interests of the people of Wyoming, and for the interests of the West in general.

I have viewed Senator WALLOP as a member of the loyal opposition since I entered the Senate in 1980. From my perspective, he has been a little bit too effective in this role, working to stop or change legislation which I supported.

But although we often disagree on policy matters, I certainly respect Senator WALLOP's courage of his convictions. He came to the Senate with certain views and beliefs, and he has held fast to them. Senator WALLOP has been a strong voice in foreign policy issues, advocating changes in policy even when they were not popular. He has never catered to public opinion polls, but rather has stuck to his guns and done what he believed to be right.

I admire his tenacity and his perseverance. It has been a pleasure to serve in the Senate with him, and I wish him well in whatever new challenges he may choose to pursue in the future.

TRIBUTE TO THE SERGEANT AT ARMS AND RELATED OFFICES

Mr. MITCHELL. Mr. President, the Sergeant at Arms has a number of diverse offices under his purview. Each of these offices is essential to the smooth running of the Senate, and I want to take a moment to express my appreciation to those who perform these vital functions.

For 14 years I depended on Larry Benoit as my chief field representative in Maine and as my campaign manager. Few people know the State of Maine as well as Larry. He is insightful, thoughtful and persuasive.

He was so effective and tireless in those demanding but often thankless positions that when the opportunity arose, I appointed him to serve as the Senate's Sergeant at Arms. Larry has held this position for only a short period of time, but he has already proven himself an outstanding public servant. I thank him for taking the position and for the professional work he is doing.

I also commend his superior staff, Deputy Sergeant at Arms Robert Bean and their able and energetic assistants, Patty McNally, Loretta Fuller Symms, Patrick Hynes, Alvin Spriggs, Pete Beatty, Laura Parker, Jennifer Carter, Colin Raymond, Rita Harris, and Ted Jones. Thanks also to Director of Human Resources, Patty Fitzgibbons.

I take this opportunity to express my appreciation for the work of Gayle Cory. Gayle is now postmaster of the Senate, but I have known her for so long and worked with her in so many ways that I still like to consider her as personal staff. We worked together on Senator Muskie's staff, and she served as my executive assistant after I was appointed to the Senate. She has always been there, as an ally, as my right hand and as a friend. I thank her for her work and her long and loyal friendship, and I wish her well. I also appreciate the work of the post office staff who sort and deliver many thousands of letters every day.

Russell Jackson and the entire service department staff make sure that Senate publications are ready the next day. Their hours can be long. Their jobs can be difficult and tedious. But their work always is important and they are extraordinary in performing it. I give them a special thank you for their efforts to ensure that the publications of the Democratic policy committee, including the DPC daily reports, legislative bulletins, special reports, and issue alerts are always prompt and timely. I am aware that the policy committee has occasionally made nearly impossible demands, but the service department always comes through.

The director of the computer center, Michael Bartell, and the director of telecommunications, Robert McCormick, and their staffs, do outstanding work in very demanding jobs. A special thanks goes to the telephone operators who answer thousands of calls daily.

I also want to commend those who keep this historic building so clean and well maintained, including Karen Ellis, Phyllis Timms, and Ross Thomas.

Special acknowledgement also goes to the financial management team of Chris Dey, Ray Payne, Richard Zelkowitz, Amy Blanchard, and Alan Block. They may not always get the recognition they deserve for their outstanding work in their very demanding jobs, but all of them are appreciated.

One of the most demanding and difficult jobs on Capitol Hill belongs to the Capitol security forces. Chief Abrecht and Assistant Chief Langley and all the U.S. Capitol Police deal with the public and their right of free speech, their right to observe their law makers in action, and their right to petition their government. At the same time, during these dangerous times, they must provide for the safety of the men and women who work here, and for the security and integrity of this magnificent building. Theirs is a most difficult task. They handle it courageously and superbly. They have my respect and my thanks.

Senate doorkeepers are with us each hour we are in session. Their long hours are noted, and their work is always appreciated. I express my sincerest thanks to Supervisor Arthur Curran and his assistant Donn Larson.

The Capitol Guide service, headed by Frances Rademaekers, helps thousands of visitors more fully appreciate the Capitol building and its historic contents.

Debbie Jans and her outstanding staff provide special services for staff and visitors with disabilities. Debbie and her team have made great strides in improving the accessibility of the Capitol.

Don Gardner is the foreman of the cabinet shop, Vince Proctor is the garage foreman, and Pete O'Brien manages the parking office. These individuals and all of their employees, do an outstanding job and are a great help to the Senate.

I also commend the outstanding work of the Senate photographers. The quality of their finished products usually far outshines the crudeness of the raw materials with which they have to work. I congratulate as well as praise them for the quality of their work.

Crucial in enabling Americans to follow Senate proceedings are the Senate press galleries. Bob Peterson, press gallery; Jim Talbert, periodical press gallery; Maurice Johnson, press photographers gallery; Larry Janezich, radio, television gallery, and their deputies perform a valuable service in assisting members of the media in following the activities of this chamber.

As everyone is aware, the American people can now follow the deliberations of the U.S. Senate in their own homes, thus enabling them to become even better participants in their Federal Government. Jim Grahne, director, and the staffs for the recording studio's broadcast control and the TV control offices are in the forefront of this effort, and they do a splendid job.

I also call attention to services of the people who manage the Senate reception room, Shirley Herath, "Irish" McLain, and Ruby Paone. Their friendliness and cooperation are well known, as is the excellent and dedicated work they do.

Mr. President, I am grateful to each of these individuals for their tremendous efforts on behalf of the Senate. Without them, it would be practically impossible for the Senate to transact business, and I commend them for their work.

TRIBUTE TO THE SECRETARY FOR THE MAJORITY AND THE FLOOR STAFF 103D CONGRESS, SECOND SESSION

Mr. MITCHELL. Mr. President, there are a number of individuals who serve here on the Senate floor who are critical in controlling the flow of legislation. They work directly with me in developing the Senate's schedule, negotiating unanimous-consent agreements, and monitoring the debate. Without them, the majority leader would be unable to effectively function. They have my sincere thanks and my admiration.

Secretary for the majority, Abby Saffold, has a demanding job that requires a high degree of competence and professionalism. Fortunately, Abby has ample quantities of both. Indeed, her professionalism and competence are exceeded only by her pleasantness. Her assistants, Jerri Davis, Maura Farley, and Sue Spatz, are also dedicated professionals whose work we all appreciate.

I cannot imagine myself—or anyone, for that matter—serving as majority leader without the assistance of Marty Paone, assistant secretary for the majority. He and the Democratic floor staff, Lula Davis, Art Cameron, and Kelly Riordan, are true professionals.

Their courteousness, their meticulous attention to detail, their willingness to work long into the night, and their many other invaluable skills and talents have made them a vital part of the 103d Congress. I salute them, and I thank them for their dedicated and tireless work. My thanks also to Nancy Iacomini and Brad Austin who have provided valuable assistance to the floor operations.

Every Democratic Senator knows and appreciates the staff of the Democratic Cloakroom, Lenny Oursler, Gary Myrick, Paul Cloutier, and Cristina Krasow. They do excellent work, helping to make life easier and more pleasant for myself and my colleagues on this side of the aisle.

Mr. President, I want to take this opportunity to express my appreciation to the Republican counterparts to the Democratic staff I have just mentioned. Their work and their cooperation has been appreciated, and it has certainly contributed to the successes of the 103d Congress. At times I have found myself wishing that the staff of the loyal opposition was not quite as good and as effective as they are, but I always have appreciated their friendliness and their contributions to the Senate as an institution.

I begin by recognizing Sheila Burke, chief of staff to the Republican leader. I also recognize the secretary for the minority, Howard O. Greene, and his assistant, John L. Doney, and Elizabeth Greene of the Republican floor staff, and the staff of the Republican Cloakroom, Brad Holsclaw, Dave Schiappa, and Sarah Whitaker. Each of them is a formidable part of the loyal opposition, but their tireless efforts and cooperation are nonetheless appreciated.

I also want to thank the distinguished Republican leader, Senator DOLE. Although we serve on different sides of the aisle, and although we often disagree on policy matters, we have worked well together. We are good friends and we trust each other. Without this trust, it would be nearly impossible for the Senate to conduct its business. Senator DOLE is a man of his word and I have enjoyed working with him.

No one who works in this building is more deserving of special attention and special thanks than the Senate pages. These young Americans are here learning how their Federal Government operates, while performing needed, important work for the institution and for us as individuals. They are a valuable part of the Senate. I thank them for their energy and their enthusiasm. I wish each of them the best in whatever endeavors they choose to pursue.

Attending to our spiritual needs is Rev. Dr. Richard Halverson, the Senate Chaplain. He is always there to offer comfort to Members and their families in times of need and he is here on the Senate floor at the beginning of each Senate day to offer the daily blessing. Our inability to perform the miracles for which he prays each morning is our failure, not his nor the powers to whom he prays. But I do appreciate the sincerity of the request and thank him for making it.

Although they are not a direct part of the Senate's floor operation, congressional agencies like the General Accounting Office and Government Printing Office deserve a thank you for a job well done. In this time of difficult budget constraints, the work of the Congressional Budget Office has become increasingly important. CBO's thorough but prompt analysis of the costs of pending legislation and their analysis of historical and programmatic trends are an important part of the legislative process. I thank the staffs of GAO, GPO, and CBO for their long hours and hard work.

Mr. President, I very much appreciate the work of the people whom I have just mentioned. Their outstanding performance has made my job as majority leader much easier, and for that I am truly grateful. I have enjoyed working with them and I commend them for their efforts on behalf of the Senate and our Nation.

TRIBUTE TO THE SECRETARY OF THE SENATE AND RELATED OFFICES, 103D CONGRESS, SECOND SESSION

Mr. MITCHELL. Mr. President, many of the offices that are crucial to the day-to-day functioning of the Senate as a legislative body are under the direction of the Secretary of the Senate. I want to pay tribute to the many individuals who work in these offices for the outstanding work they do in keeping the Senate functioning.

First, I must express my deep appreciation for the services and support of my longtime friend and staffer, Martha Pope. Martha has served me for so many years in so many ways: as my legislative assistant, my legislative director, my Administrative Assistant, my Chief of Staff, and as the Senate Sergeant of Arms. She is now Secretary of the Senate and she is a good one.

I was concerned when Joe Stewart left this position several months ago because I knew his shoes would be difficult to fill. I also knew that if anyone could fill them, it would be Martha, and she has done so very well. As Secretary of the Senate, she is ably assisted by Assistant Secretary of the Senate Jeri Thomson, Michelle Haynes, Ann Anderson, Dot Svendson, Barbara Muller, and Ray Strong, and his staff.

Knowing the Senate's complex rules and being able to interpret them is essential to the effective workings of the U.S. Senate. Parliamentarian Alan Frumin and his assistants, Kevin Kayes, Beth Smerko, and Richard Buckley, and Parliamentary Assistant Sally Goffinet provide competent and courteous service to all. We are fortunate to have them.

The Official Reporters of Debates prepare Senators' remarks for publication in the CONGRESSIONAL RECORD. Chief Reporter Chick Reynolds, his deputy Scott Sanborn, Morning Business editor Ken Dean and his assistant Elizabeth MacDonough, and the Official Reporters Frank Smonskey, Ron Kavulick, Jerry Linnell, Raleigh Milton, Joel Breitner, Mary Jane McCarthy, and Paul Nelson, and the transcribers all have my gratitude for jobs well done.

Thom Pellikaan and his staff, Linda Sebold and Kimberly Longsworthy, ably prepare the RECORD's Daily Digest.

A special thank you goes to Katie-Jane Teel and her staff who enable the hearing impaired to follow Senate floor action by providing closed captioning of Senate proceedings. They continue to set the standards of competence and accuracy in their field.

Taking recorded votes, preparing the Senate Calendar and managing the official papers is the purview of Scott Bates, the Legislative Clerk, and his assistant David Tinsley; Bill Clerk Kathie Alvarez Tritak and her assistants Mary Anne Moore and Christopher

Mann; Executive Clerk Brian Hallen and his assistant Tom Lundregun. The Senate Journal is prepared as required by the Constitution by Journal Clerk William Lackey and his assistants Mark Lacovara and Patrick Keating. All have my thanks for their tireless dedication to the Senate.

The other departments under the direction of the Secretary of the Senate perform the vital duties that keep this institution operating every day. These departmental directors should know that their service is noticed and appreciated not only by me, but by all Senators and staff.

Not to be overlooked are Kathryn Weeden, principal of the Senate Page School, and her faculty who see to the education of our Senate Pages. Their special dedication, and most notably their flexibility in scheduling, are to be commended.

The Senate Research facilities are simply superb, and their staffs are even better. No matter how difficult, how trivial, how absurd the question, they can always find the answer. For this, we thank the Senate Library, staffed by Librarian Roger Haley, Ann Womeldorf, Greg Harness, Donnee Gray, and others.

The capabilities of the Senate Library and the Congressional Research Service, headed by David Molhollan, to provide reliable information so quickly make them a fundamental part of the effective workings of the U.S. Senate.

In the same vein, I call attention to and express my appreciation for the work of Senate historian, Dr. Richard Baker, and the Senate Curator, James R. Ketchum. With the help of their talented staffs, they perform the invaluable service of documenting and preserving the history of this great institution and this historic building.

I also want to thank the Attending Physician, Dr. Robert Krasner, and his fine medical staff for helping to preserve the health of Members, staff, and visitors to the Capitol. Dr. Krasner is retiring this year, and I know he will be deeply missed by the congressional community.

Mr. President, in some way each of the individuals I have just named is an integral part of the daily operations of the U.S. Senate. I appreciate their willingness to serve their government and wish each of them the very best in the future.

AWARD A CONGRESSIONAL GOLD MEDAL TO LUBAVITCHER GRAND REBBE MENACHEM SCHNEERSON

Mr. D'AMATO. Mr. President, I rise today to comment on the passage of my bill to award a Congressional Gold Medal to Lubavitcher Grand Rebbe Menachem Schneerson.

The Grand Rebbe for over forty years, made generous and lasting contributions to the cause of peace and understanding in the United States and in the world, through his selfless acts of kindness and education. His dedication to enriching the lives of our youth is an enduring part of his legacy.

His generosity, his kindness, and his care for his fellow human beings was what made him such a revered leader. As such, the awarding of a Congressional Gold Medal, would be a just honor to the memory of his good deeds and his good works. I can think of no other man more deserving of such an award. I am pleased that Congress has bestowed this high honor upon a man so dedicated to peace and justice. It is a just tribute to his memory.

Thank you Mr. President.

WASTE LEGISLATION

Mr. SPECTER. Mr. President, I am pleased to support this vital legislation concerning municipal solid waste. It includes two components which control interstate shipments of waste and allow the control of waste within a local jurisdiction. Rather than reiterate my thoughts on the importance of legislation empowering States to restrict cross-border shipments of garbage, I would refer my colleagues to my remarks on September 30, 1994, in which I expressed my support for S. 2345, the Interstate Transportation of Municipal Solid Waste Act of 1994, which passed the Senate by unanimous consent.

During this session of Congress, we have encountered a new issue with respect to municipal solid waste—the issue of waste flow control. As a result, today we are also considering legislation which would restore local authority to control the flow of municipal solid waste.

On May 16, 1994, the Supreme Court held (6–3) in Carbone v. Clarkstown that a flow control ordinance, which requires all solid waste to be processed at a designated waste management facility, violates the Commerce Clause of the United States Constitution. In striking down the Clarkstown ordinance, the Court stated that the ordinance discriminated against interstate commerce by allowing only the favored operator to process waste that is within the town's limits.

As a result of the Court's decision, flow control ordinances in Pennsylvania and other States are considered unconstitutional. Therefore, it is necessary for Congress to enact legislation providing clear authorization for local governments to utilize waste flow control.

This issue is of vital importance to the local governments in Pennsylvania, as evidenced by the numerous phone calls and letters I have received from individual Pennsylvania counties and municipal solid waste authorities that support waste flow control legislation. The County Commissioners Association of Pennsylvania has pointed out that since 1988, flow control has been the primary tool used by 65 of the 67 Pennsylvania counties to enforce solid waste plans and meet waste reduction/recycling goals or mandates. Many Pennsylvania jurisdictions have spent a considerable amount of public funds on disposal facilities, including upgraded sanitary landfills, state-of-the-art resource recovery facilities, and co-composing facilities. In the absence of flow control authority, many of these worthwhile projects could be jeopardized.

I am pleased that the parties in interest on this legislation have been able to agree on a compromise that protects the ability of municipalities to plan effectively for the management of their municipal solid waste while also guaranteeing that market forces will still provide opportunities for enterprising companies in the waste management industry.

In conclusion, this legislation makes sense because in the absence of Federal legislation to empower States to restrict cross-border flows of waste, Pennsylvania and other States inevitably become dumping grounds for States that haven't bit the bullet and enacted realistic long-term waste management plans. Further, by restoring flow control authority, this legislation protects Pennsylvania and its component local jurisdictions, which have promulgated comprehensive solid waste management plans and established state-of-the-art facilities to handle waste generated within the Commonwealth.

I urge my colleagues to support this critical legislation.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER (Ms. MOSELEY-BRAUN). The Senator from California.

Mrs. BOXER. I thank the Chair. I just will say to the Senate, as soon as the majority leader is ready to speak, or the distinguished Republican leader, I will yield the floor at that time.

RETIREMENT OF SENATORS

Mrs. BOXER. Madam President, I should like to at least begin a few remarks about our retiring Senators as we wind down this 103d Congress. To DAVID BOREN, JOHN DANFORTH, DENNIS DECONCINI, DAVID DURENBERGER, HARLAN MATHEWS, GEORGE MITCHELL, HOWARD METZENBAUM, DON RIEGLE, and MALCOLM WALLOP, I want to send my warmest wishes for their personal happiness. Each of these men has ably represented the people of their State, and I am confident that each will know great success in the future.

Madam President, I wish to pay special tribute to three Senators with whom I have had the great privilege to work closely the past 2 years. Each has served as a shining example of what it

means to be a leader and a true public servant.

How can one say enough about HOWARD METZENBAUM? The man is a fighter for those who do not have a voice—for consumers, for those who cannot afford to pay high-priced lobbyists. You do not need a PAC or a high-powered lobbyist to get on HOWARD METZENBAUM's agenda. All you need is a belief in justice, and the good Senator will rally to your side.

Frankly, he has stood up for the little guy, for the ordinary person, and I hope that many of us will be able to work doubly hard so that we can continue his work.

When I was appointed to the Banking Committee, Madam President, with you, I did not fully realize how fortunate I was to be serving under the able leadership of DON RIEGLE. Senator RIEGLE is a highly professional man and a productive leader. He was successful in moving very important legislation. But really, when I think about what makes DON RIEGLE such a special legislator, it is not just his list of accomplishments; it is his heart, the way he feels about helping America's working family. And that, too, will be missed.

Just a few words about Senator MITCHELL, before he gets up to lead us through this very long and complicated end of the session.

In my opinion, Senator MITCHELL will go down in history as one of the greatest majority leaders of the Senate. With the Senator's record on the environment and his belief in people, he leaves a legacy as a champion for the ordinary people of this country.

In closing, I just want to add that the thing about Senator MITCHELL that is extraordinary is he never forgets his roots, and he never forgets his family and the sacrifices they made to give him the chance to become a great leader in this country. I think all too often some of us forget that, and we have to remember it. I think that his greatest legacy will be that message to all of us.

So I want to say to Senator MITCHELL how much I will miss him, how much all of us will miss him on both sides of the aisle. And to all of our colleagues who will not be returning for the 104th Congress, you will be missed, but your collective experience and wisdom has enriched this body. Your participation has made the Senate stronger than when you entered it.

Thank you very, very much, Madam President, and I yield the floor at this time.

The PRESIDING OFFICER. The majority leader, the Senator from Maine.

ORDERS FOR SATURDAY, OCTOBER 8, 1994

Mr. MITCHELL. I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m. tomorrow; that the time for the two leaders be waived and that immediately upon the completion of the prayer, the Senate resume consideration of the conference report on S. 21, the California desert bill; that the time between then and 10 a.m. be equally divided between Senators JOHNSTON and WALLOP or their designees, and that at 10 a.m., without any intervening action or debate, the Senate vote on the motion to invoke cloture on the conference report, with the mandatory live quorum being waived; that if cloture is invoked, the Senate, without any intervening action or debate, vote on passage of the conference report.

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

Mr. MITCHELL. Madam President, I thank my colleagues for their cooperation. I thank the Senator from Wyoming.

The Senate will vote at 10 a.m. on the motion to invoke cloture on the conference report on the California Desert Protection Act. At 10 a.m. tomorrow, that vote will occur.

Madam President, we will then complete action on the nominations that have been pending. So I want to make that clear. We are going to complete action on the nominations.

Mr. LOTT. Madam President, may I inquire of the distinguished majority leader, if he will yield, what the schedule will be for the balance of the night?

Mr. MITCHELL. Madam President, I am hoping to have an announcement on that shortly. I am waiting for clearance from the distinguished Republican leader on one other matter which we must do at this time. As soon as I receive that, I expect shortly I will make an announcement with respect to this evening.

I thank my colleagues.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. LEVIN. Madam President, is it in order for me to give remarks on the Glosson nomination at this time?

The PRESIDING OFFICER. Yes. The Chair, however, would like to make some announcements first.

APPOINTMENT BY THE REPUBLICAN LEADER

THE PRESIDING OFFICER. The Chair announces, on behalf of the Republican leader, pursuant to Public Law 96–114, as amended, the appointment of the following individuals to the Congressional Award Board: W. Russell King of Virginia; and Michael L. Lunceford of Texas.

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

THE PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to P.L. 103–227, appoints the following individuals to the National Skill Standards Board:

Upon the recommendation of the majority leader: E. William Crotty of Florida, representing business; Katherine Schrier of New York, representing organized labor; Michael P. Riccards of West Virginia, representing human resource professionals.

And upon the recommendation of the Republican leader: Bruce Carswell of New York, representing business; Stephen L. Sayler of Kansas, representing human resource professionals.

APPOINTMENT BY THE VICE PRESIDENT

THE PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 86–380, appoints the Senator from Florida [Mr. GRAHAM] to the Advisory Commission on Intergovernmental Relations.

PROVIDING FOR AN ADJOURNMENT OF THE HOUSE AND THE SENATE

Mr. MITCHELL. Madam President, I ask unanimous consent that the Senate proceed to the consideration of House Concurrent Resolution 315, the adjournment resolution, that the resolution be agreed to, and the motion to reconsider be laid on the table.

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

The concurrent resolution (H. Con. Res. 315) was considered and agreed to; as follows:

H. CON. RES. 315

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Friday, October 7, 1994 pursuant to a motion made by the Majority Leader, or his designee, in accordance with this concurrent resolution, it stand adjourned until noon on Tuesday, November 29, 1994, or until noon on the second day after Members are notified to reassemble pursuant to section 3 of this concurrent resolution, whichever occurs first; and that when the Senate adjourns or recesses at the close of business on any day from Friday, October 7, 1994 through Friday, October 14, 1994, pursuant to a motion made by the Majority Leader, or his designee, in accordance with this concurrent resolution, it stand recessed or adjourned until 9 a.m., on Wednesday, November 30, 1994, or such time on that day as may be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notified to reassemble pursuant to section 3 of this concurrent resolution, whichever occurs first.

Sec. 2. When the House adjourns on the legislative day of Tuesday, November 29, 1994, pursuant to a motion made by the Majority Leader, or his designee, in accordance with this concurrent resolution, it stand adjourned sine die, or until noon on the second

day after Members are notified to reassemble pursuant to section 3 of this concurrent resolution; and that when the Senate adjourns at the close of business on Thursday, December 1, 1994, it stand adjourned sine die, or until noon on the second day after Members are notified to reassemble pursuant to section 3 of this concurrent resolution.

Sec. 3. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Madam President, further, as if in executive session, I ask unanimous consent that immediately following disposition of S. 21, the Senate proceed to executive session to consider the nomination of Lieutenant General Buster Glosson, that is Executive Calendar 1280; that there be 25 minutes for debate divided as follows: 15 minutes under the control of Senator GRASSLEY, 5 minutes under the control of Senator NUNN, and 5 minutes under the control of Senator THURMOND; that following the using or yielding back of time, the Senate vote, without any intervening action, on the nomination; that if confirmed, the motion to reconsider be tabled and the President be notified of the Senate's action and, further, that the cloture motion filed on this nomination be vitiated.

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

NOMINATION OF LT. GEN. BUSTER C. GLOSSON

Mr. LEVIN. Madam President, seven members of the Armed Services Committee voted against the confirmation of General Glosson to retire as a three-star. I was one of the seven that voted against that nomination. I will vote against it if it comes to the floor because I believe that to vote for General Glosson to retire as a three-star would reward a high-ranking military officer who recently violated a very important principle of military ethical conduct.

Approval of that nomination, I believe, will send the wrong message about the seriousness of that misconduct. On the central question of whether Lieutenant General Glosson improperly attempted to interfere with the promotion process, there is agreement among the Department of Defense and the Air Force inspectors general and the special panel of factfinders appointed by the Secretary of Defense. They agreed that General Glosson attempted to interfere with that board. That fact alone, I believe, is so serious that it is sufficient to deny him Senate confirmation of retirement as a three-star general.

The special panel of factfinders appointed by the Secretary of Defense, at the suggestion of the Senate Armed Services Committee, agreed and emphasized this finding in its report. I want to read from the factfinders' unanimous report:

> We must conclude that LTG Glosson was improperly attempting to influence the promotion.

And in another part of their report:

> The board selected by the Department of Defense in a finding accepted by the Department of Defense—

And I believe accepted by even the majority of the Armed Services Committee.

> said that we believe that LTG Glosson was attempting to influence the promotion.

Those are chilling words. It was his sworn duty not to try to influence a promotion board. It is serious business when you attempt to influence a promotion board in the military. I repeat this because this is the heart of the matter. Did he lie or did he not lie? And I will get to that in a moment.

But the heart of the findings of this independent panel is that Lieutenant General Glosson improperly attempted to influence the promotion—not that he should have known, not that he might have been construed to, not that he inadvertently did something, not that it might appear that he did something. The finding is that he attempted improperly to influence a promotion. The DOD inspector general, Derek Vander Schaaf, reached the same conclusion, that Lieutenant General Glosson's communications were highly improper.

Retiring in grade above two stars, with an additional pension, requires Senate confirmation because it is a reward for exemplary service. It should not be a right. It should not be automatic.

General Glosson's actions to influence the promotion board through improper communication violated regulations and basic principles of honorable conduct to which he, as a high-ranking officer, was especially responsible to adhere to.

Officer promotion boards are near sacred. The committee has witnessed problems with these boards in the past, with the Air Force, Navy, and Marine Corps; and has done extensive work over the past several years to try to maintain the integrity of the military services' promotion system and to prevent unauthorized interference with promotion boards.

The committee was so concerned that it instructed the Department of Defense to look at the selection process in all of the services. And in 1991, the committee passed legislation specifically relating to promotion board procedures.

In 1992, the committee completed a report on the conduct of proceedings for the selection of officers for promotion in the United States Air Force. In that report, the committee found, "there were serious, significant deficiencies in Air Force promotion practices," and warned the following:

> The fair and impartial conduct of the selection process is a matter of great concern to the committee. The integrity of the selection process is essential to the integrity of the officer corps. Adherence to established laws and regulations is necessary to ensure that the best qualified officers are selected for promotion and that the officer corps has confidence in the integrity of the selection process.

If we approve this nomination when we know—indeed, I believe it is conceded in the majority report, as was found by the independent panel—that General Glosson improperly attempted to interfere with the promotion board, I believe it will undermine our efforts to promote integrity in the military services promotion system.

Early on in the Senate Armed Services Committee proceedings in this matter, the main issue was whether or not Lieutenant Glosson lied about his actions. The November 1993 inspector general's report concluded that, "Lieutenant General Glosson improperly communicated with the complainants"—that is the three generals who blew the whistle on him, that had enough guts and courage to blow the whistle on a fellow officer. The finding is that he improperly communicated with those three generals and did so with the intent to influence—"with the intent to influence their consideration"—of the officer being considered for promotion during that selection board. The inspector general also found that Lieutenant General Glosson lied under oath "during our interview in describing the nature and circumstances of his communications to the complainants"—that is to the three generals who blew the whistle—"and Lieutenant General Glosson lied in his comments to those three generals." The special fact finders that reviewed the inspector general's report and the related materials agreed with the inspector general that the three generals that Glosson improperly contacted were telling the truth about those contacts. And this is what the fact finders said, this independent panel.

> In sum, we believe that the preponderance of evidence shows that the three conversations happened substantially as Lieutenant General Nowack, Ryan, and Myers recall. [Those are the three generals.] And that Lieutenant General Glosson improperly attempted to influence the promotions.

This is what the panel went on to say:

> We wish to be absolutely clear that in our view Generals Nowack, Ryan, and Myers were truthful to the inspector general's investigators and to us.

Indeed, the three fact finders praised those three generals for their actions after the improper contact, noting that all three generals contacted by General Glosson, "were truthful, acted with integrity in reporting what they considered to be inappropriate attempts to

influence a promotion board, and then asking to be excused from service on the board."

They had to ask to be excused from service because of the improper contacts.

And the independent panel then went on to say that their actions in this regard were proper and helped maintain the integrity of the Air Force promotion system. Then the independent panel found that General Glosson remembered the events incorrectly, as distinguished from intentionally lying. He just remembered wrong. And the independent panel said Lieutenant General Glosson thinks his version is accurate, and that it represents fairly what at this point he recalls. In short, the panel found, we believe that he is not deliberately lying, but is simply mistaken.

Now, the line that the fact finders attempted to draw in my book is too fine to be seen by me. But, frankly, that is not the problem. The problem is that even though the truthfulness issue might be finessable, what is not finessable is the finding of the fact finders—those same fact finders—that General Glosson attempted improperly to influence a promotion board. That is the stark finding of the fact finders. And of the Department of Defense inspector general.

That is serious business. Just how seriously we take it will be determined, I believe, tomorrow. And just what type of signal we send out—we, the Senate, send out about this attempt to improperly influence, will be determined by this vote tomorrow.

Now, this is not easy for me to say because I happen to know that General Glosson has had an extremely distinguished career. And it is never easy to reach this kind of conclusion. But I believe that that finding of that panel, which we asked to be created and which apparently is accepted, leaves us no alternative if we are going to be serious about our own statements of just how important these promotion boards are.

So, that is what we are faced with—no fun. But that is what we are faced with. And we may want to try to say he has been punished enough because he might have gotten a fourth star had he continued and he retired early because of this problem. We can all speculate as to whether he would have been promoted further or would have achieved even greater success. That is speculation. That is not our decision, or our vote.

We have to vote, we have to make a decision, we have to send a signal as to whether or not we are going to, in effect, I believe, reward, to give him a privilege that he is not entitled to or it would not be in front of us for confirmation. It is in front of us for confirmation because it is not automatic. It is in front of us for confirmation because we must reach a judgment. And when confronted with a finding as stark as the finding of an independent panel that he attempted to improperly influence the promotion board, I believe that no matter how difficult it is for us, that we must say that this nomination cannot be confirmed if we are serious about the integrity of the promotion boards in the Air Force.

Madam President, in closing, I want to commend the chairman of the Armed Services Committee, because I think that, in the approach he has taken, he has laid out the facts before us for our judgment.

It was a difficult committee decision. It was a 14-to-7 vote, with Members on both side of the aisle voting both ways. Minority findings were filed by myself and Senators GLENN and KEMPTHORNE.

As difficult as it was, I believe that chairman, in attempting to lay out the facts of this case for us, has done the Senate a real service so that then we can judge whether or not we, as a Senate, want to put, in effect, our approval on a retirement as a three-star for someone who so recently has been found by an independent panel to have violated a very important ethical standard of the Air Force.

I thank the Chair and I yield the floor.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader, the Senator from Maine.

Mr. MITCHELL. Madam President, there will be no further rollcall vote this evening. A rollcall vote will occur at 10 a.m. tomorrow morning. All Senators are requested to be present at that time for that vote.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I now ask unanimous consent that there be a period for morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Madam President, I now ask unanimous consent that the Senate proceed to executive session to consider the following nominations:

Calendar Order Nos. 1092, 1289, 1318, 1322, 1334, 1335, 1336, 1337, 1338, 1339, 1340, 1341, 1342, 1343, 1344, 1345, 1346, 1353, 1354, 1355, 1356, 1369, 1370, 1385, 1387, 1388, 1389, 1391, 1392, 1393, 1394, 1395, 1396, 1397, 1398, 1399, 1400, 1401, 1402, 1403, 1404, 1405, and 1406.

I further ask unanimous consent that the nominees be confirmed en bloc; that any statements appear in the RECORD as if read; that upon confirmation, the motions to reconsider be laid upon the table en bloc; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF THE TREASURY

Valerie Lau, of California, to be Inspector General, Department of the Treasury.

THE JUDICIARY

David F. Hamilton, of Indiana, to be United States District Judge for the Southern District of Indiana.

DEPARTMENT OF STATE

Thomas E. McNamara, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be an Assistant Secretary of State.

THE JUDICIARY

Vanessa Ruiz, of the District of Columbia, to be an Associate Judge of the District of Columbia Court of Appeals for the term of fifteen years.

Diana E. Murphy, of Minnesota, to be United States Circuit Judge for the Eighth Circuit.

Fred I. Parker, of Vermont, to be United States Circuit Judge for the Second Circuit.

William T. Moore, Jr., of Georgia, to be United States District Judge for the Southern District of Georgia.

David A. Katz, of Ohio, to be United States District Judge for the Northern District of Ohio.

Sean J. McLaughlin, of Pennsylvania, to be United States District Judge for the Western District of Pennsylvania.

Elaine F. Bucklo, of Illinois, to be United States District Judge for the Northern District of Illinois.

Robert W. Gettleman, of Illinois, to be United States District Judge for the Northern District of Illinois.

Helen W. Gillmor, of Hawaii, to be United States District Judge for the District of Hawaii.

Roslyn Moore-Silver, of Arizona, to be United States District Judge for the District of Arizona.

Alvin W. Thompson, of Connecticut, to be United States District Judge for the District of Connecticut.

William H. Walls, of New Jersey, to be United States District Judge for the District of New Jersey.

Sven E. Holmes, of Oklahoma, to be United States District Judge for the Northern District of Oklahoma.

Vicki Miles-LaGrange, of Oklahoma, to be United States District Judge for the Western District of Oklahoma.

DEPARTMENT OF JUSTICE

Sheldon C. Bilchik, of Maryland, to be Administrator of the Office of Juvenile Justice and Delinquency Prevention.

STATE JUSTICE INSTITUTE

Joseph Francis Baca, of New Mexico, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1995.

Robert Nelson Baldwin, of Virginia, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1995.

Florence K. Murray, of Rhode Island, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1995.

DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION

Alan J. Dixon, of Illinois, to be a Member of the Defense Base Closure and Realignment Commission for a term expiring at the end of the first session of the 104th Congress.

Alan J. Dixon, of Illinois, to be a Chairman of the Defense Base Closure and Realignment Commission.

ENVIRONMENTAL PROTECTION AGENCY

Frederic James Hansen, of Oregon, to be Deputy Administrator of the Environmental Protection Agency.

DEPARTMENT OF EDUCATION

G. Mario Moreno, of Texas, to be Assistant Secretary for Intergovernmental and Interagency Affairs, Department of Education.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Joel David Valdez, of Arizona, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 1998.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Jorge M. Perez, of Florida, to be a Member of the National Council on the Arts for a term expiring September 3, 1998.

THE JUDICIARY

James A. Beaty, Jr., of North Carolina, to be United States District Judge for the Middle District of North Carolina.

David Briones, of Texas, to be United States District Judge for the Western District of Texas.

Okla Jones III, of Louisiana, to be United States District Judge for the Eastern District of Louisiana.

G. Thomas Porteous, Jr., of Louisiana, to be United States District Judge for the Eastern District of Louisiana.

James Robertson, of Maryland, to be United States District Judge for the District of Columbia.

Thomas B. Russell, of Kentucky, to be United States District Judge for the Western District of Kentucky.

Kathleen M. O'Malley, of Ohio, to be United States District Judge for the Northern District of Ohio.

DEPARTMENT OF JUSTICE

Charles R. Wilson, of Florida, to be United States Attorney for the Middle District of Florida for the term of four years.

Steven Scott Alm, of Hawaii, to be United States Attorney for the District of Hawaii for the term of four years.

Eisenhower Durr, of Mississippi, to be United States Marshal for the Southern District of Mississippi for the term of four years.

Michael R. Ramon, of California, to be United States Marshal for the Central District of California.

Michael D. Carrington, of Indiana, to be United States Marshal for the Northern District of Indiana for the term of four years.

Robert Bradford English, of Missouri, to be United States Marshal for the Western District of Missouri for the term of four years.

John R. Murphy, of Alaska, to be United States Marshal for the District of Alaska for the term of four years.

Herbert M. Rutherford III, of the District of Columbia, to be United States Marshal for the District of Columbia for the term of four years.

Robert Moore, of Illinois, to be United States Marshal for the Central District of Illinois for the term of four years.

STATEMENT ON THE NOMINATION OF FRED I. PARKER

Mr. LEAHY. Mr. President, when I recommended Judge Parker to the President in June, I noted that there then existed three vacancies among the 13-member Court of Appeals for the Second Circuit. I am delighted that with the confirmation of Judge Parker, the President will have nominated and the Senate will have confirmed three outstanding appointments to fill the vacancies on this important court with jurisdiction over Vermont, Connecticut, and New York with nominees from each of its component States.

When the Senate considers judicial nominees, we often speak about the special qualities a lawyer needs to fill a seat on the Federal bench. We speak of legal acumen, we speak of experience in the law, we speak of judicial temperament. These are qualities only a select few lawyers possess.

From my knowing Judge Parker for more than 30 years—first as a fellow law student at Georgetown and then after we returned to Vermont—I know well that he has all of the attributes needed to be an outstanding judge, in the great tradition of the Vermont bar and the second circuit. I believe that the President has selected a worthy successor to our respected James Oakes, former chief judge of this historic court.

Judge Parker has served with distinction since his confirmation to the district court in 1990. Before his appointment to the Federal bench, Judge Parker was recognized as among the Vermont bar's finest attorneys. His legal career and life experiences have been broad and he brings that knowledge and good sense with him to the bench.

Public service in the Vermont Attorney General's Office, a diverse civil and criminal practice in Vermont State and Federal courts, an outstanding record at Georgetown Law School, have all helped prepare Judge Parker. It came as no surprise to me that the Vermont bipartisan nominating commission returned Judge Parker's name as best qualified to fill this important post.

In addition to his qualifications and background, Judge Parker possesses the quality essential to outstanding judges, the ability to be fair. No matter what the cause or whom the litigant, I have every confidence that Judge Parker will provide a fair and impartial hearing. Whether a petitioner is rich or poor, or a cause popular or not, Judge Parker will listen with an open mind and apply the law fairly in a manner that accords with the best traditions of Vermont common sense and justice.

If you look at the range of his opinions, you will see this to be true. For that reason above others, I am pleased that President Clinton made this nomination. Judge Parker is a man of integrity and independence—a judge who calls them as he sees them.

Fred Parker is a good friend, husband, father, and Vermonter. More importantly my friend Fred Parker will be an exceptional judge.

When I was considering my recommendation to President Clinton, I reached across party lines to Judge Parker. I am proud that the President saw fit to accept my recommendation. When the President made his selection, he demonstrated that he chooses nominees for lifetime judicial appointments based on the qualities and qualifications of the person rather than on political party or any litmus test.

Finally, I wish to acknowledge the associate counsel to the President Victoria Radd for her professionalism and attention to this nomination and to thank my colleagues on the Judiciary Committee for approving this nomination in short order. I greatly appreciate the help of our chairman, Senator BIDEN, and our ranking Republican, Senator HATCH.

Madam President, I should note that I see the distinguished Senator from Vermont, Mr. JEFFORDS, on the floor. I know he will speak later on this.

I note my sense of pride and I am sure Senator JEFFORDS' sense of pride upon the confirmation of Fred Parker. This is a judge whose career has actually touched both of us.

Fred Parker was a schoolmate of mine at Georgetown Law School. We have known each other for over 30 years. When he came to Vermont, he came as the deputy attorney to then Attorney General JAMES JEFFORDS and served in that function in an exemplary fashion.

It was Senator JEFFORDS who recommended him to be a district judge, with my strong support. He has served the State of Vermont in a fantastic fashion in that regard.

And, even though Senators normally do not get their choices automatically for circuit court of appeals judges, I went to President Clinton and recommended him, saying that even though we were of different parties, we both felt that Vermonters deserve the best.

I join my friend, JIM JEFFORDS, in congratulating Fred Parker on his confirmation at this witching hour of the night.

STATEMENT ON THE NOMINATION OF ROSEMARY BARKETT

Mr. BIDEN. Mr. President, during the April 14, 1994, floor debate on the nomination of Rosemary Barkett, some editorial material was placed in the RECORD suggesting that information about the nominee was leaked to journalists by a member of the Republican Judiciary Committee staff. To my knowledge, Republican staff mailed copies of Justice Barkett's opinions and their own summaries thereof. That type of information is not considered confidential information by the committee.

STATEMENT ON THE NOMINATION OF SENATOR ALAN J. DIXON

Mr. NUNN. Mr. President, I am pleased to support the nomination of our former colleague Senator Alan Dixon to be the chairman of the Base Closure and Realignment Commission. This Commission has a very important function to perform next year, and I think President Clinton has made an excellent selection in nominating Senator Dixon to the chairman.

The Defense Base Closure and Realignment Act of 1990 set up a process to close and realign military bases in the United States that is fair, objective, nonpartisan, and open to the public. The Defense Department is currently implementing the base closures from the 1988, 1991, and 1993 Base Closure Commissions.

Overall, DOD is closing 70 major bases and realigning 38 others in the United States, as well as implementing over 200 smaller closures and realignments. Once all of these closures and realignments are implemented by the end of this decade, the annual savings to the Defense budget will be approximately $4 billion per year. That is a good record of achievement, but there is much more to be done.

By fiscal year 1999, the Defense budget will decline by more than 40 percent in real terms from the mid 1980's, and the size of the military services will drop by almost 30 percent from 1990 levels. At the same time, our domestic base structure has been reduced by only 15 percent in the first three rounds of base closings.

If we are going to maintain the readiness of our Forces, provide for needed modernization, preserve the Bottom-Up Review force levels, and improve the quality of life for our military members and their families under the current budget levels, we are going to have to make further reductions in our base infrastructure.

Back in January of this year, Secretary Perry gave the military departments and overall goal of 15 percent reduction in plant replacement value as the minimum goal for the 1995 base closure and realignment process. If DOD meets this goal, the 1995 base closures and realignments will be much more extensive than any of the three previous rounds—making the job of the next Base Closure and Realignment Commission even more challenging than in the past.

Few people have more experience with all aspects of the base closure process than our former colleague Alan Dixon. As a legislator, Senator Dixon played a key role in the Armed Services Committee in drafting the legislation that set up the current base closure process. As a subcommittee chairman on the Armed Services Committee, he took the lead in the committee's oversight of the 1988 and 1991 base closure rounds. As a Senator from Illinois, he saw first-hand the economic consequences of the base closure process when he worked closely with communities in his State that experienced the closure of a military base.

All of us who worked closely with Senator Dixon on the Armed Services Committee during his tenure in the Senate know that he is a person of great integrity with the leadership ability to deal with difficult issues in an open, even-handed manner. As chairman of the Subcommittee on Military Readiness, Sustainability and Support, Senator Dixon earned the respect of every member of the Armed Services Committee for his expertise on military support and infrastructure issues.

Although this nomination was not received in the Senate until Tuesday of this week, the Armed Services Committee carefully followed all our standard procedures in considering this nomination. Senator Dixon responded in writing to prehearing policy questions on some of the major issues in the area of base closings. These written questions, along with his completed committee questionnaire, will be made a part of the committee's published record of this nomination. The committee has also received and reviewed the standard material from the executive branch required of all nominees for service on the Commission.

On Wednesday afternoon, the committee held a confirmation hearing with the nominee. At that hearing, Mr. President, Senator Dixon stated his strong commitment to carry out both the letter and the spirit of the base closure statute to conduct the business of the Commission in an open, fair, and objective manner.

As we consider the nomination of the next chairman of the Base Closure and Realignment Commission, I want to recognize the service of the previous chairman. Congressman Jim Courter chaired both the 1991 and the 1993 Base Closure and Realignment Commissions, and he did an excellent job. His leadership of the Commission and his strong commitment to the integrity of the process established by the Base Closure and Realignment Act of 1990, resulted in the complete endorsement of the 1991 and 1993 Commission recommendations by both the President and the Congress.

Mr. President, the base closure process is a painful but necessary process, and serving as chairman of the Base Closure and Realignment Commission is a thankless but very important job. I appreciate Senator Dixon's willingness to take on a very difficult assignment.

Once confirmed, Senator Dixon will assume the office of chairman of the Base Closure and Realignment Commission and serve through the end of 1995, the statutory termination of the Commission. In order for the Commission to carry out it responsibilities next year, it is important for the chairman to be appointed promptly so that staff can be hired and all of the other necessary preparations can be made.

Mr. President, I hope all of my colleagues will join me in supporting Senator Alan Dixon's nomination to be the chairman of the Base Closure and Realignment Commission.

JUDICIAL NOMINATIONS

Mr. BIDEN. Mr. President, I would like to take this opportunity to acknowledge the tremendous effort of the members of my staff who have worked tirelessly to process the nominations of hundreds of judges, U.S. attorneys, U.S. marshals, and other Department of Justice nominees. As of today, the Senate has confirmed district and circuit court nominees this Congress—100 in this year alone. Only once in the last 16 years has the Senate confirmed this number of judges in a single session of Congress. It has been an extraordinary feat.

Reviewing and processing these nominations is one of the most difficult aspects of our work on the committee. It is a job that we all take very seriously and I am proud that my staff approaches the task with diligence and care.

Cathy Poston, chief nominations counsel to the Senate Judiciary Committee, has the unenviable responsibility of ensuring the careful review of every nomination approved by the committee. She has accomplished this task with the utmost professionalism and unfailing good humor. I have relied heavily on her excellent judgment and her knowledge of the law. Mary DeOreo, committee investigator, and the committee's two nominations counsels, Kirra Jarratt and Daniel Cort, have made herculean efforts to process nominees carefully. Each is committed to a fair, but thorough examination of the nominees before the committee. They have been ably assisted in this effort by Sarah DeLeo, who as the chief nominations clerk has the difficult job of keeping track of every single nomination that passes through the committee.

I would also like to acknowledge the tremendous cooperation of Senator HATCH and his excellent staff. Mark Disler, Manus Cooney, Sharon Prost, Ed Whelan, Jim Phillips, Shawn Bentley, and Anna Cabral have carefully reviewed each nominee. While there were a few instances in which there were disagreements on ideology, the investigative portion of our work has always done professionally and on a bipartisan basis.

These staff members have worked hard to help Members of the Senate move their nominees through the Senate. Moreover, they have played an invaluable role in addressing the problems created by the extraordinary number of judicial vacancies. For that,

each of us owes our respect and deep gratitude.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume legislative session.

UNFUNDED MANDATES

Mr. KEMPTHORNE. Will the majority leader yield for a question?

Mr. MITCHELL. Yes; certainly, I yield to the Senator.

Mr. KEMPTHORNE. I would like to ask our distinguished majority leader, it is my understanding that S. 993, the unfunded mandates legislation, is the underlying pending business. Can you give me what the intent will be, when we come in tomorrow and we deal with the other business, how we will deal with S. 993?

Mr. MITCHELL. Well, as the Senator knows, I support S. 993, the unfunded mandates bill, and moved to bring the bill before the Senate. Unfortunately, several amendments were offered to it and there are now, I believe, three amendments pending to the bill.

When we return tomorrow, we will first have to vote on the motion to end the filibuster on the California Desert Protection Act. Then, under an order, when we dispose of that, we will proceed to vote on one of the three nominations, and then two further filibusters will remain in place with respect to two pending nominations.

I do not know now and have no present way of knowing how long those will go on. I hope it will not be days, but it could be. Following disposition of those, I will then consult with the distinguished Republican leader before making any decisions with respect to the schedule further.

I wish we could pass the unfunded mandates bill.

Mr. KEMPTHORNE. I thank the majority leader.

I just note that we do have 67 Senators who are cosponsors of the bill, so two-thirds of the Senate support in joining you in saying we should pass this bill before we adjourn.

Mr. MITCHELL. I sure hope so. I should say to the Senator, we had another bill on our side on which we had 99 Senators for it and we were not able to pass that. So sometimes that happens.

NORTHEAST INTERSTATE DAIRY COMPACT

Mr. LEAHY. Madam President, it is with disappointment that I rise today.

I had hoped to bring before this body a matter of vital interest to my State and to all of New England. What I wanted to bring before this body was a bill to grant congressional consent to the Northeast Interstate Dairy Compact.

Now, Madam President, the distinguished majority leader, GEORGE MITCHELL, has worked so hard on this matter. Senator MITCHELL has joined with both Republicans and Democrats, the Governors of every State in New England, the Senators of every State in New England to try to pass this compact.

It is, however, being filibustered, and I am sorry that the Senator who is filibustering it is not here on the floor, but I understand that he would object to it being here. And because of the gridlock we are facing us it will not go forward. It is unfortunate.

Madam President, I incidentally compliment the Presiding Officer for her support. When this was before the Senate Judiciary Committee I thank her for her willingness to let this come to the floor of Senate, and I realize her own concerns about aspects of it, but to at least allow the Senate to vote on it.

I have no idea how she might have voted had it come to the floor of the Senate, but she was willing to allow it to come to a vote and not filibuster it.

We all understand that interstate compacts are agreements among two or more States. The Constitution allows these interstate compacts. It is a way for States to work together on issues of interest to their citizens.

For 200 years, following our Constitution, Congress has had this history of approving these compacts. In fact, I might say, Madam President, and to my colleagues on the floor at this midnight hour, Congress has a long history of approving these compacts. We approved several in the past few days.

Here we have a compact where all six State legislatures in New England came together and voted for it.

I might say, Madam President, if we think of New England as this kind of unique bicameral unified group of States, it is anything but. If there are a number of States more unique, more individualistic than the States of New England, I know of none. Vermont, New Hampshire, Maine, Massachusetts, Connecticut, Rhode Island, every one of these States are extraordinarily different, but they came together on this one issue.

It passed incidentally overwhelmingly by the legislatures in each State.

Now, it has to be approved by Congress to take effect, but it is an idea that originated in New England. People criticize Washington for being unresponsive to the States. They criticize Washington for being unresponsive to anybody outside the beltway. Here was a time when we could have proven them wrong. We could let the New England States do something on their own.

But unfortunately, the Senator has blocked this in the wee hours, waning hours of this Congress. Using the rules he has the right, but I questioned his reason in doing it.

The compact is simple. It would form a commission made up of representatives from each State in New England. The commission would be made up of both farmers and consumers. It would have the authority to set prices for fluid, or drinking milk, above the minimum prices set by the New England Federal milk marketing order.

The compact's purpose is simple. It brings some fairness and sanity to milk pricing. Dairy farmers in Vermont and New England are receiving less for their milk than it cost to produce it. The people of New England want to take more control over how prices are set. The New England States want to help farmers by giving them a fair return for their work, and consumers want to have some kind of voice in setting stable milk prices.

As I said earlier, the compact was supported overwhelmingly by the State legislatures in New England.

Connecticut is not a major dairy State, but it passed 143 to 4 in the Connecticut House. It passed 38 to 0, as I recall, in the Rhode Island Senate.

(Mr. LEVIN assumed the chair.)

Mr. LEAHY. In fact, Mr. President, I ask unanimous consent that the vote tallies in each State legislature be included in the RECORD.

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

NORTHEAST INTERSTATE DAIRY COMPACT COMMITTEE—INTERSTATE COMPACT LEGISLATIVE PROCESS

Connecticut: (P.L. 93-320) House vote = 143-4; Senate vote = 30-6. (Joint Committee on Environment voted bill out 22-21; Joint Committee on Government Administration and Relations voted bill out 15-3; Joint Committee on Judiciary voted bill out 28-0)

Maine: Originally adopted Compact enabling legislation in 1989 (P.L. 89-437) Floor votes and Joint Committee on Agriculture vote not recorded. The law was amended in 1993. (P.L. 93-274) House vote = 114-1; Senate vote = 25-0. (Joint Committee on Agriculture vote not recorded)

Massachusetts: (P.L. 93-370) Approved by unrecorded voice votes.

New Hampshire: (P.L. 93-336) Senate vote = 18-4; House vote = unrecorded voice vote; (Senate Committee on Interstate Cooperation vote = unrecorded voice vote; House Committee on Agriculture voted bill out 17-0.)

Rhode Island: (P.L. 93-336) House vote = 80-7; Senate vote = 38-0. (House Committee on Judiciary voted bill out 11-2; Senate Committee on Judiciary voice vote not recorded.)

Vermont: Originally adopted Compact in 1989. (P.L. 89-95) House vote = unanimous voice vote; Senate vote = 29-1. The law was amended in 1993. (P.L. 93-57) Floor voice votes, and House and Senate Agriculture Committees voice votes, not recorded.

Mr. LEAHY. But it appears we are going to have to wait until next year.

A lot of major initiatives have been derailed by gridlock here in the last few weeks of the session.

I guess in a year of filibusters and gridlock the northeast interstate dairy compact was another victim.

But my distinguished colleague from Vermont, Senator JEFFORDS and I have worked very, very hard on this piece of legislation forming a bipartisan alliance on it. In fact our distinguished colleague in the House, Congressman BERNARD SANDERS, also worked very, very hard on it. If you want to have a nonpartisan alliance, Mr. President, this is one Democrat, one Republican, and one independent making up the whole congressional delegation for Vermont. We all join in this, one Democrat, one Republican, one independent. We all agree.

I will admit that Senators on my side of the aisle have been instrumental until delaying the dairy compact. They were unwilling to set a time agreement despite the fact that the sponsors offered them many compromises including one that made it very, very clear, and Senator JEFFORDS and I pointed out this compact would not affect other regions. The milk processor lobby also fought this bill, and that is a powerful lobby I understand. But when the milk processor lobby fights such a bill it should come as no surprise because they fight every blooming bill that might help a dairy farmer.

The Northeast Dairy Compact matter has been debated nearly 7 years in the States of New England. It is an idea from the grassroots. It is rooted in our deepest tradition of federalism. It is a way for the New England States to solve the problem on their own by taking more control of our milk pricing.

Time is running out for many hard working dairy farmers of New England. The men and women in New England who are dairy farmers are among the hardest working people we will see any place in this country. I have to tell them they have to wait for next year.

Mr. President, I ask unanimous consent to print in the RECORD a letter I received from a farmer in Richford, VT.

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

Richford, VT, September 13, 1994.

Hon. PATRICK LEAHY,
Attn: CHUCK ROSS VT State Director, Courthouse Plaza, Main Street, Burlington, VT.

DEAR SENATOR LEAHY: Prompt action is needed on the Proposed Northeast Dairy Compact. Our small Vermont farms cannot continue with milk prices falling as they are. We need these farms to preserve our beautiful state and close knit farm families.

It pains me to see my daughter and son-in-law struggle to continue milking cows with no financial reward.

Sincerely,

CLINTON F. HOLMES.

Mr. LEAHY. Mr. President, it is a poignant testimony to this problem. It is a short letter. He is saying he hopes his children will be able to continue farming. It is a short letter. But in many ways it speaks more volumes than all of the hours of hearings and debate that we had on this bill and we have had hours of hearings. We have had hours of debate to get this far.

So I want to thank some people who worked so hard on this measure. I thank Danny Smith and Bob Gray, who have worked tirelessly for this measure. I thank Tom Cosgrove of my own staff of the Senate Agriculture Committee, who has given up evenings and weekends, who has traveled to Vermont, who has worked so hard on this, and I am proud to have him here on the floor of the Senate with me.

I appreciate the work of my good friend and colleague, Senator JEFFORDS. I cannot even think of the number of hours he spent buttonholing other Senators and calling them and proving to them this is a bipartisan effort.

I thank the outstanding efforts of my two Judiciary Committee colleagues, Senator KENNEDY from Massachusetts, who worked so hard on the Democratic side of the aisle, and Senator COHEN of Maine, who worked so hard on the Republican side of the aisle. They were instrumental in our ability to favorably report the bill from the committee.

But it is especially important to commend the majority leader, Senator GEORGE MITCHELL. Senator MITCHELL has been with us from the beginning. He has been a wonderful leader. Frankly, I wish he could be our leader on our side for as long as I remain in the Senate. He is going to be impossible to replace.

But I believe it is to his credit as we wind down this session that support for the bill comes not because he is majority leader, but it comes as his being a Senator from the great State of Maine, fighting for a bill that would help the farmers in his State who would be put in a very difficult situation. He has been always, first and foremost, a man who reflects the heart and soul of the very special region and a very special people.

Mr. President, I see my friend and colleague from Vermont, Senator JEFFORDS, and I will yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, first of all, I thank my senior colleague from Vermont for his very articulate and well-expressed thoughts upon the matter of the Northeast Dairy Compact and also most assuredly second his comments on our new second circuit judge, Judge Parker. I will put in an appropriate statement in the RECORD tomorrow with respect to his nomination.

NORTHEAST DAIRY COMPACT

Mr. JEFFORDS. Mr. President, last summer, the heavens opened and much of the Midwest was flooded. We did exactly what we should have done, we provided the farmers and others out there with all the help we could.

I suppose if we had sharpened our pencils and engaged in a bloodless cost-benefit analysis we would not have done so. After all, why should our tax dollars subsidize other farmers?

When the Southeast had a serious drought several years ago, our farmers went out and got extra hay out of their fields, and I had the honor and pleasure and fun of being an engineer on a train that carried the hay from one end of Vermont to the other as we collected it and sent it down to the Southeast in order that their farmers could make it through that very bad summer.

Farmers in my State have always pitched in to help others, whether it was floods in the Midwest or drought in the South.

But what baffles me today is that some of my colleagues from the Midwest were engaged in an even more extreme calculation. Despite the fact that the New England dairy compact would have no impact on States outside the region, a small group of my colleagues seemed hell bent on destroying it.

The logic escapes me. This bipartisan scorched earth policy seems to have so infected this place that spite seems to rule rather than reason. Right now we could not ship milk from this place, the somatic cell count is so high.

What is this terrible monster that we propose? It is a simple effort by the people of six States to control their destiny. I say the people and I mean it. This compact has been the product of six very different legislatures, and six very public processes.

These States, Republicans and Democrats, farmers and consumers, from the concrete of the cities to the rocky hillside farms, all pulled together to agree on the future of those farms.

The compact would provide a mechanism for New England States to coordinate their efforts to establish price stability for both farmers and consumers. We would improve milk markets and milk marketing in the compact region. The compact would set up a commission representative of the milk producer, marketer, and consumer interests in each New England State.

The bill itself is the formal product of a thorough interstate legislative process. The six New England legislatures carefully dissected all of the issues involved, assessing and considering consumer protection, potential impact on the marketplace, both regional and national, and the benefit to the dairy farmers. I believe, as do many of my colleagues, that the compact strikes a successful balance among the different concerns.

The compact provides a benefit to the region's farmers and consumers. There would be no adverse impact on either the national dairy industry or the Federal Marketing Agreement Act which regulates the industry. Let me repeat that. There would be no adverse impact on other farmers in this Nation.

On a different day, many of my colleagues who oppose the compact would

agree with me that it is in the best interest of consumers and rural areas that supplying dairy farms remain local, as well as productive and stable. Ensuring a local supply of fluid milk to the region is in the best interest of the consumers and processors. Stabilizing farm prices is one way to help ensure that dairy farmers can continue to supply fresh, high quality fluid milk to the local markets.

Our dairy farmers are receiving milk prices well below the cost of production. Current milk prices to farmers are as low as they were over 10 years ago, yet the cost of production and price to the consumer have increased. The compact would protect the interests of consumers located within the compact region. Farmers and consumers would both benefit from the compact's ability to establish a more stable price structure for the milk they produce and purchase, removing the fluctuations in fluid milk prices, assuring the region a viable supply of locally produced milk.

Mr. President, as you can see, the compact was developed in the best interest of the consumers and the farmers. Consumers in the compact region have sufficient power to protect themselves. The compact allows one State, one vote. Consuming States, such as Rhode Island, with 35 farmers and 1.3 million people, have equal say in the decision to impose a pricing regulation with Vermont, having 2,200 farmers and 550,000 people. Also, the imposition of a pricing regulation requires a two-thirds vote of the compact commission's delegations.

In Massachusetts consumers outnumber the farmers about 1,800 to 1. Yet, the support for the compact is overwhelming. I say God bless them.

It must be made clear that the compact would not discriminate against out-of-region farmers or processors. The compact models or mirrors the Federal law of milk price regulation. Under the compact, as under Federal law, no burden other than the regulation of the farm price would be placed on the interstate shipment of milk. Any dairy farmer, without any competitive disadvantage, may market milk in the compact region, whether they reside in the region or not. No barriers to trade are created. Milk would continue to flow into and from the compact region in the same manner as it does under the current Federal law.

New England produces approximately 3 to 4 percent of the Nation's milk supply. Of that only half goes into class 1 or fluid milk, which represents 1½ percent of the Nation's supply. We are talking about an extremely small amount of milk in a localized area.

Yet there are still those who insist that the dairy compact will result in a surplus of milk. Those who believe this are wrong. New England is a milk deficit area for its fluid milk. Rhode Island, Massachusetts, and Connecticut produce milk at levels far below the needs to serve consumer's fluid milk. Only Vermont and Maine produce more milk than they consume. New England, to meet the demands of the consumers, must go well into the New York State area. The fact is, the result of the compact would be no increase in milk production in New England.

And for those of us in the North, we cannot ship to Canada, yet Canada can ship into our manufactured product market. Our farmers need the flexibility of benefiting from our local markets. The compact would give us that opportunity. As I say, we cannot ship to Canada. They are a highly subsidized area, and yet they can ship to businesses in our area.

The compact would have the authority to set a price on class 1 or bottled milk only. Almost all of this fluid milk is produced within a 300-mile radius of Boston. All other classes of milk purchased for manufacturing purposes such as cheese, ice cream, and milk powder would be exempt from the compact.

This past weekend I was back in my home State of Vermont. Dairy farmers spent most of the weekend chopping the last of their corn and finishing fall chores, getting ready for the cold Vermont winter. Since only 1984, almost a third of the 3,170 dairy farms operating in Vermont have shut down. The trend continues, not only Vermont and New England but other regions of the country as well.

What does it say about our values and priorities when farmers, who perform one of the most basic and important jobs to our society, are underpaid and unappreciated? Do we value farmers or do we not? New England, along with its Governors, legislatures, consumers, processors, and farmers know the importance and value of their dairy farmers. A fresh local supply of milk, open productive land, rural economic communities, strong family values, and the need for good farmers for many years to come is why the consumers of New England are willing to pay to farmers the money they deserve.

Our consumers have proved they are willing to pay 5 to 10 cents more per gallon of milk to give the farmers the price they deserve. The average family will spend about $5 more per year on milk if the compact increased the price to consumers by 10 cents.

I was asking my colleagues to respect the interstate cooperation among the compact region. Concerns of the compact, with respect to several of my colleagues, have been addressed with amendments and explanations.

Six years of interstate cooperation has gone into this dairy compact to assure those outside the compact region would not be adversely impacted.

New England's dairy industry will continue to slip away, unless the region can act together to help protect one of the region's most vital resources, its dairy farms. This interstate compact gives us the opportunity to do just that. It would give New England the chance we deserve to help ourselves.

As Sam Rayburn used to say, any jackass can kick down a barn, but it takes a carpenter to build one. We have the drawings, thanks to the people of New England. Now let us raise that barn.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I commend the Senators from Vermont and associate myself with their remarks and with the compact which they have fought so hard for.

Although the dairy industry in Maine is not as proportionately significant statewide as it is in Vermont, for those involved it is, of course, of equal and total significance.

Over the past few weekends, I have met with several of the dairy farmers in my State and can verify from personal experience and knowledge the difficult circumstances that exist as a result of the situation described by the Senators from Vermont.

We believe that the compact would have had the dual benefits of assisting farmers in the region without threatening in any way farmers in any other region. We regret that not all saw it that way, and we regret even more that this important legislation will not be enacted this year.

But I think it inevitable, and I encourage my colleagues to continue their efforts. I will not attempt to restate all of the facts set forth in their statements or the reasons for the need for such a compact.

I can only say that I strongly support the compact. I regret that the underlying legislation to which it was intended to be offered was prevented from being brought to the Senate, and therefore it was not possible to complete action in the Senate. In any event, as we know, the House did not act on the matter, and therefore it will have to go over until the next year.

In the meantime, many farm families throughout New England will suffer through a most difficult winter because of the circumstances which now exist.

And so I conclude by thanking my colleagues from Vermont for their leadership and aggressive effort. It has been a pleasure for me to work with them on this matter, and I join them in regretting that we were not able to enact this legislation this year.

Mr. President, I yield the floor.

Mr. FEINGOLD. Mr. President, it is with no great happiness that I must rise in opposition to S. 2069, a bill which grants the consent of Congress to the Northeast Interstate Dairy Compact. I have a great deal of respect for

Senator LEAHY, the sponsor of this legislation and my Chairman on the Agriculture Committee as well as the majority leader, Senator MITCHELL, and the junior Senator from Vermont [Mr. JEFFORDS] as well. I have very high regard for their commitment to agricultural producers in their States and throughout the country. In particular, there is no one in this body who has worked harder to develop and pass national dairy policy for the farmers of this country than Senator LEAHY.

Unfortunately, the Compact is the antithesis of national policy—it is an approach which divides the U.S. dairy industry by insulating the northeast dairy industry from the market conditions that all other farmers in this country must face. That is inconsistent with the national approach to policy reform that Wisconsin dairy farmers tell me is desperately needed.

I also want to say that I have the utmost respect for the intentions of Senator LEAHY, the majority leader and the other cosponsors of this bill. I understand the plight of their farmers, I understand the pain those farmers and the rural northeast communities have experienced, I understand the loss of family farms.

I understand these things because producers and others in Wisconsin have experienced these problems more acutely than any other region of the country and more than any other individual State. My State of Wisconsin, which until last year was the No. 1 milk producing State in the country, suffers from the loss of over 1,000 dairy farmers per year. We lose more farms per year than the current number of dairy farmers in five of the six compact States.

Wisconsin is not only losing farms but we are also losing milk production overall. We are also losing cheese processing plants to other regions due to artificial advantages provided to other regions by Federal law.

In the early 1980's we had nearly 45,000 family dairy farmers in Wisconsin. Today we have only 29,000. While we still have more producers than any other State in this country, our numbers are dwindling. A recent survey indicated that in the next 5 years 40 percent of our remaining farmers will go out of business. That is over 11,000 family dairy farmers.

This trend is mirrored in other States throughout the Upper Midwest. While we recognize that there are many reasons for this decline, the overwhelming message I hear from family dairy farmers in Wisconsin, Minnesota and throughout the Midwest is that we need reform of outdated federal milk marketing orders which provide artificial advantages to other regions of the country driving Wisconsin farmers out of business.

So I understand the desire of Senator LEAHY and others in the Northeast to remedy their local and regional problems in their dairy industry, however further regionalizing dairy policy is not the answer. Milk is marketed nationally and regulated federally. Similarly, congressional changes to dairy policy must recognize the national nature of milk marketing as well as the comprehensive and interrelated nature of fluid and manufactured milk products.

I had hoped to work with him on the compact in the context of national milk marketing order reform. I had hoped the situation was not at a stalemate. I do look forward to working with the chairman on dairy policy next year.

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

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

TRAUMATIC BRAIN INJURY ACT OF 1994—MESSAGE FROM THE HOUSE

Mr. FEINGOLD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on a bill (S. 725) to amend the Public Health Service Act to provide for the conduct of expanded studies and the establishment of innovative programs with respect to traumatic brain injury, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 725) entitled "An Act to amend the Public Health Service Act to provide for the conduct of expanded studies and the establishment of innovative programs with respect to traumatic brain injury, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

SECTION 1. PROGRAMS OF CENTERS FOR DISEASE CONTROL AND PREVENTION.

Part B of title III of the Public Health Service Act (42 U.S.C. 241 et seq.), as amended by section 703 of Public Law 103-183 (107 Stat. 2240), is amended by inserting after section 317F the following section:

"PREVENTION OF TRAUMATIC BRAIN INJURY

"SEC. 317G. The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may carry out projects to reduce the incidence of traumatic brain injury. Such projects may be carried out by the Secretary directly or through awards of grants or contracts to public or nonprofit private entities. The Secretary may directly or through such awards provide technical assistance with respect to the planning, development, and operation of such projects.

"(b) CERTAIN ACTIVITIES.—Activities under subsection (a) may include—

"(1) the conduct of research into identifying effective strategies for the prevention of traumatic brain injury; and

"(2) the implementation of public information and education programs for the prevention of such injury and for broadening the awareness of the public concerning the public health consequences of such injury.

"(c) COORDINATION OF ACTIVITIES.—The Secretary shall ensure that activities under this section are coordinated as appropriate with other agencies of the Public Health Service that carry out activities regarding traumatic brain injury.

"(d) DEFINITION.—For purposes of this section, the term 'traumatic brain injury' means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning. The Secretary may revise the definition of such term as the Secretary determines necessary.".

SEC. 2. PROGRAMS OF NATIONAL INSTITUTES OF HEALTH.

Section 1261 of the Public Health Service Act (42 U.S.C. 300d-61) is amended—

(1) in subsection (d)—

(A) in paragraph (2), by striking "and" after the semicolon at the end;

(B) in paragraph (3), by striking the period and inserting "; and"; and

(C) by adding at the end the following paragraph:

"(4) the authority to make awards of grants or contracts to public or nonprofit private entities for the conduct of basic and applied research regarding traumatic brain injury, which research may include—

"(A) the development of new methods and modalities for the more effective diagnosis, measurement of degree of injury, post-injury monitoring and prognostic assessment of head injury for acute, subacute and later phases of care;

"(B) the development, modification and evaluation of therapies that retard, prevent or reverse brain damage after acute head injury, that arrest further deterioration following injury and that provide the restitution of function for individuals with long-term injuries;

"(C) the development of research on a continuum of care from acute care through rehabilitation, designed, to the extent practicable, to integrate rehabilitation and long-term outcome evaluation with acute care research; and

"(D) the development of programs that increase the participation of academic centers of excellence in head injury treatment and rehabilitation research and training."; and

(2) in subsection (h), by adding at the end the following paragraph:

"(4) The term 'traumatic brain injury' means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning. The Secretary may revise the definition of such term as the Secretary determines necessary.".

SEC. 3. PROGRAMS OF HEALTH RESOURCES AND SERVICES ADMINISTRATION.

Part E of title XII of the Public Health Service Act (42 U.S.C. 300d-51 et seq.) is amended by adding at the end the following section:

"SEC. 1252. STATE GRANTS FOR DEMONSTRATION PROJECTS REGARDING TRAUMATIC BRAIN INJURY.

"(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants to States for the purpose of carrying out demonstration projects to improve access to health and other services regarding traumatic brain injury.

"(b) STATE ADVISORY BOARD.—

"(1) IN GENERAL.—The Secretary may make a grant under subsection (a) only if the State involved agrees to establish an advisory board

within the appropriate health department of the State or within another department as designated by the chief executive officer of the State.

"(2) FUNCTIONS.—An advisory board established under paragraph (1) shall advise and make recommendations to the State on ways to improve services coordination regarding traumatic brain injury. Such advisory boards shall encourage citizen participation through the establishment of public hearings and other types of community outreach programs.

"(3) COMPOSITION.—An advisory board established under paragraph (1) shall be composed of—

"(A) representatives of—

"(i) the corresponding State agencies involved;

"(ii) public and nonprofit private health related organizations;

"(iii) other disability advisory or planning groups within the State;

"(iv) members of an organization or foundation representing traumatic brain injury survivors in that State; and

"(v) injury control programs at the State or local level if such programs exist; and

"(B) a substantial number of individuals who are survivors of traumatic brain injury, or the family members of such individuals.

"(c) MATCHING FUNDS.—

"(1) IN GENERAL.—With respect to the costs to be incurred by a State in carrying out the purpose described in subsection (a), the Secretary may make a grant under such subsection only if the State agrees to make available, in cash, non-Federal contributions toward such costs in an amount that is not less than $1 for each $2 of Federal funds provided under the grant.

"(2) DETERMINATION OF AMOUNT CONTRIBUTED.—In determining the amount of non-Federal contributions in cash that a State has provided pursuant to paragraph (1), the Secretary may not include any amounts provided to the State by the Federal Government.

"(d) APPLICATION FOR GRANT.—The Secretary may make a grant under subsection (a) only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(e) COORDINATION OF ACTIVITIES.—The Secretary shall ensure that activities under this section are coordinated as appropriate with other agencies of the Public Health Service that carry out activities regarding traumatic brain injury.

"(f) REPORT.—Not later than 2 years after the date of the enactment of this section, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings and results of the programs established under this section, including measures of outcomes and consumer and surrogate satisfaction.

"(g) DEFINITION.—For purposes of this section, the term 'traumatic brain injury' means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning. The Secretary may revise the definition of such term as the Secretary determines necessary.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1995 through 1997.".

SEC. 4. STUDY; CONSENSUS CONFERENCE.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary"), acting through the appropriate agencies of the Public Health Service, shall conduct a study for the purpose of carrying out the following with respect to traumatic brain injury:

(A) In collaboration with appropriate State and local health-related agencies—

(i) determine the incidence and prevalence of traumatic brain injury; and

(ii) develop a uniform reporting system under which States report incidences of traumatic brain injury, if the Secretary determines that such a system is appropriate.

(B) Identify common therapeutic interventions which are used for the rehabilitation of individuals with such injuries, and shall, subject to the availability of information, include an analysis of—

(i) the effectiveness of each such intervention in improving the functioning of individuals with brain injuries;

(ii) the comparative effectiveness of interventions employed in the course of rehabilitation of individuals with brain injuries to achieve the same or similar clinical outcome; and

(iii) the adequacy of existing measures of outcomes and knowledge of factors influencing differential outcomes.

(C) Develop practice guidelines for the rehabilitation of traumatic brain injury at such time as appropriate scientific research becomes available.

(2) DATES CERTAIN FOR REPORTS.—

(A) Not later than 18 months after the date of the enactment of this Act, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings made as a result of carrying out paragraph (1)(A).

(B) Not later than 3 years after the date of the enactment of this Act, the Secretary shall submit to the Committees specified in subparagraph (A) a report describing the findings made as a result of carrying out subparagraphs (B) and (C) of paragraph (1).

(b) CONSENSUS CONFERENCE.—The Secretary, acting through the Director of the National Center for Medical Rehabilitation Research within the National Institute for Child Health and Human Development, shall conduct a national consensus conference on managing traumatic brain injury and related rehabilitation concerns.

(c) DEFINITION.—For purposes of this section, the term "traumatic brain injury" means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning. The Secretary may revise the definition of such term as the Secretary determines necessary.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1995 through 1997.

SEC. 5. STATE STANDARDS.

(a) PREEMPTION.—Section 403A(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343–1(a)) is amended—

(1) in paragraph (1), by inserting at the end the following: "except that this paragraph does not apply to a standard of identity of—

"(A) a State or political subdivision of a State for maple syrup which is of the type required by sections 401 and 403(g), or

"(B) a State for fluid milk which is of the type required by sections 401 and 403(g) and which specifies a higher minimum level of milk components than is provided for in the corresponding standard of identity promulgated under section 401,",

(2) in paragraph (2), by inserting at the end the following: "except that this paragraph does not apply to a requirement of a State or political subdivision of a State which is of the type required by section 403(c) and which is applicable to maple syrup,",

(3) in paragraph (3), by inserting at the end the following: "except that this paragraph does not apply to a requirement of a State or political subdivision of a State which is of the type required by section 403(h)(1) and which is applicable to maple syrup,", and

(4) by adding at the end the following: "For purposes of paragraph (1)(B), the term 'fluid milk' means liquid milk in final packaged form for beverage use and does not include dry milk, manufactured milk products, or tanker bulk milk.".

(b) PROCEDURE.—Section 701(e)(1) of such Act (21 U.S.C. 371(e)(1)) is amended by striking "or maple syrup (regulated under section 168.140 of title 21, Code of Federal Regulations)".

SEC. 6. SELENIUM.

The stay (published at 58 Fed. Reg. 47962) of the 1987 food additive regulation relating to selenium (21 Code of Federal Regulations 573.920) is suspended until December 31, 1995.

Mr. FEINGOLD. Mr. President, I move that the Senate concur in the House amendment with the amendment I now send to the desk on behalf of Senators KENNEDY and HATCH; that the motion to reconsider be laid on the table, and that any statements appear thereon at the appropriate place in the RECORD as though read.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD], for Mr. KENNEDY and Mr. HATCH, proposes an amendment numbered 2654.

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. PROGRAMS OF CENTERS FOR DISEASE CONTROL AND PREVENTION.

(a) IN GENERAL.—Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.), as amended by section 209 of the Minority Health Improvement Act of 1994, is amended by inserting after section 317G the following section:

"PREVENTION OF TRAUMATIC BRAIN INJURY

"SEC. 317H. (a) The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may carry out projects to reduce the incidence of traumatic brain injury. Such projects may be carried out by the Secretary directly or through awards of grants or contracts to public or nonprofit private entities. The Secretary may directly or through such awards provide technical assistance with respect to the planning, development, and operation of such projects.

"(b) CERTAIN ACTIVITIES.—Activities under subsection (a) may include—

"(1) the conduct of research into identifying effective strategies for the prevention of traumatic brain injury; and

"(2) the implementation of public information and education programs for the prevention of such injury and for broadening the awareness of the public concerning the public health consequences of such injury.

"(c) COORDINATION OF ACTIVITIES.—The Secretary shall ensure that activities under this section are coordinated as appropriate with other agencies of the Public Health Service that carry out activities regarding traumatic brain injury.

"(d) DEFINITION.—For purposes of this section, the term 'traumatic brain injury' means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning.".

SEC. 2. PROGRAMS OF NATIONAL INSTITUTES OF HEALTH.

Section 1261 of the Public Health Service Act (42 U.S.C. 300d-61) is amended—

(1) in subsection (d)—

(A) in paragraph (2), by striking "and" after the semicolon at the end;

(B) in paragraph (3), by striking the period and inserting "; and"; and

(C) by adding at the end the following paragraph:

"(4) the authority to make awards of grants or contracts to public or nonprofit private entities for the conduct of basic and applied research regarding traumatic brain injury, which research may include—

"(A) the development of new methods and modalities for the more effective diagnosis, measurement of degree of injury, post-injury monitoring and prognostic assessment of head injury for acute, subacute and later phases of care;

"(B) the development, modification and evaluation of therapies that retard, prevent or reverse brain damage after acute head injury, that arrest further deterioration following injury and that provide the restitution of function for individuals with long-term injuries;

"(C) the development of research on a continuum of care from acute care through rehabilitation, designed, to the extent practicable, to integrate rehabilitation and long-term outcome evaluation with acute care research; and

"(D) the development of programs that increase the participation of academic centers of excellence in head injury treatment and rehabilitation research and training."; and

(2) in subsection (h), by adding at the end the following paragraph:

"(4) The term 'traumatic brain injury' means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning.".

SEC. 3. PROGRAMS OF HEALTH RESOURCES AND SERVICES ADMINISTRATION.

Part E of title XII of the Public Health Service Act (42 U.S.C. 300d-51 et seq.) is amended by adding at the end the following section:

"SEC. 1252. STATE GRANTS FOR DEMONSTRATION PROJECTS REGARDING TRAUMATIC BRAIN INJURY.

"(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants to States for the purpose of carrying out demonstration projects to improve the availability of health services regarding traumatic brain injury.

"(b) STATE ADVISORY BOARD.—

"(1) IN GENERAL.—The Secretary may make a grant under subsection (a) only if the State involved agrees to establish an advisory board within the appropriate health department of the State or within another department as designated by the chief executive officer of the State.

"(2) FUNCTIONS.—An advisory board established under paragraph (1) shall be cognizant of findings and concerns of Federal, State and local agencies, citizens groups, and private industry (such as insurance, health care, automobile, and other industry entities). Such advisory boards shall encourage citizen participation through the establishment of public hearings and other types of community outreach programs.

"(3) COMPOSITION.—An advisory board established under paragraph (1) shall be composed of—

"(A) representatives of—

"(i) the corresponding State agencies involved;

"(ii) public and nonprofit private health related organizations;

"(iii) other disability advisory or planning groups within the State;

"(iv) members of an organization or foundation representing traumatic brain injury survivors in that State; and

"(v) injury control programs at the State or local level if such programs exist; and

"(B) a substantial number of individuals who are survivors of traumatic brain injury, or the family members of such individuals.

"(c) MATCHING FUNDS.—

"(1) IN GENERAL.—With respect to the costs to be incurred by a State in carrying out the purpose described in subsection (a), the Secretary may make a grant under such subsection only if the State agrees to make available, in cash, non-Federal contributions toward such costs in an amount that is not less than $1 for each $2 of Federal funds provided under the grant.

"(2) DETERMINATION OF AMOUNT CONTRIBUTED.—In determining the amount of non-Federal contributions in cash that a State has provided pursuant to paragraph (1), the Secretary may not include any amounts provided to the State by the Federal Government.

"(d) APPLICATION FOR GRANT.—The Secretary may make a grant under subsection (a) only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(e) COORDINATION OF ACTIVITIES.—The Secretary shall ensure that activities under this section are coordinated as appropriate with other agencies of the Public Health Service that carry out activities regarding traumatic brain injury.

"(f) REPORT.—Not later than 2 years after the effective date under section 901 of the Minority Health Improvement Act of 1994, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings and results of the programs established under this section, including measures of outcomes and consumer and surrogate satisfaction.

"(g) DEFINITION.—For purposes of this section, the term 'traumatic brain injury' means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 and 1997.".

SEC. 4. STUDY; CONSENSUS CONFERENCE.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary"), acting through the appropriate agencies of the Public Health Service, shall conduct a study for the purpose of carrying out the following with respect to traumatic brain injury:

(A) In collaboration with appropriate State and local health-related agencies—

(i) determine the incidence and prevalence of traumatic brain injury; and

(ii) develop a uniform reporting system under which States report incidence of traumatic brain injury, if the Secretary determines that such a system is appropriate.

(B) Identify common therapeutic interventions which are used for the rehabilitation of individuals with such injuries, and shall, subject to the availability of information, include an analysis of—

(i) the effectiveness of each such intervention in improving the functioning of individuals with brain injuries;

(ii) the comparative effectiveness of interventions employed in the course of rehabilitation of individuals with brain injuries to achieve the same or similar clinical outcome; and

(iii) the adequacy of existing measures of outcomes and knowledge of factors influencing differential outcomes.

(C) Develop practice guidelines for the rehabilitation of traumatic brain injury at such time as appropriate scientific research becomes available.

(2) DATES CERTAIN FOR REPORTS.—

(A) Not later than 18 months after the effective date under section 901, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings made as a result of carrying out paragraph (1)(A).

(B) Not later than 3 years after the effective date under section 901, the Secretary shall submit to the Committees specified in subparagraph (A) a report describing the findings made as a result of carrying out subparagraphs (B) and (C) of paragraph (1).

(b) CONSENSUS CONFERENCE.—The Secretary, acting through the Director of the National Center for Medical Rehabilitation Research within the National Institute for Child Health and Human Development, shall conduct a national consensus conference on managing traumatic brain injury and related rehabilitation concerns.

(c) DEFINITION.—For purposes of this section, the term "traumatic brain injury" means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning.

Mr. HATCH. Mr. President, As the 103d Congress is drawing to a close, it is important that we approve S. 725, the Traumatic Brain Injury Act. This bill is critically important to the millions of Americans who suffer from traumatic brain injuries, and those who will have the misfortune of this type of injury in the future. There is no reason this legislation should not be enacted into law this year.

The Traumatic Brain Injury bill will provide visibility to the silent epidemic of brain injuries, which currently plague an additional 2 million Americans per year. Traumatic brain injuries have become the number one killer and cause of disability of young people in the U.S., far outdistancing all other causes.

Because of the serious consequences of traumatic brain injury and the failure of human services systems and educational programs to properly meet the needs of sufferers of these injuries, S. 725 will make large strides toward helping these people to be identified as people with a brain injury, and not labeled as having some other disability. This is important if appropriate services are to be developed and targeted and prevention efforts are to be conducted.

With the passage of the Traumatic Brain Injury Act will come funding for research, not only for the treatment of TBI, but also for prevention and awareness programs which will help decrease the occurrence of such tragedies.

Specifically, S. 725 will authorize the Centers for Disease Control and Prevention to conduct projects to reduce the incidence of traumatic brain injury.

It will also authorize the National Institutes of Health to conduct basic and applied research on traumatic brain injury.

It will provide matching grants to the states through the Health Resources and Services Administration for demonstration projects to improve access to health and other services regarding traumatic brain injury.

And, S. 725, will provide for an HHS study of a number of factors relating to traumatic brain injury and for a national consensus conference on traumatic brain injury.

The Traumatic Brain Injury Act should be high priority legislation, and at the top of our legislative Agendas. As my colleagues are aware, this bill was passed in the Senate in April of this year and as part of H.R. 3869, "The Minority Health Improvement Act" in the House. Because this bill has been passed by members from both sides of the aisle and by both legislative bodies, we know it isn't controversial.

However, because of the popularity of this bill, it became a target for unrelated amendments. I do not want to argue for or against any amendments at this time, but I feel that in order to get the Traumatic Brain Bill enacted into law this year, we must move it through the Senate today, without amendments. Let them stand on their own merit, and not on that of a good bill like S. 725.

Mr. President, let's not forget that traumatic brain injury is the leading cause of death and disability among Americans under the age of 30. There are 8 million Americans who currently suffer from traumatic brain injuries and an additional 2 million Americans who suffer brain injuries each year. Many of these people would be helped by this legislation. We need to make passage of this bill an immediate priority.

Let's proceed in this manner, by encouraging the passage of S. 725 as a clean bill, without unrelated amendments. There are millions of Americans in need of this legislation this year. I ask my colleagues' support in speedily enacting the Traumatic Brain Injury Act. I am hopeful the House will be able to take it up in the future.

The motion was agreed to.

DIETARY SUPPLEMENT HEALTH AND EDUCATION ACT OF 1994—MESSAGE FROM THE HOUSE

Mr. FEINGOLD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on a bill (S. 784) to amend the Federal Food, Drug, and Cosmetic Act to establish standards with respect to dietary supplements, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 784) entitled "An Act to amend the Federal Food, Drug, and Cosmetic Act to establish standards with respect to dietary supplements, and for other purposes", do pass with the following amendment:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; REFERENCE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Dietary Supplement Health and Education Act of 1994".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act.

(c) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; reference; table of contents.
Sec. 2. Findings.
Sec. 3. Definitions.
Sec. 4. Safety of dietary supplements and burden of proof on FDA.
Sec. 5. Dietary supplement claims.
Sec. 6. Statements of nutritional support.
Sec. 7. Dietary supplement ingredient labeling and nutrition information labeling.
Sec. 8. New dietary ingredients.
Sec. 9. Good manufacturing practices.
Sec. 10. Conforming amendments.
Sec. 11. Withdrawal of the regulations and notice.
Sec. 12. Commission on dietary supplement labels.
Sec. 13. Office of dietary supplements.

SEC. 2. FINDINGS.

Congress finds that—

(1) improving the health status of United States citizens ranks at the top of the national priorities of the Federal Government;

(2) the importance of nutrition and the benefits of dietary supplements to health promotion and disease prevention have been documented increasingly in scientific studies;

(3)(A) there is a link between the ingestion of certain nutrients or dietary supplements and the prevention of chronic diseases such as cancer, heart disease, and osteoporosis; and

(B) clinical research has shown that several chronic diseases can be prevented simply with a healthful diet, such as a diet that is low in fat, saturated fat, cholesterol, and sodium, with a high proportion of plant-based foods;

(4) healthful diets may mitigate the need for expensive medical procedures, such as coronary bypass surgery or angioplasty;

(5) preventive health measures, including education, good nutrition, and appropriate use of safe nutritional supplements will limit the incidence of chronic diseases, and reduce long-term health care expenditures;

(6)(A) promotion of good health and healthy lifestyles improves and extends lives while reducing health care expenditures; and

(B) reduction in health care expenditures is of paramount importance to the future of the country and the economic well-being of the country;

(7) there is a growing need for emphasis on the dissemination of information linking nutrition and long-term good health;

(8) consumers should be empowered to make choices about preventive health care programs based on data from scientific studies of health benefits related to particular dietary supplements;

(9) national surveys have revealed that almost 50 percent of the 260,000,000 Americans regularly consume dietary supplements of vitamins, minerals, or herbs as a means of improving their nutrition;

(10) studies indicate that consumers are placing increased reliance on the use of nontraditional health care providers to avoid the excessive costs of traditional medical services and to obtain more holistic consideration of their needs;

(11) the United States will spend over $1,000,000,000,000 on health care in 1994, which is about 12 percent of the Gross National Product of the United States, and this amount and percentage will continue to increase unless significant efforts are undertaken to reverse the increase;

(12)(A) the nutritional supplement industry is an integral part of the economy of the United States;

(B) the industry consistently projects a positive trade balance; and

(C) the estimated 600 dietary supplement manufacturers in the United States produce approximately 4,000 products, with total annual sales of such products alone reaching at least $4,000,000,000;

(13) although the Federal Government should take swift action against products that are unsafe or adulterated, the Federal Government should not take any actions to impose unreasonable regulatory barriers limiting or slowing the flow of safe products and accurate information to consumers;

(14) dietary supplements are safe within a broad range of intake, and safety problems with the supplements are relatively rare; and

(15)(A) legislative action that protects the right of access of consumers to safe dietary supplements is necessary in order to promote wellness; and

(B) a rational Federal framework must be established to supersede the current ad hoc, patchwork regulatory policy on dietary supplements.

SEC. 3. DEFINITIONS.

(a) DEFINITION OF CERTAIN FOODS AS DIETARY SUPPLEMENTS.—Section 201 (21 U.S.C. 321) is amended by adding at the end the following:

"(ff) The term 'dietary supplement'—

"(1) means a product (other than tobacco) intended to supplement the diet that bears or contains one or more of the following dietary ingredients:

"(A) a vitamin;

"(B) a mineral;

"(C) an herb or other botanical;

"(D) an amino acid;

"(E) a dietary substance for use by man to supplement the diet by increasing the total dietary intake; or

"(F) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in clause (A), (B), (C), (D), or (E);

"(2) means a product that—

"(A)(i) is intended for ingestion in a form described in section 411(c)(1)(B)(i); or

"(ii) complies with section 411(c)(1)(B)(ii); and

"(B) is not represented for use as a conventional food or as a sole item of a meal or the diet; and

"(C) is labeled as a dietary supplement; and

(3) does—

"(A) include an article that is approved as a new drug under section 505, certified as an antibiotic under section 507, or licensed as a biologic under section 351 of the Public Health Service Act (42 U.S.C. 262) and was, prior to such approval, certification, or license, marketed as a dietary supplement or as a food unless the Secretary has issued a regulation, after notice and comment, finding that the article, when used as or in a dietary supplement under the conditions of use and dosages set forth in the labeling for such dietary supplement, is unlawful under section 402(f); and

"(B) not include—

"(i) an article that is approved as a new drug under section 505, certified as an antibiotic under section 507, or licensed as a biologic under section 351 of the Public Health Service Act (42 U.S.C. 262), or

"(ii) an article authorized for investigation as a new drug, antibiotic, or biological for which substantial clinical investigations have been instituted and for which the existence of such investigations has been made public,

which was not before such approval, certification, licensing, or authorization marketed as a dietary supplement or as a food unless the Secretary, in the Secretary's discretion, has issued a regulation, after notice and comment, finding that the article would be lawful under this Act.

Except for purposes of section 201(g), a dietary supplement shall be deemed to be a food within the meaning of this Act.".

(b) EXCLUSION FROM DEFINITION OF FOOD ADDITIVE.—Section 201(s) (21 U.S.C. 321(s)) is amended—

(1) by striking "or" at the end of subparagraph (4);

(2) by striking the period at the end of subparagraph (5) and inserting "; or"; and

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

"(6) an ingredient described in paragraph (ff) in, or intended for use in, a dietary supplement.".

(c) FORM OF INGESTION.—Section 411(c)(1)(B) (21 U.S.C. 350(c)(1)(B)) is amended—

(1) in clause (i), by inserting "powder, softgel, gelcap," after "capsule,"; and

(2) in clause (ii), by striking "does not simulate and".

SEC. 4. SAFETY OF DIETARY SUPPLEMENTS AND BURDEN OF PROOF ON FDA.

Section 402 (21 U.S.C. 342) is amended by adding at the end the following:

"(f)(1) If it is a dietary supplement or contains a dietary ingredient that—

"(A) presents a significant or unreasonable risk of illness or injury under—

"(i) conditions of use recommended or suggested in labeling, or

"(ii) if no conditions of use are suggested or recommended in the labeling, under ordinary conditions of use;

"(B) is a new dietary ingredient for which there is inadequate information to provide reasonable assurance that such ingredient does not present a significant or unreasonable risk of illness or injury;

"(C) the Secretary declares to pose an imminent hazard to public health or safety, except that the authority to make such declaration shall not be delegated and the Secretary shall promptly after such a declaration initiate a proceeding in accordance with sections 554 and 556 of title 5, United States Code, to affirm or withdraw the declaration; or

"(D) is or contains a dietary ingredient that renders it adulterated under paragraph (a)(1) under the conditions of use recommended or suggested in the labeling of such dietary supplement.

In any proceeding under this subparagraph, the United States shall bear the burden of proof on each element to show that a dietary supplement is adulterated. The court shall decide any issue under this paragraph on a de novo basis.

"(2) Before the Secretary may report to a United States attorney a violation of paragraph (1)(A) for a civil proceeding, the person against whom such proceeding would be initiated shall be given appropriate notice and the opportunity to present views, orally and in writing, at least 10 days before such notice, with regard to such proceeding.".

SEC. 5. DIETARY SUPPLEMENT CLAIMS.

Chapter IV (21 U.S.C. 341 et seq.) is amended by inserting after section 403A the following new section:

"DIETARY SUPPLEMENT LABELING EXEMPTIONS

"SEC. 403B. (a) IN GENERAL.—A publication, including an article, a chapter in a book, or an official abstract of a peer-reviewed scientific publication that appears in an article and was prepared by the author or the editors of the publication, which is reprinted in its entirety, shall not be defined as labeling when used in connection with the sale of a dietary supplement to consumers when it—

"(1) is not false or misleading;

"(2) does not promote a particular manufacturer or brand of a dietary supplement;

"(3) is displayed or presented, or is displayed or presented with other such items on the same subject matter, so as to present a balanced view of the available scientific information on a dietary supplement;

"(4) if displayed in an establishment, is physically separate from the dietary supplements; and

"(5) does not have appended to it any information by sticker or any other method.

"(b) APPLICATION.—Subsection (a) shall not apply to or restrict a retailer or wholesaler of dietary supplements in any way whatsoever in the sale of books or other publications as a part of the business of such retailer or wholesaler.

"(c) BURDEN OF PROOF.—In any proceeding brought under subsection (a), the burden of proof shall be on the United States to establish that an article or other such matter is false or misleading.".

SEC. 6. STATEMENTS OF NUTRITIONAL SUPPORT.

Section 403(r) (21 U.S.C. 343(r)) is amended by adding at the end the following:

"(6) For purposes of paragraph (r)(1)(B), a statement for a dietary supplement may be made if—

"(A) the statement claims a benefit related to a classical nutrient deficiency disease and discloses the prevalence of such disease in the United States, describes the role of a nutrient or dietary ingredient intended to affect the structure or function in humans, characterizes the documented mechanism by which a nutrient or dietary ingredient acts to maintain such structure or function, or describes general well-being from consumption of a nutrient or dietary ingredient,

"(B) the manufacturer of the dietary supplement has substantiation that such statement is truthful and not misleading, and

"(C) the statement contains, prominently displayed and in boldface type, the following: 'This statement has not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure, or prevent any disease.'.

A statement under this subparagraph may not claim to diagnose, mitigate, treat, cure, or prevent a specific disease or class of diseases. If the manufacturer of a dietary supplement proposes to make a statement described in the first sentence of this subparagraph in the labeling of the dietary supplement, the manufacturer shall notify the Secretary no later than 30 days after the first marketing of the dietary supplement with such statement that such a statement is being made.".

SEC. 7. DIETARY SUPPLEMENT INGREDIENT LABELING AND NUTRITION INFORMATION LABELING.

(a) MISBRANDED SUPPLEMENTS.—Section 403 (21 U.S.C. 343) is amended by adding at the end the following:

"(s) If—

"(1) it is a dietary supplement; and

"(2)(A) the label or labeling of the supplement fails to list—

"(i) the name of each ingredient of the supplement that is described in section 201(ff); and

"(ii)(I) the quantity of each such ingredient; or

"(II) with respect to a proprietary blend of such ingredients, the total quantity of all ingredients in the blend;

"(B) the label or labeling of the dietary supplement fails to identify the product by using the term 'dietary supplement', which term may be modified with the name of such an ingredient;

"(C) the supplement contains an ingredient described in section 201(ff)(1)(C), and the label or labeling of the supplement fails to identify any part of the plant from which the ingredient is derived;

"(D) the supplement—

"(i) is covered by the specifications of an official compendium;

"(ii) is represented as conforming to the specifications of an official compendium; and

"(iii) fails to so conform; or

"(E) the supplement—

"(i) is not covered by the specifications of an official compendium; and

"(ii)(I) fails to have the identity and strength that the supplement is represented to have; or

"(II) fails to meet the quality (including tablet or capsule disintegration), purity, or compositional specifications, based on validated assay or other appropriate methods, that the supplement is represented to meet.".

(b) SUPPLEMENT LISTING ON NUTRITION LABELING.—Section 403(q)(5)(F) (21 U.S.C. 343(q)(5)(F)) is amended to read as follows:

"(F) A dietary supplement product (including a food to which section 411 applies) shall

comply with the requirements of subparagraphs (1) and (2) in a manner which is appropriate for the product and which is specified in regulations of the Secretary which shall provide that—

"(i) nutrition information shall first list those dietary ingredients that are present in the product in a significant amount and for which a recommendation for daily consumption has been established by the Secretary, except that a dietary ingredient shall not be required to be listed if it is not present in a significant amount, and shall list any other dietary ingredient present and identified as having no such recommendation;

"(ii) the listing of dietary ingredients shall include the quantity of each such ingredient (or of a proprietary blend of such ingredients) per serving;

"(iii) the listing of dietary ingredients may include the source of a dietary ingredient; and

"(iv) the nutrition information shall immediately precede the ingredient information required under subclause (i), except that no ingredient identified pursuant to subclause (i) shall be required to be identified a second time.".

(c) PERCENTAGE LEVEL CLAIMS.—Section 403(r)(2) (21 U.S.C. 343(r)(2)) is amended by adding after clause (E) the following:

"(F) Subclause (i) clause (A) does not apply to a statement in the labeling of a dietary supplement that characterizes the percentage level of a dietary ingredient for which the Secretary has not established a reference daily intake, daily recommended value, or other recommendation for daily consumption."

(d) VITAMINS AND MINERALS.—Section 411(b)(2) (21 U.S.C. 350(b)(2)) is amended—

(1) by striking "vitamins or minerals" and inserting "dietary supplement ingredients described in section 201(ff)";

(2) by striking "(2)(A)" and inserting "(2)"; and

(3) by striking subparagraph (B).

(e) EFFECTIVE DATE.—Dietary supplements—

(1) may be labeled after the date of the enactment of this Act in accordance with the amendments made by this section, and

(2) shall be labeled after December 31, 1996, in accordance with such amendments.

SEC. 8. NEW DIETARY INGREDIENTS.

Chapter IV of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end the following:

"NEW DIETARY INGREDIENTS

"SEC. 413. (a) IN GENERAL.—A dietary supplement which contains a new dietary ingredient shall be deemed adulterated under section 402(f) unless it meets one of the following requirements:

"(1) The dietary supplement contains only dietary ingredients which have been present in the food supply as an article used for food in a form in which the food has not been chemically altered.

"(2) There is a history of use or other evidence of safety establishing that the dietary ingredient when used under the conditions recommended or suggested in the labeling of the dietary supplement will reasonably be expected to be safe and, at least 75 days before being introduced or delivered for introduction into interstate commerce, the manufacturer or distributor of the dietary ingredient or dietary supplement provides the Secretary with information, including any citation to published articles, which is the basis on which the manufacturer or distributor has concluded that a dietary supplement containing such dietary ingredient will reasonably be expected to be safe.

The Secretary shall keep confidential any information provided under paragraph (2) for 90 days following its receipt. After the expiration of such 90 days, the Secretary shall place such information on public display, except matters in the information which are trade secrets or otherwise confidential, commercial information.

"(b) PETITION.—Any person may file with the Secretary a petition proposing the issuance of an order prescribing the conditions under which a new dietary ingredient under its intended conditions of use will reasonably be expected to be safe. The Secretary shall make a decision on such petition within 180 days of the date the petition is filed with the Secretary. For purposes of chapter 7 of title 5, United States Code, the decision of the Secretary shall be considered final agency action.

"(c) DEFINITION.—For purposes of this section, the term 'new dietary ingredient' means a dietary ingredient that was not marketed in the United States before October 15, 1994 and does not include any dietary ingredient which was marketed in the United States before October 15, 1994.".

SEC. 9. GOOD MANUFACTURING PRACTICES.

Section 402 (21 U.S.C. 342), as amended by section 4, is amended by adding at the end the following:

"(g)(1) If it is a dietary supplement and it has been prepared, packed, or held under conditions that do not meet current good manufacturing practice regulations, including regulations requiring, when necessary, expiration date labeling, issued by the Secretary under subparagraph (2).

"(2) The Secretary may by regulation prescribe good manufacturing practices for dietary supplements. Such regulations shall be modeled after current good manufacturing practice regulations for food and may not impose standards for which there is no current and generally available analytical methodology. No standard of current good manufacturing practice may be imposed unless such standard is included in a regulation promulgated after notice and opportunity for comment in accordance with chapter 5 of title 5, United States Code.".

SEC. 10. CONFORMING AMENDMENTS.

(a) SECTION 201.—The last sentence of section 201(g)(1) (21 U.S.C. 321(g)(1)) is amended to read as follows: "A food or dietary supplement for which a claim, subject to sections 403(r)(1)(B) and 403(r)(3) or sections 403(r)(1)(B) and 403(r)(5)(D), is made in accordance with the requirements of section 403(r) is not a drug solely because the label or the labeling contains such a claim. A food, dietary ingredient, or dietary supplement for which a truthful and not misleading statement is made in accordance with section 403(r)(6) is not a drug under clause (C) solely because the label or the labeling contains such a statement.".

(b) SECTION 301.—Section 301 (21 U.S.C. 331) is amended by adding at the end the following:

"(u) The introduction or delivery for introduction into interstate commerce of a dietary supplement that is unsafe under section 413.".

(c) SECTION 403.—Section 403 (21 U.S.C. 343), as amended by section 7, is amended by adding after paragraph (s) the following:

"A dietary supplement shall not be deemed misbranded solely because its label or labeling contains directions or conditions of use or warnings.".

SEC. 11. WITHDRAWAL OF THE REGULATIONS AND NOTICE.

The advance notice of proposed rulemaking concerning dietary supplements published in the Federal Register of June 18, 1993 (58 FR 33690–33700) is null and void and of no force or effect insofar as it applies to dietary supplements. The Secretary of Health and Human Services shall publish a notice in the Federal Register to revoke the item declared to be null and void and of no force or effect under subsection (a).

SEC. 12. COMMISSION ON DIETARY SUPPLEMENT LABELS.

(a) ESTABLISHMENT.—There shall be established as an independent agency within the executive branch a commission to be known as the Commission on Dietary Supplement Labels (hereafter in this section referred to as the "Commission").

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 7 members who shall be appointed by the President.

(2) EXPERTISE REQUIREMENT.—The members of the Commission shall consist of individuals with expertise and experience in dietary supplements and in the manufacture, regulation, distribution, and use of such supplements. At least three of the members of the Commission shall be qualified by scientific training and experience to evaluate the benefits to health of the use of dietary supplements and one of such three members shall have experience in pharmacognosy, medical botany, traditional herbal medicine, or other related sciences. Members and staff of the Commission shall be without bias on the issue of dietary supplements.

(c) FUNCTIONS OF THE COMMISSION.—The Commission shall conduct a study on, and provide recommendations for, the regulation of label claims and statements for dietary supplements, including the use of literature in connection with the sale of dietary supplements and procedures for the evaluation of such claims. In making such recommendations, the Commission shall evaluate how best to provide truthful, scientifically valid, and not misleading information to consumers so that such consumers may make informed and appropriate health care choices for themselves and their families.

(d) ADMINISTRATIVE POWERS OF THE COMMISSION.—

(1) HEARINGS.—The Commission may hold hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this section.

(2) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this section.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may necessary to carry out this section.

(e) REPORTS AND RECOMMENDATIONS.—

(1) FINAL REPORT REQUIRED.—Not later than 24 months after the date of enactment of this Act, the Commission shall prepare and submit to the President and to the Congress a final report on the study required by this section.

(2) RECOMMENDATIONS.—The report described in paragraph (1) shall contain such recommendations, including recommendations for legislation, as the Commission deems appropriate.

(3) ACTION ON RECOMMENDATIONS.—Within 90 days of the issuance of the report under paragraph (1), the Secretary of Health and Human Services shall publish in the Federal Register a notice of any recommendation of

Commission for changes in regulations of the Secretary for the regulation of dietary supplements and shall include in such notice a notice of proposed rulemaking on such changes together with an opportunity to present views on such changes. Such rulemaking shall be completed not later than 2 years after the date of the issuance of such report. If such rulemaking is not completed on or before the expiration of such 2 years, regulations of the Secretary published in 59 F.R. 395-426 on January 4, 1994, shall not be in effect.

SEC. 13. OFFICE OF DIETARY SUPPLEMENTS.

(a) IN GENERAL.—Title IV of the Public Health Service Act is amended by inserting after section 485B (42 U.S.C. 287c-3) the following:

"Subpart 4—Office of Dietary Supplements

"SEC. 485C. DIETARY SUPPLEMENTS.

"(a) ESTABLISHMENT.—The Secretary shall establish an Office of Dietary Supplements within the National Institutes of Health.

"(b) PURPOSE.—The purposes of the Office are—

"(1) to explore more fully the potential role of dietary supplements as a significant part of the efforts of the United States to improve health care; and

"(2) to promote scientific study of the benefits of dietary supplements in maintaining health and preventing chronic disease and other health-related conditions.

"(c) DUTIES.—The Director of the Office of Dietary Supplements shall—

"(1) conduct and coordinate scientific research within the National Institutes of Health relating to dietary supplements and the extent to which the use of dietary supplements can limit or reduce the risk of diseases such as heart disease, cancer, birth defects, osteoporosis, cataracts, or prostatism;

"(2) collect and compile the results of scientific research relating to dietary supplements, including scientific data from foreign sources or the Office of Alternative Medicine;

"(3) serve as the principal advisor to the Secretary and to the Assistant Secretary for Health and provide advice to the Director of the National Institutes of Health, the Director of the Centers for Disease Control and Prevention, and the Commissioner of Food and Drugs on issues relating to dietary supplements including—

"(A) dietary intake regulations;

"(B) the safety of dietary supplements;

"(C) claims characterizing the relationship between—

"(i) dietary supplements; and

"(ii)(I) prevention of disease or other health-related conditions; and

"(II) maintenance of health; and

"(D) scientific issues arising in connection with the labeling and composition of dietary supplements;

"(4) compile a database of scientific research on dietary supplements and individual nutrients; and

"(5) coordinate funding relating to dietary supplements for the National Institutes of Health.

"(d) DEFINITION.—As used in this section, the term 'dietary supplement' has the meaning given the term in section 201(ff) of the Federal Food, Drug, and Cosmetic Act.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for fiscal year 1994 and such sums as may be necessary for each subsequent fiscal year.".

(b) CONFORMING AMENDMENT.—Section 401(b)(2) of the Public Health Service Act (42 U.S.C. 281(b)(2)) is amended by adding at the end the following:

"(E) The Office of Dietary Supplements.".

Mr. FEINGOLD. Mr. President, I move that the Senate concur in the House amendment, the motion to reconsider be laid on the table, and any statements thereon appear in the RECORD at the appropriate place as though read.

The motion was agreed to.

Mr. KENNEDY. Mr. President, the Dietary Supplement Health and Education Act of 1994 represents a bi-partisan agreement which resolves the controversy surrounding dietary supplements. All of us in Congress have received a large number of calls and letters from constituents afraid that supplements will no longer be available. This compromise will assure consumers freedom of choice while guaranteeing that unsafe products can be removed quickly from the market.

Implementation of the Nutrition Labeling and Education Act, NLEA, has caused great uncertainty about how supplements are to be regulated; this legislation will allay these concerns while preserving the important purposes of the NLEA.

I would like to thank Senators HATCH and HARKIN for their hard work that has allowed for the resolution of this difficult issue. The chief sponsors of the bill from both chambers have agreed that the only legislative history for this legislation will be a statement of agreement. I ask unanimous consent that the statement be printed in the RECORD.

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

STATEMENT OF AGREEMENT

This statement comprises the entire legislative history for the Dietary Supplement Health and Education Act of 1994, S. 784. It is the intent of the chief sponsors of the bill (Senators Hatch, Harkin and Kennedy, and Congressmen Richardson, Bliley, Moorhead, Gallegly, Dingell, Waxman) that no other reports or statements be considered as legislative history for the bill.

1. The bill does not affect the Food and Drug Administration's existing authority under the Federal Food, Drug and Cosmetic Act to prohibit the import or sale of any product marketed as a drug in a foreign country.

2. In section 201(ff)(3)(B)(ii), added by section 3 of the bill, the term "substantial clinical investigations" does not include compassionate investigational new drug applications or an investigational new drug application submitted by a physician for a single patient.

3. Section 403B, added by section 5, does not apply to a summary of a publication other than an official abstract of a peer-reviewed scientific publication.

4. Section 403(r)(6)(A), added by section 6, does not permit premarket approval or require premarket review by the FDA of any statement permitted under that provision.

5. In section 413(a)(1), added by section 8, the term "chemically altered" does not include the following physical modifications: minor loss of volatile components, dehydration, lyophlization, milling, tincture or solution in water, slurry, powder, or solid in suspension.

Mr. HATCH. Mr. President, any statement I could make would pale in comparison to the elation I feel over passage of S. 784 tonight.

Our compromise bill is a tremendous victory. It is a victory for the American people. It is a victory for consumers who want to lead healthy lifestyles.

And it is a victory for the legislative process, for it shows that the Congress can act decisively to affirm the desires of the American public.

I want to thank each and every one of the individuals who have made this legislation a possibility.

COMMENDATION OF THE U.S. RICE INDUSTRY "MENY OTIS WARREN DAY" TESTIMONY IN DOMESTIC VIOLENCE TRIALS

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged en bloc and the Senate proceed en bloc to the immediate consideration of Senate Joint Resolution 219, Senate Joint Resolution 222, and Senate Concurrent Resolution 21; that the joint resolutions each be read a third time; that the concurrent resolution be adopted; that the motions to reconsider be laid upon the table en bloc; that the preambles be agreed to en bloc; that the title amendment at the desk be agreed to; that the consideration of each of these items appear individually in the RECORD, and that any statements appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered. The joint resolutions (S.J. Res. 219, S.J. Res. 222) were passed. The concurrent resolution (S. Con. Res. 21) was agreed to. (The text of the resolutions will be printed in a future edition of the RECORD.)

SAMUEL PERRY POST OFFICE

GRAHAM PURCELL POST OFFICE

JOHN LONGO POST OFFICE

ARTURO WATLINGTON POST OFFICE

UBALDINA SIMMONS POST OFFICE

FANNIE LOU HAMER POST OFFICE

WILLIAM RANDALL POST OFFICE

WILBERT ARMSTRONG POST OFFICE

MARIAN OLDHAM POST OFFICE

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be discharged en bloc from consideration of the following bills, H.R. 2056, H.R. 2294, H.R. 3984, H.R. 4192, H.R. 4193, H.R. 4452, H.R. 4551, H.R. 4571, and H.R. 4595; that the Senate then proceed en bloc to their immediate consideration; that the bills be deemed read three times, passed, and the motion to reconsider laid upon the table en bloc; further that any statements relative to the passage of these measures be placed in the RECORD at the appropriate place and the consideration of these items appear individually in the RECORD.

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

So the bills were passed.

CRIMES RELATING TO THE CONGRESSIONAL MEDAL OF HONOR

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5102, a bill relating to certain crimes relating to the Congressional Medal of Honor just received from the House, that the bill be read three times, passed, and the motion to reconsider laid upon the table, and that any statements appear at the appropriate place in the RECORD.

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

So the bill (H.R. 5102) was deemed read the third time, and passed.

FOR THE RELIEF OF LETEANE CLEMENT MONATSI

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 526, H.R. 2411, a bill for the relief of the Leteane Clement Monatsi, that the bill be deemed read a third time and passed; that the motion to reconsider be laid upon the table, and that any statements relative to the passage of this item appear at the appropriate place in the RECORD.

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

So the bill (H.R. 2411) was deemed read the third time, and passed.

VETERANS BENEFITS AND SERVICES AMENDMENTS OF 1994—MESSAGES FROM THE HOUSE

Mr. FEINGOLD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on a bill (H.R. 3313) to amend title 38, United States Code, to improve health care services of the Department of Veterans Affairs relating to women veterans, to extend and expand authority for the Secretary of Veterans Affairs to provide priority health care to veterans who were exposed to ionizing radiation or to Agent Orange, to expand the scope of services that may be provided to veterans through Vet Centers, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendments of the Senate to the bill (H.R. 3313) entitled "An Act to amend title 38, United States Code, to improve health care services of the Department of Veterans Affairs relating to women veterans, to extend and expand authority for the Secretary of Veterans Affairs to provide priority health care to veterans who were exposed to ionizing radiation or to Agent Orange, to expand the scope of services that may be provided to veterans through Vet Centers, and for other purposes", with the following amendments:

In lieu of the matter proposed to be inserted by said amendment to the text, insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Veterans Health Programs Extension Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States Code.

TITLE I—GENERAL MEDICAL AUTHORITIES

Sec. 101. Sexual trauma counseling and services.
Sec. 102. Research relating to women veterans.
Sec. 103. Extension of expiring authorities.
Sec. 104. Facilities in Republic of the Philippines.
Sec. 105. Savings provision.

TITLE II—CONSTRUCTION AUTHORIZATION

Sec. 201. Authorization of major medical facility projects and major medical facility leases.
Sec. 202. Authorization of appropriations.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—GENERAL MEDICAL AUTHORITIES

SEC. 101. SEXUAL TRAUMA COUNSELING AND SERVICES.

(a) AUTHORITY TO PROVIDE TREATMENT SERVICES FOR SEXUAL TRAUMA; REPEAL OF LIMITATION ON TIME TO SEEK SERVICES.—Subsection (a) of section 1720D is amended—

(1) by striking out paragraph (2); and

(2) by inserting after paragraph (1) the following new paragraph (2):

"(2) During the period referred to in paragraph (1), the Secretary may provide appropriate care and services to a veteran for an injury, illness, or other psychological condition that the Secretary determines to be the result of a physical assault, battery, or harassment referred to in that paragraph.".

(b) EXTENSION OF PERIOD OF AUTHORITY TO PROVIDE SEXUAL TRAUMA SERVICES.—Such subsection is further amended—

(1) in paragraph (1), by striking out "December 31, 1995," and inserting in lieu thereof "December 31, 1998,"; and

(2) in paragraph (3), by striking out "December 31, 1994," and inserting in lieu thereof "December 31, 1998,".

(c) REPEAL OF LIMITATION ON PERIOD OF RECEIPT OF SERVICES.—Such section is further amended—

(1) by striking out subsection (b); and

(2) by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively.

(d) COORDINATION OF CARE.—Paragraph (1) of subsection (b) of such section, as redesignated by subsection (c)(2), is amended to read as follows:

"(1) The Secretary shall give priority to the establishment and operation of the program to provide counseling and care and services under subsection (a). In the case of a veteran eligible for counseling and care and services under subsection (a), the Secretary shall ensure that the veteran is furnished counseling and care and services under this section in a way that is coordinated with the furnishing of such care and services under this chapter.".

(e) INCREASED PRIORITY OF CARE.—Section 1712(i) is amended—

(1) in paragraph (1)—

(A) by inserting "(A)" after "To a veteran"; and

(B) by inserting ", or (B) who is eligible for counseling and care and services under section 1720D of this title, for the purposes of such counseling and care and services" before the period at the end; and

(2) in paragraph (2)—

(A) by striking out ", (B)" and inserting in lieu thereof "or (B)"; and

(B) by striking out ", or (C)" and all that follows through "such counseling".

(f) PROGRAM REVISION.—(1) Section 1720D is further amended—

(A) by striking out "woman" in subsection (a)(1);

(B) by striking out "women" in subsection (b)(2)(C) and in the first sentence of subsection (c), as redesignated by subsection (c); and

(C) by striking out "women" in subsection (c)(2), as so redesignated, and inserting in lieu thereof "individuals".

(2)(A) The heading of such section is amended to read as follows:

"§ 1720D. Counseling and treatment for sexual trauma".

(B) The item relating to such section in the table of sections at the beginning of chapter 17 is amended to read as follows:

"1720D. Counseling and treatment for sexual trauma.".

(g) INFORMATION BY TELEPHONE.—(1) Paragraph (1) of section 1720D(c), as redesignated by subsection (c) of this section, is amended to read as follows:

"(1) shall include availability of a toll-free telephone number (commonly referred to as an 800 number); and".

(2) In providing information on counseling available to veterans as required under section 1720D(c)(1) of title 38, United States Code (as amended by paragraph (1)), the Secretary of Veterans Affairs shall ensure that the Department of Veterans Affairs personnel who provide assistance under such section are trained in the provision to persons who have experienced sexual trauma of information about the care and services relating to sexual trauma that are available to veterans in the communities in which such veterans reside, including care and services available under programs of the Department (including the care and services available under section 1720D of such title) and from non-Department agencies or organizations.

(3) The telephone assistance service shall be operated in a manner that protects the confidentiality of persons who place calls to the system.

(4) The Secretary shall ensure that information about the availability of the telephone assistance service is visibly posted in Department medical facilities and is advertised through public service announcements, pamphlets, and other means.

(5) Not later than 18 months after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the operation of the telephone assistance service required under section 1720D(c)(1) of title 38, United States Code (as amended by paragraph (1)). The report shall set forth the following:

(A) The number of persons who sought information during the period covered by the report through a toll free telephone number regarding services available to veterans relating to sexual trauma, with a separate display of the number of such persons arrayed by State (as such term is defined in section 101(20) of title 38, United States Code).

(B) A description of the training provided to the personnel who provide such assistance.

(C) The recommendations and plans of the Secretary for the improvement of the service.

(h) CONFORMING REPEAL.—Section 102(b) of the Veterans Health Care Act of 1992 (Public Law 102-585; 106 Stat. 4946; 38 U.S.C. 1720D note) is repealed.

SEC. 102. RESEARCH RELATING TO WOMEN VETERANS.

(a) INCLUSION OF WOMEN AND MINORITIES IN CLINICAL RESEARCH PROJECTS.—Section 7303 is amended—

(1) by transferring the text of subsection (c) to the end of subsection (a)(1); and

(2) by striking out "(c)" and inserting in lieu thereof the following:

"(c)(1) In conducting or supporting clinical research, the Secretary shall ensure that, whenever possible and appropriate—

"(A) women who are veterans are included as subjects in each project of such research; and

"(B) members of minority groups who are veterans are included as subjects of such research.

"(2) In the case of a project of clinical research in which women or members of minority groups will under paragraph (1) be included as subjects of the research, the Secretary shall ensure that the project is designed and carried out so as to provide for a valid analysis of whether the variables being tested in the research affect women or members of minority groups, as the case may be, differently than other persons who are subjects of the research.".

(b) HEALTH RESEARCH.—(1) Such section is further amended by adding after subsection (c), as added by subsection (a), the following new subsection:

"(d)(1) The Secretary, in carrying out the Secretary's responsibilities under this section, shall foster and encourage the initiation and expansion of research relating to the health of veterans who are women.

"(2) In carrying out this subsection, the Secretary shall consult with the following to assist the Secretary in setting research priorities:

"(A) Officials of the Department assigned responsibility for women's health programs and sexual trauma services.

"(B) The members of the Advisory Committee on Women Veterans.

"(C) Members of appropriate task forces and working groups within the Department (including the Women Veterans Working Group and the Task Force on Treatment of Women Who Suffer Sexual Abuse).".

(2) Section 109 of the Veterans Health Care Act of 1992 (Public Law 102-585; 38 U.S.C. 7303 note) is repealed.

(c) POPULATION STUDY.—Section 110(a) of the Veterans Health Care Act of 1992 (Public Law 102-585; 106 Stat. 4948) is amended by adding at the end of paragraph (3) the following: "If it is feasible to do so within the amounts available for the conduct of the study, the Secretary shall ensure that the sample referred to in paragraph (1) constitutes a representative sampling (as determined by the Secretary) of the ages, the ethnic, social and economic backgrounds, the enlisted and officer grades, and the branches of service of all veterans who are women.".

SEC. 103. EXTENSION OF EXPIRING AUTHORITIES.

(a) AUTHORITY TO PROVIDE PRIORITY HEALTH CARE FOR VETERANS EXPOSED TO TOXIC SUBSTANCES.—Chapter 17 is amended—

(1) in section 1710(e)(3)—

(A) by striking out "June 30, 1994" and inserting in lieu thereof "June 30, 1995"; and

(B) by striking out "December 31, 1994" and inserting in lieu thereof "December 31, 1995"; and

(2) in section 1712(a)(1)(D), by striking out "December 31, 1994" and inserting in lieu thereof "December 31, 1995".

(b) DRUG AND ALCOHOL ABUSE AND DEPENDENCE.—Section 1720A(e) is amended by striking out "December 31, 1994" and inserting in lieu thereof "December 31, 1995".

(c) PILOT PROGRAM FOR NONINSTITUTIONAL ALTERNATIVES TO NURSING HOME CARE.—(1) Effective as of October 1, 1994, subsection (a) of section 1720C is amended by striking out "During the four-year period beginning on October 1, 1990," and inserting in lieu thereof "During the period through September 30, 1995,".

(2) Such subsection is further amended by striking out "care and who—" and inserting in lieu thereof "care. The Secretary shall give priority for participation in such program to veterans who—".

(d) ENHANCED-USE LEASES OF REAL PROPERTY.—Section 8169 is amended by striking out "December 31, 1994" and inserting in lieu thereof "December 31, 1995".

(e) AUTHORITY FOR COMMUNITY-BASED RESIDENTIAL CARE FOR HOMELESS CHRONICALLY MENTALLY ILL VETERANS AND OTHER VETERANS.—Section 115(d) of the Veterans' Benefits and Services Act of 1988 (38 U.S.C. 1712 note) is amended by striking out "September 30, 1994" and inserting in lieu thereof "September 30, 1995".

(f) DEMONSTRATION PROGRAM OF COMPENSATED WORK THERAPY.—Section 7(a) of Public Law 102-54 (105 Stat. 269; 38 U.S.C. 1718 note) is amended by striking out "1994" and inserting in lieu thereof "1995".

(g) REPORT DEADLINES.—Section 201(b) of the Department of Veterans Affairs Nurse Pay Act of 1990 (Public Law 101-366; 38 U.S.C. 1720C note) is amended by striking out "February 1, 1994," and inserting in lieu thereof "February 1, 1995,".

SEC. 104. FACILITIES IN REPUBLIC OF THE PHILIPPINES.

Notwithstanding section 1724 of title 38, United States Code, the Secretary of Veterans Affairs may contract with facilities in the Republic of the Philippines other than the Veterans Memorial Medical Center to furnish, during the period from February 28, 1994, through June 1, 1994, hospital care and medical services to veterans for nonservice-connected disabilities if such veterans are unable to defray the expenses of necessary hospital care. When the Secretary determines it to be most feasible, the Secretary may provide medical services under the preceding sentence to such veterans at the Department of Veterans Affairs Outpatient Clinic at Manila, Republic of the Philippines.

SEC. 105. RATIFICATION OF ACTIONS DURING PERIOD OF LAPSED AUTHORITY.

Any action of the Secretary of Veterans Affairs under section 1710(e) of title 38, United States Code, during the period beginning on July 1, 1994, and ending on the date of the enactment of this Act is hereby ratified.

TITLE II—CONSTRUCTION AUTHORIZATION

SEC. 201. AUTHORIZATION OF MAJOR MEDICAL FACILITY PROJECTS AND MAJOR MEDICAL FACILITY LEASES.

(a) PROJECTS AUTHORIZED.—The Secretary of Veterans Affairs may carry out the major medical facility projects for the Department of Veterans Affairs, and may carry out the major medical facility leases for that Department, for which funds are requested in the budget of the President for fiscal year 1995. The authorization in the preceding sentence applies to projects and leases which have not been authorized, or for which funds have not been appropriated, in any fiscal year before fiscal year 1995 and to projects and leases which have been authorized, or for which funds were appropriated, in fiscal years before fiscal year 1995.

(b) ADDITIONAL PROJECTS.—(1) In addition to the projects authorized in subsection (a), the Secretary may carry out the following major medical facility projects in the amounts specified for such projects:

(A) The projects that are proposed in the documents submitted to Congress by the Secretary of Veterans Affairs in conjunction with the budget of the President for fiscal year 1995 to be financed with funds from the proposed Health Care Investment Fund.

(B) Construction of a nursing home facility at the Department of Veterans Affairs Medical Center in Charleston, South Carolina, in the amount of $7,300,000.

(C) Construction of an outpatient care addition at the Department of Veterans Affairs medical center in Phoenix, Arizona, in the amount of $50,000,000.

(D) A lease/purchase of a nursing home facility near Fort Myers, Florida, in the amount of $12,800,000.

(2) The authorizations in paragraph (1) apply to projects which have not been authorized, or for which funds have not been

appropriated, in any fiscal year before fiscal year 1995 and to projects which have been authorized, or for which funds were appropriated, in fiscal years before fiscal year 1995.

(c) PROJECTS FOR WHICH FUNDS APPROPRIATED.—In addition to the projects authorized in subsections (a) and (b), the Secretary may carry out the following major medical facility projects for which funds were appropriated in chapter 7 of the Emergency Supplemental Appropriations Act of 1994 (title I of Public Law 103-211; 108 Stat. 10) in the amounts specified:

(1) Construction of an ambulatory care/support services facility at the Department of Veterans Affairs Medical Center in Sepulveda, California, $53,700,000.

(2) Other major medical facility projects required to repair, restore, or replace earthquake-damaged facilities at the Department of Veterans Affairs Medical Center in Sepulveda, California, $50,000,000.

SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Veterans Affairs for fiscal year 1995—

(1) $379,370,000 for the major medical facility projects authorized in subsections (a), (b), and (c) of section 201; and

(2) $15,800,000 for the major medical facility leases authorized in section 201(a).

(b) LIMITATION.—The projects authorized in subsections (a) and (b) of section 201 may only be carried out using—

(1) funds appropriated for fiscal year 1995 pursuant to the authorization of appropriations in subsection (a);

(2) funds appropriated for Construction, Major Projects for a fiscal year before fiscal year 1995 that remain available for obligation; and

(3) funds appropriated for Construction, Major Projects for fiscal year 1995 for a category of activity not specific to a project.

(c) LIMITATION ON CERTAIN PROJECTS.—The projects authorized in subsection (c) of section 201 may only be carried out using—

(1) funds appropriated to the Construction, Major Projects account under chapter 7 of the Emergency Supplemental Appropriations Act of 1994 (title I of Public Law 103-211; 108 Stat. 10) and funds transferred by the President to the Construction, Major Projects account pursuant to chapter 8 of that Act (108 Stat. 14);

(2) funds appropriated to the Medical Care account by chapter 7 of the Emergency Supplemental Appropriations Act of 1994 that are transferred to the Construction, Major Projects account;

(3) funds appropriated to the Construction, Major Projects account for a fiscal year before fiscal year 1995 that remain available for obligation; and

(4) funds appropriated to the Construction, Major Projects account for fiscal year 1995 for a category of activity not specific to a project.

Amend the amendment of the title so as to read: "An Act to amend title 38, United States Code, to extend certain expiring veterans' health care programs, and for other purposes.".

VETERANS HEALTH PROGRAMS EXTENSION ACT OF 1994

Mr. ROCKEFELLER. Mr. President, as chairman of the Committee on Veterans' Affairs, I urge my colleagues to approve the compromise agreement on H.R. 3313, the proposed Veterans Health Programs Extension Act of 1994. This compromise is the result of efforts to reach a compromise on many issues.

Mr. President, I am deeply disappointed that we will be unable to pursue passage of a more comprehensive veterans health care bill this session. The bill we are passing today, the Veterans Health Programs Extension Act of 1994, is a much abbreviated version of an omnibus measure which was the final result of over a year of hearings, discussions, and most recently, successful negotiations involving the majority and minority staff of both Committees on Veterans' Affairs. If passed in the originally negotiated form, this bill would have been the only veterans omnibus health care bill of this year. Unfortunately, at the last minute, a Republican member of the House Committee raised objections—ones which I believe were without merit—that in light of the little time left in the session, made it impossible for the overall bill to pass. As a result, we were forced to pare it back to the very modest measure that comes before the Senate today.

Mr. President, this measure originally encompassed many different programs and would have helped many more veterans. It is truly sad, that because of the intransigence of one Republican Member of the House, many groups of deserving veterans will have to wait until next Congress to see real improvements in their health care—the health care which they have earned by their service.

Mr. President, the women veterans of this Nation will be particularly hurt by the blockage of some of the provisions of this bill. The measure would have expanded the list of women's health services offered by VA, and assured that women veterans would receive pap smears, breast examinations and mammography, services related to menopause and osteoporosis, and prenatal care, delivery, and postpartum care.

Additionally, the bill included provisions to authorize VA to furnish readjustment counseling to World War II or Korean conflict veterans, to furnish some preventive health services in Vet Centers, and to provide bereavement counseling services to family members of certain deceased servicemembers.

The bill would have improved VA's research on mental illness, including posttraumatic stress disorder, schizophrenia, and alcohol and drug abuse. And the bill, as originally negotiated, would have made it easier for VA to recruit nurses and other health professionals.

Mr. President, I will at this time highlight some of the provisions that remain in the compromise. Detailed descriptions of all the provisions are set forth in the explanatory statement accompanying the compromise agreement which was developed in cooperation with the House Committee on Veterans' Affairs. My distinguished counterpart, Chairman G.V. "SONNY" MONTGOMERY, inserted the same explanatory statement in the RECORD during House consideration of this measure.

Mr. President, the proposed Veterans Health Programs Extension Act of 1994 has two titles: General Medical Authorities and Construction Authorization.

TITLE I—GENERAL MEDICAL AUTHORITIES

SEXUAL TRAUMA COUNSELING AND SERVICES

Mr. President, the provisions in title I relating to sexual trauma services are derived, in part, from S. 2973 of the 102d Congress, which was ultimately enacted as the Veterans Health Care Act of 1992 (Public law 102-585), an omnibus veterans health measure.

Mr. President, this legislation would extend the entire sexual trauma counseling program within VA. Under current law, VA's authority to carry out this program would expire on December 31, 1995. VA needs more time to reach the veterans who need these services.

In addition, this legislation would repeal the restriction in current law that requires women veterans to seek sexual trauma counseling within 2 years of discharge from active duty, and it would also repeal the 1-year time limit during which a veteran could receive VA care for sexual trauma.

Women veterans have served with dignity and courage in all wars since the American Revolution, and we must ensure that any veteran who is raped or sexually assaulted while serving on active duty, is able to seek care at any point after leaving the service and get care for as long as is necessary.

EXTENSION OF EXPIRING AUTHORITIES

AUTHORITY TO PROVIDE PRIORITY HEALTH CARE

Mr. President, I am pleased that this legislation includes provisions relating to eligibility for medical care for exposure to dioxin or ionizing radiation.

These provisions also symbolize Congress' resolve to help veterans who were poorly informed or misinformed about their exposures to chemicals or atomic radiation. We want to assure these veterans that Congress is committed to providing the health care they need, even if the nature of their exposure makes it difficult to establish scientific proof that their exposures caused specific illnesses.

The proposed bill would extend, until June 30, 1995, current eligibility criteria for dioxin-exposed or radiation-exposed veterans to inpatient and nursing home care for the treatment of any disability not found to have resulted from a cause other than the exposure in question.

Mr. President,, although it may take years to determine all the causes of the mysterious illnesses experienced by our Persian Gulf war veterans, we must continue to provide medical care to those veterans who are suffering from these illnesses.

In this regard, the pending measure also includes a provision to authorize VA to provide inpatient or outpatient care to Persian Gulf war veterans until December 31, 1995.

TITLE II—CONSTRUCTION AUTHORIZATION

Mr. President, I am pleased that the compromise agreement would authorize major medical facility projects—projects for the construction, alteration, or acquisition of a medical facility currently involving a total expenditure of more than $3 million, as requested in the President's budget for fiscal year 1995. The following five projects, and the amounts specified, were requested in the President's budget submission for fiscal year 1995: (1) Design funds for construction of a new medical facility and nursing home in Brevard County, FL, $17.2 million; (2) seismic corrections to an existing facility in Memphis, TN, $62.3 million; (3) a tower addition to the David Grant Medical Center in Travis, CA, $7.3 million; (4) a research addition to the Medical Education Building in Huntington, WV, $9.9 million; (5) a research addition at the Portland, OR, Medical Center, $16.1 million.

As noted by both committees in the explanatory statement, three of the major medical facility projects in the VA fiscal year 1995 budget submission were authorized or partially funded in a prior year and therefore do not require authorization under section 8104(a)(2) of title 38, United States Code. These projects are at the VA medical centers in Memphis, TN—$10.7 million was authorized for FY 1994; Travis, CA—$11 million was appropriated for fiscal year 1993; and Huntington, WV—$250,000 was appropriated for fiscal year 1991.

The compromise agreement would also authorize the ambulatory care projects that were proposed in the documents submitted to Congress by the Secretary of Veterans Affairs in conjunction with the budget, to be financed with funds from the Health Care Investment Fund to be established under the proposed Health Security Act. These projects will be crucial to VA's ability to adapt to changing trends in health care practices. They are: (1) $9.6 million for the lease-purchase of an outpatient clinic in Bay Pines, FL; (2) $48 million for an ambulatory care addition and renovations at the Boston, MA, Medical Center; (3) $14 million to renovate the Naval Training Center Hospital in Orlando, FL, for use as a VA outpatient clinic and nursing home; (4) $29.2 million for an ambulatory care addition at the Hampton, VA, Medical Center; and (5) $48.6 million for an ambulatory care addition and renovations at the West Haven, CT, Medical Center.

Ambulatory care projects proposed to be constructed through the investment fund that do not require authorization are: (1) $17.8 million for an ambulatory care addition at the Gainesville, FL, Medical Center; (2) $22.9 million for an ambulatory care addition at the Columbia, MO, Medical Center; and (3) $34.8 million for an ambulatory care addition and parking garage at San Juan, PR.

Mr. President, I am pleased that the compromise agreement would also authorize the following additional projects: (1) a nursing home facility at the VA Medical Center in Charleston, SC, $7,300,000; (2) a lease/purchase of a nursing home facility near Ft. Myers, FL, $12,800,000; and (3) an outpatient care addition at the VA Medical Center in Phoenix, AZ, $50,000,000.

The compromise agreement would also authorize funds for construction of an ambulatory care facility to replace the earthquake-damaged facility in Sepulveda, CA. Funds for this project totaling $103.7 million have been made available through the Emergency Supplemental Appropriations Act of 1994.

I am pleased also that the compromise agreement would authorize the Secretary of Veterans Affairs to carry out two major medical facility leases—leases of space for use as a medical facility at an average annual rental rate of more than $300,000—for which funds were requested in the President's budget submission for fiscal year 1995, and would authorize the appropriation of $15,800,000 for those leases.

The major medical facility leases proposed in the President's budget and authorized by the committees are: an outpatient clinic in Ponce, PR—$1,175,040; and an outpatient clinic in Winston-Salem, NC—$844,800.

Leases for which funding is requested in the President's fiscal year 1995 budget, but for which authorization is not required are: a residential facility in Hilo, HI—$457,200; an outpatient expansion in Sacramento, CA—$345,000; a parking garage in Birmingham, AL $546,000; and a health care medical education center in Washington, DC—$350,000.

I am pleased that the compromise agreement also would include an authorization of $379,370,000 for the major medical facility projects I have outlined.

It is critical to the VA's mission that it maintain its capital investment and modernize the physical plants where appropriate to ensure that the VA health care system can provide state-of-the-art medical care and respond to the changing needs of our Nation's veterans.

Mr. President, in closing, I thank our committee's ranking Republican member, Senator MURKOWSKI, for his cooperation and help with this bill. I am also grateful to many other members of the committee for their support on this measure.

I also express my gratitude for their work on this legislation to the committee's minority staff, Carrie Gavora, Mickey Thursam, Chris Yoder, Bill Tuerk, and John Moseman, and, for all their help to me on this measure, majority staff members Kim Lipsky, Tom Hart, Diana Zuckerman, Valerie Kessner, Bill Brew, and Jim Gottlieb.

I also thank the chairman of the House Committee on Veterans' Affairs, G.V. "SONNY" MONTGOMERY, and the committee's ranking Republican member, BOB STUMP, as well as the other members of the House committee.

We also owe a debt of gratitude to Charlie Armstrong of the Senate Legislative Counsel's office and to Bob Cover of the House Legislative Counsel's office for the painstaking care and skill they devoted to the drafting of this legislation.

Thank you, Mr. President.

Mr. President, I ask unanimous consent that the explanatory statement on this compromise agreement prepared by the House and Senate Committees on Veterans' Affairs be printed in the RECORD at this time.

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

JOINT EXPLANATORY STATEMENT FOR H.R. 3313, THE PROPOSED VETERANS HEALTH PROGRAMS EXTENSION ACT OF 1994

H.R. 3313, the proposed "Veterans Health Programs Extension Act of 1994", reflects a compromise agreement that the Senate and House of Representatives Committees on Veterans' Affairs have reached on a number of bills considered in the Senate and House during the 103d Congress, including: H.R. 3313 as passed by the House on November 16, 1993 (hereinafter referred to as the "House bill"); H.R. 4425 as passed by the House on May 23, 1994; S. 1030 as passed by the Senate on July 26, 1994 (hereinafter referred to as the "Senate bill"); S. 2277 as passed by the Senate on August 19, 1994; and S. 2325, which the Senate Committee on Veterans' Affairs reported on September 27, 1994, but which did not receive Senate consideration prior to the end of the 103d Congress.

The Committees on Veterans' Affairs have prepared the following explanation of H.R. 3313 as amended (hereinafter referred to as the "compromise agreement"). Differences between the provisions contained in the compromise agreement and the related provisions in the bills listed above are noted in this document, except for clerical corrections and conforming changes made necessary by the compromise agreement, and minor drafting, technical, and clarifying changes.

TITLE I—GENERAL MEDICAL AUTHORITIES

SEXUAL TRAUMA COUNSELING AND SERVICES

Current law: Section 102 of 1720D of title 38 (a) provides that through December 31, 1995, VA may furnish sexual trauma counseling to any woman who seeks counseling within 2 years after her discharge from service; (b) authorizes VA to provide counseling services through contract with non-VA providers through December 31, 1994; (c) prohibits VA from providing counseling for a period in excess of 1 year unless the Secretary determines that a longer period of counseling is needed; and (d) requires the Secretary to provide information on the availability of such counseling.

Under section 103 of Public Law 102-585, veterans who seek care for sexual trauma

have the same priority for care as a veteran who has a service-connected disability rated at 30 percent or below and who is seeking care for a non-service-connected disability or who is being examined to determine the existence or severity of a service-connected disability.

House bill: Section 106 would (a) extend the time period during which VA may provide sexual trauma counseling to veterans to December 31, 1998; (b) repeal the limitation on the period within which a veteran could seek sexual trauma counseling; (c) extend VA's authority to provide sexual trauma care through contracts with non-VA providers for 4 years, through December 31, 1998; (d) authorize VA to provide sexual trauma counseling to males; (e) require, rather than permit, VA to establish a toll-free telephone number to provide informational services; and (f) require a report on the operation of the telephone program. Section 106(d) would increase the priority for VA outpatient care accorded to veterans for sexual trauma care to that accorded to any veteran seeking care for a service-connected disability or for the treatment of any disability of a veteran who has a service-connected disability rated at 50 percent or above.

Senate bill: Section 101 is similar to the House bill, except that it authorizes VA to provide, in addition to counseling for sexual trauma, treatment for physical conditions resulting from that trauma.

Compromise agreement: Section 101 contains provisions derived from the two bills, including the provision from the Senate bill relating to treatment for physical conditions.

RESEARCH RELATING TO WOMEN VETERANS

Current law: Section 109 of Public Law 102-585 directs the Secretary to foster and encourage research relating to the health of women veterans; section 110 of Public Law 102-585 authorizes a population study of women veterans.

House bill: Section 105 would (a) require the Secretary to include women and minority veterans in research projects whenever possible and appropriate and ensure that in studies in which such veterans are included, the studies be designed and carried out so as to yield information on such veterans; and (b) amend section 110 of Public Law 102-585 to require that the population study include a sample that is representative of all women veterans.

Senate bill: Section 105 would (a) amend section 109(a) of Public Law 102-585, relating to VA research activity, to require the Secretary to consult with other specified VA officials as part of the effort to foster and encourage the initiation and expansion of research into women's health issues, to ensure that certain personnel be engaged in such research, and to include in such research, research into the following matters as they relate to women: (1) breast cancer, (2) gynecological and reproductive health, including gynecological cancer, infertility, sexually transmitted diseases, and pregnancy, (3) Human Immunodeficiency Virus (HIV) and Acquired Immune Deficiency Syndrome (AIDS), (4) mental health, including post-traumatic stress disorder and depression, (5) diseases relating to aging, including menopause, osteoporosis, and Alzheimer's disease, (6) substance abuse, (7) sexual violence and related trauma, and (8) exposure to toxic chemicals and other environmental hazards; and (b) amend section 109(b), relating to the population study, in a way similar to the House provision.

Compromise agreement: Section 102 follows the House bill with respect to the amendment to section 110 of Public Law 102-585 relating to the population study. However, rather than amending section 109(a) of Public Law 102-585 with respect to the Secretary's role in encouraging research, the compromise agreement repeals that section and adds a new subsection to section 7303 of title 38. The compromise agreement follows the Senate bill with respect to requiring the Secretary to consult with individuals charged with overseeing women's health programs, including the Director of the Nursing Service, Central Office officials who have the responsibility for women's health programs and sexual trauma services, members of the Advisory Committee on Women Veterans, and other members of appropriate task forces and working groups within the Department.

The Committees strongly urge the Secretary to improve VA research on women's health issues by establishing research priorities, supporting more research on women's health, and when possible, comparing the efficacy of treatment regimens for male and female patients.

EXTENSION OF EXPIRING AUTHORITIES

Authority to Provide Priority Health Care

Current law: Under section 1710(e) of title 38, various groups of veterans exposed to hazardous substances during their service—those exposed (a) to ionizing radiation from the detonation of a nuclear device or during service in Hiroshima or Nagasaki, Japan, following World War II; (b) to dioxin or other toxins during service in Vietnam; or (c) to toxins or environmental hazards during the Persian Gulf War—are eligible for inpatient and nursing home care for the treatment of any disability not found to have resulted from a cause other than the exposure in question. Veterans exposed to radiation or dioxin are eligible for certain outpatient care for the treatment of such disabilities under section 1712(a)(4). Persian Gulf War veterans are eligible under section 1712(a)(1)(D) for comprehensive outpatient care for the treatment of such disabilities. The authority expired on June 30, 1994, as to veterans exposed to radiation or dioxin, and expires on December 31, 1994, as to Persian Gulf War veterans.

House bill: Section 201 would modify current law so as to (a) limit the treatment of veterans exposed to dioxin to treatment of those diseases as to which the National Academy of Sciences has determined there is sufficient evidence to conclude there is a positive association between the disease in humans and exposure to an herbicide agent, those as to which there is evidence suggestive of an association, but such evidence is limited, and those as to which available studies are insufficient to permit a conclusion of an association; (b) extend the period of eligibility for hospital and nursing home care for those exposed to dioxin until September 30, 1996; (c) limit the treatment of veterans exposed to radiation to treatment of those diseases listed in section 1112(c)(2) of title 38 and those as to which VA determines there is credible evidence of a positive association between disease occurrence and radiation exposure for which the Congress has established presumptive service connection; (d) repeal the sunset date for eligibility for hospital and nursing home care for veterans exposed to radiation; (e) mandate, in the case of veterans exposed to either radiation or dioxin, any needed outpatient treatment for covered illnesses and provide a higher priority to such treatment; and (f) provide that veterans who had received care under the prior authority would not lose eligibility for continued care.

Senate bill: Section 201 would amend section 1710(e) of title 38 to extend the period of entitlement to VA inpatient and nursing home care for veterans exposed to dioxin or radiation until December 31, 2003. Section 202 would extend the authority to provide care for veterans of the Persian Gulf War until October 1, 2003.

Compromise agreement: Section 103(a) would amend section 1710(e) of title 38 to extend current law regarding care for veterans exposed to dioxin or radiation until June 30, 1995, and to extend current law regarding care for Persian Gulf War veterans until December 31, 1995.

Drug and Alcohol Abuse and Dependence

Current law: Section 1720(A) of title 38 authorizes VA, through December 3, 1994, to provide veterans who are suffering from substance abuse disabilities with care on a contract basis through community halfway houses.

House bill: No comparable provision.

Senate bill: Section 102 of S. 2325 would make permanent VA's authority to contract with non-VA halfway houses for rehabilitation services for veterans with substance abuse problems.

Compromise agreement: Section 103(b) would extend the authorization of this program until December 31, 1995.

Pilot Program for Noninstitutional Alternatives to Nursing Home Care

Current law: Section 1720C of title 38 authorizes VA, through October 1, 1994, to conduct a pilot program for furnishing certain services in noninstitutional settings for certain veterans who are in need of nursing home care.

House bill: Section 202 of H.R. 4425 would extend, until September 30, 1997, the pilot program, and would expand eligibility for the program to include all veterans who are eligible for and in need of VA nursing home care.

Senate bill: No comparable provision.

Compromise agreement: Section 103(c) would extend the pilot program until September 30, 1995.

Enhanced-Use Leases of Real Property

Current law: Subchapter V of chapter 81, title 38, authorizes the Secretary, through December 31, 1994, to enter into enhanced-use leases under which another party may use VA property so long as at least part of the property will provide for an activity which contributes to the mission of the Department of Veterans Affairs and enhances the use of the property.

House bill: No comparable provision.

Senate bill: Section 408 of S. 2325 would extend until December 31, 1996, the authority for VA to enter into enhanced-use leases.

Compromise agreement: Section 103(d) follows the Senate bill with an extension until December 31, 1995.

Authority for Community-Based Residential Care for Homeless Chronically Mentally Ill Veterans and Other Veterans

Current law: Public Law 100-322, based on Public Law 100-6, authorizes VA to conduct a program, known as the Homeless Chronically Mentally Ill (HCMI) program, through which VA outreach workers contact homeless veterans in the community, assess and refer veterans to community services, and place eligible veterans in contracted community-based residential treatment facilities. Public Law 102-405 extended VA's authority to conduct the HCMI program until September 30, 1994.

House bill: No comparable provision.

Senate bill: Section 104 of S. 2325 would reauthorize until September 30, 1999, the HCMI program and codify the program in title 38, United States Code.

Compromise agreement: Section 103(e) would reauthorize the HCMI program until September 30, 1995.

Demonstration Program of Compensated Work Therapy

Current law: Section 7 of Public Law 102-54, enacted in 1991, authorizes VA to conduct through October 1, 1994, a demonstration program of compensated work therapy and transitional residences (CWT/TR), which shall have two components. Under one component, VA is authorized to purchase and renovate no more than 50 residences as therapeutic transitional houses for chronic substance abusers. Under the second component, VA is authorized to contract with nonprofit corporations which would own and operate the transitional residences in conjunction with existing VA compensated work therapy programs.

House bill: Section 402 would (a) extend the CWT/TR demonstration program from fiscal year 1994 through fiscal year 1998, and (b) permit the Department to increase incrementally the number of residences it operates to a maximum of 106 in fiscal year 1998.

Senate bill: Section 101 of S. 2325 would extend the authorization of the CWT/TR program to fiscal year 1996.

Compromise agreement: Section 103(f) would reauthorize the CWT/TR program until October 1, 1995.

FACILITIES IN THE REPUBLIC OF THE PHILIPPINES

Current law: Section 1724 of title 38 limits the circumstances under which VA may provide medical care outside the United States, Puerto Rico, and the Virgin Islands. Under that section, VA may furnish non-service-connected treatment in the Philippines only on a contract basis with the Veterans Memorial Medical Center, a non-VA facility.

House bill: Section 504 of H.R. 4425 would ratify VA's actions in finding alternative means for caring for patients at the Veterans Memorial Medical Center in the Philippines during the period between February 29 and June 1, 1994, to include the provision of medical services to non-service-connected veterans at its Manila outpatient clinic.

Senate bill: No provision.

Compromise agreement: Section 104 follows the House bill.

TITLE II—CONSTRUCTION AUTHORIZATION

Authorization of Major Medical Facility Projects and Major Medical Facility Leases

Current law: Section 8104(a)(2) of title 38 provides that no funds may be appropriated for any fiscal year, and the Secretary of Veterans Affairs may not obligate or expend funds (other than for advance planning and design), for any major medical facility project or any major medical facility lease, unless funds for that project or lease have been specifically authorized by law.

House bill: Section 101(a)(1) of H.R. 4425 would authorize the Secretary, except as provided in section 101(a)(2), to carry out the major medical facility projects and major medical facility leases for the Department of Veterans Affairs for which funds were requested in the President's budget for fiscal year 1995.

Section 101(a)(2) would prohibit the Secretary from carrying out the projects for the construction of research additions at Huntington, WV, and Portland, OR.

Section 101(b) would authorize the Secretary to carry out the following additional major medical facility projects in the amounts specified: (1) The projects for ambulatory care facilities that are proposed in the budget for fiscal year 1995 to be financed with funds from the Health Care Investment Fund; (2) a nursing home facility at the VA Medical Center in Charleston, SC, $7,300,000; (3) a lease/purchase of a nursing home facility near Ft. Myers, FL, $18,630,000; and (4) an outpatient care addition at the VA Medical Center in Phoenix, AZ, $50,000,000.

Section 201(c) would authorize the construction of an ambulatory care/support services facility and other projects required to repair, restore, or replace, earthquake damage at the VA Medical Center in Sepulveda, CA, for which funds were appropriated in the Emergency Supplemental Appropriations act of 1994.

Senate bill: Section 1(a) of S. 2277 is substantively identical to the House provision in section 101(a), except that it would authorize all of the VA major medical facility projects for which funds are requested for fiscal year 1995, including the research additions in Portland, OR, and Huntington, WV. Section 1(a) states that the authorization in section 1(a) includes projects or leases that were previously authorized or funded.

Section 1(b) would authorize the following additional projects: (1) The projects for ambulatory care facilities that are proposed in the budget for fiscal year 1995 to be financed with funds from the Health Care Investment Fund; (2) a nursing home facility at the VA Medical Center in Charleston, SC, $7,300,000; and (3) an outpatient care addition at the VA Medical Center in Phoenix, AZ, $50,000,000.

Section 1(c) authorizes the construction of an ambulatory care/support services facility and other projects required to repair, restore, or replace, earthquake damage at the VA Medical Center in Sepulveda, CA, for which funds were appropriated in the Emergency Supplemental Appropriations Act of 1994.

Compromise agreement: Section 201(a) follows Senate provision section 1(a) and would authorize the VA to enter into the major medical facility projects and major medical facility leases for the Department of Veteran's Affairs for which funds were requested in the President's budget for fiscal year 1995.

Section 201(b) generally follows House provision section 101(b) and would authorize the following additional projects: (1) The projects for ambulatory care facilities that are proposed in the budget for fiscal year 1995 to be financed with funds from the Health Care Investment Fund; (2) a nursing home facility at the VA Medical Center in Charleston, SC, $7,300,000; (3) a lease/purchase of a nursing home facility near Ft. Myers, FL, $12,800,000; and (4) an outpatient care addition at the VA Medical Center in Phoenix, AZ, $50,000,000.

Section 201(c) is identical to House provision section 101(c) and Senate provision section 1(c) and would authorize the construction of an ambulatory care/support services facility and other projects required to repair, restore, or replace, earthquake damage at the VA Medical Center in Sepulveda, CA, for which funds were appropriated in the Emergency Supplemental Appropriations Act of 1994.

The Committees note that some major medical facility projects in the VA fiscal year 1995 budget submission were authorized or partially funded in a prior year and therefore do not require authorization under section 8104(a)(2) of title 38. These projects are: (1) Seismic corrections at the Memphis, TN, Medical Center, $62.3 million ($10.7 million was authorized for FY 1994); (2) construction of a medical center in Travis, CA, to replace the Martinez facility, $7.3 million for phase I ($11 million was appropriated for FY 1993); (3) construction of research facility in Huntington, WV, $9.9 million ($250,000 was appropriated for FY 1991); (4) construction of an ambulatory care addition at the Columbia, MO, Medical Center, $22.9 million ($300,00 was appropriated for FY 1993); (5) construction of an ambulatory care addition and parking garage at the San Juan, PR, Medical Center, $34.8 million ($46 million was authorized FY 1994); and (6) construction of an outpatient facility at the VA Medical Center in Gainesville, FL, $17.8 million (8.9 million appropriated for FY 1990).

Leases for which funding is requested in the budget but for which authorization is not required are: (1) Hilo, HI, residential facility, $457,200 (funds appropriated for FY 1992); (2) Sacramento, CA, outpatient expansion, $345,000 (funds authorized for FY 1994); (3) Birmingham, AL, parking garage $546,000 (GSA lease); (4) Washington, DC, health care medical education center, $350,000 (GSA lease).

Authorization of Appropriations

Current law: Section 8104(a)(2) of title 38 provides that no funds may be appropriated for any fiscal year, and the Secretary of Veterans Affairs may not obligate or expend funds (other than for advance planning and design), for any major medical facility project or any major medical facility lease, unless funds for that project or lease have been specifically authorized by law.

House bill: Section 102(a) of H.R. 4425 would authorize to be appropriated to the Secretary of Veterans Affairs for fiscal year 1995 (1) $343,800,000 for the authorized major medical facility projects; and (2) $15,800,000 for the authorized major medical facility leases.

Section 102(b) would limit the authorized projects to be carried out using only (1) specifically authorized major construction funds appropriated for fiscal year 1995; (2) funds appropriated for Construction, Major Projects, for a fiscal year before fiscal year 1995 that remain available for obligation; and (3) funds appropriated for Construction, Major Projects, for fiscal year 1995 for a category of activity not specific to a project.

Section 102(c) would limit the project authorized in section 101(c) to be carried out using only (1) funds appropriated as well as funds transferred by the President to the Construction, Major Projects account pursuant to the Emergency Supplemental Appropriations Act of 1994; (2) funds appropriated to the Medical Care Account by the Emergency Supplemental Appropriations Act of 1994 that are transferred by law to the Construction, Major Projects account; (3) funds appropriated to the Construction, Major Projects account for a fiscal year before fiscal year 1994 that remain available for obligation; and (4) funds appropriated for Construction, Major Projects, for fiscal year 1994 for a category of activity not specific to a project.

Senate bill: Section 2(a) of S. 2277 would authorize to be appropriated for fiscal year 1995 (1) $395,000,000 for major medical facility projects; and (2) $15,900,000 for major medical facility leases.

Section 2(b) is substantively identical to the House provision in section 102(b).

Section 2(c) is substantively identical to the House provision in section 102(c).

Comprise agreement: Section 202(a) would authorize to be appropriated to the Secretary of Veterans Affairs for fiscal year 1995

(1) $379,370,000 for the authorized major medical facility projects; and (2) $15,800,000 for the authorized major medical facility leases.

Section 202(b) is identical to House provision section 102(b), and Senate provision section 2(b).

Section 202(c) would limit the projects authorized in section 101(c) to be carried out using only: (1) Funds appropriated as well as funds transferred by the President to the Construction, Major Projects account pursuant to the Emergency Supplemental Appropriations Act of 1994; (2) funds appropriated to the Medical Care Account by the Emergency Supplemental Appropriations Act of 1994 that are transferred by law to the Construction, Major Projects account; (3) funds appropriated to the Construction, Major Projects account; (3) funds appropriated to the Construction, Major Projects account for a fiscal year before fiscal year 1995 that remain available for obligation; and (4) funds appropriated for Construction, Major Projects, for fiscal year 1995 for a category of activity not specific to a project.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the Senate concur in amendments of the House.

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

CENTER FOR RARE DISEASE RESEARCH IN THE NATIONAL INSTITUTES OF HEALTH

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 714, S. 1203, a bill to establish a center for rare disease research in the National Institutes of Health; that the committee substitute be agreed to; the bill be read a third time and passed and any statements thereon appear in the RECORD at the appropriate place as though read.

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

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Labor and Human Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Office for Rare Disease Research Act of 1994".

SEC. 2. ESTABLISHMENT OF OFFICE FOR RARE DISEASE RESEARCH.

Part A of title IV of the Public Health Service Act (42 U.S.C. 281 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 404F. OFFICE FOR RARE DISEASE RESEARCH.

"(a) ESTABLISHMENT.—There is established within the Office of the Director of the National Institutes of Health an office to be known as the Office for Rare Disease Research (in this section referred to as the 'Office'). The Office shall be headed by a director, who shall be appointed by the Director of the National Institutes of Health.

"(b) PURPOSE.—The purpose of the Office is to promote and coordinate the conduct of research on rare diseases through a strategic research plan and to establish and manage a rare disease research clinical database.

"(c) ADVISORY COUNCIL.—The Secretary shall establish an advisory council for the purpose of providing advice to the director of the Office concerning carrying out the strategic research plan and other duties under this section. Section 222 shall apply to such council to the same extent and in the same manner as such section applies to committees or councils established under such section.

"(d) DUTIES.—In carrying out subsection (b), the director of the Office shall—

"(1) develop a comprehensive plan for the conduct and support of research on rare diseases;

"(2) coordinate and disseminate information among the institutes and the public on rare diseases;

"(3) support research training and encourage the participation of a diversity of individuals in the conduct of rare disease research;

"(4) identify projects or research on rare diseases that should be conducted or supported by the National Institutes of Health;

"(5) develop and maintain central database on current government sponsored clinical research projects for rare diseases;

"(6) determine the need for registries of research subjects and epidemiological studies of rare disease populations; and

"(7) prepare biennial reports on the activities carried out or to be carried out by the Office and submit such reports to the Secretary and the Congress.".

So the bill (S. 1203), as amended, was deemed read the third time and passed.

(The text of the bill will be printed in a future edition of the RECORD.)

PAPERWORK REDUCTION ACT

The text of the bill (S. 560) to further the goals of the Paperwork Reduction Act to have Federal agencies become more responsible and publicly accountable for reducing the burden of Federal paperwork on the public, and for other purposes, as passed by the Senate on October 6, 1994, is as follows:

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 "Paperwork Reduction Act of 1994".

SEC. 2. COORDINATION OF FEDERAL INFORMATION POLICY.

Chapter 35 of title 44, United States Code, is amended to read as follows:

"CHAPTER 35—COORDINATION OF FEDERAL INFORMATION POLICY

"Sec.
"3501. Purposes.
"3502. Definitions.
"3503. Office of Information and Regulatory Affairs.
"3504. Authority and functions of Director.
"3505. Assignment of tasks and deadlines.
"3506. Federal agency responsibilities.
"3507. Public information collection activities; submission to Director; approval and delegation.
"3508. Determination of necessity for information; hearing.
"3509. Designation of central collection agency.
"3510. Cooperation of agencies in making information available.
"3511. Establishment and operation of Government Information Locator Service.
"3512. Public protection.
"3513. Director review of agency activities; reporting; agency response.
"3514. Responsiveness to Congress.
"3515. Administrative powers.
"3516. Rules and regulations.
"3517. Consultation with other agencies and the public.
"3518. Effect on existing laws and regulations.
"3519. Access to information.
"3520. Authorization of appropriations.

"§ 3501. Purposes

"The purposes of this chapter are to—

"(1) minimize the paperwork burden for individuals, small businesses, educational and nonprofit institutions, Federal contractors, State, local and tribal governments, and other persons resulting from the collection of information by or for the Federal Government;

"(2) ensure the greatest possible public benefit from and maximize the utility of information created, collected, maintained, used, shared and disseminated by or for the Federal Government;

"(3) coordinate, integrate, and to the extent practicable and appropriate, make uniform Federal information resources management policies and practices as a means to improve the productivity, efficiency, and effectiveness of Government programs, including the reduction of information collection burdens on the public and the improvement of service delivery to the public;

"(4) improve the quality and use of Federal information to strengthen decisionmaking, accountability, and openness in Government and society;

"(5) minimize the cost to the Federal Government of the creation, collection, maintenance, use, dissemination, and disposition of information;

"(6) strengthen the partnership between the Federal Government and State, local, and tribal governments by minimizing the burden and maximizing the utility of information created, collected, maintained, used, disseminated, and retained by or for the Federal Government;

"(7) provide for the dissemination of public information on a timely basis, on equitable terms, and in a manner that promotes the utility of the information to the public and makes effective use of information technology;

"(8) ensure that the creation, collection, maintenance, use, dissemination, and disposition of information by or for the Federal Government is consistent with applicable laws, including laws relating to—

"(A) privacy and confidentiality, including section 552a of title 5;

"(B) security of information, including the Computer Security Act of 1987 (Public Law 100–235); and

"(C) access to information, including section 552 of title 5;

"(9) ensure the integrity, quality, and utility of the Federal statistical system;

"(10) ensure that information technology is acquired, used, and managed to improve performance of agency missions, including the reduction of information collection burdens on the public; and

"(11) improve the responsibility and accountability of the Office of Management and Budget and all other Federal agencies to Congress and to the public for implementing the information collection review process, information resources management, and related policies and guidelines established under this chapter.

"§ 3502. Definitions

"As used in this chapter—

"(1) the term 'agency' means any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency, but does not include—

"(A) the General Accounting Office;

"(B) Federal Election Commission;

"(C) the governments of the District of Columbia and of the territories and possessions of the United States, and their various subdivisions; or

"(D) Government-owned contractor-operated facilities, including laboratories engaged in national defense research and production activities;

"(2) the term 'burden' means time, effort, or financial resources expended by persons to generate, maintain, or provide information to or for a Federal agency, including the resources expended for—

"(A) reviewing instructions;

"(B) acquiring, installing, and utilizing technology and systems;

"(C) adjusting the existing ways to comply with any previously applicable instructions and requirements;

"(D) searching data sources;

"(E) completing and reviewing the collection of information; and

"(F) transmitting, or otherwise disclosing the information;

"(3) the term 'collection of information' means the obtaining, causing to be obtained, soliciting, or requiring the disclosure to third parties or the public, of facts or opinions by or for an agency, regardless of form or format, calling for either—

"(A) answers to identical questions posed to, or identical reporting or recordkeeping requirements imposed on, ten or more persons, other than agencies, instrumentalities, or employees of the United States; or

"(B) answers to questions posed to agencies, instrumentalities, or employees of the United States which are to be used for general statistical purposes;

"(4) the term 'Director' means the Director of the Office of Management and Budget;

"(5) the term 'independent regulatory agency' means the Board of Governors of the Federal Reserve System, the Commodity Futures Trading Commission, the Consumer Product Safety Commission, the Federal Communications Commission, the Federal Deposit Insurance Corporation, the Federal Energy Regulatory Commission, the Federal Housing Finance Board, the Federal Maritime Commission, the Federal Trade Commission, the Interstate Commerce Commission, the Mine Enforcement Safety and Health Review Commission, the National Labor Relations Board, the Nuclear Regulatory Commission, the Occupational Safety and Health Review Commission, the Postal Rate Commission, the Securities and Exchange Commission, and any other similar agency designated by statute as a Federal independent regulatory agency or commission;

"(6) the term 'information resources' means information and related resources, such as personnel, equipment, funds, and information technology;

"(7) the term 'information resources management' means the process of managing information resources to accomplish agency missions and to improve agency performance, including through the reduction of information collection burdens on the public;

"(8) the term 'information system' means a discrete set of information resources and processes, automated or manual, organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information;

"(9) the term 'information technology' has the same meaning as the term 'automatic data processing equipment' as defined by section 111(a)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(a)(2));

"(10) the term 'person' means an individual, partnership, association, corporation, business trust, or legal representative, an organized group of individuals, a State, territorial, or local government or branch thereof, or a political subdivision of a State, territory, or local government or a branch of a political subdivision;

"(11) the term 'practical utility' means the ability of an agency to use information, particularly the capability to process such information in a timely and useful fashion;

"(12) the term 'public information' means any information, regardless of form or format, that an agency discloses, disseminates, or makes available to the public; and

"(13) the term 'recordkeeping requirement' means a requirement imposed by or for an agency on persons to maintain specified records.

"§ 3503. Office of Information and Regulatory Affairs

"(a) There is established in the Office of Management and Budget an office to be known as the Office of Information and Regulatory Affairs.

"(b) There shall be at the head of the Office an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall delegate to the Administrator the authority to administer all functions under this chapter, except that any such delegation shall not relieve the Director of responsibility for the administration of such functions. The Administrator shall serve as principal adviser to the Director on Federal information resources management policy.

"(c) The Administrator and employees of the Office of Information and Regulatory Affairs shall be appointed with special attention to professional qualifications required to administer the functions of the Office described under this chapter. Such qualifications shall include relevant education, work experience, or related professional activities.

"§ 3504. Authority and functions of Director

"(a)(1) The Director shall oversee the use of information resources to improve the efficiency and effectiveness of governmental operations to serve agency missions, including service delivery to the public. In performing such oversight, the Director shall—

"(A) develop, coordinate and oversee the implementation of Federal information resources management policies, principles, standards, and guidelines; and

"(B) provide direction and oversee—

"(i) the review of the collection of information and the reduction of the information collection burden;

"(ii) agency dissemination of and public access to information;

"(iii) statistical activities;

"(iv) records management activities;

"(v) privacy, confidentiality, security, disclosure, and sharing of information; and

"(vi) the acquisition and use of information technology.

"(2) The authority of the Director under this chapter shall be exercised consistent with applicable law.

"(b) With respect to general information resources management policy, the Director shall—

"(1) develop and oversee the implementation of uniform information resources management policies, principles, standards, and guidelines;

"(2) foster greater sharing, dissemination, and access to public information, including through—

"(A) the use of the Government Information Locator Service; and

"(B) the development and utilization of common standards for information collection, storage, processing and communication, including standards for security, interconnectivity and interoperability;

"(3) initiate and review proposals for changes in legislation, regulations, and agency procedures to improve information resources management practices;

"(4) oversee the development and implementation of best practices in information resources management, including training; and

"(5) oversee agency integration of program and management functions with information resources management functions.

"(c) With respect to the collection of information and the control of paperwork, the Director shall—

"(1) review proposed agency collections of information, and in accordance with section 3508, determine whether the collection of information by or for an agency is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

"(2) coordinate the review of the collection of information associated with Federal procurement and acquisition by the Office of Information and Regulatory Affairs with the Office of Federal Procurement Policy, with particular emphasis on applying information technology to improve the efficiency and effectiveness of Federal procurement and acquisition and to reduce information collection burdens on the public;

"(3) minimize the Federal information collection burden, with particular emphasis on those individuals and entities most adversely affected;

"(4) maximize the practical utility of and public benefit from information collected by or for the Federal Government; and

"(5) establish and oversee standards and guidelines by which agencies are to estimate the burden to comply with a proposed collection of information.

"(d) With respect to information dissemination, the Director shall develop and oversee the implementation of policies, principles, standards, and guidelines to—

"(1) apply to Federal agency dissemination of public information, regardless of the form or format in which such information is disseminated; and

"(2) promote public access to public information and fulfill the purposes of this chapter, including through the effective use of information technology.

"(e) With respect to statistical policy and coordination, the Director shall—

"(1) coordinate the activities of the Federal statistical system to ensure—

"(A) the efficiency and effectiveness of the system; and

"(B) the integrity, objectivity, impartiality, utility, and confidentiality of information collected for statistical purposes;

"(2) ensure that budget proposals of agencies are consistent with system-wide priorities for maintaining and improving the quality of Federal statistics and prepare an annual report on statistical program funding;

"(3) develop and oversee the implementation of Governmentwide policies, principles, standards, and guidelines concerning—

"(A) statistical collection procedures and methods;

"(B) statistical data classification;

"(C) statistical information presentation and dissemination;

"(D) timely release of statistical data; and

"(E) such statistical data sources as may be required for the administration of Federal programs;

"(4) evaluate statistical program performance and agency compliance with Governmentwide policies, principles, standards and guidelines;

"(5) promote the sharing of information collected for statistical purposes consistent with privacy rights and confidentiality pledges;

"(6) coordinate the participation of the United States in international statistical activities, including the development of comparable statistics;

"(7) appoint a chief statistician who is a trained and experienced professional statistician to carry out the functions described under this subsection;

"(8) establish an Interagency Council on Statistical Policy to advise and assist the Director in carrying out the functions under this subsection that shall—

"(A) be headed by the chief statistician; and

"(B) consist of—

"(i) the heads of the major statistical programs; and

"(ii) representatives of other statistical agencies under rotating membership; and

"(9) provide opportunities for training in statistical policy functions to employees of the Federal Government under which—

"(A) each trainee shall be selected at the discretion of the Director based on agency requests and shall serve under the chief statistician for at least 6 months and not more than 1 year; and

"(B) all costs of the training shall be paid by the agency requesting training.

"(f) With respect to records management, the Director shall—

"(1) provide advice and assistance to the Archivist of the United States and the Administrator of General Services to promote coordination in the administration of chapters 29, 31, and 33 of this title with the information resources management policies, principles, standards, and guidelines established under this chapter;

"(2) review compliance by agencies with—

"(A) the requirements of chapters 29, 31, and 33 of this title; and

"(B) regulations promulgated by the Archivist of the United States and the Administrator of General Services; and

"(3) oversee the application of records management policies, principles, standards, and guidelines, including requirements for archiving information maintained in electronic format, in the planning and design of information systems.

"(g) With respect to privacy and security, the Director shall—

"(1) develop and oversee the implementation of policies, principles, standards, and guidelines on privacy, confidentiality, security, disclosure and sharing of information collected or maintained by or for agencies;

"(2) oversee and coordinate compliance with sections 552 and 552a of title 5, the Computer Security Act of 1987 (40 U.S.C. 759 note), and related information management laws; and

"(3) require Federal agencies, consistent with the Computer Security Act of 1987 (40 U.S.C. 759 note), to identify and afford security protections commensurate with the risk and magnitude of the harm resulting from the loss, misuse, or unauthorized access to or modification of information collected or maintained by or on behalf of an agency.

"(h) With respect to Federal information technology, the Director shall—

"(1) in consultation with the Director of the National Institute of Standards and Technology and the Administrator of General Services—

"(A) develop and oversee the implementation of policies, principles, standards, and guidelines for information technology functions and activities of the Federal Government, including periodic evaluations of major information systems; and

"(B) oversee the development and implementation of standards under section 111(d) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(d));

"(2) monitor the effectiveness of, and compliance with, directives issued under sections 110 and 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757 and 759) and review proposed determinations under section 111(e) of such Act;

"(3) coordinate the development and review by the Office of Information and Regulatory Affairs of policy associated with Federal procurement and acquisition of information technology with the Office of Federal Procurement Policy;

"(4) ensure, through the review of agency budget proposals, information resources management plans and other means—

"(A) agency integration of information resources management plans, program plans and budgets for acquisition and use of information technology; and

"(B) the efficiency and effectiveness of inter-agency information technology initiatives to improve agency performance and the accomplishment of agency missions; and

"(5) promote the use of information technology by the Federal Government to improve the productivity, efficiency, and effectiveness of Federal programs, including through dissemination of public information and the reduction of information collection burdens on the public.

"§ 3505. Assignment of tasks and deadlines

"In carrying out the functions under this chapter, the Director shall—

"(1) in consultation with agency heads, set an annual Governmentwide goal for the reduction of information collection burdens by at least five percent, and set annual agency goals to—

"(A) reduce information collection burdens imposed on the public that—

"(i) represent the maximum practicable opportunity in each agency; and

"(ii) are consistent with improving agency management of the process for the review of collections of information established under section 3506(c); and

"(B) improve information resources management in ways that increase the productivity, efficiency and effectiveness of Federal programs, including service delivery to the public;

"(2) with selected agencies and non-Federal entities on a voluntary basis, conduct pilot projects to test alternative policies, practices, regulations, and procedures to fulfill the purposes of this chapter, particularly with regard to minimizing the Federal information collection burden;

"(3) in consultation with the Administrator of General Services, the Director of the National Institute of Standards and Technology, the Archivist of the United States, and the Director of the Office of Personnel Management, develop and maintain a Governmentwide strategic plan for information resources management, that shall include—

"(A) a description of the objectives and the means by which the Federal Government shall apply information resources to improve agency and program performance;

"(B) plans for—

"(i) reducing information burdens on the public, including reducing such burdens through the elimination of duplication and meeting shared data needs with shared resources;

"(ii) enhancing public access to and dissemination of, information, using electronic and other formats; and

"(iii) meeting the information technology needs of the Federal Government in accordance with the requirements of sections 110 and 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757 and 759), and the purposes of this chapter; and

"(C) a description of progress in applying information resources management to improve agency performance and the accomplishment of missions; and

"(4) in cooperation with the Administrator of General Services, issue guidelines for the establishment and operation in each agency of a process, as required under section 3506(h)(5) of this chapter, to review major information systems initiatives, including acquisition and use of information technology.

"§ 3506. Federal agency responsibilities

"(a)(1) The head of each agency shall be responsible for—

"(A) carrying out the agency's information resources management activities to improve agency productivity, efficiency, and effectiveness; and

"(B) complying with the requirements of this chapter and related policies established by the Director.

"(2)(A) Except as provided under subparagraph (B), the head of each agency shall designate a senior official who shall report directly to such agency head to carry out the responsibilities of the agency under this chapter.

"(B) The Secretary of the Department of Defense and the Secretary of each military department may each designate a senior official who shall report directly to such Secretary to carry out the responsibilities of the department under this chapter. If more than one official is designated for the military departments, the respective duties of the officials shall be clearly delineated.

"(3) The senior official designated under paragraph (2) shall head an office responsible for ensuring agency compliance with and prompt, efficient, and effective implementation of the information policies and information resources management responsibilities established under this chapter, including the reduction of information collection burdens on the public. The senior official and employees of such office shall be selected with special attention to the professional qualifications required to administer the functions described under this chapter.

"(4) Each agency program official shall be responsible and accountable for information resources assigned to and supporting the programs under such official. In consultation with the senior official designated under paragraph (2) and the agency Chief Financial Officer (or comparable official), each agency program official shall define program information needs and develop strategies, systems, and capabilities to meet those needs.

"(5) The head of each agency shall establish a permanent information resources management steering committee, which shall be chaired by the senior official designated under paragraph (2) and shall include senior program officials and the Chief Financial Officer (or comparable official). Each steering committee shall—

"(A) assist and advise the head of the agency in carrying out information resources management responsibilities of the agency;

"(B) assist and advise the senior official designated under paragraph (2) in the establishment of performance measures for information resources management that relate to program missions;

"(C) select, control, and evaluate all major information system initiatives (including acquisitions of information technology) in accordance with the requirements of subsection (h)(5); and

"(D) identify opportunities to redesign business practices and supporting information systems to improve agency performance.

"(b) With respect to general information resources management, each agency shall—

"(1) develop information systems, processes, and procedures to—

"(A) reduce information collection burdens on the public;

"(B) increase program efficiency and effectiveness; and

"(C) improve the integrity, quality, and utility of information to all users within and outside the agency, including capabilities for ensuring dissemination of public information, public access to government information, and protections for privacy and security;

"(2) in accordance with guidance by the Director, develop and maintain a strategic information resources management plan that shall describe how information resources management activities help accomplish agency missions;

"(3) develop and maintain an ongoing process to—

"(A) ensure that information resources management operations and decisions are integrated with organizational planning, budget, financial management, human resources management, and program decisions;

"(B) develop and maintain an integrated, comprehensive and controlled process of information systems selection, development, and evaluation;

"(C) in cooperation with the agency Chief Financial Officer (or comparable official), develop a full and accurate accounting of information technology expenditures, related expenses, and results; and

"(D) establish goals for improving information resources management's contribution to program productivity, efficiency, and effectiveness, methods for measuring progress towards those goals, and clear roles and responsibilities for achieving those goals;

"(4) in consultation with the Director, the Administrator of General Services, and the Archivist of the United States, maintain a current and complete inventory of the agency's information resources, including directories necessary to fulfill the requirements of section 3511 of this chapter; and

"(5) in consultation with the Director and the Director of the Office of Personnel Management, conduct formal training programs to educate agency program and management officials about information resources management.

"(c) With respect to the collection of information and the control of paperwork, each agency shall—

"(1) establish a process within the office headed by the official designated under subsection (a), that is sufficiently independent of program responsibility to evaluate fairly whether proposed collections of information should be approved under this chapter, to—

"(A) review each collection of information before submission to the Director for review under this chapter, including—

"(i) an evaluation of the need for the collection of information;

"(ii) a functional description of the information to be collected;

"(iii) a plan for the collection of the information;

"(iv) a specific, objectively supported estimate of burden;

"(v) a test of the collection of information through a pilot program, if appropriate; and

"(vi) a plan for the efficient and effective management and use of the information to be collected, including necessary resources;

"(B) ensure that each information collection—

"(i) is inventoried, displays a control number and, if appropriate, an expiration date;

"(ii) indicates the collection is in accordance with the clearance requirements of section 3507; and

"(iii) contains a statement to inform the person receiving the collection of information—

"(I) the reasons the information is being collected;

"(II) the way such information is to be used;

"(III) an estimate, to the extent practicable, of the burden of the collection; and

"(IV) whether responses to the collection of information are voluntary, required to obtain a benefit, or mandatory; and

"(C) assess the information collection burden of proposed legislation affecting the agency;

"(2)(A) except as provided under subparagraph (B), provide 60-day notice in the Federal Register, and otherwise consult with members of the public and affected agencies concerning each proposed collection of information, to solicit comment to—

"(i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

"(ii) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;

"(iii) enhance the quality, utility, and clarity of the information to be collected; and

"(iv) minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology; and

"(B) for any proposed collection of information contained in a proposed rule (to be reviewed by the Director under section 3507(d)), provide notice and comment through the notice of proposed rulemaking for the proposed rule and such notice shall have the same purposes specified under subparagraph (A) (i) through (iv); and

"(3) certify (and provide a record supporting such certification, including public comments received by the agency) that each collection of information submitted to the Director for review under section 3507—

"(A) is necessary for the proper performance of the functions of the agency, including that the information has practical utility;

"(B) is not unnecessarily duplicative of information otherwise reasonably accessible to the agency;

"(C) reduces to the extent practicable and appropriate the burden on persons who shall provide information to or for the agency, including with respect to small entities, as defined under section 601(6) of title 5, the use of such techniques as—

"(i) establishing differing compliance or reporting requirements or timetables that take into account the resources available to those who are to respond;

"(ii) the clarification, consolidation, or simplification of compliance and reporting requirements; or

"(iii) an exemption from coverage of the collection of information, or any part thereof;

"(D) is written using plain, coherent, and unambiguous terminology and is understandable to those who are to respond;

"(E) is to be implemented in ways consistent and compatible, to the maximum extent practicable, with the existing reporting and recordkeeping practices of those who are to respond;

"(F) contains the statement required under paragraph (1)(B)(iii);

"(G) has been developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected, including the processing of the information in a manner which shall enhance, where appropriate, the utility of the information to agencies and the public;

"(H) uses effective and efficient statistical survey methodology appropriate to the purpose for which the information is to be collected; and

"(I) to the maximum extent practicable, uses information technology to reduce burden and improve data quality, agency efficiency and responsiveness to the public.

"(d) With respect to information dissemination, each agency shall—

"(1) ensure that the public has timely and equitable access to the agency's public information, including ensuring such access through—

"(A) encouraging a diversity of public and private sources for information based on government public information, and

"(B) agency dissemination of public information in an efficient, effective, and economical manner;

"(2) regularly solicit and consider public input on the agency's information dissemination activities; and

"(3) not, except where specifically authorized by statute—

"(A) establish an exclusive, restricted, or other distribution arrangement that interferes with timely and equitable availability of public information to the public;

"(B) restrict or regulate the use, resale, or redissemination of public information by the public;

"(C) charge fees or royalties for resale or redissemination of public information; or

"(D) establish user fees for public information that exceed the cost of dissemination.

"(e) With respect to statistical policy and coordination, each agency shall—

"(1) ensure the relevance, accuracy, timeliness, integrity, and objectivity of information collected or created for statistical purposes;

"(2) inform respondents fully and accurately about the sponsors, purposes, and uses of statistical surveys and studies;

"(3) protect respondents' privacy and ensure that disclosure policies fully honor pledges of confidentiality;

"(4) observe Federal standards and practices for data collection, analysis, documentation, sharing, and dissemination of information;

"(5) ensure the timely publication of the results of statistical surveys and studies, including information about the quality and limitations of the surveys and studies; and

"(6) make data available to statistical agencies and readily accessible to the public.

"(f) With respect to records management, each agency shall implement and enforce applicable policies and procedures, including requirements for archiving information maintained in electronic format, particularly in the planning, design and operation of information systems.

"(g) With respect to privacy and security, each agency shall—

"(1) implement and enforce applicable policies, procedures, standards, and guidelines on privacy, confidentiality, security, disclosure and sharing of information collected or maintained by or for the agency;

"(2) assume responsibility and accountability for compliance with and coordinated management of sections 552 and 552a of title 5, the Computer Security Act of 1987 (40 U.S.C. 759 note), and related information management laws; and

"(3) consistent with the Computer Security Act of 1987 (40 U.S.C. 759 note), identify and afford security protections commensurate with the risk and magnitude of the harm resulting from the loss, misuse, or unauthorized access to or modification of information collected or maintained by or on behalf of an agency.

"(h) With respect to Federal information technology, each agency shall—

"(1) implement and enforce applicable Governmentwide and agency information technology management policies, principles, standards, and guidelines;

"(2) assume responsibility and accountability for any acquisitions made pursuant to a delegation of authority under section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759);

"(3) promote the use of information technology by the agency to improve the productivity, efficiency, and effectiveness of agency programs, including the reduction of information collection burdens on the public and improved dissemination of public information;

"(4) propose changes in legislation, regulations, and agency procedures to improve information technology practices, including changes that improve the ability of the agency to use technology to reduce burden; and

"(5) establish, and be responsible for, a major information system initiative review process, which shall be developed and implemented by the information resources management steering committee established under subsection (a)(5), consistent with guidelines issued under section 3505(4), and include—

"(A) the review of major information system initiative proposals and projects (including acquisitions of information technology), approval or disapproval of each such initiative, and periodic reviews of the development and implementation of such initiatives, including whether the projected benefits have been achieved;

"(B) the use by the committee of specified evaluative techniques and criteria to—

"(i) assess the economy, efficiency, effectiveness, risks, and priority of system initiatives in relation to mission needs and strategies;

"(ii) estimate and verify life-cycle system initiative costs; and

"(iii) assess system initiative privacy, security, records management, and dissemination and access capabilities;

"(C) the use, as appropriate, of independent cost evaluations of data developed under subparagraph (B); and

"(D) the inclusion of relevant information about approved initiatives in the agency's annual budget request.

"§ 3507. Public information collection activities; submission to Director; approval and delegation

"(a) An agency shall not conduct or sponsor the collection of information unless in advance of the adoption or revision of the collection of information—

"(1) the agency has—

"(A) conducted the review established under section 3506(c)(1);

"(B) evaluated the public comments received under section 3506(c)(2);

"(C) submitted to the Director the certification required under section 3506(c)(3), the proposed collection of information, copies of pertinent statutory authority, regulations, and other related materials as the Director may specify; and

"(D) published a notice in the Federal Register—

"(i) stating that the agency has made such submission; and

"(ii) setting forth—

"(I) a title for the collection of information;

"(II) a summary of the collection of information;

"(III) a brief description of the need for the information and the proposed use of the information;

"(IV) a description of the likely respondents and proposed frequency of response to the collection of information;

"(V) an estimate of the burden that shall result from the collection of information; and

"(VI) notice that comments may be submitted to the agency and Director;

"(2) the Director has approved the proposed collection of information or approval has been inferred, under the provisions of this section; and

"(3) the agency has obtained from the Director a control number to be displayed upon the collection of information.

"(b) The Director shall provide at least 30 days for public comment prior to making a decision under subsection (c), (d), or (h), except as provided under subsection (j).

"(c)(1) For any proposed collection of information not contained in a proposed rule, the Director shall notify the agency involved of the decision to approve or disapprove the proposed collection of information.

"(2) The Director shall provide the notification under paragraph (1), within 60 days after receipt or publication of the notice under subsection (a)(1)(D), whichever is later.

"(3) If the Director does not notify the agency of a denial or approval within the 60-day period described under paragraph (2)—

"(A) the approval may be inferred;

"(B) a control number shall be assigned without further delay; and

"(C) the agency may collect the information for not more than 2 years.

"(d)(1) For any proposed collection of information contained in a proposed rule—

"(A) as soon as practicable, but no later than the date of publication of a notice of proposed rulemaking in the Federal Register, each agency shall forward to the Director a copy of any proposed rule which contains a collection of information and any information requested by the Director necessary to make the determination required under this subsection; and

"(B) within 60 days after the notice of proposed rulemaking is published in the Federal Register, the Director may file public comments pursuant to the standards set forth in section 3508 on the collection of information contained in the proposed rule;

"(2) When a final rule is published in the Federal Register, the agency shall explain—

"(A) how any collection of information contained in the final rule responds to the comments, if any, filed by the Director or the public; or

"(B) the reasons such comments were rejected.

"(3) If the Director has received notice and failed to comment on an agency rule within 60 days after the notice of proposed rulemaking, the Director may not disapprove any collection of information specifically contained in an agency rule.

"(4) No provision in this section shall be construed to prevent the Director, in the Director's discretion—

"(A) from disapproving any collection of information which was not specifically required by an agency rule;

"(B) from disapproving any collection of information contained in an agency rule, if the agency failed to comply with the requirements of paragraph (1) of this subsection;

"(C) from disapproving any collection of information contained in a final agency rule, if the Director finds within 60 days after the publication of the final rule that the agency's response to the Director's comments filed under paragraph (2) of this subsection was unreasonable; or

"(D) from disapproving any collection of information contained in a final rule, if—

"(i) the Director determines that the agency has substantially modified in the final rule the collection of information contained in the proposed rule; and

"(ii) the agency has not given the Director the information required under paragraph (1) with respect to the modified collection of information, at least 60 days before the issuance of the final rule.

"(5) This subsection shall apply only when an agency publishes a notice of proposed rulemaking and requests public comments.

"(6) The decision by the Director to approve or not act upon a collection of information contained in an agency rule shall not be subject to judicial review.

"(e)(1) Any decision by the Director under subsection (c), (d), (h), or (j) to disapprove a collection of information, or to instruct the agency to make substantive or material change to a collection of information, shall be publicly available and include an explanation of the reasons for such decision.

"(2) Any written communication between the Office of the Director, the Administrator of the Office of Information and Regulatory Affairs, or any employee of the Office of Information and Regulatory Affairs and an agency or person not employed by the Federal Government concerning a proposed collection of information shall be made available to the public.

"(3) This subsection shall not require the disclosure of—

"(A) any information which is protected at all times by procedures established for information which has been specifically authorized under criteria established by an Executive order or an Act of Congress to be kept secret in the interest of national defense or foreign policy; or

"(B) any communication relating to a collection of information which has not been

approved under this chapter, the disclosure of which could lead to retaliation or discrimination against the communicator.

"(f)(1) An independent regulatory agency which is administered by 2 or more members of a commission, board, or similar body, may by majority vote void—

"(A) any disapproval by the Director, in whole or in part, of a proposed collection of information of an independent regulatory agency; or

"(B) an exercise of authority under subsection (d) of section 3507 concerning such an agency.

"(2) The agency shall certify each vote to void such disapproval or exercise to the Director, and explain the reasons for such vote. The Director shall without further delay assign a control number to such collection of information, and such vote to void the disapproval or exercise shall be valid for a period of 3 years.

"(g) The Director may not approve a collection of information for a period in excess of 3 years.

"(h)(1) If an agency decides to seek extension of the Director's approval granted for a currently approved collection of information, the agency shall—

"(A) conduct the review established under section 3506(c), including the seeking of comment from the public on the continued need for, and burden imposed by the collection of information; and

"(B) after having made a reasonable effort to seek public comment, but no later than 60 days before the expiration date of the control number assigned by the Director for the currently approved collection of information, submit the collection of information for review and approval under this section, which shall include an explanation of how the agency has used the information that it has collected.

"(2) If under the provisions of this section, the Director disapproves a collection of information contained in an existing rule, or recommends or instructs the agency to make a substantive or material change to a collection of information contained in an existing rule, the Director shall—

"(A) publish an explanation thereof in the Federal Register; and

"(B) instruct the agency to undertake a rulemaking within a reasonable time limited to consideration of changes to the collection of information contained in the rule and thereafter to submit the collection of information for approval or disapproval under this chapter.

"(3) An agency may not make a substantive or material modification to a collection of information after such collection has been approved by the Director, unless the modification has been submitted to the Director for review and approval under this chapter.

"(i)(1) If the Director finds that a senior official of an agency designated under section 3506(a) is sufficiently independent of program responsibility to evaluate fairly whether proposed collections of information should be approved and has sufficient resources to carry out this responsibility effectively, the Director may, by rule in accordance with the notice and comment provisions of chapter 5 of title 5, United States Code, delegate to such official the authority to approve proposed collections of information in specific program areas, for specific purposes, or for all agency purposes.

"(2) A delegation by the Director under this section shall not preclude the Director from reviewing individual collections of information if the Director determines that circumstances warrant such a review. The Director shall retain authority to revoke such delegations, both in general and with regard to any specific matter. In acting for the Director, any official to whom approval authority has been delegated under this section shall comply fully with the rules and regulations promulgated by the Director.

"(j)(1) The agency head may request the Director to authorize collection of information prior to expiration of time periods established under this chapter, if an agency head determines that—

"(A) a collection of information—

"(i) is needed prior to the expiration of such time periods; and

"(ii) is essential to the mission of the agency; and

"(B) the agency cannot reasonably comply with the provisions of this chapter within such time periods because—

"(i) public harm is reasonably likely to result if normal clearance procedures are followed; or

"(ii) an unanticipated event has occurred and the use of normal clearance procedures is reasonably likely to prevent or disrupt the collection of information related to the event or is reasonably likely to cause a statutory or court-ordered deadline to be missed.

"(2) The Director shall approve or disapprove any such authorization request within the time requested by the agency head and, if approved, shall assign the collection of information a control number. Any collection of information conducted under this subsection may be conducted without compliance with the provisions of this chapter for a maximum of 90 days after the date on which the Director received the request to authorize such collection.

"§ 3508. Determination of necessity for information; hearing

"Before approving a proposed collection of information, the Director shall determine whether the collection of information by the agency is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility. Before making a determination the Director may give the agency and other interested persons an opportunity to be heard or to submit statements in writing. To the extent that the Director determines that the collection of information by an agency is unnecessary for the proper performance of the functions of the agency, for any reason, the agency may not engage in the collection of information.

"§ 3509. Designation of central collection agency

"The Director may designate a central collection agency to obtain information for two or more agencies if the Director determines that the needs of such agencies for information will be adequately served by a single collection agency, and such sharing of data is not inconsistent with applicable law. In such cases the Director shall prescribe (with reference to the collection of information) the duties and functions of the collection agency so designated and of the agencies for which it is to act as agent (including reimbursement for costs). While the designation is in effect, an agency covered by the designation may not obtain for itself information for the agency which is the duty of the collection agency to obtain. The Director may modify the designation from time to time as circumstances require. The authority to designate under this section is subject to the provisions of section 3507(f) of this chapter.

"§ 3510. Cooperation of agencies in making information available

"(a) The Director may direct an agency to make available to another agency, or an agency may make available to another agency, information obtained by a collection of information if the disclosure is not inconsistent with applicable law.

"(b)(1) If information obtained by an agency is released by that agency to another agency, all the provisions of law (including penalties which relate to the unlawful disclosure of information) apply to the officers and employees of the agency to which information is released to the same extent and in the same manner as the provisions apply to the officers and employees of the agency which originally obtained the information.

"(2) The officers and employees of the agency to which the information is released, in addition, shall be subject to the same provisions of law, including penalties, relating to the unlawful disclosure of information as if the information had been collected directly by that agency.

"§ 3511. Establishment and operation of Government Information Locator Service

"In order to assist agencies and the public in locating information and to promote information sharing and equitable access by the public, the Director shall—

"(1) cause to be established and maintained a distributed agency-based electronic Government Information Locator Service (hereafter in this section referred to as the 'Service'), which shall identify the major information systems, holdings, and dissemination products of each agency;

"(2) require each agency to establish and maintain an agency information locator service as a component of, and to support the establishment and operation of the Service;

"(3) in cooperation with the Archivist of the United States, the Administrator of General Services, the Public Printer, and the Librarian of Congress, establish an interagency committee to advise the Secretary of Commerce on the development of technical standards for the Service to ensure compatibility, promote information sharing, and uniform access by the public;

"(4) consider public access and other user needs in the establishment and operation of the Service;

"(5) ensure the security and integrity of the Service, including measures to ensure that only information which is intended to be disclosed to the public is disclosed through the Service; and

"(6) periodically review the development and effectiveness of the Service and make recommendations for improvement, including other mechanisms for improving public access to Federal agency public information.

"§ 3512. Public protection

"Notwithstanding any other provision of law, no person shall be subject to any penalty for failing to maintain, provide, or disclose information to or for any agency or person if the applicable collection of information—

"(1) was made after December 31, 1981; and

"(2)(A) does not display a valid control number assigned by the Director; or

"(B) fails to state that such collection is not subject to this chapter.

"§ 3513. Director review of agency activities; reporting; agency response

"(a) In consultation with the Administrator of General Services, the Archivist of

the United States, the Director of the National Institute of Standards and Technology, and the Director of the Office of Personnel Management, the Director shall periodically review selected agency information resources management activities to ascertain the efficiency and effectiveness of such activities to improve agency performance and the accomplishment of agency missions.

"(b) Each agency having an activity reviewed under subsection (a) shall, within 60 days after receipt of a report on the review, provide a written plan to the Director describing steps (including milestones) to—

"(1) be taken to address information resources management problems identified in the report; and

"(2) improve agency performance and the accomplishment of agency missions.

"§ 3514. Responsiveness to Congress

"(a)(1) The Director shall—

"(A) keep the Congress and congressional committees fully and currently informed of the major activities under this chapter; and

"(B) submit a report on such activities to the President of the Senate and the Speaker of the House of Representatives annually and at such other times as the Director determines necessary.

"(2) The Director shall include in any such report a description of the extent to which agencies have—

"(A) reduced information collection burdens on the public, including—

"(i) a summary of accomplishments and planned initiatives to reduce collection of information burdens;

"(ii) a list of all violations of this chapter and of any rules, guidelines, policies, and procedures issued pursuant to this chapter; and

"(iii) a list of any increase in the collection of information burden, including the authority for each such collection;

"(B) improved the quality and utility of statistical information;

"(C) improved public access to Government information; and

"(D) improved program performance and the accomplishment of agency missions through information resources management.

"(b) The preparation of any report required by this section shall be based on performance results reported by the agencies and shall not increase the collection of information burden on persons outside the Federal Government.

"§ 3515. Administrative powers

"Upon the request of the Director, each agency (other than an independent regulatory agency) shall, to the extent practicable, make its services, personnel, and facilities available to the Director for the performance of functions under this chapter.

"§ 3516. Rules and regulations

"The Director shall promulgate rules, regulations, or procedures necessary to exercise the authority provided by this chapter.

"§ 3517. Consultation with other agencies and the public

"(a) In developing information resources management policies, plans, rules, regulations, procedures, and guidelines and in reviewing collections of information, the Director shall provide interested agencies and persons early and meaningful opportunity to comment.

"(b) Any person may request the Director to review any collection of information conducted by or for an agency to determine, if, under this chapter, the person shall maintain, provide, or disclose the information to or for the agency. Unless the request is frivolous, the Director shall, in coordination with the agency responsible for the collection of information—

"(1) respond to the request within 60 days after receiving the request, unless such period is extended by the Director to a specified date and the person making the request is given notice of such extension; and

"(2) take appropriate remedial action, if necessary.

"§ 3518. Effect on existing laws and regulations

"(a) Except as otherwise provided in this chapter, the authority of an agency under any other law to prescribe policies, rules, regulations, and procedures for Federal information resources management activities is subject to the authority of the Director under this chapter.

"(b) Nothing in this chapter shall be deemed to affect or reduce the authority of the Secretary of Commerce or the Director of the Office of Management and Budget pursuant to Reorganization Plan No. 1 of 1977 (as amended) and Executive order, relating to telecommunications and information policy, procurement and management of telecommunications and information systems, spectrum use, and related matters.

"(c)(1) Except as provided in paragraph (2), this chapter shall not apply to the collection of information—

"(A) during the conduct of a Federal criminal investigation or prosecution, or during the disposition of a particular criminal matter;

"(B) during the conduct of—

"(i) a civil action to which the United States or any official or agency thereof is a party; or

"(ii) an administrative action or investigation involving an agency against specific individuals or entities;

"(C) by compulsory process pursuant to the Antitrust Civil Process Act and section 13 of the Federal Trade Commission Improvements Act of 1980; or

"(D) during the conduct of intelligence activities as defined in section 4-206 of Executive Order No. 12036, issued January 24, 1978, or successor orders, or during the conduct of cryptologic activities that are communications security activities.

"(2) This chapter applies to the collection of information during the conduct of general investigations (other than information collected in an antitrust investigation to the extent provided in subparagraph (C) of paragraph (1)) undertaken with reference to a category of individuals or entities such as a class of licensees or an entire industry.

"(d) Nothing in this chapter shall be interpreted as increasing or decreasing the authority conferred by Public Law 89-306 on the Administrator of the General Services Administration, the Secretary of Commerce, or the Director of the Office of Management and Budget.

"(e) Nothing in this chapter shall be interpreted as increasing or decreasing the authority of the President, the Office of Management and Budget or the Director thereof, under the laws of the United States, with respect to the substantive policies and programs of departments, agencies and offices, including the substantive authority of any Federal agency to enforce the civil rights laws.

"§ 3519. Access to information

"Under the conditions and procedures prescribed in section 716 of title 31, the Director and personnel in the Office of Information and Regulatory Affairs shall furnish such information as the Comptroller General may require for the discharge of the responsibilities of the Comptroller General. For the purpose of obtaining such information, the Comptroller General or representatives thereof shall have access to all books, documents, papers and records, regardless of form or format, of the Office.

"§ 3520. Authorization of appropriations

"(a) Subject to subsection (b), there are authorized to be appropriated to the Office of Information and Regulatory Affairs to carry out the provisions of this chapter, and for no other purpose, $8,000,000 for each of the fiscal years 1995, 1996, 1997, 1998, and 1999.

"(b)(1) No funds may be appropriated pursuant to subsection (a) unless such funds are appropriated in an appropriation Act (or continuing resolution) which separately and expressly states the amount appropriated pursuant to subsection (a) of this section.

"(2) No funds are authorized to be appropriated to the Office of Information and Regulatory Affairs, or to any other officer or administrative unit of the Office of Management and Budget, to carry out the provisions of this chapter, or to carry out any function under this chapter, for any fiscal year pursuant to any provision of law other than subsection (a) of this section.".

SEC. 3. EFFECTIVE DATE.

The provisions of this Act and the amendments made by this Act shall take effect on March 31, 1995.

NURSING EDUCATION CONSOLIDATION AND REAUTHORIZATION ACT

The text of the bill (S. 2433) to amend title VIII of the Public Health Service Act to consolidate and reauthorize nursing education programs under such title, and for other purposes, as passed by the Senate on October 6, 1994, is as follows:

S. 2433

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 "Nursing Education Consolidation and Reauthorization Act of 1994".

SEC. 2. PURPOSE.

It is the purpose of this Act to restructure the nurse education authorities of title VIII of the Public Health Service Act to permit a comprehensive, flexible, and effective approach to Federal support for nursing workforce development.

SEC. 3. AMENDMENTS TO PUBLIC HEALTH SERVICE ACT.

Title VIII of the Public Health Service Act (42 U.S.C. 296k et seq.) is amended—

(1) by striking the title heading and all that follows except for subparts II and III of part B and section 855; and inserting the following:

"TITLE VIII—NURSING WORKFORCE DEVELOPMENT";

(2) in subpart II of part B, by striking the subpart heading and inserting the following:

"PART E—STUDENT LOANS

"Subpart I—General Program";

(3) by redesignating subpart III as subpart II;

(4) by striking section 837;

(5) in section 846, by striking subsection (d) and inserting the following new subsection:

"(d) BREACH OF AGREEMENTS FOR OBLIGATED SERVICE.—

"(1) IN GENERAL.—In the case of any program under this section under which an individual makes an agreement to provide health services for a period of time in accordance with such program in consideration of receiving an award of Federal funds regarding education as a nurse (including an award for the repayment of loans), the following applies if the agreement provides that this subsection is applicable:

"(A) In the case of a program under this section that makes an award of Federal funds for attending an accredited program of nursing (in this subsection referred to as a 'nursing program'), the individual is liable to the Federal Government for the amount of such award (including amounts provided for expenses related to such attendance), and for interest on such amount at the maximum legal prevailing rate, if the individual—

"(i) fails to maintain an acceptable level of academic standing in the nursing program (as indicated by the program in accordance with requirements established by the Secretary);

"(ii) is dismissed from the nursing program for disciplinary reasons; or

"(iii) voluntarily terminates the nursing program.

"(B) The individual is liable to the Federal Government for the amount of such award (including amounts provided for expenses related to such attendance), and for interest on such amount at the maximum legal prevailing rate, if the individual fails to provide health services in accordance with the program under this section for the period of time applicable under the program.

"(2) WAIVER OR SUSPENSION OF LIABILITY.—In the case of an individual or health facility making an agreement for purposes of paragraph (1), the Secretary shall provide for the waiver or suspension of liability under such paragraph if compliance by the individual or the health facility, as the case may be, with the agreements involved is impossible, or would involve extreme hardship to the individual or facility, and if enforcement of the agreements with respect to the individual or facility would be unconscionable.

"(3) DATE CERTAIN FOR RECOVERY.—Subject to paragraph (2), any amount that the Federal Government is entitled to recover under paragraph (1) shall be paid to the United States not later than the expiration of the 3-year period beginning on the date the United States becomes so entitled.

"(4) AVAILABILITY.—Amounts recovered under paragraph (1) with respect to a program under this section shall be available for the purposes of such program, and shall remain available for such purposes until expended.";

(6) by inserting after the title heading the following new parts:

"PART A—GENERAL PROVISIONS

"SEC. 801. DEFINITIONS.

"As used in this title:

"(1) ELIGIBLE ENTITIES.—The term 'eligible entities' means schools of nursing, nursing centers, State or local governments, and other public or nonprofit private entities determined appropriate by the Secretary that submit to the Secretary an application in accordance with section 802.

"(2) SCHOOL OF NURSING.—The term 'school of nursing' means a collegiate, associate degree, or diploma school of nursing in a State.

"(3) COLLEGIATE SCHOOL OF NURSING.—The term 'collegiate school of nursing' means a department, division, or other administrative unit in a college or university which provides primarily or exclusively a program of education in professional nursing and related subjects leading to the degree of bachelor of arts, bachelor of science, bachelor of nursing, or to an equivalent degree, or to a graduate degree in nursing, and including advanced training related to such program of education provided by such school, but only if such program, or such unit, college or university is accredited.

"(4) ASSOCIATE DEGREE SCHOOL OF NURSING.—The term 'associate degree school of nursing' means a department, division, or other administrative unit in a junior college, community college, college, or university which provides primarily or exclusively a two-year program of education in professional nursing and allied subjects leading to an associate degree in nursing or to an equivalent degree, but only if such program, or such unit, college, or university is accredited.

"(5) DIPLOMA SCHOOL OF NURSING.—The term 'diploma school of nursing' means a school affiliated with a hospital or university, or an independent school, which provides primarily or exclusively a program of education in professional nursing and allied subjects leading to a diploma or to equivalent indicia that such program has been satisfactorily completed, but only if such program, or such affiliated school or such hospital or university or such independent school is accredited.

"(6) ACCREDITED.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'accredited' when applied to any program of nurse education means a program accredited by a recognized body or bodies, or by a State agency, approved for such purpose by the Secretary of Education and when applied to a hospital, school, college, or university (or a unit thereof) means a hospital, school, college, or university (or a unit thereof) which is accredited by a recognized body or bodies, or by a State agency, approved for such purpose by the Secretary of Education. For the purpose of this paragraph, the Secretary of Education shall publish a list of recognized accrediting bodies, and of State agencies, which the Secretary of Education determines to be reliable authority as to the quality of education offered.

"(B) NEW PROGRAMS.—A new school of nursing that, by reason of an insufficient period of operation, is not, at the time of the submission of an application for a grant or contract under this title, eligible for accreditation by such a recognized body or bodies or State agency, shall be deemed accredited for purposes of this title if the Secretary of Education finds, after consultation with the appropriate accreditation body or bodies, that there is reasonable assurance that the school will meet the accreditation standards of such body or bodies prior to the beginning of the academic year following the normal graduation date of students of the first entering class in such school.

"(7) NONPROFIT.—The term 'nonprofit' as applied to any school, agency, organization, or institution means one which is a corporation or association, or is owned and operated by one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"(8) STATE.—The term 'State' means a State, the Commonwealth of Puerto Rico, the District of Columbia, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands.

"SEC. 802. APPLICATION.

"(a) IN GENERAL.—To be eligible to receive a grant or contract under this title, an eligible entity shall prepare and submit to the Secretary an application that meets the requirements of this section, at such time, in such manner, and containing such information as the Secretary may require.

"(b) PLAN.—An application submitted under this section shall contain the plan of the applicant for carrying out a project with amounts received under this title. Such plan shall be consistent with relevant Federal, State, or regional program plans.

"(c) PERFORMANCE OUTCOME STANDARDS.—An application submitted under this section shall contain a specification by the applicant entity of performance outcome standards that the project to be funded under the grant or contract will be measured against. Such standards shall address relevant national nursing needs that the project will meet. The recipient of a grant or contract under this section shall meet the standards set forth in the grant or contract application.

"(d) LINKAGES.—An application submitted under this section shall contain a description of the linkages with relevant educational and health care entities, including training programs for other health professionals as appropriate, that the project to be funded under the grant or contract will establish.

"SEC. 803. USE OF FUNDS.

"(a) IN GENERAL.—Amounts provided under a grant or contract awarded under this title may be used for training program development and support, faculty development, model demonstrations, trainee support including tuition, books, program fees and reasonable living expenses during the period of training, technical assistance, workforce analysis, and dissemination of information, as appropriate to meet recognized nursing objectives, in accordance with this title.

"(b) MAINTENANCE OF EFFORT.—With respect to activities for which a grant awarded under this title is to be expended, the entity shall agree to maintain expenditures of non-Federal amounts for such activities at a level that is not less than the level of such expenditures maintained by the entity for the fiscal year preceding the fiscal year for which the entity receives such a grant.

"SEC. 804. MATCHING REQUIREMENT.

"The Secretary may require that an entity that applies for a grant or contract under this title provide non-Federal matching funds, as appropriate, to ensure the institutional commitment of the entity to the projects funded under the grant. Such non-Federal matching funds may be provided directly or through donations from public or private entities and may be in cash or in-kind, fairly evaluated, including plant, equipment, or services.

"SEC. 805. PREFERENCE.

"In awarding grants or contracts under this title, the Secretary shall give preference to applicants with projects that will substantially benefit rural or underserved populations.

"SEC. 806. GENERALLY APPLICABLE PROVISIONS.

"(a) AWARDING OF GRANTS AND CONTRACTS.—The Secretary shall ensure that grants and contracts under this title are awarded on a competitive basis to carry out innovative demonstration projects or provide for strategic workforce supplementation activities as needed to meet national nursing service goals and in accordance with this title.

"(b) INFORMATION REQUIREMENTS.—Recipients of grants and contracts under this title

shall meet information requirements as specified by the Secretary.

"(c) TRAINING PROGRAMS.—Training programs conducted with amounts received under this title shall meet applicable accreditation and quality standards.

"(d) DURATION OF ASSISTANCE.—

"(1) IN GENERAL.—Subject to paragraph (2), in the case of an award to an entity of a grant, cooperative agreement, or contract under this title, the period during which payments are made to the entity under the award may not exceed 5 years. The provision of payments under the award shall be subject to annual approval by the Secretary of the payments and subject to the availability of appropriations for the fiscal year involved to make the payments. This paragraph may not be construed as limiting the number of awards under the program involved that may be made to the entity.

"(2) LIMITATION.—In the case of an award to an entity of a grant, cooperative agreement, or contract under this title, paragraph (1) shall apply only to the extent not inconsistent with any other provision of this title that relates to the period during which payments may be made under the award.

"(e) PEER REVIEW REGARDING CERTAIN PROGRAMS.—Each application for a grant under this title, except advanced nurse traineeship grants under section 811(a)(2), shall be submitted to a peer review group for an evaluation of the merits of the proposals made in the application. The Secretary may not approve such an application unless a peer review group has recommended the application for approval. Each peer review group under this subsection shall be composed principally of individuals who are not officers or employees of the Federal Government. This subsection shall be carried out by the Secretary acting through the Administrator of the Health Resources and Services Administration.

"SEC. 807. NATIONAL ADVISORY COUNCIL ON NURSE EDUCATION AND PRACTICE.

"(a) ESTABLISHMENT.—There is hereby established a National Advisory Council on Nurse Education and Practice (in this section referred to as the 'Council'), consisting of the Secretary or the delegate of the Secretary (who shall be an ex officio member and shall serve as the Chairperson), and 15 members appointed by the Secretary without regard to the Federal civil service laws, of which—

"(1) 2 shall be selected from full-time students enrolled in schools of nursing;

"(2) 3 shall be selected from the general public;

"(3) 2 shall be selected from practicing professional nurses; and

"(4) 8 shall be selected from among the leading authorities in the various fields of nursing, higher, and secondary education, and from representatives of hospitals and other institutions and organizations which provide nursing services.

A majority of the members shall be nurses. The student-members of the Council shall be appointed for terms of one year and shall be eligible for reappointment to the Council.

"(b) DUTIES.—The Council shall advise the Secretary in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including the range of issues relating to nurse supply, education and practice improvement.

"(c) FUNDING.—Amounts appropriated under this title may be utilized by the Secretary to support the nurse education and practice activities of the Council.

"SEC. 808. TECHNICAL ASSISTANCE.

"Funds appropriated under this title may be used by the Secretary to provide technical assistance in relation to any of the authorities under this title.

"SEC. 809. RECOVERY FOR CONSTRUCTION ASSISTANCE.

"(a) IN GENERAL.—If at any time within 20 years (or within such shorter period as the Secretary may prescribe by regulation for an interim facility) after the completion of construction of a facility with respect to which funds have been paid under subpart I of part A (as such subpart was in effect on September 30, 1985)—

"(1) the owner of the facility ceases to be a public or nonprofit school,

"(2) the facility ceases to be used for the training purposes for which it was constructed, or

"(3) the facility is used for sectarian instruction or as a place for religious worship, the United States shall be entitled to recover from the owner of the facility the base amount prescribed by subsection (c)(1) plus the interest (if any) prescribed by subsection (c)(2).

"(b) NOTICE OF CHANGE IN STATUS.—The owner of a facility which ceases to be a public or nonprofit school as described in paragraph (1) of subsection (a), or the owner of a facility the use of which changes as described in paragraph (2) or (3) of such subsection shall provide the Secretary written notice of such cessation or change of use within 10 days after the date on which such cessation or change of use occurs or within 30 days after the date of enactment of the Health Professions Training Assistance Act of 1985, whichever is later.

"(c) AMOUNT OF RECOVERY.—

"(1) BASE AMOUNT.—The base amount that the United States is entitled to recover under subsection (a) is the amount bearing the same ratio to the then value (as determined by the agreement of the parties or in an action brought in the district court of the United States for the district in which the facility is situated) of the facility as the amount of the Federal participation bore to the cost of the construction.

"(2) INTEREST.—

"(A) IN GENERAL.—The interest that the United States is entitled to recover under subsection (a) is the interest for the period (if any) described in subparagraph (B) at a rate (determined by the Secretary) based on the average of the bond equivalent rates of 91-day Treasury bills auctioned during such period.

"(B) TIME PERIOD.—The period referred to in subparagraph (A) is the period beginning—

"(i) if notice is provided as prescribed by subsection (b), 191 days after the date on which the owner of the facility ceases to be a public or nonprofit school as described in paragraph (1) of subsection (a), or 191 days after the date on which the use of the facility changes as described in paragraph (2) or (3) of such subsection, or

"(ii) if notice is not provided as prescribed by subsection (b), 11 days after the date on which such cessation or change of use occurs,

and ending on the date the amount the United States is entitled to recover if collected.

"(d) WAIVER OF RIGHTS.—The Secretary may waive the recovery rights of the United States under subsection (a)(2) with respect to a facility (under such conditions as the Secretary may establish by regulation) if the Secretary determines that there is good cause for waiving such rights.

"(e) LIMITATION ON LIENS.—The right of recovery of the United States under subsection (a) shall not, prior to judgment, constitute a lien on any facility.

"PART B—NURSE PRACTITIONERS, NURSE MIDWIVES, AND OTHER ADVANCED PRACTICE NURSES

"SEC. 811. ADVANCED PRACTICE NURSING GRANTS.

"(a) IN GENERAL.—The Secretary may award grants to and enter into contracts with eligible entities to meet the costs of—

"(1) projects that support the enhancement of advanced practice nursing education and practice; and

"(2) traineeships for individuals in advanced practice nursing programs.

"(b) DEFINITION OF ADVANCED PRACTICE NURSES.—For purposes of this section, the term 'advanced practice nurses' means nurses trained in advanced degree programs including individuals in combined R.N./Master's degree programs, post-nursing master's certificate programs, or, in the case of nurse midwives or nurse anesthetists, in certificate programs that received funding under this title on the date that is one day prior to the date of enactment of this section, to serve as nurse practitioners, nurse midwives, nurse anesthetists, nurse educators, or public health nurses, or in other nurse specialties determined by the secretary to require advanced education.

"(c) AUTHORIZED NURSE PRACTITIONER AND NURSE-MIDWIFERY PROGRAMS.—

"(1) IN GENERAL.—Nurse practitioner and nurse midwifery programs eligible for support under this section are educational programs for registered nurses (irrespective of the type of school of nursing in which the nurses received their training) that—

"(A) meet guidelines prescribed by the Secretary in accordance with paragraph (2); and

"(B) have as their objective the education of nurses who will upon completion of their studies in such programs, be qualified to effectively provide primary health care, including primary health care in homes and in ambulatory care facilities, long-term care facilities and other health care institutions.

"(2) GUIDELINES.—After consultation with appropriate educational organizations and professional nursing and medical organizations, the Secretary shall prescribe guidelines for programs described in paragraph (1). Such guidelines shall, as a minimum, require that such a program—

"(A) extend for at least one academic year and consist of—

"(i) supervised clinical practice directed toward preparing nurses to deliver primary health care; and

"(ii) at least four months (in the aggregate) of classroom instruction that is so directed; and

"(B) have an enrollment of not less than six full-time equivalent students.

"(d) OTHER AUTHORIZED EDUCATIONAL PROGRAMS.—The Secretary shall prescribe guidelines as appropriate for other advanced practice nurse education programs eligible for support under this section.

"(e) TRAINEESHIPS.—

"(1) IN GENERAL.—The Secretary may not award a grant to an applicant under subsection (a) unless the applicant involved agrees that traineeships provided with the grant will pay all or part of the costs of—

"(A) the tuition, books, and fees of the program of advanced nursing practice with respect to which the traineeship is provided; and

"(B) the reasonable living expenses of the individual during the period for which the traineeship is provided.

"(2) DOCTORAL PROGRAMS.—The Secretary may not obligate more than 10 percent of the

traineeships under subsection (a) for individuals in doctorate degree programs.

"(3) SPECIAL CONSIDERATION.—In making awards of grants and contracts under subsection (a)(2), the Secretary shall give special consideration to an eligible entity that agrees to expend the award to train advanced practice nurses who will practice in health professional shortage areas designated under section 332.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section, $50,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 and 1997.

"(2) SET ASIDES.—Of the amount appropriated under paragraph (1) for a fiscal year—

"(A) not less than 60 percent of such amount shall be made available for projects to enhance the training and practice of nurse practitioners and nurse midwives; and

"(B) not less than 6 percent of such amounts shall be made available for projects to enhance the training and practice of nurse anesthetists.

"PART C—INCREASING NURSING WORKFORCE DIVERSITY

"SEC. 821. WORKFORCE DIVERSITY GRANTS.

"(a) IN GENERAL.—The Secretary may award grants to and enter into contracts with eligible entities to meet the costs of special projects to increase nursing education opportunities for individuals who are from disadvantaged racial and ethnic backgrounds underrepresented among registered nurses by providing student scholarships or stipends, pre-entry preparation, and retention activities.

"(b) GUIDANCE.—In carrying out subsection (a), the Secretary shall take into consideration the recommendations of the First and Second Invitational Congresses for Minority Nurse Leaders on 'Caring for the Emerging Majority,' in 1992 and 1993, and consult with nursing associations including the American Nurses Association, the National League for Nursing, the American Association of Colleges of Nursing, the Black Nurses Association, the Association of Hispanic Nurses, the Association of Asian American and Pacific Islander Nurses, the National Nurses Association, the Native American Indian and Alaskan Nurses Association.

"(c) REQUIRED INFORMATION AND CONDITIONS FOR AWARD RECIPIENTS.—

"(1) IN GENERAL.—Recipients of awards under this section may be required, where requested, to report to the Secretary concerning the annual admission, retention, and graduation rates for ethnic and racial minorities in the school or schools involved in the projects.

"(2) FALLING RATES.—If any of the rates reported under paragraph (1) fall below the average of the two previous years, the grant or contract recipient shall provide the Secretary with plans for immediately improving such rates.

"(3) INELIGIBILITY.—A recipient described in paragraph (2) shall be ineligible for continued funding under this section if the plan of the recipient fails to improve the rates within the 1-year period beginning on the date such plan is implemented.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 and 1997.

"PART D—STRENGTHENING CAPACITY FOR BASIC NURSE EDUCATION AND PRACTICE

"SEC. 831. BASIC NURSE EDUCATION AND PRACTICE GRANTS.

"(a) IN GENERAL.—The Secretary may award grants to and enter into contracts with eligible entities for projects to strengthen capacity for basic nurse education and practice.

"(b) PRIORITY AREAS.—In awarding grants or contracts under this section the Secretary shall give priority to entities that will use amounts provided under such a grant or contract to enhance the education mix and utilization of the basic nursing workforce by strengthening programs that provide basic nurse education for purposes of—

"(1) improving nursing services in schools and other community settings;

"(2) providing care for underserved populations and other high-risk groups such as the elderly, individuals with HIV-AIDS, substance abusers, homeless, and battered women;

"(3) providing case management, quality improvement, delegation and supervision, other skills needed under new health care systems;

"(4) developing cultural competencies among nurses;

"(5) providing emergency health services;

"(6) promoting career mobility for nursing personnel in a variety of training settings and cross training or specialty training among diverse population groups; or

"(7) other priority areas as determined by the Secretary.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $12,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 and 1997."; and

(7) by redesignating section 855 as section 810, and transferring such section so as to appear after section 809 (as added by the amendment made by paragraph (6)).

SEC. 4. SAVINGS PROVISION AND TECHNICAL AMENDMENTS.

(a) SAVINGS PROVISION.—In the case of any authority for making awards of grants or contracts that is terminated by the amendment made by section 3, the Secretary of Health and Human Services may, notwithstanding the termination of the authority, continue in effect any grant or contract made under the authority that is in effect on the day before the date of the enactment of this Act, subject to the duration of any such grant or contract not exceeding the period determined by the Secretary in first approving such financial assistance, or in approving the most recent request made (before the date of such enactment) for continuation of such assistance, as the case may be.

(b) CLINICAL RESEARCHERS.—Paragraph (3) of section 487E(a) of the Public Health Service Act (42 U.S.C. 288-5(a)(3)) is amended to read as follows:

"(3) APPLICABILITY OF CERTAIN PROVISIONS REGARDING OBLIGATED SERVICE.—With respect to the National Health Service Corps loan repayment program established in subpart III of part D of title III, the provisions of such subpart shall, except as inconsistent with this section, apply to the program established in subsection (a) in the same manner and to the same extent as such provisions apply to the National Health Service Corps loan repayment programs.".

(c) TECHNICAL AMENDMENTS.—Section 839 of such Act (42 U.S.C. 297e) is amended—

(1) in subsection (a)—

(A) by striking the matter preceding paragraph (1) and inserting the following:

"(a) If a school terminates a loan fund established under an agreement pursuant to section 835(b), or if the Secretary for good cause terminates the agreement with the school, there shall be a capital distribution as follows:"; and

(B) in paragraph (1), by striking "at the close of September 30, 1999," and inserting "on the date of termination of the fund"; and

(2) in subsection (b), to read as follows:

"(b) If a capital distribution is made under subsection (a), the school involved shall, after such capital distribution, pay to the Secretary, not less often than quarterly, the same proportionate share of amounts received by the school in payment of principal or interest on loans made from the loan fund established under section 835(b) as determined by the Secretary under subsection (a).".

SEC. 5. EFFECTIVE DATE.

This Act shall take effect on October 1, 1994, or the date of enactment of this Act, whichever is later.

YEAR OF THE GIRL CHILD

The text of the joint resolution (S.J. Res. 188) to designate 1995 the "Year of the Girl Child," as passed by the Senate on October 6, 1994, is as follows:

S.J. RES. 188

Whereas girls are the most neglected, deprived, and mistreated resource in the world;

Whereas girls throughout the world are frequently condemned to a cycle of poverty, illiteracy, unwanted pregnancy, and poor health;

Whereas it is not uncommon for girls in certain regions of the world to become pregnant at the onset of puberty, and to continue to become pregnant thereafter, damaging their health and increasing the chances that they will suffer complications during pregnancy;

Whereas girls in developing countries are fed less, withdrawn from school earlier, forced into hard labor sooner, and given less medical care than boys in those same countries;

Whereas numerous studies indicate that girls are disadvantaged by the perception that they are temporary members of a family, and by the belief that boys will become the main financial source for the family and, therefore, are more deserving of scarce family resources;

Whereas parents of girls in some regions of the developing world frequently choose to resort to infanticide, rather than drain family resources to raise girls;

Whereas girls in the United States and in other countries are exploited and victimized by sexual abuse and child prostitution;

Whereas the most recent study of child sexual abuse in the United States shows that, of the cases reported, 23 percent of the victims were males and 77 percent were females;

Whereas, by any measure, including test scores, curriculum, or teacher-student interaction, girls in the United States receive an unequal education;

Whereas studies indicate that in developing countries where girls have as little as 4 to 6 years of formal education there is a 20 percent decline in infant deaths;

Whereas girls with at least a seventh grade education have half as many pregnancies as girls with less education;

Whereas the World Health Organization estimates that improved education for girls, and improved family planning services for women, would reduce maternal deaths by 15 to 33 percent; and

Whereas the World Fertility Survey indicates that the age of a female at marriage increases with the number of years she has spent in school, and that with as little as 7 years of education, a female is more likely to marry at 22 than at 17: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That 1995 is designated the "Year of the Girl Child". The President is authorized and requested to direct all diplomatic personnel of the United States, and the Secretaries of Education and Health and Human Services, to encourage at every appropriate opportunity—

(1) the opening of educational opportunities to girls;

(2) gender equality in health care; and

(3) gender equality in all phases of family and community life.

NATIONAL SILVER HAIRED CONGRESS

The text of the concurrent resolution (S. Con. Res. 66) to recognize and encourage the convening of a National Silver Haired Congress, as agreed to by the Senate on October 6, 1994, is as follows:

S. CON. RES. 66

Whereas many States have encouraged and facilitated the creation of senior citizen legislation and advocacy bodies;

Whereas in creating such bodies such States have provided to many older Americans the opportunity to express concerns, promote appropriate interests, and advance the common good by influencing the legislation and actions of State government; and

Whereas a National Silver Haired Congress, with representatives from each State, would provide a national forum for a nonpartisan evaluation of grassroots solutions to concerns shared by an increasing number of older Americans: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress hereby recognizes and encourages the convening of an annual National Silver Haired Congress in the District of Columbia.

OFFICE OF GOVERNMENT ETHICS AUTHORIZATION

The text of the bill (S. 1413) to amend the Ethics in Government Act of 1978, as amended, to extend the authorization of appropriations for the Office of Government Ethics for 8 years, and for other purposes, as passed by the Senate on October 6, 1994, is as follows:

S. 1413

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 "Office of Government Ethics Authorization Act of 1994".

SEC. 2. GIFT ACCEPTANCE AUTHORITY.

Section 403 of the Ethics in Government Act of 1978 (5 U.S.C. App. 5) is amended by—

(1) inserting "(a)" before "Upon the request"; and

(2) adding at the end thereof the following:

"(b)(1) The Director is authorized to accept and utilize on behalf of the United States, any gift, donation, bequest, or devise of money, use of facilities, personal property, or services for the purpose of aiding or facilitating the work of the Office of Government Ethics.

"(2) No gift may be accepted—

"(A) that attaches conditions inconsistent with applicable laws or regulations; or

"(B) that is conditioned upon or will require the expenditure of appropriated funds that are not available to the Office of Government Ethics.

"(3) The Director shall establish written rules setting forth the criteria to be used in determining whether the acceptance of contributions of money, services, use of facilities, or personal property under this subsection would reflect unfavorably upon the ability of the Office of Government Ethics or any employee to carry out its responsibilities or official duties in a fair and objective manner, or would compromise the integrity or the appearance of the integrity of its programs or any official involved in those programs.".

SEC. 3. EXTENSION OF AUTHORIZATION OF APPROPRIATIONS.

The text of section 405 of the Ethics in Government Act of 1978 (5 U.S.C. App. 5) is amended to read as follows: "There are authorized to be appropriated to carry out the provisions of this title and for no other purpose, not to exceed $14,000,000 for fiscal year 1995 and for each of the next 7 fiscal years thereafter.".

SEC. 4. ASSISTANCE FROM OTHER AGENCIES.

Section 403(a) of the Ethics in Government Act of 1978 (5 U.S.C. App. 5), as designated by section 2, is amended—

(1) in paragraph (1) by striking "under this Act; and" and inserting "of the Office of Government Ethics; and"; and

(2) in paragraph (2) by striking "duties." and inserting "duties under this Act or any other Act.".

SEC. 5. LIMITATION ON POSTEMPLOYMENT RESTRICTIONS.

Section 207(j) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(7) POLITICAL PARTIES AND CAMPAIGN COMMITTEES.—(A) Except as provided in subparagraph (B), the restrictions contained in subsections (c), (d), and (e) shall not apply to a communication or appearance made solely on behalf of a candidate in his or her capacity as a candidate, an authorized committee, a national committee, a national Federal campaign committee, a State committee, or a political party.

"(B) Subparagraph (A) shall not apply to—

"(i) any communication to, or appearance before, the Federal Election Commission by a former officer or employee of the Federal Election Commission; or

"(ii) a communication or appearance made by a person who is subject to the restrictions contained in subsections (c), (d), or (e) if, at the time of the communication or appearance, the person is employed by a person or entity other than—

"(I) a candidate, an authorized committee, a national committee, a national Federal campaign committee, a State committee, or a political party; or

"(II) a person or entity who represents, aids, or advises only persons or entities described in subclause (I).

"(C) For purposes of this paragraph—

"(i) the term 'candidate' means any person who seeks nomination for election, or election, to Federal or State office or who has authorized others to explore on his or her behalf the possibility of seeking nomination for election, or election, to Federal or State office;

"(ii) the term 'authorized committee' means any political committee designated in writing by a candidate as authorized to receive contributions or make expenditures to promote the nomination for election, or the election, of such candidate, or to explore the possibility of seeking nomination for election, or the election, of such candidate, except that a political committee that receives contributions or makes expenditures to promote more than 1 candidate may not be designated as an authorized committee for purposes of subparagraph (A);

"(iii) the term 'national committee' means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the national level;

"(iv) the term 'national Federal campaign committee' means an organization that, by virtue of the bylaws of a political party, is established primarily for the purpose of providing assistance, at the national level, to candidates nominated by that party for election to the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress;

"(v) the term 'State committee' means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the State level;

"(vi) the term 'political party' means an association, committee, or organization that nominates a candidate for election to any Federal or State elected office whose name appears on the election ballot as the candidate of such association, committee, or organization; and

"(vii) the term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.".

SEC. 6. REPEAL AND CONFORMING AMENDMENTS.

(a) REPEAL OF DISPLAY REQUIREMENT.—The Act entitled "An Act to provide for the display of the Code of Ethics for Government Service", approved July 3, 1980 (Public Law 96-303; 5 U.S.C. 7301 note) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) FDIA.—Section 12(f)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1822 (f)(3)) is amended by striking ", with the concurrence of the Office of Government Ethics,".

(2) ETHICS IN GOVERNMENT ACT OF 1978.—(A) The heading for section 401 of the Ethics in Government Act of 1978 is amended to read as follows:

"ESTABLISHMENT; APPOINTMENT OF DIRECTOR".

(B) Section 408 is amended by striking "March 31" and inserting "April 30".

SEC. 7. EFFECTIVE DATE.

This Act shall take effect on October 1, 1994, except section 5 shall take effect and apply to communications or appearances made on and after the date of enactment of this Act.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION TECHNOLOGY INVESTMENT ACT

The text of the bill (S. 1881) to establish and implement a technology investment policy for aeronautical and

space activities of the National Aeronautics and Space Administration, and for other purposes, as passed by the Senate on October 6, 1994, is as follows:

S. 1881

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Aeronautics and Space Administration Technology Investment Act of 1994".

SEC. 2. FINDINGS.

The Congress finds and declares the following:

(1) Federal investment in research and technology development can enhance the competitiveness of United States industry in global markets.

(2) Industry and government partnerships in the development of technologies increase the effectiveness of Federal investment in the United States economy.

(3) Ongoing defense reductions impact the aerospace industrial base and require greater effort by the National Aeronautics and Space Administration to ensure technological advancements in support of its missions as well as in support of competitiveness.

(4) Increased contribution to the health of the United States economy by the National Aeronautics and Space Administration is important to the long-term support of civilian aeronautics and space activities.

(5) Investments in research and development at the National Aeronautics and Space Administration can be made to enhance the competitiveness of United States industry, as well as to promote development of technologies for government and commercial aeronautics and space missions.

(6) The National Aeronautics and Space Administration directs a large portion of its budget toward the procurement of goods and services for its aeronautical and space missions and can use such procurement to advance technology development in industry and academia.

SEC. 3. TECHNOLOGY INVESTMENT POLICY.

It is the policy of the United States that—

(1) improving the competitive capabilities of United States industry in conjunction with implementing aeronautics and space missions shall be a fundamental goal of the National Aeronautics and Space Administration;

(2) the Administrator of the National Aeronautics and Space Administration (hereinafter referred to as the "Administrator"), in planning for and implementing national programs in aeronautics and space, shall advocate technology development designed to foster competitiveness of United States industry in global markets;

(3) the investment in technology by the National Aeronautics and Space Administration shall be coordinated closely with investment of other Federal agencies, the States, and local governments;

(4) technology investments shall be identified in concert with United States industry; and

(5) the establishment of industry-led consortia, alliances, or other entities shall be encouraged to enhance opportunities for United States industry to develop and advance technologies.

TITLE I—ROLE OF NATIONAL AERONAUTICS AND SPACE ADMINISTRATION IN TECHNOLOGY INVESTMENT

SEC. 101. AMENDMENTS TO NATIONAL AERONAUTICS AND SPACE ACT OF 1958.

Section 102 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451) is amended—

(1) by striking subsection (e) and inserting the following:

"(e) The aeronautical and space activities of the United States shall be conducted so as to contribute materially to the economic growth, competitiveness, and productivity of the Nation.";

(2) by striking subsection (f) and by redesignating subsections (g) and (h) as subsections (f) and (g), respectively; and

(3) in subsection (g), as so redesignated, by striking "(f), and (g)" and inserting "and (f)".

SEC. 102. TECHNOLOGY DEVELOPMENT AND COMMERCIALIZATION GOALS.

The Administrator shall require that, to the maximum extent practicable, aeronautical and space projects of the National Aeronautics and Space Administration—

(1) incorporate a technology plan that fosters technological advances of value to both the mission and the economy and reduces the life cycle costs of such projects;

(2) promote commercial technology applications;

(3) measure and evaluate technology development and the potential for commercialization; and

(4) seek the involvement of United States industry.

SEC. 103. INDUSTRY TECHNOLOGY PROGRAM.

(a) PURPOSE; CRITERIA.—The Administrator shall establish a competitive program under which the Administrator may fund research and development projects proposed by industry-led consortia, alliances, or other entities, for the purpose of developing new technologies. In selecting projects to be funded under this section, the Administrator shall weigh and consider—

(1) each project's scientific and technical merit;

(2) the potential of the project to advance mission needs of the National Aeronautics and Space Administration;

(3) each project's potential to advance technologies that enhance the competitiveness of United States industry in global markets; and

(4) such other criteria as the Administrator considers appropriate to carry out the purposes of this section.

(b) COST-SHARING.—The Administrator shall ensure that the amount of the funds provided by the Federal Government under this section for a project does not exceed the total amount provided by non-Federal participants for that project.

(c) FINANCING MECHANISMS.—In funding the technology projects selected under this section, the Administrator is encouraged—

(1) to make greater use of the authority of the National Aeronautics and Space Administration under section 203(c)(5) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2473(c)(5)) especially when applied to non-aerospace firms; and

(2) to enter into innovative procurement, financing, and management arrangements, consistent with existing statutes.

(d) COORDINATION WITH FEDERAL AGENCIES.—In carrying out this section, the Administrator shall consult with the Secretaries of Commerce, Defense, Energy, and Transportation and with such other Federal agency heads as the Administrator considers appropriate.

(e) AUTHORIZATION.—There are authorized to be appropriated to the Administrator such sums as may be necessary to carry out the provisions of this section. Sums appropriated under this section shall remain available until expended.

SEC. 104. CONDITIONS ON TECHNOLOGY INVESTMENT; ECONOMIC BENEFIT.

In funding technology programs and activities under this title, the Administrator shall ensure that the principal economic benefits accrue to the economy of the United States. The Administrator may consider such specific criteria as appropriate, and in developing such criteria, shall consult with appropriate Federal agency heads.

SEC. 105. ROLE OF PROCUREMENT IN TECHNOLOGY INVESTMENT.

The Administrator, in meeting aeronautical and space mission needs, shall coordinate and direct resources of the National Aeronautics and Space Administration in the area of procurement to—

(1) advance state-of-the-art technologies;

(2) assess and procure, where appropriate, commercially available technologies from the marketplace;

(3) use performance incentives; and

(4) reduce the paperwork requirements associated with procurement.

SEC. 106. COORDINATION WITH OTHER FEDERAL PROGRAMS.

(a) TECHNOLOGY PROGRAMS AND TECHNOLOGY TRANSFER PROGRAMS.—To ensure a consistent Federal investment policy and to preclude multiple awards for a single proposal, the Administrator shall ensure that the technology investment activities established under this title are coordinated closely with existing and future—

(1) Federal technology programs such as the Technology Reinvestment Program of the Advanced Research Projects Agency and the Advanced Technology Program of the National Institute of Standards and Technology; and

(2) Federal technology transfer programs and activities established to promote and advocate the use of technologies developed in the Federal laboratories.

(b) IDENTIFICATION OF FUNDING RECEIVED FROM OTHER AGENCIES.—The Administrator shall identify, as part of the annual budget submission to Congress, all funding received by the National Aeronautics and Space Administration from other Federal agencies for technology investment and development, including funds from programs listed in (a)(1) above.

SEC. 107. INTERAGENCY TECHNOLOGY INITIATIVES.

As part of the National Aeronautics and Space Administration's annual budget submission to Congress, the Administrator shall identify funding requirements, project milestones, and 5-year budget projections, for the portion undertaken by the National Aeronautics and Space Administration of each interagency technology project.

SEC. 108. COORDINATION WITH OTHER NASA PROGRAMS.

(a) SMALL BUSINESS INNOVATION RESEARCH.—The Administrator shall coordinate the technology investment activities under this title with the Small Business Innovation Research activities of the National Aeronautics and Space Administration to ensure the effectiveness of funding to small businesses, to the maximum extent permitted by law.

(b) INDEPENDENT RESEARCH AND DEVELOPMENT FUNDS.—The Administrator shall identify all funds provided to contractors of the National Aeronautics and Space Administration for activities commonly referred to as

"Independent Research and Development" and coordinate such funds with the technology investment activities under this title.

(c) TECHNOLOGY TRANSFER AND COMMERCIAL PROGRAMS.—The Administrator shall coordinate the activities of ongoing and future technology transfer, innovation, and commercial programs of the National Aeronautics and Space Administration with the technology investment activities under this title.

SEC. 109. PERSONNEL INCENTIVES.

To encourage the personnel of the National Aeronautics and Space Administration to pursue technology innovation and development, the Administrator shall provide personnel incentives, including—

(1) promotions and within-grade increases;

(2) bonuses and cash awards under the inventions and contributions system and senior executive service; and

(3) paid leave, sabbaticals, or intergovernmental personnel transfers to other Federal agencies or the private sector to pursue technology innovation and development, as the Administrator deems appropriate.

SEC. 110. ANNUAL REPORT TO CONGRESS.

The Administrator shall assess the technology investment activities established under this title and shall submit a report to Congress on the results of such assessment of activities. The report shall accompany the annual budget submission to Congress.

SEC. 111. APPLICATION OF ANTITRUST LAWS.

Nothing in this title shall be construed to create an immunity from any civil or criminal action under any Federal or State antitrust law, or to alter or restrict in any manner the applicability of any Federal or State antitrust law.

SEC. 112. DEFINITIONS.

For the purposes of this title, the term—

(1) "Federal laboratory" has the meaning given such term in section 4(6) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703(6)).

(2) "United States" means the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other territory or possession of the United States.

TITLE II—NATIONAL AERONAUTICS FACILITIES

SEC. 201. FINDINGS.

The Congress finds and declares the following:

(1) Aerospace technologies contribute substantially to the balance of trade and the competitiveness of United States industry.

(2) The international market share of the United States aerospace industry has eroded steadily due to competition from foreign consortia that receive substantial direct subsidies from their governments.

(3) The United States aerospace industry continues to be impacted negatively by the reduced investment in national defense.

(4) The national civil and military aeronautics facilities of the United States are aging and, with few exceptions, cannot be modified to simulate adequately the flight conditions that will be required for highly productive aircraft design and development.

(5) Inadequate domestic facilities force the United States aerospace industry to use the aeronautics facilities of foreign countries, increasing the likelihood that technologies will be transferred to competing foreign industries.

SEC. 202. POLICY.

It is the policy of the United States that—

(1) Federal investment in domestic aerospace technologies shall be a priority of the United States to safeguard the international market share of the United States aerospace industry;

(2) maintaining world class aeronautics facilities in the United States shall be a major element of Federal investment in aerospace research and development;

(3) the National Aeronautics and Space Administration shall work closely with industry to identify and address aeronautics technology and facility issues; and

(4) industry and government cost-sharing for facilities construction and use shall be investigated to achieve aeronautics research and technology goals within a constrained Federal budget.

SEC. 203. WORLDWIDE FACILITIES ASSESSMENT.

The President shall conduct an assessment of all aeronautics facilities in the United States and in other countries and report to Congress the results of this assessment at the time the fiscal year 1996 budget is submitted. The assessment shall include—

(1) identification of all existing and planned aeronautics research and development facilities in the United States and in other countries;

(2) analysis of the capabilities of each aeronautics facility that impact aeronautical research and technology objectives of the United States Government and domestic industries; and

(3) determination of the current use and plans for use of foreign aeronautics facilities for research and technology activities of the United States Government and domestic industries.

SEC. 204. AERONAUTICS FACILITIES STRATEGY.

(a) STRATEGY.—The President or his designees shall work closely with domestic industries to coordinate, develop, and implement a strategy for Federal investment in aeronautics research and technology and aeronautics facilities. This strategy shall establish—

(1) priorities for Federal investment in aeronautics facilities;

(2) a facilities implementation schedule to meet research and technology project milestones and aerospace industry market requirements;

(3) the projected cost of constructing and operating new facilities; and

(4) options and recommendations to provide funding (including cost-sharing and risk-sharing with industries and among Federal agencies and innovative procurement, financing, or management arrangements) for the construction of new aeronautics facilities and for the operation of new aeronautics facilities.

(b) DEADLINE.—The strategy required by subsection (a), and budget requirements associated with implementing such strategy, shall accompany the fiscal year 1996 budget submission to Congress.

TITLE III—COMMERCIAL SPACE LAUNCH AMENDMENTS

SEC. 301. COMMERCIAL REENTRY VEHICLES.

Chapter 701 of title 49, United States Code, is amended—

(1) in the table of sections—

(A) by amending the item relating to section 70104 to read as follows:

"70104. Restrictions on launches, operations, and reentries.";

(B) by amending the item relating to section 70108 to read as follows:

"70108. Prohibition, suspension, and end of launches, operation of launch sites, and reentries.";

(C) by amending the item relating to section 70109 to read as follows:

"70109. Preemption of scheduled launches or reentries.";

and

(D) by adding at the end the following new item:

"70120. Report to Congress.";

(2) in section 70102—

(A) by inserting "from Earth" after "and any payload" in paragraph (3);

(B) by redesignating paragraphs (10) through (12) as paragraphs (12) through (14), respectively; and

(C) by inserting after paragraph (9) the following new paragraphs:

"(10) 'reenter' and 'reentry' mean to return purposefully, or attempt to return, a reentry vehicle and payload, if any, from Earth orbit or outer space to Earth.

"(11) 'reentry vehicle' means any vehicle designed to return from Earth orbit or outer space to Earth substantially intact.";

(3) in section 70104—

(A) by amending the section designation and heading to read as follows:

"§ 70104. Restrictions on launches, operations, and reentries";

(B) by inserting ", or reenter a reentry vehicle," after "operate a launch site" each place it appears in subsection (a);

(C) by inserting "or reentry" after "launch or operation" in subsection (a)(3) and (4);

(D) in subsection (b)—

(i) by striking "launch license" and inserting "license";

(ii) by inserting "or reenter" after "may launch"; and

(iii) by inserting "or reentering" after "related to launching"; and

(E) in subsection (c)—

(i) by amending the subsection heading to read as follows: "PREVENTING LAUNCHES OR REENTRIES.—";

(ii) by inserting "or reentry" after "prevent the launch"; and

(iii) by inserting "or reentry" after "decides the launch";

(4) in section 70105—

(A) by inserting ", or reentry of a reentry vehicle," after "operation of a launch site" in subsection (b)(1); and

(B) by striking "or operation" and inserting ", operation, or reentry" in subsection (b)(2)(A);

(5) in section 70106(a)—

(A) by inserting "or reentry site" after "observer at a launch site"; and

(B) by inserting "or reentry vehicle" after "assemble a launch vehicle";

(6) in section 70108—

(A) by amending the section designation and heading to read as follows:

"§ 70108. Prohibition, suspension, and end of launches, operation of launch site, and reentries";

and

(B) in subsection (a)—

(i) by inserting ", or reentry of a reentry vehicle," after "operation of a launch site"; and

(ii) by inserting "or reentry" after "launch or operation";

(7) in section 70109—

(A) by amending the section designation and heading to read as follows:

"§ 70109. Preemption of scheduled launches or reentries";

(B) in subsection (a)—

(i) by inserting "or reentry" after "ensure that a launch";

(ii) by inserting ", reentry site," after "United States Government launch site";

(iii) by inserting "or reentry date commitment" after "launch date commitment";

(iv) by inserting "or reentry" after "obtained for a launch";

(v) by inserting ", reentry site," after "access to a launch site";

(vi) by inserting ", or services related to a reentry," after "amount for launch services"; and

(vii) by inserting "or reentry" after "the scheduled launch"; and

(C) in subsection (c), by inserting "or reentry" after "prompt launching";

(8) in section 70110—

(A) by inserting "or reentry" after "prevent the launch" in subsection (a)(2); and

(B) by inserting ", or reentry of a reentry vehicle," after "operation of a launch site" in subsection (a)(3)(B);

(9) in section 70112—

(A) by inserting "or reentry" after "one launch" in subsection (a)(3);

(B) by inserting "or reentry" after "launch services" in subsection (a)(4);

(C) by inserting "or reentry" after "launch services" each place it appears in subsection (b);

(D) by inserting "OR REENTRIES" after "LAUNCHES" in the heading for subsection (e); and

(E) by inserting "or reentry" after "launch site" in subsection (e);

(10) in section 70113 (a)(1) and (d) (1) and (2), by inserting "or reentry" after "one launch" each place it appears;

(11) in section 70115(b)(1)(D)(i)—

(A) by inserting "reentry site," after "launch site,"; and

(B) by inserting "or reentry vehicle" after "site of a launch vehicle";

(12) in section 70117—

(A) by inserting "or reentry a reentry vehicle" after "operate a launch site" in subsection (a);

(B) by inserting "or reentry" after "approval of a space launch" in subsection (d);

(C) in subsection (f)—

(i) by inserting "OR REENTRY" after "LAUNCH" in the subsection heading;

(ii) by inserting ", reentry vehicle," after "A launch vehicle";

(iii) by inserting "or reentered" after "that is launched"; and

(iv) by inserting "or reentry" after "the launch"; and

(D) in subsection (g)—

(i) by inserting "reentry of a reentry vehicle," after "or launch site," in paragraph (1); and

(ii) by inserting "reentry," after "launch," in paragraph (2);

(13) in section 70119, by inserting the following after paragraph (2):

"There are authorized to be appropriated to the Secretary of Transportation such amounts as may be necessary to carry out this chapter for fiscal year 1995."; and

(14) by adding at the end the following new section:

"§ 70120. Report to Congress

"The Secretary of Transportation shall submit to Congress an annual report to accompany the President's budget request that—

"(1) describes all activities undertaken under this chapter, including a description of the process for the application for and approval of licenses under this chapter and recommendations for legislation that may further commercial launches and reentries; and

"(2) reviews the performance of the regulatory activities and the effectiveness of the Office of Commercial Space Transportation.".

SEC. 302. LICENSE APPLICATIONS.

(a) IN GENERAL.—Section 70105 of title 49, United States Code, is amended—

(1) in subsection (a), by striking "receiving an application" both places it appears and inserting "accepting an application in accordance with subsection (b)(2)(D)";

(2) by striking "and" at the end of subsection (b)(2)(B);

(3) by striking the period at the end of subsection (b)(2)(C) and inserting "; and"; and

(4) by adding at the end of subsection (b)(2)(C) the following new subparagraph:

"(D) regulations establishing criteria for accepting an application for a license under this chapter.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(1) shall take effect upon the effective date of final regulations issued pursuant to section 70105(b)(2)(D) of title 49, United States Code, as added by subsection (a)(4).

SEC. 303. PROHIBITION ON SPACE ADVERTISING.

(a) DEFINITION.—Section 70102 of title 49, United States Code, is amended by inserting after paragraph (14), as redesignated by section 301(2)(B) of this title, the following new paragraph:

"(15) 'space advertising' means advertising in outer space that is capable of being seen by a human being on the surface of the Earth without the aid of a telescope or other technological device.".

(b) PROHIBITION.—Chapter 701 of title 49, United States Code, is amended by inserting after section 70109 the following new section:

"§ 70109a. Prohibition on space advertising

"(a) PROHIBITION.—Notwithstanding the provisions of this chapter or any other provision of law—

"(1) the Secretary shall not—

"(A) issue or transfer a license under this chapter; or

"(B) waive the license requirements of this chapter;

for the launch of a payload containing any material to be used for the purposes of space advertising; and

"(2) no holder of a license under this chapter, on or after the date of enactment of the National Aeronautics and Space Administration Technology Investment Act of 1994, shall launch a payload containing any material to be used for purposes of space advertising.

"(b) CIVIL PENALTIES.—Any person who violates the provisions of subsection (a)(2) shall—

"(1) be subject to a civil penalty, not to exceed $30,000,000 which shall be assessed by the Secretary; and

"(2) not be issued a license under this chapter for a period of 2 years from the date of such violation, or, in the case of multiple violations, from the date of the most recent violation.".

(c) NEGOTIATION WITH FOREIGN SPACE LAUNCHING NATIONS.—

(1) The President is requested to negotiate with foreign launching nations for the purpose of reaching an agreement or agreements that prohibit the use of outer space for advertising purposes.

(2) It is the sense of Congress that the President should take such action as is appropriate and feasible to enforce the terms of any agreement to prohibit the use of outer space for advertising purposes.

(3) As used in this subsection, the term "foreign launching nation" means a nation—

(A) which launches, or procures the launching of, a payload into outer space; or

(B) from whose territory or facility a payload is launched into outer space.

(d) CLERICAL AMENDMENT.—The table of sections for chapter 701 of title 49, United States Code, is amended by inserting the following after the item relating to section 70109:

"70109a. Prohibition on space advertising".

INDIAN CHILD PROTECTION FAMILY VIOLENCE PREVENTION ACT

The text of the bill (S. 2075) to amend the Indian Child Protection and Family Violence Prevention Act to reauthorize and improve program under the Act, as passed by the Senate on October 6, 1994, is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the "Indian Child Protection and Family Violence Prevention Act Amendments of 1994".

(b) REFERENCES.—Whenever in this Act an amendment is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a provision of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3201 et seq.).

SEC. 2. FINDINGS AND PURPOSE.

Section 402(1) (25 U.S.C. 3201(1)) is amended—

(1) by striking "and" at the end of subparagraph (F); and

(2) by adding at the end the following new subparagraph:

"(G) it is necessary to address the scope of family violence in order to break the cycle of intrafamily child abuse and neglect; and".

SEC. 3. REAUTHORIZATION AND IMPROVEMENT OF INDIAN CHILD PROTECTION AND VIOLENCE PREVENTION PROGRAMS.

(a) DEFINITION.—Section 403 (25 U.S.C. 3202) is amended—

(1) by striking "and" at the end of paragraph (17);

(2) by striking the period at the end of paragraph (18) and inserting "; and"; and

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

"(19) 'Director' means the Director of the Indian Health Service of the Department of Health and Human Services.".

(b) CENTRAL REGISTER.—Section 405 (25 U.S.C. 3204) is amended—

(1) in subsection (c), by striking ", together with recommendations and draft legislation to implement such regulations,"; and

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

"(d) If the Secretary establishes in the Bureau of Indian Affairs a Central Register described in the study conducted under this section, the Central Register shall, if feasible, be connected to existing tribal, Federal, or State central registries.

"(e)(1) The Secretary of the Interior may establish a grant program to award grants to Indian tribes that submit an application that is approved by the Secretary to establish, operate, and maintain a central registry system for the tribe that contains information regarding child abuse with respect to the tribe.

"(2) An application submitted under paragraph (1) shall—

"(A) be in such form as the Secretary may prescribe; and

"(B) specify the nature of the central registry proposed by the applicant.

"(3) Each tribe that receives a grant under paragraph (1) shall furnish the Secretary with such information as the Secretary may require to evaluate the implementation of the central registry and ensure that the grant funds are expended for the purpose for which the grant was made.

"(4) There are authorized to be appropriated to the Department of the Interior such sums as may be necessary to carry out this subsection.".

(c) PROVISION OF RECORDS AND INFORMATION TO TRIBES.—Section 406 (25 U.S.C. 3205) is amended—

(1) in the first sentence, by striking "may" and inserting "shall";

(2) by inserting after the first sentence, the following new sentence: "Federal law enforcement agencies that investigate incidents of child abuse in Indian country shall provide information and records to Indian tribal law enforcement agencies requiring such information and records in order to fulfill the duties of such tribes under this Act."; and

(3) in the last sentence—

(A) by striking "governments" and inserting "agencies"; and

(B) by striking "entities" and inserting "agencies".

(d) MEDICAL EXAMINATIONS IN CONNECTION WITH CHILD ABUSE REPORTS.—Section 407 (25 U.S.C. 3206) is amended by adding at the end the following new subsection:

"(e) MEDICAL EXAMINATIONS IN CONNECTION WITH CHILD ABUSE REPORTS.—

"(1) IN GENERAL.—As soon as practicable after the date of enactment of this subsection, the Secretary, acting through the Service, shall develop and publish suggested guidelines for physicians employed by the Service concerning the appropriate use of a medical examination in an investigation of a report of child abuse in Indian country.

"(2) CONTENT OF GUIDELINES.—The guidelines developed by the Secretary shall provide for protocols that—

"(A) ensure against unnecessary and intrusive medical examinations; and

"(B) provide guidance for physicians in treating children who are subject to child abuse in Indian country.".

(e) CHARACTER.—

(1) CHARACTER INVESTIGATIONS.—Section 408 (25 U.S.C. 3207) is amended—

(A) in subsection (a)(3), by inserting "with the participation of Indian tribes," before "prescribe regulations";

(B) in subsection (c)(1), by inserting "including, at a minimum, an inquiry into the previous employment, residential, and academic history of the individual who is employed or being considered for employment" after "Indian children"; and

(C) by adding at the end the following new subsection:

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $3,000,000 for each of fiscal years 1995 through 2005.".

(2) ISSUANCE OF MINIMUM CHARACTER STANDARDS.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Interior and the Secretary of Health and Human Services shall—

(A) publish in the Federal Register regulations containing the minimum standards of character that are required under section 408(a)(3) of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3207(a)(3)); and

(B) provide a copy of the regulations containing such minimum standards to each Indian tribe.

(f) INDIAN CHILD ABUSE TREATMENT GRANT PROGRAM.—

(1) ADMINISTRATIVE RESPONSIBILITY.—Section 409(a) (25 U.S.C. 3208 (a)) is amended—

(A) by striking "and in cooperation with the Bureau"; and

(B) by striking "intertribal" and inserting "inter-tribal".

(2) TREATMENT CONCEPTS.—Section 409(b) (25 U.S.C. 3208(b)) is amended by adding at the end the following new paragraph:

"(3) Nothing in the criteria referred to in paragraph (2) may be construed to limit the ability of an Indian tribe or an inter-tribal consortium to provide culturally relevant child abuse treatment concepts that are consistent with tribal values and customs.".

(3) ELIMINATION OF MAXIMUM GRANT AMOUNT.—Section 409 (25 U.S.C. 3208) is amended—

(A) by striking subsection (c); and

(B) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(4) EXTENSION OF AUTHORIZATION OF APPROPRIATIONS.—Subsection (d) of section 409, as redesignated by paragraph (3)(B), is amended by striking "each of the fiscal years 1992, 1993, 1994, and 1995" and inserting "each of fiscal years 1995 through 2005".

(5) CLERICAL AMENDMENT.—Subsection (d) of section 409 (as so redesignated), as amended by paragraph (3), is further amended by striking "there is hereby" and inserting the following: "AUTHORIZATION OF APPROPRIATIONS.—There are".

(g) INDIAN FAMILY VIOLENCE TREATMENT GRANT PROGRAM.—The Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3201 et seq.) is amended—

(1) by redesignating sections 410 through 412 as sections 411 through 413, respectively; and

(2) by inserting after section 409 the following new section:

"SEC. 410. INDIAN FAMILY VIOLENCE TREATMENT GRANT PROGRAM.

"(a) ESTABLISHMENT OF GRANT PROGRAM.—The Secretary of Health and Human Services, acting through the Indian Health Service, shall establish a Family Violence Grant Program. Such Program shall provide grants to any Indian tribe or inter-tribal consortium that submits an application that is approved by the Secretary, for the establishment on Indian reservations of treatment programs for Indians who have been victims of family violence (including Indians who have been victims of elder abuse).

"(b) GRANT APPLICATIONS.—

"(1) IN GENERAL.—An Indian tribe or inter-tribal consortium may submit to the Secretary of Health and Human Services an application for a grant under subsection (a).

"(2) APPLICATION CONTENT.—An application submitted under paragraph (1) shall—

"(A) be in such form as the Secretary of Health and Human Services may prescribe; and

"(B) specify—

"(i) the nature of the program that the applicant proposes to carry out, and the extent to which family violence (including elder abuse) will be addressed in the program;

"(ii) the data and information on which the proposed program is based;

"(iii) the extent to which the proposed program would use or incorporate existing services that are available on the Indian reservation; and

"(iv) the specific treatment concepts to be used under the program.

"(c) GRANT ADMINISTRATION AND FINAL REPORT.—Each recipient of a grant made under subsection (a) shall—

"(1) furnish the Secretary of Health and Human Services with such information as the Secretary may require to—

"(A) evaluate the program for which the grant is made; and

"(B) ensure that the funds provided under the grant are expended for the purposes for which the grant was made; and

"(2) submit to the Secretary of Health and Human Services on the termination of the period of the grant, a final report that shall include such information as such Secretary may require.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Health and Human Services to carry out this section $4,000,000 for each of fiscal years 1995 through 2005.".

(h) INDIAN CHILD RESOURCE AND FAMILY SERVICES CENTERS.—

(1) ADMINISTRATIVE RESPONSIBILITY.—Section 411 (as redesignated by subsection (g)(1)) is amended—

(A) in subsection (a), by striking "The Secretary" and inserting "The Director";

(B) in subsection (b)—

(i) by striking "The Secretary and the Secretary of Health and Human Services shall" and inserting "The Secretary and the Director may"; and

(ii) by adding at the end the following new sentence: "In making a determination whether to enter into a Memorandum of Agreement with the Secretary pursuant to this subsection, the Director shall take into consideration whether the Indian tribes within an area to be served by the Director have contracted for social service programs or rely primarily on the Bureau for the direct provision of child abuse and family violence counseling services.";

(C) in subsection (d)(2)—

(i) by inserting "including" after "family violence"; and

(ii) by inserting "and provide incentives for Indians pursuing college degrees in social work" after "trainees";

(D) in subsection (d)(5), by inserting "in consultation with the appropriate official of the Bureau," before "develop policies";

(E) in subsection (e), by adding at the end the following new flush sentence:

"In each area served by a school of the Bureau, an employee of the Office of Indian Education shall serve on the multidisciplinary team established for the area pursuant to this section.";

(F) in subsection (f)—

(i) by striking "The Secretary, in consultation with the Secretary of Health and Human Services, shall establish," and inserting "The Director, or the Director and the Secretary (acting jointly in accordance with any Memorandum of Agreement entered into under subsection (b)), shall establish,"; and

(ii) by striking "the Secretary" in the second sentence and inserting "the Director"; and

(G) in the second sentence of subsection (g), by inserting "pursuant to such Act" after "contract".

(2) CENTER SERVICE AREAS.—Subsection (a) of section 411 (as redesignated by subsection (g)(1), and as amended by paragraph (1)(A)) is further amended by striking "each area office of the Bureau" and inserting "each area of the Service".

(3) CENTER ADVISORY BOARDS.—Section 411 (as redesignated by subsection (g)(1), and as amended by paragraph (1)) is further amended—

(A) in subsection (f)—

(i) by striking "an area office of the Bureau" in the second sentence and inserting "an area of the Service"; and

(ii) by adding at the end the following new sentence: "The advisory board shall provide such assistance in accordance with the provisions of the Memorandum of Agreement, if any, entered into under subsection (b) of this section."; and

(B) in the second sentence of subsection (g), by striking "an area office of the Bureau" and inserting "an area of the Service".

(4) EXTENSION OF AUTHORIZATION OF APPROPRIATIONS.—Subsection (h) of section 411 (as redesignated by subsection (g)(1)) is amended by striking "each of the fiscal years 1992, 1993, 1994, and 1995" and inserting "each of fiscal years 1995 through 2005".

(5) TRANSFER OF FUNDS.—Notwithstanding any other provision of law, the Secretary of the Interior shall transfer any funds available to the Department of the Interior on the date of the enactment of this Act for the purposes of carrying out the functions of the Indian Child Resource and Family Services Centers to the Secretary of Health and Human Services for the purposes of carrying out such functions.

(i) INDIAN CHILD PROTECTION AND FAMILY VIOLENCE PREVENTION.—

(1) ADMINISTRATIVE RESPONSIBILITY.—Section 412 (as redesignated by subsection (g)(1)) is amended—

(A) by striking "Secretary" each place it appears and inserting "Director"; and

(B) in subsection (a), by striking "the Bureau" and inserting in lieu thereof "the Service".

(2) EXTENSION OF AUTHORIZATION OF APPROPRIATIONS.—Subsection (i) of section 412 (as redesignated by subsection (g)(1)) is amended by striking "each of the fiscal years 1992, 1993, 1994, and 1995" and inserting "each of fiscal years 1995 through 2005".

(3) MISCELLANEOUS AMENDMENTS.—Section 412 (as redesignated by subsection (g)(1), and as amended by paragraph (1)) is further amended—

(A) in subsection (b), by striking "Indian Self-Determination Act" and inserting "Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)";

(B) in subsection (d)(3)—

(i) in the matter preceding subparagraph (A), by inserting "and family violence" after "multidisciplinary child abuse";

(ii) in subparagraph (A), by inserting "and family violence" after "child abuse"; and

(iii) in subparagraph (B)—

(I) by inserting "and family violence" after "child abuse"; and

(II) by striking "child victim" and inserting "victim";

(C) in subsection (d)(4), by inserting "and family violence" after "child protection";

(D) by striking "(f) SECRETARIAL REGULATIONS; BASE SUPPORT FUNDING.—" and inserting the following:

"(e) COMPETITIVE GRANTS.—"; and

(E) in subsection (e) (as so redesignated)—

(i) in paragraph (1), by striking ", and promulgate by regulations, a formula which establishes base support funding" and inserting "a competitive grant program";

(ii) by striking paragraph (2), and inserting the following new paragraph:

"(2)(A) In awarding each competitive grant for a program referred to in paragraph (1), the Director shall consider—

"(i) with respect to the applicant, and among other criteria, the degree of need, preexisting resources; and

"(ii) if feasible, the potential of the grant in facilitating the development on a regional level of intertribal cooperative programs.

"(B) In developing regulations for the competitive grant program established under this subsection, the Secretary of Health and Human Services, acting through the Director, shall develop, in consultation with Indian tribes, appropriate caseload standards and staffing requirements that account for the resources and needs of Indian tribes and tribal organizations. ";

(iii) in paragraph (3)—

(I) in the matter preceding subparagraph (A), by striking "development of the base support funding formula" and inserting "in awarding grants under this subsection"; and

(II) in subparagraph (A), by inserting before the semicolon the following: ", including any projected regional development of intertribal programs, if feasible"; and

(iv) in paragraph (4), by striking "formula established" and inserting "grants awarded".

(4) TRANSFER OF FUNDS.—Notwithstanding any other provision of law, the Secretary of the Interior shall transfer any funds available to the Department of the Interior, on the date of the enactment of this Act for the purposes of carrying out the Indian Child Protection and Family Violence Prevention Program established under section 412 of the Indian Child Protection and Family Violence Prevention Act (as redesignated by subsection (g)(1)), to the Secretary of Health and Human Services for the purposes of carrying out such program.

(j) RESPONSIBILITY FOR ANNUAL REPORT.—Section 413 (as redesignated by subsection (g)(1)) is amended by striking "Secretary" and inserting "Director".

(k) CONFORMING AMENDMENTS.—Section 407(c) (25 U.S.C. 3206) is amended—

(1) by striking "411" and inserting "412"; and

(2) by striking "410" and inserting "411".

BASE CLOSURE AND COMMUNITY REDEVELOPMENT AND HOMELESS ASSISTANCE ACT

The text of the bill (S. 2534) to revise and improve the process for disposing of buildings and property at military installations under the base closure laws, as passed by the Senate on October 6, 1994, is as follows:

S. 2534

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 cited as the "Base Closure Community Redevelopment and Homeless Assistance Act of 1994".

SEC. 2. DISPOSAL OF BUILDINGS AND PROPERTY AT MILITARY INSTALLATIONS APPROVED FOR CLOSURE.

(a) IN GENERAL.—Section 2905(b) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting after paragraph (6) the following new paragraph (7):

"(7)(A) Determinations of the use to assist the homeless of buildings and property located at installations approved for closure under this part after the date of the enactment of this paragraph shall be determined under this paragraph rather than paragraph (6).

"(B)(i) Not later than the date on which the Secretary of Defense completes the final determinations referred to in paragraph (5) relating to the use or transferability of any portion of an installation covered by this paragraph, the Secretary shall—

"(I) identify the buildings and property at the installation for which the Department of Defense has a use, for which another department or agency of the Federal Government has identified a use, or of which another department or agency will accept a transfer;

"(II) take such actions as are necessary to identify any building or property at the installation not identified under subclause (I) that is excess property or surplus property;

"(III) submit to the Secretary of Housing and Urban Development and to the redevelopment authority for the installation (or the chief executive officer of the State in which the installation is located if there is no redevelopment authority for the installation at the completion of the determination described in the stem of this sentence) information on any building or property that is identified under subclause (II); and

"(IV) publish in the Federal Register and in a newspaper of general circulation in the communities in the vicinity of the installation information on the buildings and property identified under subclause (II).

"(ii) Upon the recognition of a redevelopment authority for an installation covered by this paragraph, the Secretary of Defense shall publish in the Federal Register and in a newspaper of general circulation in the communities in the vicinity of the installation information on the redevelopment authority.

"(C)(i) State and local governments, representatives of the homeless, and other interested parties located in the communities in the vicinity of an installation covered by this paragraph shall submit to the redevelopment authority for the installation a notice of the interest, if any, of such governments, representatives, and parties in the buildings or property, or any portion thereof, at the installation that are identified under subparagraph (B)(i)(II). A notice of interest under this clause shall describe the need of the government, representative, or party concerned for the buildings or property covered by the notice.

"(ii) The redevelopment authority for an installation shall assist the governments, representatives, and parties referred to in clause (i) in evaluating buildings and property at the installation for purposes of this subparagraph.

"(iii) In providing assistance under clause (ii), a redevelopment authority shall—

"(I) consult with representatives of the homeless in the communities in the vicinity of the installation concerned; and

"(II) undertake outreach efforts to provide information on the buildings and property to representatives of the homeless, and to other persons or entities interested in assisting the homeless, in such communities.

"(iv) It is the sense of Congress that redevelopment authorities should begin to conduct outreach efforts under clause (iii)(II) with respect to an installation as soon as is practicable after the date of approval of closure of the installation.

"(D)(i) State and local governments, representatives of the homeless, and other interested parties shall submit a notice of interest to a redevelopment authority under subparagraph (C) not later than the date specified for such notice by the redevelopment authority.

"(ii) The date specified under clause (i) shall be—

"(I) in the case of an installation for which a redevelopment authority has been recognized as of the date of the completion of the

determinations referred to in paragraph (5), not earlier than 3 months and not later than 6 months after that date; and

"(II) in the case of an installation for which a redevelopment authority is not recognized as of such date, not earlier than 3 months and not later than 6 months after the date of the recognition of a redevelopment authority for the installation.

"(iii) Upon specifying a date for an installation under this subparagraph, the redevelopment authority for the installation shall—

"(I) publish the date specified in a newspaper of general circulation in the communities in the vicinity of the installation concerned; and

"(II) notify the Secretary of Defense of the date.

"(E)(i) In submitting to a redevelopment authority under subparagraph (C) a notice of interest in the use of buildings or property at an installation to assist the homeless, a representative of the homeless shall submit the following:

"(I) A description of the homeless assistance program that the representative proposes to carry out at the installation.

"(II) An assessment of the need for the program.

"(III) A description of the extent to which the program is or will be coordinated with other homeless assistance programs in the communities in the vicinity of the installation.

"(IV) A description of the buildings and property at the installation that are necessary in order to carry out the program.

"(V) A description of the financial plan, the organization, and the organizational capacity of the representative to carry out the program.

"(VI) An assessment of the time required in order to commence carrying out the program.

"(ii) A redevelopment authority may not release to the public any information submitted to the redevelopment authority under clause (i)(V) without the consent of the representative of the homeless concerned unless such release is authorized under Federal law and under the law of the State and communities in which the installation concerned is located.

"(F)(i) The redevelopment authority for each installation covered by this paragraph shall prepare a redevelopment plan for the installation. The redevelopment authority shall, in preparing the plan, consider the interests in the use to assist the homeless of the buildings and property at the installation that are expressed in the notices submitted to the redevelopment authority under subparagraph (C).

"(ii)(I) In connection with a redevelopment plan for an installation, a redevelopment authority and representatives of the homeless shall prepare legally binding agreements that provide for the use to assist the homeless of buildings and property, resources, and assistance on or off the installation. The implementation of such agreements shall be contingent upon the approval of the redevelopment plan by the Secretary of Housing and Urban Development under subparagraph (H) or (J).

"(II) Agreements under this clause shall provide for the reversion to the redevelopment authority concerned, or to such other entity or entities as the agreements shall provide, of buildings and property that are made available under this paragraph for use to assist the homeless in the event that such buildings and property cease being used for that purpose.

"(iii) A redevelopment authority shall provide opportunity for public comment on a redevelopment plan before submission of the plan to the Secretary of Defense and the Secretary of Housing and Urban Development under subparagraph (G).

"(iv) A redevelopment authority shall complete preparation of a redevelopment plan for an installation and submit the plan under subparagraph (G) not later than 9 months after the date specified by the redevelopment authority for the installation under subparagraph (D).

"(G)(i) Upon completion of a redevelopment plan under subparagraph (F), a redevelopment authority shall submit an application containing the plan to the Secretary of Defense and to the Secretary of Housing and Urban Development.

"(ii) A redevelopment authority shall include in an application under clause (i) the following:

"(I) A copy of the redevelopment plan, including a summary of any public comments on the plan received by the redevelopment authority under subparagraph (F)(iii).

"(II) A copy of each notice of interest of use of buildings and property to assist the homeless that was submitted to the redevelopment authority under subparagraph (C), together with a description of the manner, if any, in which the plan addresses the interest expressed in each such notice and, if the plan does not address such an interest, an explanation why the plan does not address the interest.

"(III) A summary of the outreach undertaken by the redevelopment authority under subparagraph (C)(iii)(II) in preparing the plan.

"(IV) A statement identifying the representatives of the homeless and the homeless assistance planning boards, if any, with which the redevelopment authority consulted in preparing the plan, and the results of such consultations.

"(V) An assessment of the manner in which the redevelopment plan balances the expressed needs of the homeless and the need of the communities in the vicinity of the installation for economic redevelopment and other development.

"(VI) Copies of the agreements that the redevelopment authority proposes to enter into under subparagraph (F)(ii).

"(H)(i) Not later than 60 days after receiving a redevelopment plan under subparagraph (G), the Secretary of Housing and Urban Development shall complete a review of the plan. The purpose of the review is to determine whether the plan, with respect to the expressed interest and requests of representatives of the homeless—

"(I) takes into consideration the size and nature of the homeless population in the communities in the vicinity of the installation, the availability of existing services in such communities to meet the needs of the homeless in such communities, and the suitability of the buildings and property covered by the plan for the use and needs of the homeless in such communities;

"(II) takes into consideration any economic impact of the homeless assistance under the plan on the communities in the vicinity of the installation;

"(III) balances in an appropriate manner the needs of the communities in the vicinity of the installation for economic redevelopment and other development with the needs of the homeless in such communities;

"(IV) was developed in consultation with representatives of the homeless and the homeless assistance planning boards, if any, in the communities in the vicinity of the installation; and

"(V) specifies the manner in which buildings and property, resources, and assistance on or off the installation will be made available for homeless assistance purposes.

"(ii) It is the sense of Congress that the Secretary of Housing and Urban Development shall, in completing the review of a plan under this subparagraph, take into consideration and be receptive to the predominant views on the plan of the communities in the vicinity of the installation covered by the plan.

"(iii) The Secretary of Housing and Urban Development may engage in negotiations and consultations with a redevelopment authority before or during the course of a review under clause (i) with a view toward resolving any preliminary determination of the Secretary that a redevelopment plan does not meet a requirement set forth in that clause. The redevelopment authority may modify the redevelopment plan as a result of such negotiations and consultations.

"(iv) Upon completion of a review of a redevelopment plan under clause (i), the Secretary of Housing and Urban Development shall notify the Secretary of Defense and the redevelopment authority concerned of the determination of the Secretary of Housing and Urban Development under that clause.

"(v) If the Secretary of Housing and Urban Development determines as a result of such a review that a redevelopment plan does not meet the requirements set forth in clause (i), a notice under clause (iv) shall include—

"(I) an explanation of that determination; and

"(II) a statement of the actions that the redevelopment authority must undertake in order to address that determination.

"(I)(i) Upon receipt of a notice under subparagraph (H)(iv) of a determination that a redevelopment plan does not meet a requirement set forth in subparagraph (H)(i), a redevelopment authority shall have the opportunity to—

"(I) revise the plan in order to address the determination; and

"(II) submit the revised plan to the Secretary of Housing and Urban Development.

"(ii) A redevelopment authority shall submit a revised plan under this subparagraph to the Secretary of Housing and Urban Development, if at all, not later than 90 days after the date on which the redevelopment authority receives the notice referred to in clause (i).

"(J)(i) Not later than 30 days after receiving a revised redevelopment plan under subparagraph (I), the Secretary of Housing and Urban Development shall review the revised plan and determine if the plan meets the requirements set forth in subparagraph (H)(i).

"(ii) The Secretary of Housing and Urban Development shall notify the Secretary of Defense and the redevelopment authority concerned of the determination of the Secretary of Housing and Urban Development under this subparagraph.

"(K) Upon receipt of a notice under subparagraph (H)(vi) or (J)(ii) of the determination of the Secretary of Housing and Urban Development that a redevelopment plan for an installation meets the requirements set forth in subparagraph (H)(i), the Secretary of Defense shall dispose of the buildings and property located at the installation that are identified in the plan as available for use to assist the homeless in accordance with the provisions of the plan. The Secretary of Defense may dispose of such buildings or property directly to the representatives of the

homeless concerned or to the redevelopment authority concerned. The Secretary of Defense shall dispose of the buildings and property under this subparagraph without consideration.

"(L)(i) If the Secretary of Housing and Urban Development determines under subparagraph (J) that a revised redevelopment plan for an installation does not meet the requirements set forth in subparagraph (H)(i), or if no revised plan is so submitted, that Secretary shall—

"(I) review the original redevelopment plan submitted to that Secretary under subparagraph (G), including the notice or notices of representatives of the homeless referred to in clause (ii)(II) of that subparagraph;

"(II) consult with the representatives referred to in subclause (I), if any, for purposes of evaluating the continuing interest of such representatives in the use of buildings or property at the installation to assist the homeless;

"(III) request that each such representative submit to that Secretary the items described in clause (ii); and

"(IV) based on the actions of that Secretary under subclauses (I) and (II), and on any information obtained by that Secretary as a result of such actions, indicate to the Secretary of Defense the buildings and property at the installation that meet the requirements set forth in subparagraph (H)(i).

"(ii) The Secretary of Housing and Urban Development may request under clause (i)(III) that a representative of the homeless submit to that Secretary the following:

"(I) A description of the program of such representative to assist the homeless.

"(II) A description of the manner in which the buildings and property that the representative proposes to use for such purpose will assist the homeless.

"(III) Such information as that Secretary requires in order to determine the financial capacity of the representative to carry out the program and to ensure that the program will be carried out in compliance with Federal environmental law and Federal law against discrimination.

"(IV) A certification that police services, fire protection services, and water and sewer services available in the communities in the vicinity of the installation concerned are adequate for the program.

"(iii) The Secretary of Housing and Urban Development shall indicate to the Secretary of Defense and to the redevelopment authority concerned the buildings and property at an installation under clause (i)(IV) to be disposed of not later than 90 days after the date of a receipt of a revised plan for the installation under subparagraph (J).

"(iv) The Secretary of Defense shall dispose of the buildings and property at an installation referred to in clause (iii) to entities indicated by the Secretary of Housing and Urban Development or by transfer to the redevelopment authority concerned for transfer to such entities. Such disposal shall be in accordance with the indications of the Secretary of Housing and Urban Development under clause (i)(IV). Such disposal shall be without consideration.

"(M)(i) In the event of the disposal of buildings and property of an installation pursuant to subparagraph (K), the redevelopment authority for the installation shall be responsible for the implementation of and compliance with agreements under the redevelopment plan described in that subparagraph for the installation.

"(ii) If a building or property reverts to a redevelopment authority under such an agreement, the redevelopment authority shall take appropriate actions to secure, to the maximum extent practicable, the utilization of the building or property by other homeless representatives to assist the homeless. A redevelopment authority may not be required to utilize the building or property to assist the homeless.

"(N) The Secretary of Defense may postpone or extend any deadline provided for under this paragraph in the case of an installation covered by this paragraph for such period as the Secretary considers appropriate if the Secretary determines that such postponement is in the interests of the communities affected by the closure of the installation. The Secretary shall make such determinations in consultation with the redevelopment authority concerned and, in the case of deadlines provided for under this paragraph with respect to the Secretary of Housing and Urban Development, in consultation with the Secretary of Housing and Urban Development.

"(O) For purposes of this paragraph, the term 'communities in the vicinity of the installation', in the case of an installation, means the communities that constitute the political jurisdictions (other than the State in which the installation is located) that comprise the redevelopment authority for the installation.".

(b) DEFINITION.—Section 2910 of such Act is amended by adding at the end the following:

"(10) The term 'representative of the homeless' has the meaning given such term in section 501(h)(4) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411(h)(4)).".

(c) CONFORMING AMENDMENT TO 1990 BASE CLOSURE ACT.—Section 2905(b)(6)(A) of such Act is amended by adding at the end the following: "For procedures relating to the use to assist the homeless of buildings and property at installations closed under this part after the date of the enactment of this sentence, see paragraph (7).".

(d) CONFORMING AMENDMENT TO MCKINNEY ACT.—Section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411) is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following new subsection (h):

"(h) APPLICABILITY TO PROPERTY UNDER BASE CLOSURE PROCESS.—(1) The provisions of this section shall not apply to buildings and property at military installations that are approved for closure under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) after the date of the enactment of this subsection.

"(2) For provisions relating to the use to assist the homeless of buildings and property located at certain military installations approved for closure under such Act, or under title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note), before such date, see section 2(e) of Base Closure Community Redevelopment and Homeless Assistance Act of 1994.".

(e) APPLICABILITY TO INSTALLATIONS APPROVED FOR CLOSURE BEFORE ENACTMENT OF ACT.—(1)(A) Notwithstanding any provision of the 1988 base closure Act or the 1990 base closure Act, as such provision was in effect on the day before the date of the enactment of this Act, and subject to subparagraphs (B) and (C), the use to assist the homeless of building and property at military installations approved for closure under the 1988 base closure Act or the 1990 base closure Act, as the case may be, before such date shall be determined in accordance with the provisions of paragraph (7) of section 2905(b) of the 1990 base closure Act, as amended by subsection (a), in lieu of the provisions of the 1988 base closure Act or the 1990 base closure Act that would otherwise apply to the installations.

(B)(i) The provisions of such paragraph (7) shall apply to an installation referred to in subparagraph (A) only if the redevelopment authority for the installation submits a request to the Secretary of Defense not later than 60 days after the date of the enactment of this Act.

(ii) In the case of an installation for which no redevelopment authority exists on the date of the enactment of this Act, the chief executive officer of the State in which the installation is located shall submit the request referred to in clause (i) and act as the redevelopment authority for the installation.

(C) The provisions of such paragraph (7) shall not apply to any buildings or property at an installation referred to in subparagraph (A) for which the redevelopment authority submits a request referred to in subparagraph (B) within the time specified in such subparagraph (B) if the buildings or property, as the case may be, have been transferred or leased for use to assist the homeless under the 1988 base closure Act or the 1990 base closure Act, as the case may be, before the date of the enactment of this Act.

(2) For purposes of the application of such paragraph (7) to the buildings and property at an installation, the date on which the Secretary receives a request with respect to the installation under paragraph (1) shall be treated as the date on which the Secretary of Defense completes the final determination referred to in subparagraph (B) of such paragraph (7).

(3) Upon receipt under paragraph (1)(B) of a timely request with respect to an installation, the Secretary of Defense shall publish in the Federal Register and in a newspaper of general circulation in the communities in the vicinity of the installation information describing the redevelopment authority for the installation.

(4)(A) The Secretary of Housing and Urban Development and the Secretary of Health and Human Services shall not, during the 60-day period beginning on the date of the enactment of this Act, carry out with respect to any military installation approved for closure under the 1988 base closure Act or the 1990 base closure Act before such date any action required of such Secretaries under the 1988 base closure Act or the 1990 base closure Act, as the case may be, or under section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411).

(B)(i) Upon receipt under paragraph (1)(A) of a timely request with respect to an installation, the Secretary of Defense shall notify the Secretary of Housing and Urban Development and the Secretary of Health and Human Services that the disposal of buildings and property at the installation shall be determined under such paragraph (7) in accordance with this subsection.

(ii) Upon receipt of a notice with respect to an installation under this subparagraph, the requirements, if any, of the Secretary of Housing and Urban Development and the Secretary of Health and Human Services with respect to the installation under the provisions of law referred to in subparagraph (A) shall terminate.

(iii) Upon receipt of a notice with respect to an installation under this subparagraph, the Secretary of Health and Human Services shall notify each representative of the homeless that submitted to that Secretary an application to use buildings or property at the installation to assist the homeless under the 1988 base closure Act or the 1990 base closure Act, as the case may be, that the use of buildings and property at the installation to assist the homeless shall be determined under such paragraph (7) in accordance with this subsection.

(5)(A) In preparing a redevelopment plan for buildings and property at an installation covered by such paragraph (7) by reason of this subsection, the redevelopment authority concerned shall—

(A) consider and address specifically any applications for use of such buildings and property to assist the homeless that were received by the Secretary of Health and Human Services under the 1988 base closure Act or the 1990 base closure Act, as the case may be, before the date of the enactment of this Act and are pending with that Secretary on that date; and

(B) in the case of any application by representatives of the homeless that was approved by the Secretary of Health and Human Services before the date of enactment of this Act, ensure that the plan adequately addresses the needs of the homeless identified in the application by providing such representatives of the homeless with—

(i) properties, on or off the installation, that are substantially equivalent to the properties covered by the application;

(ii) sufficient funding to secure such substantially equivalent properties;

(iii) services and activities that meet the needs identified in the application; or

(iv) a combination of the properties, funding, and services and activities described in clause (i), (ii), and (iii).

(6) In the case of an installation to which the provisions of such paragraph (7) apply by reason of this subsection, the date specified by the redevelopment authority for the installation under subparagraph (D) of such paragraph (7) shall be not less than 1 month and not more than 6 months after the date of the submittal of the request with respect to the installation under paragraph (1)(B).

(7) For purposes of this subsection:

(A) The term "1988 base closure Act" means title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).

(B) The term "1990 base closure Act" means the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).

(f) CLARIFYING AMENDMENTS TO BASE CLOSURE ACTS.—(1) Section 204(b)(6)(F)(i) of the Defense Authorization Amendments and Base Closure Act and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note) is amended by inserting "and buildings and property referred to in subparagraph (B)(ii) which have not been identified as suitable for use to assist the homeless under subparagraph (C)," after "subparagraph (D),".

(2) Section 2905(b)(6)(F)(i) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) is amended by inserting "and buildings and property referred to in subparagraph (B)(ii) which have not been identified as suitable for use to assist the homeless under subparagraph (C)," after "subparagraph (D),".

RECOGNITION OF RADIO AMATEURS

The text of the joint resolution (S.J. Res. 90) to recognize the achievements of radio amateurs, and to establish support for such amateurs as national policy, as passed by the Senate on October 6, 1994, is as follows:

S.J. RES. 90

Whereas Congress has expressed its determination in section 1 of the Communications Act of 1934 (47 U.S.C. 151) to promote safety of life and property through the use of radio communication;

Whereas Congress, in section 7 of the Communications Act of 1934 (47 U.S.C. 157), established a policy to encourage the provision of new technologies and services;

Whereas Congress, in section 3 of the Communications Act of 1934, defined radio stations to include amateur stations operated by persons interested in radio technique without pecuniary interest;

Whereas the Federal Communications Commission has created an effective regulatory framework through which the amateur radio service has been able to achieve the goals of the service;

Whereas these regulations, set forth in part 97 of title 47 of the Code of Federal Regulations clarify and extend the purposes of the amateur radio service as a—

(1) voluntary noncommercial communication service, particularly with respect to providing emergency communications;

(2) contributing service to the advancement of the telecommunications infrastructure;

(3) service which encourages improvement of an individual's technical and operating skills;

(4) service providing a national reservoir of trained operators, technicians and electronics experts; and

(5) service enhancing international good will;

Whereas Congress finds that members of the amateur radio service community have provided invaluable emergency communications services following such disasters as Hurricanes Hugo, Andrew, and Iniki, the Mt. St. Helens eruption, the Loma Prieta earthquake, tornadoes, floods, wildfires, and industrial accidents in great number and variety across the Nation; and

Whereas Congress finds that the amateur radio service has made a contribution to our Nation's communications by its crafting, in 1961, of the first Earth satellite licensed by the Federal Communications Commission, by its proof-of-concept for search and rescue satellites, by its continued exploration of the low Earth orbit in particular pointing the way to commercial use thereof in the 1990s, by its pioneering of communications using reflections from meteor trails, a technique now used for certain government and commercial communications, and by its leading role in development of low-cost, practical data transmission by radio which increasingly is being put to extensive use in, for instance, the land mobile service: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND DECLARATIONS OF CONGRESS.

Congress finds and declares that—

(1) radio amateurs are hereby commended for their contributions to technical progress in electronics, and for their emergency radio communications in times of disaster;

(2) the Federal Communications Commission is urged to continue and enhance the development of the amateur radio service as a public benefit by adopting rules and regulations which encourage the use of new technologies within the amateur radio service; and

(3) reasonable accommodation should be made for the effective operation of amateur radio from residences, private vehicles and public areas, and that regulation at all levels of government should facilitate and encourage amateur radio operation as a public benefit.

UNITED NEGRO COLLEGE FUND WEEK

The text of the joint resolution (S.J. Res. 181) to designate the week of May 8, 1994, through May 14, 1994, as "United Negro College Fund Week", as passed by the Senate on October 6, 1994, is as follows:

S.J. RES. 181

Whereas in 1943, Dr. Frederick D. Patterson of the Tuskegee Institute convened the first meeting to consider the feasibility of a united appeal on behalf of historically black private colleges and universities;

Whereas on May 13, 1944, the organizing meeting of the United Negro College Fund was held at the Waldorf-Astoria Hotel in New York City;

Whereas Atlanta University, Bethune-Cookman College, Clark College, Dillard University, Fisk University, Gammon Theological Seminary, Morehouse College, Spelman College, and the Tuskegee Institute were the founding member institutions of the United Negro College Fund;

Whereas the initial combined campaign of the United Negro College Fund raised $760,000;

Whereas through the year 1993, the 41 member institutions of the United Negro College Fund now enroll more than 55,000 students, have shared more than $58,000,000, and have raised more than $889,000,000 for the 50th Annual Campaign, and more than $190,000,000 for the United Negro College Fund Capital Campaign 2000; and

Whereas the United Negro College Fund continues to provide students quality academic instruction in a positive learning environment and assist as the mission of the Federal Government to promote equal opportunity in higher education: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) the week of May 8, 1994, through May 14, 1994, is designated "United Negro College Fund Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate programs, ceremonies, and activities;

(2) Congress salutes and acknowledges the United Negro College Fund, the president of the United Negro College Fund, William H. Gray, III, and the presidents, faculties, staff, and trustees of the 41 member institutions of the United Negro College Fund for their vigorous and persistent efforts in support of equal opportunity in higher education, and commends the students who benefit from the United Negro College Fund for their pursuit of academic excellence; and

(3) this joint resolution may be cited as the "United Negro College Fund 50th Anniversary Resolution".

NATIONAL HEALTH INFORMATION MANAGEMENT WEEK

The text of the joint resolution (S.J. Res. 208) to designate the week of November 6, 1994, through November 12, 1994, as "National Health Information Management Week", as passed by the Senate on October 6, 1994, is as follows:

S.J. RES. 208

Whereas accurate, timely, and complete medical records and related health information play a vital role in planning and providing quality health care for the citizens of the United States, beginning at birth and continuing throughout their lives;

Whereas there is an escalating public concern about the quality, appropriateness, and effectiveness of health care, and, to provide public accountability, specific skills in evaluating and reporting the results of that care are required;

Whereas equitable third-party reimbursement for health care is dependent upon health information that is collected, analyzed, classified, verified, and disseminated;

Whereas computer technology is changing the character of health information, requiring proficiency in designing systems, controlling comprehensive database, managing computer networks and related technology while regulating access to the data, and maintaining the security and confidentiality of individual patient information;

Whereas there is an increasing public awareness of patient rights including the right of patients to access their own medical information;

Whereas protecting the confidentiality of patient-identifiable health data is an important consideration in the contemporary health care environment;

Whereas the health care industry's needs, requirements, and use of health information is changing rapidly, and the rate of change will continue to escalate in the future as new technology is utilized and new health care reform policies are promulgated; and

Whereas the members of the American Health Information Management Association are America's health information leaders, with demonstrated commitment to and expertise in health information management, including balancing patients' rights and confidentiality of health information with legitimate uses of data, serving as an advocate for the patients' right to access their own records, preserving the confidentiality and security of patient data, valuing the quality of health information as evidenced by its integrity, accuracy, consistency, reliability, and validity, valuing the quality of health information as evidenced by its impact on the quality of health care delivery, investigating and applying new technology to advance the management of health information, and developing the computer based-patient record: Now, therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of November 6, 1994, through November 12, 1994, is designated "National Health Information Management Week", and the President is authorized and requested to issue a proclamation calling upon the citizens of the United States to observe that week with appropriate ceremonies and activities.

NATIONAL MILITARY FAMILIES RECOGNITION DAY

The text of the joint resolution (S.J. Res. 209) designating November 21, 1994, as "National Military Families Recognition Day", as passed by the Senate on October 6, 1994, is as follows:

S.J. RES. 209

Whereas the Congress recognizes and supports the Department of Defense policies to recruit, train, equip, retain, and field a military force that is capable of preserving peace and protecting the vital interests of the United States and its allies;

Wheras military families shoulder the responsibility of providing emotional support for their service members;

Whereas, in times of war and military action, military families have demonstrated their patriotism through their steadfast support and commitment to the Nation;

Whereas the emotional and mental readiness of the United States military personnel around the world is tied to the well-being and satisfaction of their families;

Whereas the quality of life that the Armed Forces provide to military families is a key factor in the retention of military personnel;

Whereas the people of the United States are truly indebted to military families for facing adversities, including extended separations from their service members, frequent household moves due to reassignments, and restrictions on their employment and educational opportunities;

Whereas 75 percent of officers and 57 percent of enlisted personnel in the Armed Forces are married;

Whereas families of active duty military personnel (including individuals other than spouses and children) comprise more than one-half of the active duty community of the Armed Forces, and spouses and children of members of the reserve component of the Armed Forces in paid status comprise more than one-half of the individuals constituting the reserve component of the Armed Forces community;

Whereas hundreds of thousands of spouses, children, and other dependents living abroad with members of the Armed Forces face financial hardship and feelings of cultural isolation;

Whereas the significantly reduced global military tensions following the end of the Cold War have resulted in a downsizing of the national defense and a refocusing of national priorities on strengthening the American economy and increasing competitiveness in the global marketplace;

Whereas the Congress is grateful for the sacrifices of military families and is committed to assisting the service members and their families who undergo the transition from active duty to civilian life; and

Whereas military families are devoted to the overall mission of the Department of Defense and have supported the role of the United States as the military leader and protector of the Free World: Now, therefore, be it

Resolved by the Senate and House Representatives of the United States of America in Congress assembled, That November 21, 1994, is designated as "National Military Families Recognition Day" in appreciation of the commitment and devotion of present and former military families and the sacrifices that such families have made on behalf of the Nation and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the day with appropriate programs, ceremonies, and activities.

NATIONAL MAMMOGRAPHY DAY

The text of the joint resolution (S.J. Res. 220) to designate October 19, 1994, as "National Mammography Day" as passed by the Senate on October 6, 1994, is as follows:

S.J. RES. 220

Whereas, according to the American Cancer Society, 182,000 women will be diagnosed with breast cancer in 1994, and 46,000 women will die from this disease;

Whereas, in the decade of the 1990's, it is estimated that about two million women will be diagnosed with breast cancer, resulting in nearly 500,000 deaths;

Whereas the risk of breast cancer increases with age, with 50 percent of the breast cancer cases occurring in women over age 65;

Whereas 80 percent of women who get breast cancer have no family history of the disease;

Whereas mammograms, when operated professionally at an accredited facility, can provide a safe and quick diagnosis;

Whereas experts agree that mammography is the best method of early detection of breast cancer, and early detection is the key to saving lives; and

Whereas mammograms can reveal the presence of small cancers up to two years before regular clinical breast examinations or breast self-examinations (BSE), saving as many as a third more lives; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 19, 1994, be designated as "National Mammography Day," and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate programs and activities.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE RECEIVED DURING RECESS

Under the authority of the order of the Senate of January 5, 1993, the Secretary of the Senate, on October 7, 1994, during the recess of the Senate, received a message from the House of Representatives announcing that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 21) A bill to designate certain lands in the California Desert as wilderness, to establish Death Valley, Joshua Tree, and Mojave National Parks, and for other purposes.

The message also announced that the Speaker has signed the following bills and joint resolution:

S. 2170. An act to provide a more effective, efficient, and responsive Government.

S. 2406. An act to amend title 17, United States Code, relating to the definition of a local service area of a primary transmitter, and for other purposes.

H.R. 1520. An act to amend the Petroleum Marketing Practices Act.

H.R. 2826. An act to provide for an investigation of the whereabouts of the United States citizens and others who have been missing from Cyprus since 1974.

H.R. 2902. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act to reauthorize the annual Federal payment to the District of Columbia for fiscal year 1996, and for other purposes.

H.R. 3485. An act to authorize appropriations for carrying out the Earthquake Hazards Reduction Act of 1977 for fiscal years 1995 and 1996.

H.R. 4308. An act to authorize appropriations to assist in carrying out the North American Wetlands Conservation Act for fiscal years 1995 through 1998, and for other purposes.

H.R. 4653. An act to settle Indian land claims within the State of Connecticut, and for other purposes.

H.J. Res. 401. Joint resolution designating the months of March 1995 and March 1996 as "Irish-American Heritage Month".

H.J. Res. 417. Joint resolution providing for temporary extension of the application of the final paragraph of section 10 of the Railway Labor Act with respect to the dispute between the Soo Line Railroad Company and certain of its employees.

MESSAGES FROM THE HOUSE

At 11:45 a.m., message from the House of Representatives, delivered by Ms. Goetz, 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. 4842. An act to specify the terms of contracts entered into by the United States and Indian tribal organizations under the Indian Self-Determination and Education Assistance Act, and for other purposes.

H.R. 5200. An act to resolve the 107th meridian boundary dispute between the Crow Indian Tribe and the United States.

The message also announced that the House has passed the following bills and joint resolutions; each without amendment:

S. 340. An act to amend the Federal Food, Drug, and Cosmetic Act to clarify the application of the act with respect to alternate uses of new animal drugs and new drugs intended for human use, and for other purposes.

S. 2534. An act to revise and improve the process for disposing of buildings and property at military installations under the base closure laws.

S.J. Res. 90. Joint resolution to recognize the achievements of radio amateurs, and to establish support for such amateurs as national policy.

S.J. Res. 221. Joint resolution to express the sense of the Congress in commemoration of the 75th anniversary of Grand Canyon National Park.

The message further announced that the House has agreed to the following concurrent resolutions; in which it requests the concurrence of the Senate:

H. Con. Res. 292. Concurrent resolution providing for the printing of a collection of statements made in tribute to the late Speaker of the House of Representatives, Thomas P. "Tip" O'Neill, Jr.

H. Con. Res. 293. Concurrent resolution providing for the printing of the book entitled "History of the United States House of Representatives".

H. Con. Res. 299. Concurrent resolution authorizing the printing of the book entitled "Hispanic Americans in Congress".

H. Con. Res. 313. Concurrent resolution providing for a technical correction in the enrollment of S. 21.

The message also announced that the House has passed the bill (S. 784) to amend the Federal Food, Drug and Cosmetic Act to establish standards with respect to dietary supplements, and for other purposes, with an amendment; in which it requests the concurrence of the Senate.

The message further announced that the House has passed the joint resolution (S.J. Res. 227) to approve the location of a Thomas Paine Memorial, with amendments; in which it requests the concurrence of the Senate.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 4709) to make certain technical corrections, and for other purposes.

At 3:26 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the amendments of the Senate to the bill (H.R. 4867) to authorize appropriations for high-speed rail transportation, and for other purposes, with an amendment, in which it requests the concurrence of the Senate.

At 4:55 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills; in which it requests the concurrence of the Senate:

H.R. 3344. An act for the relief of Lloyd B. Gamble.

H.R. 3917. An act for the relief of Arthur A. Carron, Jr.

The message also announced that the House agrees to the amendment of the Senate to the amendment of the House to the bill (S. 1927) to increase the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 3313) to amend title 38, United States Code, to improve health care services of the Department of Veterans Affairs relating to women veterans, to extend and expand authority for the Secretary of Veterans Affairs to provide priority health care to veterans who were exposed to ionizing radiation or to Agent Orange, to expand the scope of services that may be provided to veterans through Vet Centers, and for other purposes, with amendments; in which it requests the concurrence of the Senate.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 3664) to direct the Secretary of the Interior to transfer certain national fish hatcheries, with an amendment; in which it requests the concurrence of the Senate.

The message further announced that the House has agreed to H. Res. 577 stating that the bill of the Senate (S. 1216) to resolve the 107th Meridian boundary dispute between the Crow Indian Tribe, the Northern Cheyenne Indian Tribe, and the United States and various other issues pertaining to the Crow Indian Reservation, in the opinion of this House, contravenes the first clause of the seventh section of the first article of the Constitution of the United States and is an infringement of the privileges of this House and that such bill be respectfully returned to the Senate with a message communicating this resolution.

ENROLLED JOINT RESOLUTION SIGNED

At 5:10 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

S.J. Res. 221. Joint resolution to express the sense of the Congress in commemoration of the 75th anniversary of Grand Canyon National Park.

The enrolled joint resolution was subsequently signed by the President pro tempore (Mr. BYRD).

MESSAGES FROM THE HOUSE

At 6:26 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. 5231. An Act to provide for the management of portions of the Presidio under the jurisdiction of the Secretary of the Interior.

The message also announced that the House has passed the following bill; without amendment:

S. 455. An act to amend title 31, United States Code, to increase Federal payments to units of general local government for entitlement lands, and for other purposes.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 1348) to establish the Quinebaug and Shetucket Rivers Valley National Heritage Corridor in the State of Connecticut, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4950) to extend the authorities of the Overseas Private Investment Corporation.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1569) to amend the Public Health Service Act to establish, reauthorize and revise provisions to improve the health of individuals from disadvantaged backgrounds, and for other purposes.

At 10:02 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 bills and joint resolutions, in which it request the concurrence of the Senate:

H.R. 934. An act to amend title 28, United States Code, relating to jurisdictional immunities of the Federal Republic of Germany, to grant jurisdiction to the courts of the United States in certain cases involving acts of genocide occurring against United States nationals during World War II in the predecessor states of the Federal Republic of German, or in any territories or areas occupied, annexed, or otherwise controlled by those states.

H.R. 4522. An act to amend the Communications Act of 1934 to extend the authorization of appropriations of the Federal Communications Commission, and for other purposes.

H.R. 4852. An act to provide congressional approval of a governing international fishery agreement, to authorize appropriations for the Coast Guard for fiscal year 1995, and for other purposes.

H.R. 4946. An act to establish the Midewin National Tallgrass Prairie in the State of Illinois, and for other purposes.

H.R. 5164. An act to provide for the enrollment of individuals enrolled in a health benefits plan administered by the Office of the Comptroller of the Currency or the Office of Thrift Supervision in the Federal Employees Health Benefits Program.

H.R. 5179. An act to amend title 5, United States Code, to strengthen child support enforcement orders through the garnishment of amounts payable to Federal employees, and for other purposes.

H.R. 5220. An act to provide for the acceptance by the Secretary of Education of applications submitted by the local educational agency serving the Window Rock Unified School District, Window Rock, Arizona, under section 3 of the Act of September 30, 1950 (Public Law 874, 81st Congress) for fiscal years 1994 and 1995.

H.R. 5243. An act to amend the Public Works and Economic Development Act of 1965 to reauthorize economic development programs, and for other programs.

H.R. 5244. An act to amend title 38, United States Code, to revise and improve veterans' benefits programs, and for other purposes.

H.R. 5245. An act to provide for the extension of certain programs relating to housing and community development, and for other purposes.

H.R. 5246. An act to amend the Foreign Assistance Act of 1961 to make certain corrections relating to international narcotics control activities, and for other purposes.

H.J. Res. 184. Joint resolution designating the weekend of October 15–16, 1994, as "Small Towns and Townships Weekend".

H.J. Res. 411. Joint resolution designating October 29, 1994, as "National Firefighters Day".

H.J. Res. 413. Joint resolution designating November 1, 1994, as "National Family Literacy Day".

H.J. Res. 425. Joint resolution providing for the convening of the First Session of the One Hundred Fourth Congress.

The message also announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 2384. An act to extend the deadlines applicable to certain hydroelectric projects under the Federal Power Act, and for other purposes.

The message further announced that the House has passed the following bills, each with amendments, in which it requests the concurrence of the Senate:

S. 2073. An act to designate the United States courthouse that is scheduled to be constructed in Concord, New Hampshire, as the "Warren B. Rudman United States Courthouse", and for other purposes.

S. 2100. An act to provide for rural development, multiple-use management, expenditures under the Knutson-Vandenburg Act of 1930, and ecosystem-based management of certain forest lands, and for other purposes.

The message also announced that the House agrees to the amendments of the Senate to the amendment of the House to the amendment of the Senate to the bill (H.R. 783) to amend title III of the Immigration and Nationality Act to make changes in the laws relating to nationality and naturalization.

The message further announced that the House agrees to the amendment of the Senate to the amendments of the House to the bill (S. 2372) to reauthorize for three years the Commission on Civil Rights, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 14. Concurrent Resolution expressing the sense of Congress with respect to certain regulations of the Occupational Safety and Health Administration.

H. Con. Res. 35. Concurrent resolution recognizing Belleville, New Jersey, as the birthplace of the industrial revolution in the United States.

H. Con. Res. 314. Concurrent resolution providing for the printing of a collection of statements made in tribute to Representative Jamie L. Whitten.

H. Con. Res. 315. Concurrent resolution providing for an adjournment or recess of the two Houses.

The message further announced that the House has passed the following bills and joint resolutions, each without amendments:

S. 2395. An act to designate the United States Federal Building and Courthouse in Detroit, Michigan, as the "Theodore Levin Federal Building and Courthouse", and for other purposes.

S. 2407. An act to make improvements in the operation and administration of the Federal courts, and for other purposes.

S. 2466. An act to amend the Energy Policy and Conservation Act to manage the Strategic Petroleum Reserve more effectively and for other purposes.

S.J. Res. 220. Joint resolution to designate October 19, 1994, as "National Mammography Day".

S.J. Res. 229. Joint resolution regarding United States policy toward Haiti.

At 10:47 p.m. a message from the House of Representatives, delivered by Mr. Hays, announced that the House has passed the following bill; in which it requests the concurrence of the Senate:

H.R. 4497. An act to award a congressional gold medal to Rabbi Menachem Mendel Schneerson.

The message also announced that the Speaker has signed the following enrolled bills:

H.R. 4278. An act to make improvements in the old-age, survivors, and disability insurance program under title II of the Social Security Act.

H.R. 4379. An act to amend the Farm Credit Act of 1971 to enhance the ability of the banks for cooperatives to finance agricultural exports, and for other purposes.

H.R. 4950. An act to extend the authorities of the Overseas Private Investment Corporation, and for other purposes.

At 12:22 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. 5252. An act to amend the Social Security Act and related Act to make miscellaneous and technical amendments, and for other purposes.

H.R. 5248. An act to require States to consider adopting mandatory, comprehensive, Statewide one-call notification systems to protect natural gas and hazardous liquid pipelines and all other underground facilities from being damaged by any excavations, and for other purposes.

The message also announced that the House has passed the following bill, with amendments; in which it requests the concurrence of the Senate:

S. 2345. An act to amend the Solid Waste Disposal Act to provide authority for States to limit the interstate transportation of municipal solid waste, and for other purposes.

The message further announced that the House disagrees to the Senate amendment to the bill (H.R. 5123) to make a technical correction to an act preempting State economic regulation of motor carriers.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 4598) to direct the Secretary of the Interior to make technical corrections to maps relating to the Coastal Barrier Resources System, and to authorize appropriations to carry out the Coastal Barrier Resources Act.

ENROLLED BILLS AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on October 7, 1994, she had presented to the President of the United States, the following enrolled bills and joint resolution:

S. 2170. An act to provide a more effective, efficient, and responsive Government.

S. 2406. An act to amend title 17, United States Code, relating to the definition of a local service area of a primary transmitter, and for other purposes.

S.J. Res. 221. Joint resolution to express the sense of the Congress in commemoration of the 75th anniversary of Grand Canyon National Park.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3381. A communication from the Comptroller of the Department of Defense, transmitting, pursuant to law, a report of a violation of the Antideficiency Act, case number 90-5; to the Committee on Appropriations.

EC-3382. A communication from the Comptroller of the Department of Defense, transmitting, pursuant to law, a report of a violation of the Antideficiency Act, case number 92-7; to the Committee on Appropriations.

EC-3383. A communication from the Chief of the Programs and Legislative Division (Office of Legislative Liaison), Department of the Air Force, transmitting, pursuant to law, notice relative to a contract that will continue for a period exceeding ten years; to the Committee on Armed Services.

EC-3384. A communication from the Chief of the Programs and Legislative Division (Office of Legislative Liaison), Department of the Air Force, transmitting, pursuant to law, notice relative to a contract that will continue for a period exceeding ten years; to the Committee on Armed Services.

EC-3385. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, notice of a determination relative to the Export-Import Bank and the People's Republic of China; to the Committee on Banking, Housing, and Urban Affairs.

EC-3386. A communication from the Executive Director of the Thrift Depositor Protection Oversight Board and the Deputy and Acting Chief Executive Officer of the Resolution Trust Corporation, transmitting, pursuant to law, a report of the unaudited financial statements for the period January 1 through June 30, 1994; to the Committee on Banking, Housing, and Urban Affairs.

EC-3387. A communication from the Acting Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report to Congress on direct spending or receipts legislation within five days of enactment; to the Committee on the Budget.

EC-3388. A communication from the Administrator of the Federal Aviation Adminstration, transmitting, pursuant to law, the report relative to the Traffic Alert and Collision Avoidance System; to the Committee on Commerce, Science, and Transportation.

EC-3389. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report entitled "Relative Cost of Shipbuilding"; to the Committee on Commerce, Science, and Transportation.

EC-3390. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report entitled "Transportation Security"; to the Committee on Commerce, Science, and Transportation.

EC-3391. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, the report relative to the Earth's upper atmosphere; to the Committee on Commerce, Science, and Transportation.

EC-3392. A communication from the Secretary of Energy, transmitting, pursuant to law, the report on the inventory of all Government-owned uranium or uranium equivalents; to the Committee on Energy and Natural Resources.

EC-3393. A communication from the President of the United States, transmitting, pursuant to law, a report relative to the Compact of Free Association with the Republic of Palau; to the Committee on Energy and Natural Resources.

EC-3394. A communication from the Secretary of the Interior, transmitting, a draft of proposed legislation to approve the location of the World War II Memorial; to the Committee on Energy and Natural Resources.

EC-3395. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the report entitled "Nuclear Waste: Comprehensive Review of the Disposal Program Is Needed"; to the Committee on Energy and Natural Resources.

EC-3396. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report on Medicare for fiscal year 1992; to the Committee on Finance.

EC-3397. A communication from the Chairman of the U.S. International Trade Commission, transmitting, pursuant to law, the report on the impact of the Andean Trade Preference Act for calendar year 1993 ; to the Committee on Finance.

EC-3398. A communication from the Chairman of the U.S. International Trade Commission, transmitting, pursuant to law, the report on the impact of the Caribbean Basin Economic Recovery Act for calendar year 1993; to the Committee on Finance.

EC-3399. A communication from the U.S. Commissioner, Delaware River Basin Commission, transmitting, pursuant to law, the report of the internal control requirements; to the Committee on Governmental Affairs.

EC-3400. A communication from the U.S. Commissioner, Susquehanna River Basin Commission, transmitting, pursuant to law, the report of the internal control requirements; to the Committee on Governmental Affairs.

EC-3401. A communication from the Manager (Human Resources), Western Farm Credit Bank, transmitting, pursuant to law, the annual report and audited financial statement for calendar year 1993; to the Committee on Governmental Affairs.

EC-3402. A communication from the Secretary of the Postal Rate Commission, transmitting, pursuant to law, the report of the Opinion and Recommended Decision on Remand; to the Committee on Governmental Affairs.

EC-3403. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report on the Indian Civil Service Retirement Act; to the Committee on Indian Affairs.

EC-3404. A communication from the Secretary of Housing and Urban Development, transmitting, a draft of proposed legislation entitled "The Native American Financial Services Organization Act of 1994"; to the Committee on Indian Affairs.

EC-3405. A communication from the Administrator of the Federal Aviation Administration, transmitting, pursuant to law, the report on the Airmen and Aircraft Registry System; to the Committee on Commerce, Science, and Transportation.

EC-3406. A communication from the Chair of the Federal Energy Regulatory Commission, transmitting, pursuant to law, the annual report for fiscal year 1993; to the Committee on Energy and Natural Resources.

EC-3407. A communication from the Secretary of Energy, transmitting, pursuant to law, the report on coal combustion/desulfurization byproducts; to the Committee on Energy and Natural Resources.

EC-3408. A communication from the Secretary of Energy, transmitting, pursuant to law, the report for the Strategic Petroleum Reserve for the period April 1 through June 30, 1994; to the Committee on Energy and Natural Resources.

EC-3409. A communication from the Secretary of Energy, transmitting, pursuant to law, the report entitled "Clean Energy Demonstration Project"; to the Committee on Energy and Natural Resources.

EC-3410. A communication from the Secretary of the Interior, transmitting, a draft of proposed legislation to approve the location of the Thomas Paine Memorial; to the Committee on Energy and Natural Resources.

EC-3411. A communication from the Administrator of the Environmental Protection Agency and the Secretary of Transportation, transmitting, pursuant to law, the report entitled "Nitrogen Oxide Emissions and Their Control From Uninstalled Aircraft Engines in Enclosed Test Cells"; to the Committee on Environment and Public Works.

EC-3412. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, notice of a Presidential determination relative to the emigration laws and policies of the Russian Federation; to the Committee on Finance.

EC-3413. A communication from the Attorney General, transmitting, pursuant to law, the report on the Young American Medals for Bravery and Service for calendar year 1992; to the Committee on the Judiciary.

EC-3414. A communication from the General Counsel of the Department of Commerce, transmitting, a draft of proposed legislation entitled "The Patent Application Publication Act of 1994"; to the Committee on the Judiciary.

EC-3415. A communication from the Director of Communications (Legislative Affairs), Equal Employment Opportunity Commission, transmitting, pursuant to law, the report on the operations of the Office of General Counsel for fiscal year 1993; to the Committee on Labor and Human Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-646. A petition from a citizen of the State of Texas relative to the regulation of minerals and natural resources; to the Committee on the Judiciary.

POM-647. A resolution adopted by the Senate of the Commonwealth of Kentucky; to the Committee on Governmental Affairs.

"SENATE RESOLUTION 32

"Whereas, the Tenth Amendment to the Constitution of the United States of America reads as follows:

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."; and

"Whereas, the Tenth Amendment defines the total scope of federal power as being that specifically granted by the Constitution of the United States of America and no more; and

"Whereas, the scope of power defined by the Tenth Amendment means that the federal government was created by the states specifically to be an agent of the states; and

"Whereas, today, in 1994, the states are treated as agents of the federal government; and

"Whereas, numerous resolutions have been forwarded to the federal government by the General Assembly of the Commonwealth of Kentucky without any response or result from the Congress or the federal government; and

"Whereas, many federal mandates are directly in violation of the Tenth Amendment to the Constitution of the United States of America; and

"Whereas, the United States Supreme Court has ruled in *New York* v. *United States*, 112 S. Ct. 2408 (1992), that Congress simply may not commandeer the legislative and regulatory processes of the states; and

"Whereas, a number of proposals from previous administrations and some now pending from the present administration and from the Congress may further violate the Tenth Amendment to the Constitution of the United States of America: Now, therefore, be it

"*Resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:*

"Section 1. That the Commonwealth of Kentucky hereby claims sovereignty under the Tenth Amendment to the Constitution of the United States of America over all powers not otherwise enumerated and granted to the federal government by the Constitution of the United States of America.

"Section 2. That this serve as Notice and Demand to the federal government, as our agent, to cease and desist, effective immediately, issuing mandates to the states that are beyond the scope of its constitutionally-delegated powers.

"Section 3. That the Clerk of the Senate is directed to send copies of this resolution to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, the Speaker of the House and President of the Senate of each state's legislature of the United States of America, and Kentucky's Congressional delegation."

REPORTS OF COMMITTEES

The following reports of committee were submitted:

By Mr. PRYOR from the Special Committee on Aging:

Special report entitled "Developments in Aging: 1993," volumes 1 and 2 (Rept. No. 103-403).

By Mr. PELL, from the Committee on Foreign Relations.

Report to accompany the bill (S. 2475) to authorize assistance to promote the peaceful resolution of conflicts in Africa (Rept. No. 103-404).

By Mr. BIDEN, from the Committee on the Judiciary:

Report to accompany the bill (S. 2272) to amend chapter 28 of title 35, United States Code, to provide a defense to patent infringement based on prior use by certain persons, and for other purposes (Rept. No. 103-405).

By Mr. GLENN, from the Committee on Governmental Affairs, without amendment:

S. 2023. A bill to provide for the transfer of certain real property to the General Services Administration and for other purposes (Rept. No. 103-406).

By Mr. BIDEN, from the Committee on the Judiciary:

Report to accompany the bill (S. 1485) to extend certain satellite carrier compulsory licenses, and for other purposes (Rept. No. 103-407).

By Mr. GLENN, from the Committee on Governmental Affairs:

Special report entitled "Corruption In Professional Boxing" (Rept. No. 103-408).

By Mr. INOUYE, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 2150. A bill to establish a Native Hawaiian housing program (Rept. No. 103-409).

By Mr. GLENN, from the Committee on Governmental Affairs, without amendment:

S. 1946. A bill to provide for the repurchase of land taken by eminent domain, by Native American organizations, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEE

The following reports of committee were submitted:

By Mr. PELL, from the Committee on Foreign Relations:

Report to accompany the nomination of Robert A. Pastor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Panama (Exec. Report. No. 103-39).

Nominee: Robert A. Pastor.

Post: Ambassador to the Republic of Panama.

Contributions, amount, date, donee:

1. Self and spouse: Robert and Margaret Pastor:

$50—1/20/90—Ben Jones for Congress.
$50—6/10/90—Ben Jones for Congress.
$45—8/22/90—Democratic National Committee.
$50—9/27/90—Ben Jones for Congress.
$40—10/2/90—Democratic National Committee.
$25—7/2/91—Democratic National Committee.
$80—12/19/91—DNC Federal Account.
$40—3/23/92—Worley for Congress.
$200—5/26/92—Clinton for President.
$100—7/2/92—Democractic National Committee.
$300—7/21/92—Clinton for President.
$100—7/23/92—Solarz for Congress.
$200—8/31/92—Solarz for Congress.
$200—9/30/92—Steinberg for Congress.
$100—9/30/92—Fowler for Senate.
$1,000—10/12/92—Clinton-Gore Compliance Fund.
$100—10/12/92—George Democratic Victory Fund.
$100—6/16/93—Georgia Democratic Fund.

2. Children and spouses: Tiffin Margaret, Robert Kiplin, none.

3. Parents: Norman and Ruth Pastor, none.

4. Grandparents: Mr. and Mrs. Abraham Pastor, deceased; Mr. and Mrs. Bernard Kagan, deceased.

5. Brothers and spouses:

Bruce and Joyce Pastor:

$500—6/89—John Kerry for Senate.
$100—2/90—John Kerry for Senate.
$250—10/90—John Kerry for Senate.
$250—2/90—Chet Atkins for Congress.
$50—10/90—Barney Frank for Congress.
$100—9/92—Democratic National Committee.
$100—10/92—Ed Markey for Congress.
$250—4/93—Edward Kennedy for Senate.

Donald Pastor:

$50—1990—Gerry Studds for Congress.
$100—1992—Bill Clinton for President.
$100—1992—Gerry Studds for Congress.
$100—1992—Barney Frank for Congress.
$100—1993—Edward Kennedy for 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. SPECTER (for himself, Ms. MOSELEY-BRAUN, and Mr. WOFFORD):

S. 2535. A bill to promote a new urban agenda, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DANFORTH (for himself, Ms. MOSELEY-BRAUN, and Mr. DOMENICI):

S. 2536. A bill to encourage the furnishing of health care services to low-income individuals by exempting health care professionals from liability for negligence for health care services provided without charge, except in cases of gross negligence or willful misconduct, and for other purposes; read the first time.

By Mr. DANFORTH:

S. 2537. A bill to regulate interstate commerce by providing uniform principles to address the multiple imposition of punitive damages, and for other purposes; to the Committee on the Judiciary.

By Mr. KERRY (for himself, Mr. STEVENS, and Mr. MURKOWSKI):

S. 2538. A bill to amend the Magnuson Fishery Conservation and Management Act, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 2539. A bill to provide for the settlement of certain claims under the Alaska Native Claims Settlement Act, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HARKIN:

S. 2540. A bill to amend the Internal Revenue Code of 1986 to provide for taxpayer empowerment, and for other purposes; to the Committee on Finance.

By Mr. D'AMATO (for himself and Mr. MOYNIHAN):

S. 2541. A bill to amend the Age Discrimination in Employment Act of 1967 to protect elected judges against discrimination based on age; to the Committee on Labor and Human Resources.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 2542. A bill to require the Secretary of the Interior to carry out an expedited negotiated settlement of the land rights of the owners of patented and unpatented mining claims within Denali National Parks, Alaska, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BOREN:

S. 2543. A bill to amend the Forest and Rangeland Renewable Resources Planning Act of 1974, the Federal Land Policy and Management Act of 1976, the National Wildlife Refuge System Administration Act of

1966, the National Indian Forest Resources Management Act, and title 10, United States Code, to strengthen the protection of native biodiversity, to designate special areas where extractive logging is prohibited, to place restraints upon clearcutting and certain other cutting practices on the forests of the United States, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. CRAIG:

S. 2544. A bill to amend the Fair Labor Standards Act of 1938 to adjust the maximum hour exemption for agricultural employees, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. FEINGOLD:

S. 2545. A bill to provide for home community-based services for individuals with disabilities; read the first time.

By Mr. FORD:

S. 2546. A bill to enhance the safety of air travel through a more effective Federal Aviation Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SIMON:

S. 2547. A bill to amend title I of the Employee Retirement Income Security Act of 1974, to improve enforcement of such title by adding certain provisions with respect to the auditing of employee benefit plans, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DODD (for himself and Mr. D'AMATO):

S. 2548. A bill to amend the Federal Deposit Insurance Act to exclude certain bank products from the definition of a deposit; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LEVIN (for himself, Mr. DURENBERGER, Mr. GRAHAM, Mr. BINGAMAN, Mr. KOHL, and Mr. FEINGOLD):

S. 2549. A bill to amend the National Trails System Act to expand Federal authority relating to land acquisition for the majority of the trails, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. PRYOR:

S. 2550. A bill to provide for the sale of certain lands of the University of Arkansas; considered and passed.

By Mr. HEFLIN:

S. 2551. A bill to prohibit the duplication of benefits; considered and passed.

By Mr. ROTH:

S. 2552. A bill to amend the Internal Revenue Code of 1986 to deny the earned income credit to illegal aliens and to prevent fraudulent claims for the earned income credit; to the Committee on Finance.

By Mrs. BOXER:

S. 2553. A bill to amend the Endangered Species Act of 1973 to authorize the Secretary of the Interior to enter into cooperative agreements with States and political subdivisions of States to provide assistance for habitat acquisition to carry out conservation plans, and for other purposes; to the Committee on Environment and Public Works.

By Mr. PELL:

S. 2554. A bill to establish the position of United States Special Envoy for Tibet, and for other purposes; to the Committee on Foreign Relations.

By Mr. DECONCINI:

S. 2555. A bill to establish Cooperative Units of Research in Infectious Diseases [CURID] to evaluate the potential etiology of chronic inflammatory diseases with emphasis upon arthritis and chronic lung disease; to the Committee on Labor and Human Resources.

By Mr. DANFORTH:

S. 2556. A bill to provide for the portability of validly executed advance directives, to provide patients with a better understanding of their health care choices, and to promote study of the quality of care for the gravely or terminally ill or injured, and for other purposes; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SPECTER (for himself, Mr. CHAFEE, Mr. COHEN, Mr. COVERDELL, Mr. DANFORTH, Mr. DECONCINI, Mr. GORTON, Mr. GRAMM, Mr. HARKIN, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. KOHL, Mr. LAUTENBERG, Mr. MATHEWS, Ms. MOSELEY-BRAUN, Mr. MURKOWSKI, Mr. PACKWOOD, Mr. PRESSLER, Mr. SHELBY, Mr. SIMON, Mr. STEVENS, Mr. WARNER, and Mr. WOFFORD):

S. Res. 277. A resolution expressing the sense of the Senate that the Schindler Project should be recognized for its efforts to educate high school seniors about the lessons of the Holocaust and the application of those lessons to contemporary society; to the Committee on Labor and Human Resources.

By Mr. ROBB:

S. Res. 278. A resolution relating to Pakistan; to the Committee on Foreign Relations.

By Mr. ROTH:

S. Res. 279. A resolution to state the sense of the Senate concerning the Government of Japan recognizing American college and university branch campuses in Japan as American Institutions of higher learning; to the Committee on Foreign Relations.

By Mr. MITCHELL (for himself and Mr. DOLE):

S. Res. 280. A resolution extending the provisions of Senate Resolution 149 of the One Hundred Third Congress, First Session, relating to the Senate Arms Control Observer Group.

By Mr. MITCHELL (for himself and Mr. DOLE):

S. Res. 281. A resolution to authorize testimony by an employee of the Senate and to authorize representation by the Senate Legal Counsel; considered and agreed to.

S. Res. 282. A resolution to direct the Senate Legal Counsel to represent the Office of Senate Fair Employment Practices, and to authorize the Office of the Sergeant at Arms of the United States Senate to intervene and be represented by its counsel of choice in Rhonda Farmer v. Office of Senate Fair Employment Practices, No. 94-6005 (Fed. Cir.); considered and agreed to.

By Mr. BYRD:

S. Res. 283. A resolution relating to the Capitol Preservation Commission; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SPECTER (for himself, Ms. MOSELEY-BRAUN, and Mr. WOFFORD):

S. 2535. A bill to promote a new urban agenda, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

NEW URBAN AGENDA ACT OF 1994

Mr. SPECTER. Madam President, I have asked for 15 minutes this morning in morning business to talk about two subjects. First, to offer a resolution acknowledging the efforts of the Schindler Project to educate high school seniors about the horrors of Nazism and the Holocaust against Jewry and to enable our youth to bring those lessons to bear on contemporary society. And also to offer legislation entitled "The New Urban Agenda Act of 1994."

The legislation which I am proposing today is an effort to deal with the problems of the cities of America. It follows recommendations made by the distinguished mayor of Philadelphia, Edward G. Rendell, who worked on these issues in collaboration with the mayors and the League of Cities. Working with Mayor Rendell, we have fashioned this legislation which we are proposing at this time so that our colleagues in the Senate and those in the House, as well, will be in a position to study this legislation in the course of the several months between now and the 104th Congress when we will be reintroducing it and pressing it.

I offer this legislation on behalf of the distinguished Senator from Illinois, Senator CAROL MOSELEY-BRAUN. It will be introduced contemporaneously in the House of Representatives today by Congressman CHRISTOPHER SHAYS of Connecticut.

Madam President, the cities are in urgent need of assistance. The thrust of this legislation is to help the cities of America without the expenditure of Federal Funds but in very carefully targeted ways where existing Federal funds are spent on purchases or on establishment of Federal facilities or on foreign aid funds which should be redeemed in cities and in a variety of other ways without impacting on the Federal budget and without spending more Federal money in light of the very grave restraints there are on the deficit and on the national debt.

This legislation is being introduced, Madam President, as part of a larger legislative program which I have authored and which I intend to introduce to try to help the cities.

It may well be, Madam President, that America has given up on its cities. That is a stark statement but it is one which I believe may be true; that America has given up on its cities. There are many who do not know of city life, who are far removed from the cities and would not be expected to have any key interest in what goes on in the big cities of America.

I cite my own boyhood experience illustratively: Born in Wichita, KS, raised in Russell, KS, a small town of 5,000 people on the plains of Kansas, where there is not much knowledge of what goes on in Philadelphia, PA, my home, or the big cities in your State of

California, Los Angeles, San Francisco, or Chicago.

Those big cities are alien to people in much of America. But there is a growing understanding that the problems of America are created, or at least the small towns are very much affected, by the problems of the big cities.

If you take the Bloods and the Crips gangs from Los Angeles, CA, they are all over America. They are in Lancaster, PA, in Des Moines, IA, and all over America. If you take a town like Williamsport, PA, there is an influx from the criminal element from New York City and Philadelphia; if you take Midwestern towns, from Chicago, from Denver, from the big cities.

The cities are causing an enormous amount of problems for a wide variety of reasons which I cannot cover in the course of these brief few moments that I have allotted to me this morning.

In the cities themselves, there is really an attitude of despair, an attitude of grimness. The metropolitan areas, the suburban areas significantly bypass the problems of the cities, as well.

There are corridors coming into Philadelphia on the Schuylkill Expressway, or on the rapid transit, to save passage from the suburbs into the city, for major financial and commercial centers, banks, insurance companies, brokerage houses, and law firms.

The only time, other than the business day would be, perhaps, to come in for the baseball game when there are baseball, football or basketball games, or the opera. And there are blinders, without really focusing on the problems of the major cities. And that picture is duplicated around the country.

I believe there are ways to assist the cities. Mayor Rendell has come up with this legislative package which has a great many good ideas. One of the elements is to require that a percentage of Government purchases will be directed into distressed urban areas, enterprise zones or empowerment zones. Foreign aid funds ought to be redeemed in a certain percentage, 15 percent, in those zones. When the Federal Government seeks to expand facilities, build new centers, precedence—priority should be given for the location of those facilities in the urban areas.

There should be a recommitment to the Historical Rehabilitation Tax Credit, which produce an enormous number of jobs. The relatively small losses in taxes would be more than offset by the jobs which would be created, people taken off of the welfare rolls and put on the payrolls—additional city taxes, State taxes, and Federal taxes.

I might say parenthetically, Madam President, the Office of Management and Budget, I think, needs a revision of its analysis of economic impact to credit those gains as well as always to figure the costs when the budget implications are considered.

The cities ought to be relieved of the unfunded Federal mandates. On this subject I take my hat off to my distinguished colleague, Senator DIRK KEMPTHORNE, who has pending legislation, a major bill which was tied up on the Senate floor last night. But we really ought to stop a practice coming out of Washington, DC, of telling everyone else what to do and telling them to pay for it. That goes for cities; it goes for States. It it is a matter which the Federal Government thinks ought to be attended to, then we really ought to find the funding sources for it. If it is worthwhile doing we ought to find a way to pay for it. We ought not to impose those mandates on cities or States without their acquiescence.

This legislation has provisions for housing block grants, to allow local governments to use the funds as they see it, without all the Federal red tape.

Also, a curious provision on arbitrage costs. The law now requires taxes to be paid on interest earned in excess of the interest which is paid. I shall not delve into that except to say it is complicated and it costs more money to administer than it gains for the Federal Government in taxes.

Another provision exempts municipalities under certain appropriate circumstances for limitations for obligations on waste cleanup, where there would not be any impact on the obligation of others to have the cleanup—those who caused it—but would enable the municipality to take over land which is now not being used and to put it to productive use.

This legislation, I think would be a very significant first step in helping the cities help themselves.

Madam President, I have sought recognition to express my concern with the plight of our Nation's cities and Washington's apparent increasing neglect of them. To commence an effort to turn this situation around, I am introducing legislation today that will begin to force us to address the continuing decay and decline of our Nation's cities, and to do so without the use of massive Federal outlays. If we are to really address the very serious issues that we face—jobs, teenage pregnancy, welfare reform, and other pressing issues—we cannot give up on our cities. In my judgment, the revitalization of our cities is critical to our domestic peace and international prosperity.

I commend the mayor of Philadelphia, Edward Rendell, for his efforts to revitalize America's cities and his proposal called a New Urban Agenda, which is the basis for much of this legislation. I also want to make mention of my colleague in the House of Representatives who is very familiar with the plight of urban America and who will be introducing companion legislation in the House: Congressman CHRISTOPHER SHAYS of Connecticut. Representative SHAYS is cochairman of the House urban caucus, and has introduced a legislative package called the Urban Marshall Plan containing eight different bills designed to combat the decay of our cities.

As a Philadelphia resident, I have firsthand knowledge of the growing problems that plague our cities. I have long supported a variety of programs to assist our cities such as increased funding for community development block grants and legislation to establish enterprise and empowerment zones. To encourage similar efforts, in April of this year I took the opportunity as a U.S. Senator to host my Republican colleagues on a visit to explore urban problems in my hometown. We talked with people who want to obtain work, but opportunities are few; we saw a crumbling infrastructure and its impact on residents and businesses; we were reminded of the devastating effect that the loss of inner city businesses and jobs has had on our neighborhoods in America's cities.

Historically, cities have been the center of commerce and culture. Surrounding communities have relied on a thriving, growing economy in our metropolitan areas to provide jobs and opportunities. Over the past several decades, however, America's cities have struggled with the loss or exodus of businesses and industry. The resultant tax base shrinkage causes enormous budget problems for city governments. Across the country, cities such as New York, Los Angeles, and the District of Columbia have experienced the flight of major industries to the suburbs.

As a result, city residents who remain are faced with dwindling opportunities leading to welfare dependence and unemployment assistance. The Federal Government has attempted to revitalize our ailing urban infrastructure by providing Federal funding for transit and sewer systems, roads and bridges. Federal assistance for urban areas, however, has become increasingly scarce as we grapple with the Nation's deficit and debt. Therefore, we must find alternatives to reinvigorate our Nation's cities so they can once again be economically productive areas providing promising opportunities for residents and neighboring areas.

The New Urban Agenda legislation encompasses six initiatives that, if passed, would help to revitalize American cities through the use of tax incentives and the easing of Federal regulations.

First, recognizing that the Federal Government is the Nation's largest purchaser of goods and services, this legislation would require that no less than 15 percent of Government purchases be made from businesses and industries within designated urban empowerment zones and enterprise communities. Similarly, it would require that not less than 15 percent of

foreign aid funds be redeemed through purchases of products manufactured in urban empowerment zones and enterprise communities. I presented this idea to Treasury Secretary Bentsen at a March 22, 1994, Foreign Operations Subcommittee on Appropriations hearing. The Secretary responded favorably.

I have also written to several mayors across the country regarding this concept. By letter dated July 28, 1994, Miami Mayor Stephen P. Clark responded:

> Miami's selection as a procurement center for foreign aid would be a natural complement to our status as the Business Capital of the Americas.

Miami has a wide range of businesses, such as high-technology firms and medical equipment manufacturers that would benefit from this provision. And by letter dated April 6, 1994, Harrisburg, Pennsylvania Mayor Stephen R. Reed wrote:

> Many of our existing businesses would no doubt seize upon the opportunity to broaden their market by engaging in export activity triggered by foreign aid vouchers * * *. Therefore, in brief, we believe the voucher proposal has considerable merit and that this city would benefit from the same.

I ask unanimous consent that an executive summary and a copy of my letter and the letters from Mayor Clark and Mayor Reed be included in the RECORD at the end of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered. [See exhibit 1.]

Mr. SPECTER. To further enhance job opportunities within our urban centers, this legislation contains Mayor Rendell's recommendation that manufacturing technology outreach centers called for in the National Competitiveness Act be located in the urban zones. These proposals do not require new expenditures of Federal funds. Instead, these proposals would require that a minimum amount of existing Government procurement and foreign aid monies be used to spur economic activity within urban areas.

The second major provision of this bill would commit the Federal Government to play an active role in restoring the economic health of our cities by encouraging the location, or relocation, of Federal facilities in urban areas. To accomplish this, all Federal agencies would be required to prepare and submit to the President an urban impact statement detailing the impact that relocation or downsizing decisions would have on the affected city. Presidential approval would be required to place a Federal facility outside an urban area, or to downsize a city based agency.

The third critical component of this bill would revive and expand Federal tax incentives that were eliminated or restricted in the Tax Reform Act of 1986. These provisions offer meaningful incentives to business to invest in our cities. I am calling for the restoration of the historic rehabilitation tax credit which support inner city revitalization projects. According to information provided by Mayor Rendell, there were 8,640 construction jobs involved in 356 projects in Philadelphia from 1978 to 1985 stimulated by the historic rehabilitation tax credit. In Chicago, 302 projects prior to 1985 generated $524 million in investment and created 20,695 jobs. In St. Louis, 849 projects generated $653 million in investment and created 27,735 jobs. Nationally, according to National Park Service estimates for the 16 years before the 1986 Act, the historic rehabilitation tax credit stimulated $16 billion in private investment for the rehabilitation of 24,656 buildings and the creation of 125,306 homes which included 23,377 low- and moderate-income housing units. The enactment of the Tax Act of 1986, and the drastic limitations placed on the utilization of the historic rehabilitation tax credit, dramatically reduced the pool of private investment capital available for rehabilitation projects. In Philadelphia, projects dropped from 356 to 11 by 1988 from 1985 levels. During the same period, investments dropped 46 percent in Illinois and 92 percent in St. Louis.

Another tool, is to expand authorization of commercial industrial development bonds. Under the Tax Reform Act of 1986 authorization for commercial industrial bonds was permitted to expire. Consequently, private investment in cities declined. For instance, according to Mayor Rendell, from 1986—the last year commercial development bonds were permitted—to 1987, the total number of city supported projects in Philadelphia was reduced by more than half. Industrial development or private activity bonds encourage private investment by allowing, under certain circumstances, tax-exempt status for projects where more than 10 percent of the bond proceeds are used for private business purposes. The availability of tax-exempt commercial industrial development bonds will encourage private investment in cities, in particular in the construction of sports, convention and trade show facilities; free standing parking facilities owned and operated by the private sector; air and water pollution facilities owned and operated by the private sector, and industrial parks. The bill I am introducing would allow this. It would also increase the small issue exemption, which means a way to help finance private activity in the building of manufacturing facilities, from $10 million to $50 million to allow increased private investment in our cities.

Finally, a minor change in the Federal Tax Code related to arbitrage rebates on municipal bond interest earnings could free additional capital for infrastructure and economic development by cities. Currently, municipalities are required to rebate to the Federal Government any arbitrage—a financial term meaning interest earned in excess of interest paid on the debt—earned from the issuance of tax-free municipal bonds. Furthermore, I am informed that compliance, or the cost for consultants to perform the complicated rebate calculations, is actually costing municipalities more than the actual rebate owed to the government.

A fourth element of this bill is the elimination of unfunded Federal mandates. I am a cosponsor of legislation, S. 993, introduced by my colleague from Idaho, Senator KEMPTHORNE, that would eliminate unfunded Federal mandates. The language of S. 993 as introduced is written into this legislation. In Senator KEMPTHORNE's home State of Idaho, the city of Boise had to cover over $3 million for eight mandates in fiscal year 1993, according to a report done by the accounting firm of Price Waterhouse for the U.S. Conference of Mayors. I am informed that six Pennsylvania cities: Allentown, Altoona, Philadelphia, Pittsburgh, Wilkes-Barre, and York faced 10 unfunded Federal mandates that cost them a collective total of $17 million for fiscal year 1993. In Philadelphia alone, it will cost city taxpayers approximately $140 million to comply with the worthwhile goals of the Americans with Disabilities Act [ADA]. This is three times the amount the city budgeted for street resurfacing and reconstruction in fiscal year 1994.

All over the country the story is the same. In California, a total of 54 cities had to cover a grand total $948.3 million in unfunded Federal mandates, with Los Angeles paying almost $582 million, according to the report done for the Conference of Mayors. In Texas, 27 cities had to cover $316 million in unfunded mandates, with Houston covering $154 million. New York State had nine cities working to find $517 million and New York City was $475 million of that total. Illinois, in fiscal year 1993, had 22 cities facing a total of $88 million, with Chicago comprising $70 million of that number.

Individual cities are facing incredible financial burdens from unfunded Federal mandates as the Conference of Mayor's report shows. Atlanta, GA had to pay for nine unfunded Federal mandates—totaling almost $50 million—taking much needed funds from infrastructure projects, an overburdened criminal justice system, and housing programs. Phoenix, AZ has had to raise consumer's sewage and water rates to cover the costs of unfunded Federal mandates, almost $36 million, along with curtailing most of the city's service departments. The release from Federal mandates would allow Houston, TX to allocate $154 million more for

the maintenance of city property and public safety. The U.S. Conference of Mayors report presents similar facts on 314 cities. It is critical that as legislators we financially back the laws we write, or otherwise provide the appropriate assistance so that municipalities can comply.

A fifth provision of this legislation provides needed reforms to regulations concerning affordable housing. This legislation changes the section 8 rental subsidies—from 15 to 50 percent—to provide increased assistance for renters in urban areas, and to make Federal dollars go further. There is also language in the bill to study streamlining Federal housing program assistance to urban areas into block grant form so that municipal agencies can better serve local residents. Finally, I have improved the circumstances of public housing tenants by encouraging the location of newly built units on the lots of demolished older housing and allowing the original residents to move into the new units. This provision will contribute to community stability and promote urban renewal.

Lastly, the development of urban areas can be accelerated by being more realistic on environmental factors on urban land. Provisions in this legislation will encourage the redevelopment of industrial sites by cities, without fear of incurring liability as "potentially liable parties" under Superfund laws, by providing a "governmental exception." This measure also contains a provision for a pilot powerplant designed to burn solid waste and create inexpensive energy for energy intensive industries. Such a plant will create jobs and help provide a solution for cities to deal with their treatment of waste.

Mr. President, this effort to help our cities is good public policy. I am introducing this bill at this time so that my colleagues have an opportunity to review and consider it between Congresses. I urge the input of my colleagues on this pressing matter. The plight of our cities is of extreme concern to me. During the 104th Congress I intend to press ahead with this and other legislation with the ultimate goal of restoring the former vitality of our cities which can only help make our country stronger and more competitive.

I ask unanimous consent to place additional material in the RECORD.

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

EXHIBIT 1

EXECUTIVE SUMMARY OF SENATOR SPECTER'S NEW URBAN AGENDA ACT OF 1944

A. Promotes Urban Economic Development through Empowerment and Enterprise Zones. Requires a portion of federal and foreign aid purchases, (not less than 15 percent) and commits the government to purchase recycled products, from businesses operating in the urban zones. The proposed Manufacturing Technology Outreach centers would also be located in the zones. Legislation to implement these centers, the National Competitiveness Act (S. 4/H.R. 820), is currently in conference.

B. Locating/Relocating Federal Facilities in Distressed Urban Areas. Requires an urban impact statement, with Presidential approval, that details the impact on cities of agency downsizing or relocation. Under the bill, a "distressed urban area" follows HUD's definition, namely any city having a population of more than 100,000.

C. Revives and Expands Federal Tax Incentives. Expands the Historic Rehabilitation Tax Credit reduced in 1986. It would restore the issuance of tax-free industrial development bonds, and would allow cities to keep arbitrage earned from the issuance of tax-free municipal bonds. Currently, local governments are required to rebate to the federal government arbitrage earned from the issuance of tax-free municipal bonds, and often spend more on compliance than on the actual rebate.

D. Eliminate Unfunded Federal Mandates. Incorporates languages of S. 993. Six Pennsylvania cities faced 10 mandates that cost them a total of $17 million in FY93; for instance it will cost Philadelphia $140 million to comply with the ADA in FY94. In FY93, California had 54 cities covering $948.3 million in unfunded mandates, with Los Angeles paying almost $582 million. Texas had 27 cities facing a $316 million shortfall with Houston paying $154 million. New York had 9 cities paying $517 million with New York City making up $475 million of the total. Illinois had 22 cities covering $88 million with Chicago comprising $70 million of that number.

E. Lifts Federal Restrictions on Community-Based Housing Development. The Section 8 rent subsidies allocated to specific affordable housing developments would be raised from 15 percent to 50 percent. To boosts the efficiency of regional housing authorities, a study would be done to streamline current and future housing programs into "block grants." The bill would also allow the reconstruction of new units on demolished sites, and relocate the original tenants to the newly constructed units.

F. Address Urban Environmental Challenges. Promotes the ability of cities to redevelop contaminated industrial sites, and order a study to find a speedier remediation process for those sites that would qualify. The bill also establishes a pilot power plant designed to give energy intensive industry a place to dispose solid waste and get inexpensive electricity. This provision would provide a pilot for the development of a comprehensive national strategic energy intensive industry initiative.

U.S. SENATE,
Washington, DC, March 29, 1994.

Hon. STEPHEN R. REED,
Mayor, Harrisburg, PA.

DEAR STEPHEN, I was interested to read in the Washington Post on March 20, 1994, of Philadelphia Mayor Rendell's interest in requiring some amount of foreign aid to be issued in vouchers "redeemable only in distressed cities." I raised this idea with Secretary of Treasury Bentsen at a hearing before the Foreign Operations Subcommittee on Appropriations on Tuesday, March 22, 1994. I agree that we must look for innovative ways to make cities attractive investment opportunities for the businesses of the future. Foreign aid vouchers could play an effective role in accomplishing this objective.

In order to flesh out this foreign aid proposal in more detail, I am interested in your views on whether this would be an effective tool in attracting investment capital to cities. If you could have someone on your staff help us identify which business activities and services in Harrisburg could be useful in extending foreign assistance, I would be very appreciative. This information will help me in pursuing this idea in my capacity as a member of the Foreign Operations Subcommittee.

I look forward to working with you on this important matter. Please have your staff contact Morrie Ruffin (202 224-9016) of my staff with any information that could be useful in this endeavor.

Sincerely,

ARLEN SPECTER.

U.S. SENATE,
Washington, DC, March 31, 1994.

Hon. STEVE CLARK,
Mayor, Miami, FL.

DEAR MAYOR CLARK: I was interested to read in the *Washington Post* on March 20, 1994, of Philadelphia Mayor Rendell's interest in requiring some amount of foreign aid to be issued in vouchers "redeemable only in distressed cities." I raised this idea with Secretary of Treasury Bentsen at a hearing before the Foreign Operations Subcommittee on Appropriations on Tuesday, March 22, 1994. I agree that we must look for innovative ways to make cities attractive investment opportunities for the businesses of the future. Foreign aid vouchers could play an effective role in accomplishing this objective.

In order to flesh out this foreign aid proposal in more detail, I am interested in your views on whether this would be an effective tool in attracting investment capital to cities. If you could have someone on your staff help us identify which business activities and services in Harrisburg could be useful in extending foreign assistance, I would be very appreciative. This information will help me in pursuing this idea in my capacity as a member of the Foreign Operations Subcommittee.

I look forward to working with you on this important matter. Please have your staff contact Morrie Ruffin (202 224-9016) of my staff with any information that could be useful in this endeavor.

My best.

Sincerely,

ARLEN SPECTER.

OFFICE OF THE MAYOR,
THE CITY OF HARRISBURG,
Harrisburg, PA, April 6, 1994.

Hon. ARLEN SPECTER,
Washington, DC.

DEAR SENATOR SPECTER: This is to acknowledge and thank you for your correspondence, which I was pleased to receive on April 4, 1994, regarding the suggestion by the Mayor of Philadelphia that a portion of foreign aid be issued in the form of vouchers that would be redeemable only in distressed cities.

The concept has considerable merit and we would support such. The key to such a voucher provision having a measurable and nearly immediate impact in urban communities would be for a proper and clearly stated definition of the words "distressed cities." At a minimum, such a definition should stipulate that eligible cities would be those with 15% or more of its households living at or below the Federal poverty income level.

I suspect that most cities would be able to benefit by such a voucher program. It would redirect investment, development and growth forces into such cities since foreign aid vouchers would represent a far less speculative venture and, in some cases, a literally guaranteed opportunity.

In the case of the City of Harrisburg, there are few areas of products and services which could not be provided. Many of our existing businesses would no doubt seize upon the opportunity to broaden their market by engaging in export activity triggered by foreign aid vouchers. Our infrastructure is sufficient to also accommodate additional growth of existing and new businesses and industries.

Therefore, in brief, we believe the voucher proposal has considerable merit and that this City would benefit from the same.

I appreciate your affording us this opportunity to express an opinion on the subject.

With warmest personal regards, I am

Yours sincerely,

STEPHEN R. REED,
Mayor.

CITY OF MIAMI,
Miami, FL, July 28, 1994.

Hon. ARLEN SPECTER,
Washington, DC.

DEAR SENATOR SPECTER: On behalf of the City of Miami, thank you for including our community in your and Mayor Rendell's proposal to require some amount of foreign aid to be issued in vouchers, which can be redeemed in distressed cities throughout the country. The initiative set forth in Mayor Rendell's New Urban Agenda, will benefit Greater Miami/Dade County, should our application for Empowerment Zone or Enterprise Community status be successful. Miami's selection as a procurement center for foreign aid would be a natural complement to our status as the Business Capital of the Americas.

My staff and The Beacon Council, Greater Miami/Dade County's economic development organization, have been working for the past several months with Doug Troutman of your staff to determine which business activities and services in Miami could be useful in extending foreign assistance. Toward this end, Mr. Troutman has been extremely helpful in providing further background information to assist our efforts. We look forward to working with you and your staff further on this important issue.

On behalf of our community, thank you for involving Miami in this significant project.

Sincerely,

STEPHEN P. CLARK,
Mayor.

By Mr. DANFORTH (for himself, Ms. MOSELEY-BRAUN, and Mr. DOMENICI):

S. 2536. A bill to encourage the furnishing of health care services to low-income individuals by exempting health care professionals from liability for negligence for health care services provided without charge, except in cases of gross negligence or willful misconduct, and for other purposes; read the first time.

THE CHARITABLE MEDICAL CARE ACT OF 1994

• Mr. DANFORTH. Mr. President, Senator MOSELEY-BRAUN and I are introducing today a bill that we hope will give some needed reinforcement to free clinics and volunteers in every community providing charitable medical services to those who cannot afford to pay for medical care. We have called this bill the Charitable Medical Care Act of 1994 and its purpose is to expand the concept of the good Samaritan laws, giving immunity from civil liability for care rendered in emergency situations, to encompass charitable medical care provided without charge.

There are over 170 free clinics across our country, as well as countless volunteers that provide care to those without means to pay. Over time, it is my hope that we will find ways to expand health insurance coverage to all. But until we reach that goal, and probably continuing even after that, these clinics and volunteers are badly needed and wonderful examples of the giving elements of the medical community. We need their contribution and they deserve our support.

A major concern that free clinics have identified—and one that they believe is an obstacle to achieving greater participation by health professionals—is the concern for an increased malpractice exposure for those who volunteer to provide such services. While lawsuits against free clinics and other volunteer health professionals have been rare, the complexities of malpractice insurance in those settings and the perception that there is higher risk of suit in such settings make this a formidable barrier to participation.

Virginia passed legislation to provide immunity from negligence for health professionals who give free services and the free clinics there have found it to be a tremendous boost to their participation rates. I am inserting in the RECORD an article written by a physician who is the chairman of Medical Services at the Bradley Free Clinic of Roanoke, VA. His article provides a good overview of the services provided by free clinics and the need for this legislation. It is my hope that in passing this bill, we will help health care volunteers and the clinics in which they serve.

I also want to acknowledge the initiative of Sister Christine Bowman from the Saint Therese Medical Center in Waukegan, IL, in bringing this issue to our attention and in her tireless efforts to support and move forward with this legislation.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

CARE FOR THE POOR? WE FOUND A SOLUTION

(By Kevin C. Kelleher, M.D.)

One way or another, there will apparently be changes in our health-care system. But how soon or how comprehensive, no one really knows. Meanwhile, a lot of people, including many of the working poor, don't have health insurance and can't afford adequate care. In my opinion, the medical profession should be doing something about that now, without waiting for the government to act.

What we can do right away, in many communities and for hardly any money, is set up free clinics. The idea isn't new or revolutionary. In fact, free clinics are already working—some for more than 18 years—in at least 120 places, according to the Free Clinic Foundation of America. They're an interim solution, but also adaptable to whatever major reform comes along.

I'm chairman of medical services at the Bradley Free Clinic of the Roanoke Valley, in Roanoke, Va., established in 1974. Patients there get more than $2 of services for every dollar donated to us. In 1991 alone, we collected more than $380,000 in cash contributions, which went toward 6,000 patient visits and some 11,000 prescriptions.

These patients aren't getting low-quality medicine, either. We provide all of their primary care, including lab tests, X-rays, dental care, and free medications. (Try finding dental care and prescriptions in a typical universal-coverage proposal.) In addition, specialists volunteer to treat patients in-office or at the clinic.

In some respects, clinic care goes beyond that provided to insured patients. At our free clinic, we give patients more training in basic self-care and hygiene than most insured people get.

More important, free clinics can link with social services that help provide such things as drug treatment, prenatal care, and teen counseling. Private practices rarely have the time or staff to do this.

Our local hospitals and medical societies endorse us, and we have the financial support of area businesses and charitable organizations such as United Way. We've even received some grant money from national corporations.

We also enjoy backing from pharmaceutical companies and medical- and dental-equipment suppliers. One dental firm donated nearly $100,000 in X-ray equipment on the condition that we let its salespeople bring clients in to observe the technology in action.

Word of our success has spread. We've helped start 10 other clinics in six states, from Illinois to Mississippi. And you can imagine my surprise when we got an inquiry from the former Soviet Union. Health-care consultants from nine African nations visited our clinic last year and left with much-needed insight into caring for the poor.

LEGAL WORRIES ARE NOT A PROBLEM

Community-minded doctors and businesses have been the back-bone of our clinic, but state legislators made it possible for us to donate our time. That's because doctors who work at free clinics in Virginia are shielded against malpractice suits. The legislation, enacted in 1978, was recently amended to include retired physicians who volunteer, and specialists who use their own offices to see clinic patients.

With such protection, it would be easy to drop our guard. But we follow the same protocols at the clinic as we do with our private patients, including quality-review checks. Volunteer nurses continually monitor records and keep tabs on outcomes. This is important because patients are likely to see a different physician on each visit. Our statistics tell us the clinic doctors are treating the same problems—and getting the same good results—that we already see in our private practices. The only difference is that patients aren't charged anything.

We've adopted a few other policies to head off problems: Abusive or intoxicated patients are discharged for good. Also, we don't dispense controlled substances. Prescriptions

for scheduled drugs are filled at cost by local pharmacists, or gratis if patients truly can't afford them.

Although we'll see anyone in an emergency, every patient who uses the clinic is screened for need at the first visit. Unemployment isn't a prerequisite. In fact, 60 percent of our patients have jobs. The rest are on fixed incomes, temporarily out of work, or Medicare-eligible without Part B coverage.

Clinic patients appreciate our services so much that they're careful not to abuse them, as they might be tempted to do under an entitlement program. (Still, some "free" clinics in other areas of the country charge nominal fees for visits and prescriptions, to guard against abuses.)

Our rules are seldom broken, and we've never been sued. When times are tough, patients are grateful for free care. Several years ago, for instance, one unemployed cardiac patient wrote a letter praising use to former President Ronald Reagan. The commendation we got back from the Gipper hangs in or waiting room.

Some patients take such pride in the clinic that they also volunteer their time—an hour or two each month to do filing, housekeeping, or landscaping. Others sit with patients and take down the information we use to screen each person for need.

Today, 120 physicians—one-third of the doctors in Roanoke—work at the clinic (each averaging two to three hours a week) or take referrals in their own offices. Even the doctors who don't see patients at the clinic appreciate the importance of what we're doing: In 1991, 128 non-participating physicians made contributions to our fund drives.

Additional services at the clinic are contributed by more than 100 pharmacists, nurses, front-desk staffers, lab technicians, dentists and hygienists.

We're all kept hopping when the clinic opens at 5:30 p.m. Three or four physicians are on duty, and each of us usually sees 25 to 30 patients a night. Patients understand there may be a long wait, but eventually gets seen. (We make appointments only for physicals.) Most of us don't leave until 10 p.m., and occasionally later.

In response to the demand for our services, the clinic grew from 2,500 square feet of donated space in 1974 to 7,000 square feet in a new building today. An architectural firm drew up the plans for free, and local builders supplied much of the materials at cost. The rest of the money came from corporate grants and donations.

We now have nine modern, well-equipped exam rooms and four dental stations. That's quite a difference from our beginnings on the creaky first floor of an old house, with $250 in the bank and shower curtains separating the exam areas. We had one doctor and one nurse then.

GET YOUR CLINIC STARTED—NOW

If you want to start such a clinic, plenty of assistance is available. Here in Roanoke, we established the Free Clinic Foundation of America to help create new facilities and support existing ones. We've put together a "how-to" handbook as well as a national directory listing 120 free clinics. With more funding, physician participation, and community interest, many other clinics can be set up.

Our foundation will work for congressional legislation, federal grant money, and funding from private sources to create as many as 24 new clinics a year over the next three years, each treating about 4,000 to 6,000 patients. This is a start, but hundreds more free clinics would be needed to extend basic coverage to most of the nation's medically indigent.

To encourage doctors to participate in our proposed national network for free clinics, we need more protection against malpractice suits. Last spring, I met with the staff of Rep. John D. Dingell (D-Mich.) to present a version of Virginia's Volunteer Clinic Act. The bill would provide the same malpractice immunity we enjoy in Virginia to all doctors who donate their services to free clinics. But, as with any proposed legislation, it may be several years before it becomes law. Meanwhile, the need for such clinics isn't likely to diminish anytime soon.●

By Mr. DANFORTH:

S. 2537. A bill to regulate interstate commerce by providing uniform principles to address the multiple imposition of punitive damages, and for other purposes; to the Committee on the Judiciary.

MULTIPLE PUNITIVE DAMAGES FAIRNESS ACT OF 1994

Mr. DANFORTH. Mr. President, I introduce the Multiple Punitive Damages Fairness Act of 1994. This legislation is intended to reform abusive punitive damages awards by disallowing the repeated sanction of punitive damages against the same defendant for one act. By doing so, this bill protects the due process rights of corporate defendants as well as the rights of injured plaintiffs to be compensated, rather than see money which is rightfully theirs be distributed as a windfall.

I believe that punitive damages can be a valuable deterrent and punishment. However, like any sanction, they must be applied with sound judgment. For example, in the Civil Rights Act of 1991, I supported and pushed for the expansion of punitive damages to cases involving intentional discrimination against women, the disabled and religious minorities. It is important that perpetrators of such harms be required to do more than simply supply backpay and reinstatement. But I supported the caps that were placed on these damages because unlimited and disproportionate punishment is pointlessly destructive.

The Multiple Punitive Damages Fairness Act which I introduce today is also designed to bring some modicum of fairness to the awarding of punitive damages. Specifically, the bill establishes the general rule that punitive damages may only be awarded once for harms based on a single act or course of conduct. There are two exceptions to this rule. First, when there is new evidence of additional wrongful behavior by the defendant. Second, if a court determines in a pretrial hearing that prior punitive damages were not high enough to punish the defendant or deter the behavior.

With the exception of those lawyers who reap the windfall millions from repeat punitive damages, nobody seriously argues that repeatedly punishing the same company for one act makes sense or benefits society. On the contrary, out of control punitive awards have had a debilitating effect on many vital high-technology and health-related industries.

And this bill does not adversely impact the rights of plaintiffs to be fully and fairly compensated for any and all harms. On the contrary, my bill protects the rights of future plaintiffs to collect by preventing defendants' assets from being needlessly squandered.

My bill only limits repeated punitive awards and punitive damages do not compensate victims for their loss. Both economic and noneconomic harm are taken care of through compensatory damage awards. Punitive damages are permitted only in order to deter the wrongdoer from repeating the wrongful act and to deter others from taking similar actions. Thus, there can be no credible argument that stopping redundant punitive damages harms victims.

The concept of punitive damages was first articulated in England in 1763. At that time, these damages were referred to as "exemplary damages." According to former Attorney General Griffin Bell, these awards were designed to compensate the victim for nonphysical injuries and to punish the wrongdoer. The typical punitive damages claim arose from an isolated incident involving two parties in which one party's honor was called into question. Since one's honor was highly valued and its injury was not usually included in compensatory damages, the concept of exemplary damages was established.

Between 1763 and the 1960's, the awarding of noneconomic damages became more commonplace as a way to compensate a victim for nonphysical injuries. During the 20th century, however, punitive damages became divorced from the concept of compensation. They became a weapon to punish and deter wrongdoers.

Prior to 1970, punitive or exemplary damages were not commonly awarded. Then, in the mid-1970's, there was an explosion of lawsuits in which plaintiffs sought punitive damages. With the increase in applications came a destructive increase in the amounts of the awards. The Institute for Civil Justice, in a study of 24,000 punitive damage cases, found that between 1965 and 1969 the average sum awarded was $43,000. But, between 1980 and 1984, the inflation-adjusted amounts averaged $729,000—a jump of 1,500 percent.

During this period when punitive damage awards were exploding, many of the academics following the issue criticized their expansion. Professor John Jeffries of the University of Virginia stated that "punitive damages are out of control." Dean Dorsey D. Ellis at Washington University in St. Louis stated that the punitive damage "process currently in place in most jurisdictions contributes substantially to the misallocation of resources and is so lacking in fundamental fairness that it

denies defendants, especially institutional defendants, the due process required by the Constitution and embedded in our legal system."

Criticism of punitive damages has not been limited to individual academics. The American College of Trial Lawyers and the American Law Institute each have noted the need for punitive damage reform. The American College of Trial Lawyers, half defense counsel and half plaintiffs' attorneys, has made the following observation: "* * * awards often bear no relation to deterrence and merely reflect a jury's dissatisfaction with a defendant and a desire to punish, often without regard to the true harm threatened by a defendant's conduct." The American Law Institute has stated that "[u]nlike other aspects of tort damages, there is serious debate, both scholarly and political, about whether any punitive component of a tort award is legitimate, as well as sharp controversy about how much to award in this category."

Ultimately, this skepticism about punitive damages has reached the highest court in the land. In 1991, the Supreme Court in Pacific Mutual Life Insurance Co. versus Haslip, expressed concern about punitive damages that run wild and can offend the due process clause of the Constitution. Again, in two more recent cases, TXO Production Corp. versus Alliance Resources Corp. (1993) and Honda Motor Co. versus Oberg (1994), the Supreme Court has expressed strong concern with respect to unbridled punitive damages procedures and awards. Unfortunately, the Court has remained unable to articulate a solution. I ask that a National Law Journal article describing the Court's most recent treatment of the punitive damages issue be included in the RECORD at the close of my remarks.

As the last part of the article suggests, the problem addressed by my bill, that of multiple punishments for the same act, is one which will require some resolution soon. This is logical. The most blatant circumstance for constitutional and public policy objections to punitive damages is where they are awarded over and over without limits for cases arising out of a single act or course of conduct. Not only is it arbitrary and fundamentally unfair to punish someone many times for a single conduct, but repetitive punitive damages awards can strip a corporate defendant of its assets or insurance coverage. This hurts defendant but it also hurts plaintiffs by awarding a windfall to earlier claimant until the coffers are empty.

What do we say to subsequent defendants who have valid claims for compensation? Sorry, we tell them. You get nothing for your suffering. You can't recover your medical bills or lost wages. You missed the gravy train. Someone else already won the sweepstakes. So, Mr. President, plaintiffs and defendants are losing.

And Congress alone is responsible to remedy this problem which has frustrated courts and commentators alike. State and lower Federal courts are powerless. As one frustrated Federal Judge wrote in 1989 in Juzwin versus Amtorg:

[T]his court does not have the power or the authority to prohibit subsequent awards in other courts, notwithstanding its opinion that such subsequent awards violate the due process rights of the defendants. . . . Until there is uniformity either through Supreme Court decision or national legislation, this court is powerless to fashion a remedy that will protect the due process rights of the defendant or other defendants similarly situated.

Other courts have sent the same message. A Federal District Court in New York wrote "[t]here must * * * be some limit, either as a matter of policy or as a matter of due process, to the amount of times defendants may be punished for a single transaction." (In re Agent Orange Prod. Liab. Litig., 1983.)

State legislatures cannot provide a remedy. A recent study by tort scholars at the American Law Institute concluded that "single-state action * * * is an ineffectual response to the problem [of multiple punitive damages] because one state cannot control what happens in other jurisdictions. In fact, the State that acts alone may simply provide some relief to out-of-state manufacturers at the expense of its own citizen-victims, a situation that hardly provides much law reform incentive for state legislators." (The American Law Institute, "Enterprise Responsibility for Personal Injury—Reporters' Study," Vol. II (1991).)

A Federal solution is the only remedy to the unfairness of multiple punitive damages awards. The Third Circuit Court of Appeals summed it all up when they wrote that "[u]nquestionably, a national solution is needed." (Dunn verses Hovic, 1992). The bill I introduce today will uniformly and effectively protect claimants from the risk that corporate defendants are unfairly stripped of their ability to pay damages. At the same time, this bill will address legitimate due process concerns which arise when a business is punished repeatedly and without limit for just one wrongful act.

I urge my colleagues to consider the merits of this very reasonable measure and take it up in the next Congress.

Mr. President, I ask unanimous consent that the text of the bill and an article be printed in the RECORD.

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

S. 2537

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 "Multiple Punitive Damages Fairness Act".

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Findings.
Sec. 4. Purpose.
Sec. 5. Definitions.
Sec. 6. General rule.
Sec. 7. Applicability; preemption; jurisdiction of Federal courts.
Sec. 8. Effective date.

SEC. 3. FINDINGS.

The Congress finds the following:

(1) Multiple or repetitive imposition of punitive damages for harms arising out of a single act or course of conduct may deprive a defendant of all of the assets or insurance coverage of the defendant, and may endanger the ability of claimants to receive compensation for basic out-of-pocket expenses and damages for pain and suffering.

(2) The detrimental impact of multiple punitive damages exists even in cases that are settled, rather than tried, because the threat of punitive damages being awarded results in a settlement that provides for a higher award amount than would ordinarily be obtained. To the extent that this premium exceeds what would otherwise be a fair and reasonable settlement for compensatory damages, assets that could be available for satisfaction of future compensatory claims are dissipated.

(3) Fundamental unfairness results when anyone is punished repeatedly for what is essentially the same conduct.

(4) Federal and State appellate and trial judges, and well-respected commentators, have expressed concern that multiple imposition of punitive damages may violate constitutionally protected rights.

(5) Multiple imposition of punitive damages may be a significant obstacle to global settlement negotiations in repetitive litigation.

(6) Limiting the imposition of multiple punitive damages awards would facilitate the resolution of mass tort claims involving thousands of injured claimants.

(7) Federal and State trial courts cannot provide solutions to problems caused by the multiple imposition of punitive damages because they lack the power or authority to prohibit subsequent awards in other courts.

(8) Individual State legislatures can create only a partial remedy to address problems caused by the multiple imposition of punitive damages, because each State lacks the power to control the imposition of punitive damages in other States.

SEC. 4. PURPOSE.

The purpose of this Act is to provide a fair and balanced resolution to the problem of multiple imposition of punitive damages in interstate commerce.

SEC. 5. DEFINITIONS.

As used in this Act—

(1) the term "punitive damages" means damages awarded against any person or entity to punish or deter such person or entity, or others, from engaging in similar behavior in the future;

(2) the term "specific findings of fact" are findings in written form focusing on specific behavior of a defendant that demonstrates a conscious, flagrant, indifference to the safety or welfare of the claimant; and

(3) the term "claimant" means—

(A) any person who brings a civil action and any person on behalf of whom such action is brought;

(B) if such action is brought through or on behalf of an estate, the term includes the claimant's decedent; and

(C) if such action is brought through or on behalf of a minor or incompetent, the term includes the claimant's parent or guardian.

SEC. 6. GENERAL RULE.

(a) GENERAL RULE.—Except as provided in subsection (b), punitive damages shall be prohibited in any civil action in Federal or State court in which such damages are sought against a defendant based on the same act or course of conduct for which punitive damages have already been awarded against such defendant.

(b) CIRCUMSTANCES FOR AWARD.—

(1) SUBSTANTIAL NEW EVIDENCE.—If the court determines in a pre-trial hearing that the claimant will offer new and substantial evidence of previously undiscovered, additional wrongful behavior on the part of the defendant, other than the injury to the claimant, the court may award punitive damages in accordance with subsection (c).

(2) INSUFFICIENT AWARD.—If the court determines in a pre-trial hearing that the amount of punitive damages previously imposed were insufficient to either punish the defendant's wrongful conduct or to deter the defendant and others from similar behavior in the future, the court may award punitive damages in accordance with subsection (c).

(c) LIMITATIONS ON AWARD.—A court awarding punitive damages pursuant to subsection (b) shall—

(1) make specific findings of fact on the record to support the award;

(2) reduce the amount of the punitive portion of the damage award by the sum of the amounts of punitive damages previously paid by the defendant in prior actions based on the same act or course of conduct; and

(3) prohibit disclosure to the jury of the court's determination and action under this subsection.

SEC. 7. APPLICABILITY; PREEMPTION; JURISDICTION OF FEDERAL COURTS.

(a) APPLICABILITY TO PUNITIVE DAMAGES ACTIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), this Act shall apply to any civil action brought on any theory where punitive damages are sought based on the same act or course of conduct for which punitive damages have already been awarded against the defendant.

(2) STATUTORY EXCEPTION.—This Act shall not apply to any civil action involving damages awarded under any Federal or State statute that prescribes the amount of punitive damages to be awarded.

(b) PREEMPTION.—Except as provided in subsection (a)(2), this Act shall supersede any Federal or State law regarding recovery for punitive damages.

(c) JURISDICTION OF FEDERAL COURTS.—The district courts of the United States shall not have jurisdiction over any civil action pursuant to this Act based on sections 1331 or 1337 of title 28, United States Code.

SEC. 8. EFFECTIVE DATE.

(a) IN GENERAL.—This Act shall take effect on the date of its enactment.

(b) PENDING ACTIONS.—This Act shall apply to—

(1) any civil action pending on the date of enactment of this Act; and

(2) any civil action commenced on or after such date, including any action in which the harm or the conduct which caused the harm occurred prior to such date.

[From the National Law Journal, Aug. 1, 1994]

TORTS

(By Sheila L. Birnbaum and J. Russell Jackson)

On June 24, near the end of its term, the U.S. Supreme Court rendered its decision in *Honda Motor Co.* v. *Oberg*[1] a products liability case involving a constitutional challenge to a punitive damages award. The 7-2 decision is a high-water mark in the recent Supreme Court decisions on the subject, as it represents the largest number of justices agreeing that punitive damages awards may violate due process. The case is almost certain to spawn numerous constitutional challenges to punitive damages awards in products liability litigation, as it reaffirms the viability of due process challenges to punitive damages and reserves for another day the question of "the character of the standard that will identify unconstitutionally excessive awards."

To understand the significance of Oberg fully, one must review the two Supreme Court decisions that affirmed punitive damages awards in the face of due process challenges. In *Pacific Mutual Life Insurance Co.* v. *Haslip*,[2] the court affirmed a punitive damages award in an insurance fraud case. The justices explained that punitive damages awards could violate due process, but they refused to declare what minimum procedures are required to keep a state punitive damages award from being constitutionally impermissible.

The Haslip court merely held that Alabama's procedures governing punitive damages awards did not violate due process. The procedures approved by the court included jury instructions that limit the jury's discretion in awarding punitive damages, substantive trial court review of the verdict and substantive appellate review of the verdict.

The Haslip court also declared that a punitives award should bear "some reasonable relationship to compensatory damages," and that the approximate 4-to-1 ratio in that case of punitive damages to compensatory damages "may be close to the line of constitutional propriety."

The lack of a well-defined constitutional standard in Haslip led to some confusion among courts and litigants about the boundaries of due process in punitive damages procedures. Some courts established more rigorous procedures in light of Haslip.[3] Others upheld punitive damages schemes by finding that *Haslip* did not establish the bare minimum of process due to defendants.[4]

Court watchers waited expectantly for guidance when the court rendered its decision last summer in *TXO Production Corp.* v. *Alliance Resources Corp.*[5] In *TXO*, an intentional tort case involving slander of title to land, the court affirmed the constitutionality of a punitive damages award that was 526 times the amount of the compensatory damages award.

The TXO court did not articulate a clear standard for evaluating whether the $10 million punitive damages award comported with due process. A majority of the TXO court agreed that punitive awards must comport with due process, with a plurality requiring such awards to be procedurally fair and noting that "concerns of reasonableness probably enter into the constitutional calculus."

The dissent in TXO attacked the plurality for summarily reaffirming the notion that there are constitutional limits to punitives awards and "abandon[ing] all pretense of providing further instruction." Justice Anthony M. Kennedy, in his concurrence, complained that the plurality's "reasonableness" standard was unclear. Justice Antonin Scalia, in another concurrence, accused the plurality of leaving the door open to the assertion of a standardless substantive due process right.

Oberg is the first case in which the court has overturned a punitive damages award for failure to comply with due process, and it represents the first real attempt by the court to begin sketching the boundaries of due process with respect to punitive damages.

The facts in Oberg are somewhat unusual, which means the holding will have little direct effect on the punitive damages schemes of most states. The principles articulated by the court, however, lay important groundwork for future constitutional challenges to punitive damages awards.

The defendant in Oberg had been found liable in a products liability suit for $735,512.31 in compensatory damages and $5 million in punitive damages. The defendant sought post-verdict review of the punitives award in the trial court and on appeal. The Oregon Supreme Court declined to review the award, relying on a 1910 amendment to the Oregon Constitution that prohibits judicial review of the amount of punitive damages awarded by a jury "unless the court can affirmatively say there is no evidence to support the verdict." Oregon appears to be the only state to prohibit judicial review of punitive damages awards.

The Oregon Supreme Court, according to the U.S. Supreme Court's opinion, refused to "interpret Haslip to hold that an award of punitive damages, to comport with the requirements of the Due Process Clause, always must be subject to a form of post-verdict or appellate review that includes the possibility of remittitur."

The Oregon court was confident that the Oregon punitive damages scheme comported with due process, as it provided for very detailed jury instructions with substantive criteria and required that the plaintiff prove entitlement to punitive damages by clear and convincing evidence. The scheme also allowed courts to reverse punitive awards when there was no evidence to support liability for punitive damages. Additionally, Oregon law required the trial judge to determine that a prima facie case for punitive damages had been presented before evidence of the defendant's wealth could be submitted to the jury.

The safeguards of the Oregon scheme did not comport with due process, the Supreme Court held. The "decision to punish a tortfeasor by means of an exaction of exemplary damages is an exercise of state power that must comply with the Due Process Clause of the Fourteenth Amendment."

The justices held that judicial review must cover more than whether there is evidence to support liability for any award of punitive damages. Due process requires a judicial review of the propriety of the *amount* of punitive damages awarded. As the court explained:

"Oregon, unlike the common law, provides no assurance that those whose conduct is sanctionable by punitive damages are not subjected to punitive damages of arbitrary amounts. What we are concerned with is the possibility that a guilty defendant may be unjustly punished; evidence of guilt warranting some punishment is not a substitute for evidence providing at least a rational basis

Footnotes at end of article.

for the particular deprivation of property imposed by the State to defer future wrongdoing."

The analysis the Oberg court used in arriving at its conclusion that the punitives award violated due process is telling. It reflects more of the historical approach advocated by Justice Scalia than the procedural due process analysis that Justice Sandra Day O'Connor has advocated.

In Haslip, the majority failed to articulate the standard it used to evaluate whether the punitive award comported with due process. Justice Scalia, in his Haslip concurrence, advocated a primarily historical analysis: "If the government chooses to follow a historically approved procedure, it necessarily provides due process, but if chooses to depart from historical practices, it does not necessarily deny due process."

Justice O'Connor, in her *Haslip* dissent, had proposed different criteria, based on the Supreme Court's landmark 1976 procedural due process decision in *Mathews v. Eldridge*.[6] In her view, the court should look at three factors in evaluating punitive awards: "(1) the private interest at stake; (2) the risk that existing procedures will wrongly impair this private interest, and the likelihood that additional safeguards can effect a cure; and (3) the governmental interest in avoiding these additional procedures."

The Supreme Court's decision in *Oberg* focused almost exclusively on the fact that judicial review of the amount of punitive damages awards has a long historical basis. The court relied on English cases from the 18th century, U.S. common-law decisions from the 19th century treatises to conclude that "judicial review of the size of punitive damages awards has been a safeguard against excessive verdicts for as long as punitive damages have been awarded." Modern practice, the court stated, "is consistent with these earlier authorities."

Perhaps most interesting was the court's pronouncement that "abrogation of a well-established common law protection against arbitrary deprivations of property raises a presumption that its procedures violate the Due Process Clause."

Because the Oregon procedure departed from "traditional" procedure without providing substitute safeguards, the court concluded that it violated due process. As Justice Scalia elaborated in his concurrence, "The deprivation of property without observing (or providing a reasonable substitute for) an important traditional procedure for enforcing state-prescribed limits upon such deprivation violates the Due Process Clause."

Justice Ruth Bader Ginsburg, joined by Chief Justice William H. Rehnquist, criticized in her dissent the majority's reliance on history as the standard for due process, and she took issue with conclusions the majority drew about historical procedures. She noted that the majority "barely acknowledges the large authority exercised by American juries in the 18th and 19th centuries." Juries usually had the power to determine both law and fact, she observed, and common-law courts "reviewed punitive damage verdicts extremely deferentially, if at all."[7]

Two aspects of the *Oberg* opinion ensure that there will be future due process challenges to punitives awards. First, the court stated in strong terms its concern about the potential for unfairness that is inherent in punitive damages awards. Second, it recognized that historical change may require adaptation of punitives standards that were satisfactory at one point in history.

The court warned, "Punitive damages pose an acute danger of arbitrary deprivation of property. Jury instructions typically leave the jury with wide discretion in choosing amounts, and the presentation of evidence of a defendant's net worth creates the potential that juries will use their verdicts to express biases against big business, particularly those without strong local presences."

The *Oberg* court also encouraged future challenges by reserving the question of what standard identifies a constitutionally excessive punitives award and by discussing the effect of historical change on the constitutional analysis. The court recognized that not all change from historical procedures would violate due process, because the law must respond to changes in society. The court cited as an example the expansion of the notion of personal jurisdiction in the 1945 case *International Shoe Co. v. Washington*,[8] which developed as a new business entity, the corporation, whose ability to conduct business without physical presence had created new problems not envisioned by rules developed in another era," as well as to the "dramatic improvements in communication and transportation that made litigation in a distant forum less onerous."

The fact of historical change will play prominently in the analysis of future punitive damages challenges. Modern products liability litigation bears little resemblance to tort litigation of the 18th and 19th centuries. Defendants in some jurisdictions are now held liable for punitive damages based on underlying strict liability theories that, by their very terms, may ignore traditional notions of fault. This represents a sharp break from the past.

Moreover, the development of sophisticated mass production processes and the emergence of national and international corporations make it increasingly likely that a defendant may be held liable for punitive damages in numerous different law suits for the same course of conduct: marketing a single type of product. The potential for arbitrariness in awards of this type is magnified by the fact that in many jurisdictions—as was the case in *Oberg*—the jury may base its award in part on the net worth of the defendant.

Thus, a products liability defendant may be subject to numerous punitive damages awards for the same conduct, with each award being intended to punish the defendant fully on the basis of the defendant's net worth. This, too, appears to be at odds with the historical application of punitive damages.

Basing multiple punitive damages awards on a defendant's net worth is seen to prejudice large corporate defendants in particular. One commentator[9] has posited this example: Company A is 10 times larger than Company B. Both make the same type of product, and both have identical management and costs, so that Company A's annual net profit is 10 times larger than company B's. If each is sued for product defects at the same rate, Company A will pay 10 times more in compensatory awards each year than Company B.

But the punitives awards against the larger company are exponentially higher than those against the smaller company, even though they are premised on the same misconduct. Because each punitive award is based on the company's net worth, each award Company A pays already will be 10 times more than Company B's. If it pays 10 times as many awards, at the end of each year Company A will have paid 100 times the punitive damages than Company B did. This, it may be argued, is the sort of arbitrariness inherent in modern punitive damages awards that violates due process.

The Supreme Court has not yet been confronted with challenges, such as the examples given above, that go to the heart of products liability litigation. It seems clear that in the wake of *Oberg*, such challenges will be made, and that given the court's concern about arbitrary punitives awards, the court may well decide to hear them.

FOOTNOTES

(1) 1994 WL 276687 (U.S., June 24, 1994).

(2) 111 S. Ct. 1032 (1991).

(3) See, e.g., Johnson v. Hugo's Skateway, 974 F.2d 1408 (4th Cir. 1992); Mattison v. Dallas Carrier Corp., 947 F.2d 95 (4th Cir. 1991); Garnes v. Fleming Landfill Inc., 413 S.E.2d 897 (W.Va 1991).

(4) See, e.g., Dunn v. Hovic, 1 F.3d 1371 (3d Cir.), cert. denied, 114 S. Ct. 650 (1993).

(5) 113 S. Ct. 2711 (1993).

(6) 424 U.S. 319 (1976).

(7) Although it might seem surprising that justice Scalia voted with the majority given the historical overlay that Justice Ginsburg crafted in her dissent, his position was consistent with his dissent in TXO, in which he said, "To say (as I do) that 'procedural due process' requires judicial review of punitive damages awards for reasonableness is not to say that there is a federal constitutional right to a substantively correct 'reasonableness' determination."

(8) 326 U.S. 310 (1945).

(9) Malcolm W. Wheeler, "A Proposal for Further Common Law Development of the Use of Punitive Damages in Modern Product Liability Litigation," 40 Ala. L. Rev. 919 (1989).

By Mr. KERRY (for himself and Mr. STEVENS):

S. 2538. A bill to amend the Magnuson Fishery Conservation and Management Act, and for other purposes; to the Committee on Commerce, Science, and Transportation.

SUSTAINABLE FISHERIES ACT

Mr. KERRY. Mr. President, on March 1, 1977 the United States Fishery Conservation and Management Act of 1976 was signed into law in response to an urgent threat to the valuable living marine resources of our coastal waters. At that time, the threat to our domestic fisheries came in the form of an efficient and aggressive state-of-the-art foreign fishing fleet that was operating within sight of our shores and displacing our domestic fishermen and processors. In response, Congress, led by Senator Warren Magnuson, passed the Fishery Conservation and Management Act establishing a 200-mile fishery conservation zone and asserting United States management authority over fish within the conservation zone, as well as over anadromous species such as salmon throughout their migratory range. In honor of Senator Magnuson's leadership, in 1980 the act was officially retitled the Magnuson Fishery Conservation and Management Act.

The Magnuson Act succeeded—it limited the operation of foreign fishing vessels and processors and encouraged the development of the U.S. domestic fishing fleet and processing industry. In 1993, U.S. commercial fishermen landed over 10 billion pounds of fish, producing $3.4 billion in dockside revenues. By weight of catch, the United States is now the world's sixth largest

fishing nation. The United States is also the top seafood exporter, with exports valued at $3.1 billion in 1993.

However, we have succeeded too well in some ways and today there is another threat to our coastal fisheries. This time it comes not from abroad but from ourselves. Since the implementation of the Magnuson Act, the number of commercial groundfish vessels in New England has increased by 70 percent, and the number of fishermen has risen by 130 percent. Although fish and shellfish are renewable resources, they are not unlimited. In several U.S. fisheries, a pattern has been repeated: Fishermen, lured by the promise of large and lucrative harvests, enter a fishery when fish populations are abundant. As the fishery develops, larger boats often replace small boats, the number of boats increases, and new technologies are continually introduced to improve each vessel's fishing power and efficiency. In several U.S. fisheries, these trends have been bolstered by government policies, including tax incentives and Federal loan guarantees, designed to stimulate development of the domestic fishing industry. The result is that the harvesting capacity in many fisheries has outpaced the capacity of the fisheries to renew themselves. U.S. fisheries also have suffered from destruction of essential habitat, destructive fishing practices, and water pollution.

The key to the success of the Magnuson Act is the ability of the eight regional fisheries management councils established under the act to work with the National Marine Fisheries Service to manage the fisheries on a regional level while meeting the national standards set forth in the Act. The Councils have made a substantial effort to manage the nation's fisheries—as of September 1, 1993, 33 fishery management plans are in effect with several others in development. However, their success in managing the nation's fisheries has been mixed. Critics charge that since the enactment of the Magnuson Act, the councils have sometimes reacted to developments in fisheries rather than anticipating problems—even when looming problems are apparent. In addition, the complexity of the process has impeded the council response, often exacerbating the problem. In many instances, minor management actions could have been taken sooner to avoid the need for more dramatic measures later. In some regions, including parts of the Northwest, the Council members are no longer perceived as stewards of the public resource, providing fair and balanced representation, but are seen as protectors of special economic interests. The Magnuson Act requires that Council members be knowledgeable or experienced with regard to the conservation and management, or the recreational or commercial harvest, of the fishery resources within their geographic area of responsibility. However, this requirement has created situations in which Council members may have personal or financial interests in a fishery they are responsible for managing.

In fact, despite the work of the Councils, problems continue to exist in varying degrees in many regions. These include: continued overfishing; lack of coordination between Councils and the Federal Government; lack of accountability; inconsistency in State and Federal management measures; and adoption of unenforceable management measures.

The collapse of the traditional New England groundfish stocks of cod, haddock, and yellowtail flounder unfortunately is an example of what happens when the fisheries management process fails. The commercial fishing industry in Massachusetts was a $300 million industry in 1990. By 1993, revenues had dropped to almost $232 million, and this year revenues are certain to be much lower. In 1993, the decline of these valuable fish stocks necessitated a substantial amendment to the fisheries management plan for these stocks in an effort to eliminate overfishing by cutting in half fishing mortality over the next 5 to 7 years. The initiation of regulations necessary to rebuild the fishery has had significant economic impact on the lives of those in coastal communities throughout New England. The latest reports from the National Marine Fisheries Service indicate that the situation is even worse than predicted, and the New England Council is now considering even more drastic measures. This is a dire situation with potentially disastrous economic and social impacts on the historic fishing communities of New England. I believe it must be addressed and reversed. The bill I am introducing today should have this effect.

Over the last 2 years, the Commerce Committee has conducted a series of hearings here in Washington and in fishing communities around the U.S. coast. We have reviewed comments from members of the fishing industry, the administration, conservation groups, and other public interest groups. This has been a bipartisan effort. I have worked closely with the senior Senator from Alaska. We and our colleagues share the desire to ensure plentiful yields of fish for years to come. The bill that I am introducing today is an effort to address the existing problems of the fisheries management process. Even though I do not anticipate it can be passed during the very few days remaining before this Congress concludes its work, I think it is important to present it now to permit interested persons to voice any concerns they may have about its provisions so these can be considered and addressed if appropriate, thereby enabling us to move forward with expedience when the new Congress convenes next year.

I recognize that this bill is ambitious in scope. However, the fisheries of the United States are at a crossroads and significant action is required to remedy our fisheries management problems and preserve the way of life of our fishing communities. Fish on the dinner table is something that many Americans may have taken for granted in the past; but unless we take steps to ensure that these resources are conserved, they will not be there for future generations. I hope my colleagues will join me in committing themselves to passing legislation in the next year to ensure that the fisheries of the United States once again will be bountiful and sustainable.

I want to thank the distinguished chairman of the Commerce Committee, Senator STEVENS and his staff, and the staff of the majority and the minority, for their assistance in the preparing this bipartisan bill for introduction today. I also want to express special appreciation to Penny Dalton of the Commerce Committee's National Ocean Policy Study Majority Staff, Mara Brown, a fellow on the Committee staff, Steve Metruck, a fellow in my office, Trevor McCabe and John Moran of the Commerce Committee's National Ocean Policy Study Minority Staff, Jim Sartucci, a fellow on the Minority Staff and Earl Comstock of Senator STEVENS' staff for the many hours of collaborative work they invested in the drafting of this bill.

I ask unanimous consent that the statement of Senator STEVENS, followed by a summary of the bill's principal provisions and the bill itself, appear in the RECORD following my remarks.

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

S. 2538

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Sustainable Fisheries Act".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—CONSERVATION AND MANAGEMENT

Sec. 101. Amendment of the Magnuson Fishery Conservation and Management Act.
Sec. 102. Findings; purposes; and policy.
Sec. 103. Definitions.
Sec. 104. Authorization of appropriations.
Sec. 105. Highly migratory species.
Sec. 106. Foreign fishing.
Sec. 107. Permits for foreign fishing.
Sec. 108. Large-scale driftnet fishing.
Sec. 109. National standards.
Sec. 110. Regional fishery management councils.
Sec. 111. Fishery management plans.
Sec. 112. Plan review and implementation.

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Sec. 113. Ecosystem management.
Sec. 114. State jurisdiction.
Sec. 115. Prohibited acts.
Sec. 116. Civil penalties and permit sanctions.
Sec. 117. Enforcement.
Sec. 118. North Pacific fisheries conservation.
Sec. 119. Transition to sustainable fisheries.

TITLE II—FISHERY MONITORING AND RESEARCH

Sec. 201. Change of title.
Sec. 202. Registration and data management.
Sec. 203. Data collection.
Sec. 204. Observers wages as maritime liens.
Sec. 205. Fisheries research.
Sec. 206. Incidental harvest research.
Sec. 207. Repeal.
Sec. 208. Clerical amendments.

TITLE III—FISHERIES STOCK RECOVERY FINANCING

Sec. 301. Short title.
Sec. 302. Fisheries stock recovery refinancing.
Sec. 303. Federal financing bank relating to fishing vessels and fishery facilities.
Sec. 304. Fees for guaranteeing obligations.
Sec. 305. Sale of acquired collateral.

TITLE IV—ATLANTIC TUNAS CONVENTION ACT

Sec. 401. Short title.
Sec. 402. Research and monitoring activities.
Sec. 403. Advisory committee procedures.
Sec. 404. Regulations.
Sec. 405. Fines and permit sanctions.
Sec. 406. Authorization of appropriations.
Sec. 407. Report.

TITLE I—CONSERVATION AND MANAGEMENT

SEC. 101. AMENDMENT OF MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

SEC. 102. FINDINGS; PURPOSES; AND POLICY.

Section 2 (16 U.S.C. 1801) is amended—

(1) by striking subsection (a)(2) and inserting the following:

"(2) Certain stocks of fish have declined to the point where their survival is threatened, and other stocks of fish have been so substantially reduced in number that they could become similarly threatened as a consequence of (A) increased fishing pressure, (B) the inadequacy of fishery resource conservation and management practices and controls, or (C) direct and indirect habitat losses which have resulted in a diminished capacity to support existing fishing levels.";

(2) by inserting "to facilitate long-term protection of essential fish habitats," in subsection (a)(6) after "conservation,";

(3) by adding at the end of subsection (a) the following:

"(9) One of the greatest long-term threats to the viability of commercial and recreational fisheries is the continuing loss of marine, estuarine, and other aquatic habitats on a national level. Habitat considerations should receive increased attention for the conservation and management of fishery resources of the United States.";

(4) by inserting "in a non-wasteful manner" in subsection (b)(6) after "such development"; and

(5) by adding at the end of subsection (b) the following:

"(7) to promote the protection of essential fish habitat in the review of projects conducted under Federal permits, licenses, or other authorities that affect or have the potential to affect such habitat.".

SEC. 103. DEFINITIONS.

Section 3 (16 U.S.C. 1802) is amended—

(1) by redesignating paragraphs (2) through (32) as paragraphs (3) through (33) respectively, and inserting after paragraph (1) the following:

"(2) The term 'bycatch' means fish which are harvested by a fishing vessel, but which are not sold or kept for personal use, including, but not limited to, economic and regulatory discards.";

(2) by redesignating paragraphs (7) through (33) (as redesignated) as paragraphs (9) through (35), respectively, and inserting after paragraph (6) (as redesignated) the following:

"(7) The term 'economic discards' means fish which are the target of a fishery, but which are not retained by the fishing vessel which harvested them because they are of an undesirable size, sex or quality, or for other economic reasons.

"(8) The term 'essential fish habitat' means any area essential to the life cycle of a stock of fish, or to the production of maximum sustainable yield of one or more fisheries managed under this Act.";

(3) by redesignating paragraphs (12) through (35) (as redesignated) as paragraphs (13) through (36), respectively, and inserting after paragraph (11) (as redesignated) the following:

"(12) The term 'fishery dependent community' means a community which is substantially dependent on the harvest of fishery resources to meet social and economic needs.";

(4) by redesignating paragraphs (19) through (36) (as redesignated) as paragraphs (20) through (37), respectively, and inserting after paragraph (18) (as redesignated) the following:

"(19) The term 'individual transferable quota' means a revocable Federal authorization to harvest or process a quantity of fish under a unit or quota share that represents a percentage of the total allowable catch of a stock of fish, that may be received or held by a specific person or persons for their exclusive use, and that may be transferred in whole or in part by the holder to another person or persons for their exclusive use.";

(5) by redesignating paragraphs (22) through (37) (as redesignated) as paragraphs (23) through (38), respectively, and inserting after paragraph (21) (as redesignated) the following:

"(22) The term 'limited access system' means any system for controlling fishing effort which includes such measures as license limitations, individual transferable quotas, and non-transferable quotas.";

(6) by striking "Pacific Marine Fisheries Commission" in paragraph (23), as redesignated, and inserting "Pacific States Marine Fisheries Commission";

(7) by striking paragraph (27), as redesignated, and inserting the following:

"(27) The term 'optimum', with respect to the yield from a fishery, means the amount of fish which—

"(A) will provide the greatest overall benefit to the Nation, with particular reference to food production and recreational opportunities, and taking into account the protection of marine ecosystems;

"(B) is prescribed on the basis of the maximum sustainable yield from a fishery, as modified by any relevant social, economic, or ecological factor; and

"(C) provides for the rebuilding of an overfished fishery to a level consistent with producing the maximum sustainable yield.";

(8) by redesignating paragraphs (28) through (38) (as redesignated) as paragraphs (29) through (39), respectively, and inserting after paragraph (27) (as redesignated) the following:

"(28) The terms 'overfishing' and 'overfished' mean a level or rate of fishing mortality that jeopardizes the capacity of a fishery to produce the maximum sustainable yield on a continuing basis.";

(9) by redesignating paragraphs (30) through (39) (as redesignated) as paragraphs (31) through (40), respectively, and inserting after paragraph (29) (as redesignated) the following:

"(30) The term 'regulatory discards' means fish caught in a fishery which fishermen are required by regulation to discard whenever caught, or are required by regulation to retain but not sell.";

(10) by striking "for which a fishery management plan prepared under title III or a preliminary fishery management plan prepared under section 201(h) has been implemented" in paragraph (38), as redesignated, and inserting "regulated under this Act";and

(11) by redesignating paragraph (40), as redesignated, as (41), and inserting after paragraph (39) the following:

"(40) The term 'vessel subject to the jurisdiction of the United States' has the same meaning as in section 3(c) of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903(c)).".

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

The Act is amended by inserting after section 3 the following:

"SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Secretary for the purposes of carrying out the provisions of this Act, not to exceed the following sums (of which 15 percent in each fiscal year shall be used for enforcement activities):

"(1) $102,000,000 for fiscal year 1993;
"(2) $106,000,000 for fiscal year 1994;
"(3) $143,000,000 for fiscal year 1995;
"(4) $147,000,000 for fiscal year 1996;
"(5) $151,000,000 for fiscal year 1997;
"(6) $155,000,000 for fiscal year 1998; and
"(7) $159,000,000 for fiscal year 1999.".

SEC. 105. HIGHLY MIGRATORY SPECIES.

Section 102 (16 U.S.C. 1812) is amended by striking "promoting the objective of optimum utilization" and inserting "promote the achievement of optimum yield".

SEC. 106. FOREIGN FISHING.

Section 201 (16 U.S.C. 1821) is amended—

(1) by inserting a comma and "or is approved under section 204(b)(6)(A)(ii)" before the semicolon in subsection (a)(1);

(2) by striking "(g)" in subsection (a)(2) and inserting "(f)";

(3) by striking "(i)" in subsection (c)(2)(D) and inserting "(h)";

(4) by striking ", including any regulations promulgated to implement any applicable fishery management plan or any preliminary fishery management plan" in subsection (c); and

(5) by striking subsection (f) and redesignating subsections (g), (h), (i), and (j) as (f), (g), (h), and (i), respectively.

SEC. 107. PERMITS FOR FOREIGN FISHING.

(a) So much of section 204(b) (16 U.S.C. 1824(b)) as precedes paragraph (2) is amended to read as follows:

"(b) APPLICATIONS AND PERMITS.—

"(1) ELIGIBILITY.—

"(A) Each foreign nation with which the United States has entered into a governing international fishery agreement shall submit an application to the Secretary of State each year for a permit for each of its fishing vessels that wishes to engage in fishing described in subsection (a).

"(B) An owner of a vessel, other than a vessel of the United States, who wishes to engage in the transshipment at sea of fish products in the exclusive economic zone or within the boundary of any State, may submit an application to the Secretary each year for a permit for a vessel belonging to that owner, whether or not such vessel is subject to an international fishery agreement described in section 201(b) or (c).

"(C) No permit issued under this section may be valid for longer than a year. Section 558(c) of title 5, United States Code, does not apply to the renewal of any such permit.".

(b) Section 204(b)(4) (16 U.S.C. 1824(b)(4)) is amended—

(1) by inserting "(A)" after the caption;

(2) by inserting "submitted under paragraph (1)(A)" after "any application";

(3) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively; and

(4) by inserting at the end thereof the following:

"(B) Upon receipt of any application submitted under paragraph (1)(B) which complies with the requirements of paragraph (3), the Secretary shall promptly transmit copies of the application or summary as indicated under subparagraphs (A)(ii) and (iii), and shall also promptly transmit such application or summary to States bordering the exclusive economic zone where such transhipment is proposed to occur.".

(c) Section 204(b)(5) (16 U.S.C. 1824(b)(5)) is amended by striking "under paragraph (4)(C)" and inserting "submitted under paragraph (1)".

(d) Section 204(b)(6) (16 U.S.C. 1824(b)(6)) is amended—

(1) by striking "transmitted under paragraph (4)(A)" and inserting "submitted under paragraph (1)(A)" in subparagraph (A);

(2) by inserting "(i)" before "After" in subparagraph (A); and

(3) by inserting before subparagraph (B) the following:

"(ii) In the case of any application submitted under paragraph (1)(B), the Secretary, after taking into consideration any comments submitted by the Council under paragraph (5) or any affected State, may approve the application upon determining that the activity described in the application will be in the interest of the United States and will meet the applicable requirements of this Act, and that the owners or operators have agreed to comply with requirements set forth in section 201(c)(2) and have established any bonds or financial assurances that may be required by the Secretary; or the Secretary may disapprove all or any portion of the application.".

(e) Section 204(b)(8) (16 U.S.C. 1824(b)(8)) is amended—

(1) by inserting a comma and "or the agent for the foreign vessel owner for any application submitted under paragraph (1)(B)" before the semicolon at the end of subparagraph (A); and

(2) by inserting "and any affected State" before the period at the end of subparagraph (C).

(f) Section 204(b)(9) (16 U.S.C. 1824(b)(9)) is amended—

(1) by inserting "paragraph (1)(A) of" after "by a foreign nation under";

(2) by inserting "(A)" after the heading in paragraph (9); and

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

"(B) If the Secretary does not approve any application submitted by a foreign vessel owner under paragraph (1)(B) of this subsection, the Secretary shall promptly inform the vessel owner of the disapproval and the reasons therefore. The owner, after taking into consideration the reasons for disapproval, may submit a revised application under this subsection.".

(g) Section 204(b)(11) (16 U.S.C. 1824(b)(11)) is amended—

(1) by inserting "(A)" after the paragraph heading,

(2) by inserting "submitting an application under paragraph (1)(A)" after "If a foreign nation"; and

(3) adding at the end thereof the following:

"(B) If the vessel owner submitting an application under paragraph (1)(B) notifies the Secretary of acceptance of the conditions and restrictions established by the Secretary under paragraph (7), and upon payment of the applicable fees established pursuant to paragraph (10) and confirmation of any bonds or financial assurances that may be required for such transhipment of fish, the Secretary shall thereupon issue a permit for the vessel.".

(h) Section 204 (16 U.S.C. 1824) is amended by adding at the end thereof the following:

"(d) PROHIBITION ON PERMIT ISSUANCE.—Notwithstanding any other provision of this Act, the Secretary is prohibited from issuing, before December 1, 1999, any permit to authorize the catching, taking, or harvesting of Atlantic mackerel or Atlantic herring by foreign fishing vessels within the exclusive economic zone. This subsection shall not apply to permits to authorize foreign fish processing vessels to process Atlantic mackerel or Atlantic herring harvested by fishing vessels of the United States.".

SEC. 108. LARGE-SCALE DRIFTNET FISHING.

(a) Section 206(e) (16 U.S.C. 1826(e)) is amended by striking paragraphs (3) and (4), and redesignating paragraphs (5) and (6) as (3) and (4), respectively.

(b) Section 206(f) (16 U.S.C. 1826(f)) is amended by striking "(6)" and inserting "(4)".

SEC. 109. NATIONAL STANDARDS.

(a) Paragraph (1) of section 301(a) (16 U.S.C. 1851(a)) is amended to read as follows:

"(1) Conservation and management measures shall prevent overfishing and rebuild overfished fishery resources while achieving, on a continuing basis, the optimum yield from each fishery.".

(b) Section 301(a)(5) (16 U.S.C 1851(a)(5)) is amended by striking "promote" and inserting "consider".

(c) Section 301(a) (16 U.S.C. 1851(a)) is amended by adding at the end thereof the following:

"(8) Conservation and management measures shall take into account the importance of the harvest of fishery resources to fishery dependent communities.".

SEC. 110. REGIONAL FISHERY MANAGEMENT COUNCILS.

(a) Section 302(a) (16 U.S.C. 1852(a)) is amended—

(1) by inserting "(1)" after the subsection heading;

(2) by redesignating paragraphs (1) through (7) as subparagraphs (A) through (H);

(3) by striking "section 304(f)(3)" wherever it appears and inserting in lieu thereof "paragraph (3)";

(4) by striking paragraph (1)(F), as redesignated, and inserting the following:

"(F) PACIFIC COUNCIL.—The Pacific Fishery Management Council shall consist of the States of California, Oregon, Washington, and Idaho and shall have authority over the fisheries in the Pacific Ocean seaward of such States. The Pacific Council shall have 13 voting members, including 7 appointed by the Secretary in accordance with subsection (b)(2) (at least one of whom shall be appointed from each such State), and including one appointed from an Indian tribe with Federally recognized fishing rights from California, Oregon, Washington, or Idaho in accordance with subsection (b)(5).";

(5) by indenting the sentence at the end thereof and inserting "(2)" in front of "Each Council", and by inserting "The Secretary shall establish the boundaries between the geographical areas of authority of adjacent Councils." after "authority."; and

(6) by adding at the end the following:

"(3) The Secretary shall have authority over any highly migratory species fishery that is within the geographical area of authority of more than one of the following Councils: New England Council, Mid-Atlantic Council, South Atlantic Council, Gulf Council, and Caribbean Council.".

(b) Section 302(b) (16 U.S.C. 1852(b)) is amended—

(1) by striking subparagraph (C) of subsection (b)(1) and inserting the following:

"(C) The members required to be appointed by the Secretary in accordance with subsections (b)(2) and (5).";

(2) by redesignating paragraph (5) as paragraph (6), and inserting after paragraph (4) the following:

"(5)(A) The Secretary shall appoint to the Pacific Fishery Management Council one representative of an Indian tribe with Federally recognized fishing rights from California, Oregon, Washington, or Idaho, from a list of not less than 3 individuals submitted by the tribal governments. The representative shall serve for a term of 3 years and may not serve more than 3 consecutive terms. The Secretary, in consultation with the Secretary of the Interior and tribal governments, shall establish by regulation the procedure for submitting lists under this subparagraph.

"(B) Representation shall be rotated among the tribes taking into consideration—

"(i) the qualifications of the individuals on the list referred to in subparagraph (A),

"(ii) the various treaty rights of the Indian tribes involved and judicial cases that set forth how those rights are to be exercised, and

"(iii) the geographic area in which the tribe of the representative is located.

"(C) A vacancy occurring prior to the expiration of any term shall be filled in the same manner set out in subparagraphs (A) and (B), except that the Secretary may use the list from which the vacating representative was chosen."; and,

(3) by striking "subsection (b)(2)" in paragraph (6), as redesignated, and inserting "subsections (b)(2) and (5)".

(c) Section 302(e) (16 U.S.C. 1852(e)) is amended by adding at the end the following:

"(5) At the request of any voting member of a Council, the Council shall hold a roll call vote on any matter before the Council. The official minutes and other appropriate records of any Council meeting shall identify all roll call votes held, the name of each voting member present during each roll call vote, and how each member voted on each roll call vote.".

(d) Section 302(g) (16 U.S.C. 1852(g)) is amended by redesignating paragraph (4) as

(5), and by inserting after paragraph (3) the following:

"(4) The Secretary shall establish advisory panels to assist in—

"(A) the collection and evaluation of information relevant to the development of or amendment to any fishery management plan under section 303(e)(2); and

"(B) carrying out the purposes of section 303(f).".

(e) Section 302(h) (16 U.S.C. 1852(h)) is amended—

(1) by striking "section 304(f)(3)" in paragraphs (1) and (5) and inserting "subsection (a)(3)"; and

(2) by striking "204(b)(4)(C)" in paragraph (2) and inserting "204(b)(4)(A)(iii)".

(f) Section 302(i) (16 U.S.C. 1852(i)) is amended to read as follows:

"(i) NEGOTIATED CONSERVATION AND MANAGEMENT MEASURES.—

"(1) Acting through the Secretary, a Council may, on its own or at the request of the Secretary, establish a negotiation panel to assist in the development of specific conservation and management measures for a fishery under authority of such Council. In making the decision to establish such panel, the Council shall consider whether—

"(A) there are a finite number of identifiable interests that will be significantly affected by the development of such measures;

"(B) there is a reasonable likelihood that a negotiation panel can be convened with a balanced representation of persons who—

"(i) can adequately represent the interests identified under subparagraph (A); and

"(ii) are willing to act in good faith to reach a consensus on the development of a such measures;

"(C) there is reasonable likelihood that a negotiation panel will contribute to the development of such measures within a fixed period of time; and

"(D) the process under this subsection will not unreasonably delay the development of any conservation and management measure or its submission to the Secretary.

"(2) If the Council decides to establish a negotiation panel it shall notify all identifiable interests of its intention to convene such panel at least 30 calendar days prior to the appointment of members. Such notification shall be published in accordance with subsection (j)(2)(C) of this section and shall include—

"(A) a description of the subject and scope of the measures to be developed and the issues to be considered;

"(B) a list of interests likely to be significantly affected by the measures to be developed;

"(C) a list of the persons proposed to represent such interests, the person or persons proposed to represent the Council, and the person or persons proposed to be nominated as facilitator;

"(D) an explanation of how a person may apply or nominate another person for membership on the negotiation panel; and

"(E) a proposed agenda and schedule for completing the work of the negotiation panel.

"(3) No more than 45 calendar days after providing this notification the Council shall make appointments to the negotiation panel in such a manner as to achieve balanced representation of all significant interests to the conservation and management measures. Such interests shall include, where appropriate, representatives from the fishing industry, consumer groups, the scientific community, tribal organizations, conservation organizations and other public interest organizations, and Federal and State fishery managers.

"(4) Each negotiation panel established under this section shall attempt to reach a consensus concerning specific conservation and management measures and any other issue such panel determines is relevant to such measures. The Council, to the maximum extent possible consistent with its legal obligations, will use the consensus of the negotiation panel, with respect to such measures, as the basis for the development of the conservation and management measures to be adopted by the Council or submitted by the Council to the Secretary in accordance with this Act.

"(5) The person or persons representing the Council on a negotiation panel shall participate in the deliberations and activities of such panel with the same rights and responsibilities as other panel members, and shall be authorized to fully represent the Council in the discussions and negotiations of such panel.

"(6) Any facilitator nominated by the Council to a negotiation panel must be approved by the panel by consensus. If the panel does not approve a facilitator nominated by the Council the panel shall select by consensus another person to serve as facilitator. No person appointed by the Council to the negotiation panel to represent any intereston the Council may serve as facilitator or otherwise chair such panel.

"(7) A facilitator approved or selected by a negotiation panel shall—

"(A) chair the meetings of such panel in an impartial manner;

"(B) impartially assist the panel members in conducting discussions and negotiations; and

"(C) manage the keeping of any minutes or records, (except that any personal notes and materials of the facilitator or the panel members shall not be subject to disclosure, except upon order of a court).

"(8) A negotiation panel may adopt any additional procedures for the operation of the negotiation panel not in conflict with those specified in this section.

"(9) At the conclusion of the negotiation process, if the negotiation panel reaches a consensus on proposed conservation and management measures, such panel shall transmit to the Council, and present to the Council at the next scheduled meeting of the Council, a report containing the proposed conservation and management measures. If the negotiation panel does not reach consensus on proposed conservation and management measures, such panel shall transmit to the Council, and present to the Council at the next scheduled meeting of the Council, a report specifying its recommendations and describing the areas in which the negotiation panel reached consensus and the areas in which consensus was not achieved. The negotiation panel may include in a report any other information or materials that such panel considers appropriate. Any panel member may include, as an addendum to the report, additional information or materials.

"(10) A negotiation panel shall terminate upon approval by the Secretary of the conservation and management measures recommended by the Council on the basis of the report by the panel, unless the Council in consultation with the panel, or the panel itself specifies an alternative termination date.

"(11) For the purposes of this subsection—

"(A) The term 'negotiation panel' means an advisory panel established by a Council under section (g)(2) to assist in the development of specific conservation and management measures through the process established under this subsection.

"(B) The term 'consensus' means general but not unanimous concurrence among the interests represented unless such panel—

"(i) agrees by consensus to define such term to mean a unanimous concurrence; or

"(ii) agrees by consensus upon another specified definition.

"(C) The term 'facilitator' means a person experienced or trained in group mediation and negotiation who impartially aids in the discussions and negotiations among the members of a negotiation panel.

"(D) The term 'interest' means, with respect to this subsection, multiple persons or parties who have a similar point of view or which are likely to be affected in a similar manner.".

(g) Section 302(j) (16 U.S.C. 1852(j)) is amended—

(1) by deleting "of the Councils" in paragraph (1) and inserting "established under subsection (g)"; and

(2) by deleting "of a Council:" in paragraph (2) and inserting "established under subsection (g):".

(3) by adding at the end of paragraph (2)(C): "Interested persons may propose to modify the published agenda of a meeting by submitting to a Council, panel or committee within 14 calendar days of the published date of the meeting a notice containing a written description of the proposed modification signed by not less than two Council members.";

(4) by adding the following at the end of paragraph (2)(D): "All written data submitted to a Council by an interested person shall include a statement of the source and date of such information. Any oral or written statement shall include a brief description of the qualifications and interests of the person in the subject of the oral or written statement.";

(5) by amending paragraph (2)(E) to read as follows:

"(E) Detailed minutes of each meeting of the Council shall be kept and shall contain a record of the persons present, a complete and accurate description of matters discussed and conclusions reached, and copies of all statements filed, issued, or approved by the Council. The Chairman shall certify the accuracy of the minutes of each meeting and submit a copy thereof to the Secretary. The minutes shall be made available to any court of competent jurisdiction."; and

(6) by striking "303(d)" in paragraph (2)(F) and inserting "402(b)".

(g) Section 302(k) (16 U.S.C. 1852(k)) is amended—

(1) by inserting "and recusal" in the subsection heading;

(2) by striking paragraph (1) and inserting the following:

"(1) For the purposes of this subsection—

"(A) the term 'affected individual' means an individual who—

"(i) is nominated by the Governor of a State for appointment as a voting member of a Council in accordance with subsection (b)(2); or

"(ii) is a voting member of a Council appointed under subsection (b)(2); and

"(B) the term 'designated official' means a person with expertise in Federal conflict-of-interest requirements who is designated by the Secretary, with the concurrence of the Council, to attend Council meetings and make determinations under paragraph (7)(B).";

(3) by striking "(1)(A)" in paragraph (3)(A) and inserting "(1)(A)(i)";

(4) by striking "(1)(B) or (C)" in paragraph (3)(B) and inserting "(1)(A)(ii)";

(5) by striking "(1)(B) or (C)" in paragraph (4) and inserting "(1)(A)(ii)";

(6)(A) by striking "and" at the end of paragraph (5)(A);

(B) by striking the period at the end of paragraph (5)(B) and inserting a semicolon and the word "and"; and

(C) by adding at the end of paragraph (5) the following:

"(C) be kept on file by the Secretary for use in reviewing determinations under paragraph (7)(B) and made available for public inspection at reasonable hours.";

(7) by striking "(1)(B) or (C)" in paragraph (6) and inserting "(1)(A)(ii)";

(8) by redesignating paragraph (7) as (8) and inserting after paragraph (6) the following:

"(7)(A) An affected individual required to disclose a financial interest under paragraph (2) shall not vote on a Council decision which would have a significant and predictable effect on such financial interest. A Council decision shall be considered to have a significant and predictable effect on a financial interest if there is a close causal link between the Council decision and an expected benefit, shared only by a minority of persons within the same industry sector or gear group, to the financial interest. An affected individual who may not vote may participate in Council deliberations relating to the decision after notifying the Council of the voting recusal and identifying the financial interest that would be affected.

"(B) At the request of an affected individual, or at the initiative of the appropriate designated official, the designated official shall make a determination for the record whether a Council decision would have a significant and predictable effect on a financial interest.

"(C) Any Council member may submit a written request to the Secretary to review any determination by the designated official under subparagraph (B) within 10 days of such determination. Such review shall be completed within 30 days of receipt of the request.

"(D) Any affected individual who does not participate in a Council decision in accordance with this subsection shall state for the record how he or she would have voted on such decision if he or she had voted.

"(E) If the Council makes a decision before the Secretary has reviewed a determination under subparagraph (C), the eventual ruling may not be treated as cause for the invalidation or reconsideration by the Secretary of such decision.

"(F) No later than December 1, 1995, the Secretary, in consultation with the Councils, shall issue guidelines with respect to voting recusals under subparagraph (A) and the making of determinations under subparagraph (B).'; and

(9) by striking "(1)(B) or (C)" in paragraph (8), as redesignated, and inserting "(1)(A)(ii)".

SEC. 111. FISHERY MANAGEMENT PLANS.

(a) Section 303(a) (16 U.S.C. 1853(a)) is amended—

(1) by striking paragraph (6) and inserting the following:

"(6) consider and provide for, after consultation with the Coast Guard and persons participating in the fishery,—

"(A) safety of life and property at sea;

"(B) temporary adjustments regarding access to the fishery for vessels otherwise prevented from harvesting because of weather or other ocean conditions affecting the safe conduct of the fishery (except that any such adjustment shall not adversely affect conservation efforts in other fisheries or discriminate among participants in the affected fishery), and

"(C) enforcement measures (including an estimate of the resources necessary for effective implementation of such measures).";

(2) by striking paragraph (7) and inserting the following:

"(7) facilitate the protection of essential fish habitat by—

"(A) summarizing available information on the significance of such habitat to the fishery and the effects of changes to such habitat on the fishery; and

"(B) identifying Federal actions that should be considered to promote the long-term protection of essential fish habitats.";

(3) by striking "and" at the end of paragraph (8);

(4) by striking the period at the end of paragraph (9) and inserting a semicolon; and

(5) by adding at the end the following:

"(10) specify objective and measurable criteria for classifying when the fishery to which the plan applies would be or is overfished, with an analysis of how the criteria were determined and the relationship of the criteria to the reproductive potential of stocks of fish in that fishery;

"(11) assess the level of bycatch occurring in the fishery, and to the extent practicable, assess and specify the effect of the fishery on stocks of fish to which the plan does not apply, but which are associated with the ecosystem of the fishery; and

"(12) to the extent practicable, minimize mortality caused by economic and regulatory discards in the fishery.".

(b) Section 303(b) (16 U.S.C. 1853(b)) is amended—

(1) by striking paragraph (6) and inserting the following:

"(6) establish a limited access system for the fishery in order to achieve optimum yield if—

"(A) in developing such system, the Council and the Secretary take into account present participation in the fishery, historical fishing practices in and dependence on the fishery, the economics of the fishery, the capability of fishing vessels used in the fishery to engage in other fisheries, the cultural and social framework relevant to the fishery and fishery dependent communities, and any other relevant considerations; and

"(B) in the case of any system that provides for individual transferable quotas, such system also complies with the guidelines and fee requirements established under section 303(f);"; and

(2) by striking "and" at the end of paragraph (9);

(3) by striking the period at the end of paragraph (10) and inserting a semicolon and "and"; and

(4) by adding at the end the following:

"(11) include, consistent with the other provisions of this Act, conservation and management measures that provide a harvest preference or other incentives for fishing vessels within each gear group that employ fishing practices resulting in lower levels of bycatch.".

(c) Section 303 (16 U.S.C. 1853) is amended by striking subsection (c) and all thereafter and inserting the following:

"(c) REGULATIONS TO IMPLEMENT A FISHERY MANAGEMENT PLAN.—Proposed regulations which the Council deems necessary or appropriate for the purposes of implementing a fishery management plan or amendment to a plan may be submitted to the Secretary for action under section 304—

"(1) simultaneously with submission of the plan or amendment to the Secretary for action under section 304; or

"(2) at any time after the plan or amendment is approved.

"(d) FISHERIES UNDER AUTHORITY OF MORE THAN ONE COUNCIL.—

"(1) Except as provided in section 302(a)(3), if any fishery extends beyond the geographical area of authority of any one Council, the Secretary may—

"(A) designate which Council shall prepare the fishery management plan for such fishery and any amendment to such plan, as well as any proposed regulations for such fishery; or

"(B) require that the plan, amendment, and proposed regulations be prepared jointly by the Councils concerned.

"(2) No jointly prepared fishery management plan, amendment, or proposed regulations may be submitted to the Secretary unless approved by a majority of the voting members, present and voting, of each Council concerned.

"(e) PREPARATION BY THE SECRETARY.—

"(1) The Secretary shall prepare a fishery management plan with respect to any fishery (other than a fishery to which section 302(a)(3) applies), or any amendment to any such plan, in accordance with the national standards, the other provisions of this Act, and any other applicable law, if—

"(A) the appropriate Council fails to develop and submit to the Secretary, after a reasonable period of time, a fishery management plan for such fishery, or any necessary amendment to such plan, if such fishery requires conservation and management and the Secretary provides written notice to the Council of the need for such conservation and management;

"(B) the Secretary disapproves or partially disapproves any such plan or amendment, or disapproves a revised plan or amendment, and the Council involved fails, after a reasonable period of time, to take final action on a revised or further revised plan or amendment, as the case may be; or

"(C) the Secretary determines that the appropriate Council has failed to take sufficient action on a fishery management plan, a plan amendment or proposed regulations to rebuild an overfished fishery pursuant to section 305(b) within 1 year after determining that such fishery is overfished.

"(2) The Secretary shall prepare a fishery management plan with respect to any highly migratory species fishery to which section 302(a)(3) applies that requires conservation and management, or any amendment to any such plan, in accordance with the national standards, the other provisions of this Act, and any other applicable law. In preparing and implementing any such plan or amendment, the Secretary shall—

"(A) conduct public hearings, at appropriate times and in appropriate locations in the geographical areas concerned, so as to allow interested persons an opportunity to be heard in the preparation and amendment of the plan and any regulations implementing the plan;

"(B) consult with and consider the comments and views of affected Councils, as well as commissioners and advisory groups appointed under Acts implementing relevant international fishery agreements pertaining to highly migratory species;

"(C) establish an advisory panel under section 302(g) for each fishery management plan to be prepared under this paragraph, which shall consist of a balanced number (but not less than seven) of representatives who are

knowledgeable and experienced with respect to the fishery concerned selected from among members of advisory groups appointed under Acts implementing relevant international fishery agreements pertaining to highly migratory species and other interested parties;

"(D) evaluate the likely effects, if any, of conservation and management measures on participants in the affected fisheries and minimize, to the extent practicable, any disadvantage to United States fishermen in relation to foreign competitors;

"(E) with respect to a highly migratory species for which the United States is authorized to harvest an allocation or quota or fishing mortality level under a relevant international fishery agreement, provide fishing vessels of the United States with a reasonable opportunity to harvest such allocation, quota, or fishing mortality level;

"(F) review, on a continuing basis (and promptly whenever a recommendation pertaining to fishing for highly migratory species has been made under a relevant international fishery agreement), and revise as appropriate, the conservation and management measures included in the plan;

"(G) diligently pursue, through international entities (such as the International Commission for the Conservation of Atlantic Tunas), comparable international fishery management measures with respect to fishing for highly migratory species; and

"(H) ensure that conservation and management measures adopted under this paragraph—

"(i) promote international conservation of the affected fishery;

"(ii) take into consideration traditional fishing patterns of fishing vessels of the United States and the operating requirements of the fisheries; and

"(iii) are fair and equitable in allocating fishing privileges among United States fishermen and not have economic allocation as the sole purpose.

"(3) In preparing any plan or amendment under this subsection, the Secretary shall consult with the Secretary of State with respect to foreign fishing and with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea.

"(4) The Secretary may not include in any fishery management plan, or any amendment to any such plan, prepared by the Secretary under paragraph (1), a provision establishing a limited access system, unless such system is first approved by a majority of the voting members of each appropriate Council.

"(f) INDIVIDUAL TRANSFERABLE QUOTAS.—

"(1) The Secretary may not approve a fishery management plan that includes individual transferable quotas until the Secretary has promulgated guidelines under paragraph (2). Thereafter, the Secretary may approve a fishery management plan or amendment that includes individual transferable quotas only if the plan or amendment is consistent with the guidelines promulgated under paragraph (2).

"(2) The Secretary shall promulgate, after consultation with the Councils and public notice and comment, mandatory guidelines for the establishment of any individual transferable quota system. The guidelines shall—

"(A) ensure that any individual transferable quota system—

"(i) is consistent with the requirements for limited access systems under section 303(b)(6),

"(ii) promotes conservation,

"(iii) requires collection of fees from holders of individual transferable quotas under section 304(f(2),

"(iv) provides for the fair and equitable allocation of fishing privileges, and facilitates a reduction in excessive fishing capacity in the fishery;

"(v) establishes a national lien registry system for the identification, perfection, determination or lien priorities, and nonjudicial foreclosure of encumbrances or individual transferable quotas; and

"(vi) facilitates a reduction in excessive fishing capacity in the fishery;

"(B) address the characteristics of fisheries that are relevant to the design of suitable individual transferable quota systems, the nature and extent of the privilege established under an individual transferable quota system, factors in making initial allocations and determining eligibility for ownership of individual transferable quotas, limitations on the consolidation of individual transferable quotas, and methods of providing for new entrants, including, in fisheries where appropriate, mechanisms to provide a portion of the annual harvest for entry-level fishermen or small vessel owners who do not hold invididual transferrable quotas;

"(C) provide for effective monitoring and enforcement of individual transferable quota systems, including providing for the inspection of fish harvested under such systems before the fish is transported beyond the geographic area under a Council's jurisdiction or the jurisdiction of the United States;

"(D) provide for appropriate penalties for violations of individual transferable quota systems, including the revocation of individual transferable quotas for such violations; and

"(E) include recommendations for potential management options related to individual transferable quotas, including the authorization of individual units or quotas that may not be transferred by the holder, and the use of leases or auctions by the Federal government in the establishment or allocation of individual transferable or nontransferable units or quotas.

"(3) Any fishery management plan which includes individual transferable quotas that the Secretary approved on or before June 30, 1994, shall be amended by June 30, 1997, to be consistent with this subsection and any other applicable provisions of this Act.

"(4) No later than 60 days after the date of enactment of the Sustainable Fisheries Act, the Secretary shall establish an advisory panel on individual transferable quotas under section 302(g)(3) which shall be comprised of fishery scientists and representatives of the Councils, representatives of affected States and fishery dependent communities, fishery participants and conservation organizations. Such advisory panel shall provide recommendations on the guidelines required under paragraph (2), a list of all United States fisheries that may be suited for the development of limited access systems that include individual transferable quotas, and other information as the Secretary or the advisory panel deem appropriate.

"(5) An individual transferable quota does not constitute a property right. Nothing in this section or in any other provision of law shall be construed to limit the authority of the Secretary to terminate or limit such individual transferable quota at any time and without compensation to the holder of such quota. The term 'holder of an individual transferable quota' includes, (A) fishing vessel owners, fishermen, crew members or other citizens of the United States, and (B) United States fish processors.".

SEC. 112. PLAN REVIEW AND IMPLEMENTATION.

Section 304 (16 U.S.C. 1854) is amended to read as follows:

"SEC. 304. PLAN REVIEW AND IMPLEMENTATION.

"(a) ACTION BY THE SECRETARY AFTER RECEIPT OF PLAN.—

"(1) Upon transmittal by the Council to the Secretary of a fishery management plan, or amendment to such plan, the Secretary shall—

"(A) immediately commence a review of the management plan or amendment to determine whether it is consistent with the national standards, the other provisions of this Act, and any other applicable law; and

"(B) immediately publish in the Federal Register a notice stating that the plan or amendment is available and that written data, views, or comments of interested persons on the document or amendment may be submitted to the Secretary during the 60-day period beginning on the date the notice is published.

"(2) In undertaking the review required under paragraph (1), the Secretary shall—

"(A) take into account the data, views, and comments received from interested persons;

"(B) consult with the Secretary of State with respect to foreign fishing; and

"(C) consult with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea and to fishery access adjustments referred to in section 303(a)(6).

"(3) The Secretary shall approve, disapprove, or partially approve a plan or amendment within 30 days of the end of the comment period under paragraph (1) by written notice to the Council. A notice of disapproval or partial approval shall specify—

"(A) the applicable law with which the plan or amendment is inconsistent;

"(B) the nature of such inconsistencies; and

"(C) recommendations concerning the actions that could be taken by the Council to conform such plan or amendment to the requirements of applicable law.

"(4) If the Secretary disapproves or partially approves a plan or amendment, the Council may submit a revised plan or amendment to the Secretary for review under this subsection.

"(b) ACTION ON REGULATIONS.—

"(1) Upon transmittal by the Council to the Secretary of proposed regulations prepared under section 303(c), the Secretary shall immediately initiate an evaluation of the proposed regulations to determine whether they are consistent with the fishery management plan, this Act and other applicable law. Within 15 days of initiating such evaluation the Secretary shall make a determination and—

"(A) if that determination is affirmative, the Secretary shall publish such regulations, with such technical changes as may be necessary for clarity and an explanation of those changes, in the Federal Register for a public comment period of 15 to 60 days; or

"(B) if that determination is negative, the Secretary shall notify the Council in writing of the inconsistencies and provide recommendations on revisions that would make the proposed regulations consistent with the fishery management plan, this Act, and other applicable law.

"(2) Upon receiving a notification under paragraph (1)(B), the Council may revise the proposed regulations and submit them to the Secretary for reevaluation under paragraph (1).

"(3) The Secretary shall promulgate final regulations within 30 days after the end of the comment period under paragraph (1)(A). The Secretary shall consult with the Council before making any revisions to the proposed regulations, and must publish in the Federal Register an explanation of any differences between the proposed and final regulations.

"(c) DEFINITION.— For purposes of subsections (a) and (b), the term 'immediately' means on or before the 5th day after the day on which a Council transmits to the Secretary a plan, amendment, or proposed regulation that the Council characterizes as final.

"(d) SECRETARIAL PLAN REVIEW.—

"(1)(A) Whenever, under section 303(e), the Secretary prepares a fishery management plan or amendment, the Secretary shall immediately—

"(i) for a plan or amendment prepared under section 303(e)(1), submit such plan or amendment to the appropriate Council for consideration and comment;

"(ii) publish in the Federal Register a notice stating that the plan or amendment is available and that written data, views, or comments of interested persons on the plan or amendment may be submitted to the Secretary during the 60-day period beginning on the date the notice is published.

"(B) Whenever a plan or amendment is submitted under subsection (1)(A)(i), the appropriate Council must submit its comments and recommendations, if any, regarding the plan or amendment to the Secretary before the close of the 60-day period referred to in subparagraph (A)(ii). After the close of such 60-day period, the Secretary, after taking into account any such comments and recommendations, as well as any views, data, or comments submitted under subparagraph (A)(ii), may adopt such plan or amendment.

"(2) The Secretary may propose regulations in the Federal Register to implement any plan or amendment prepared by the Secretary. The comment period on proposed regulations shall be 60 days, except that the Secretary may shorten the comment period on minor revisions to existing regulations.

"(3) The Secretary shall promulgate final regulations within 30 days after the end of the comment period under paragraph (3). The Secretary must publish in the Federal Register an explanation of any substantive differences between the proposed and final rules. All final regulations must be consistent with the plan, with the national standards and other provisions of this Act, and with any other applicable law.

"(e) JUDICIAL REVIEW.—

"(1) Regulations promulgated by the Secretary under this Act and actions described in paragraph (2) shall be subject to judicial review to the extent authorized by, and in accordance with, chapter 7 of title 5, United States Code, if a complaint for such review is filed within 30 days after the date on which the regulations are promulgated or the action is published in the Federal Register, as applicable; except that—

"(A) section 705 of such title is not applicable, and

"(B) the appropriate court shall only set aside any such regulation or action on a ground specified in section 706(2)(A), (B), (C), or (D) of such title.

"(2) The actions referred to in paragraph (1) are actions that are taken by the Secretary under regulations which implement a fishery management plan, including but not limited to actions that establish the date of closure of a fishery to commercial or recreational fishing.

"(3) (A) Notwithstanding any other provision of law, the Secretary shall file a response to any complaint filed in accordance with paragraph (1) not later than 45 days after the date the Secretary is served with that complaint, except that the appropriate court may extend the period for filing such a response upon a showing by the Secretary of good cause for that extension.

"(B) A response of the Secretary under this paragraph shall include a copy of the administrative record for the regulations that are the subject of the petition.

"(4) Upon a motion by the person who files a complaint under this subsection, the appropriate court shall assign the matter for hearing at the earliest possible date and shall expedite the matter in every possible way.

"(f) ESTABLISHMENT OF FEES.—

"(1) The Secretary shall by regulation establish the level of any fees that are authorized to be charged pursuant to section 303(b)(1). The Secretary may enter into a cooperative agreement with the States concerned under which the States administer the permit system and the agreement may provide that all or part of the fees collected under the system shall accrue to the States. The level of fees charged under this paragraph shall not exceed the administrative costs incurred in issuing the permits.

"(2)(A) Notwithstanding paragraph (1), the Secretary shall collect a fee from each person holding an individual transferable quota pursuant to a limited access system established under section 303(b)(6). Fees assessed under this paragraph shall be sufficient to recover the cost of managing the fishery to which the quota applies, including reasonable costs for salaries, training, data analysis and other costs directly related to fishery management and enforcement, up to—

"(i) four percent annually of the value of fish harvested or processed in that year under the individual transferable quota; and

"(ii) an additional 1 percent of the value of fish authorized to be harvested or processed for that year under the individual transferable quota to be assessed on a person receiving an initial quota or transferring a quota.

"(B) The Secretary, in consultation with the Councils, shall promulgate regulations, prescribing the method of determining the value of fish authorized to be taken, the amount of each fee, and the method of collecting fees. Fees collected under this paragraph shall meet the requirements of section 9701(b) of title 31, United States Code. Fees collected under this paragraph shall be an offsetting collection and shall be available only to the Secretary for the purposes of administering and implementing this Act in the region in which the fees were collected.

"(C) Persons holding individual transferable quota pursuant to limited access systems established in the surf clam and ocean quahog fishery or in the wreckfish fishery are exempt from the collection of fees under this paragraph for a period of 5 years from the date of enactment of the Sustainable Fisheries Act.

"(g) EFFECT OF CERTAIN LAWS ON CERTAIN TIME REQUIREMENTS.—The Secretary shall comply with any applicable provisions of chapter 35 of title 44, United States Code, chapter 6 of title 5, United States Code, and Executive Order Numbered 12866, dated September 30, 1993, within the time limitations specified in subsections (a) and (b).

"(h) RESPONSIBILITY OF THE SECRETARY.— The Secretary shall have general responsibility to carry out the provisions of this Act. The Secretary may promulgate such regulations, in accordance with section 553 of title 5, United States Code, as may be necessary to discharge such responsibility.".

SEC. 113. ECOSYSTEM MANAGEMENT.

Section 305 (16 U.S.C. 1855) is amended to read as follows:

"SEC. 305. ECOSYSTEM MANAGEMENT.

"(a) REPORT ON STATUS OF FISHERIES.—The Secretary shall report annually to the Congress and the Councils on the status of fisheries within each Council's geographical area of authority and identify those fisheries that are approaching a condition of being overfished or are overfished. For those fisheries managed under a fishery management plan, the status shall be assessed using the criteria for overfishing specified by the appropriate Council under section 303(a)(10). A fishery shall be classified as approaching a condition of being overfished if, based on trends in fishing effort, fishery resource size, and other appropriate factors, the Secretary estimates that the fishery will become overfished within two years. Any fishery determined to be a commercial fishery failure under section 316, shall be deemed to be overfished for the purposes of subsections (a) and (b).

"(b) FISHERY RECOVERY EFFORT.—

"(1) The Council shall take immediate action to prepare a fishery management plan, a plan amendment, or proposed regulations for fisheries under such Council's authority—

"(A) to prevent overfishing of a fishery from occurring whenever such fishery is classified under subsection (a) as approaching an overfished condition, or

"(B) to stop overfishing of a fishery whenever such fishery is classified under subsection (a) as overfished, and to rebuild affected stocks of fish.

"(2) The Council shall submit a fishery management plan, amendment or proposed regulations required under paragraph (1) to the Secretary within 1 year from the date of transmittal of the report on the status of stocks under subsection (a). For a fishery that is overfished, such fishery management plan, amendment or proposed regulations shall specify a time period for stopping overfishing and rebuilding the fishery. The time period shall be as short as possible, taking into account the status and biology of the overfished stock of fish, the needs of fishery-dependent communities, and the interaction of the overfished stock of fish within the marine ecosystem. The time period may not be more than 10 years, except under extraordinary circumstances.

"(3) During the development of a fishery management plan, a plan amendment, or proposed regulations under this subsection, the Council may request that the Secretary promulgate emergency regulations under subsection (e)(2) to reduce overfishing. Any request by the Council under this paragraph shall be deemed an emergency.

"(c) FISH HABITAT.—

"(1) The Secretary, in cooperation with the Councils and the Secretary of the Interior, after notice and public comment, shall identify the essential fish habitat for each fishery for which a fishery management plan is in effect. The identification shall be based on the description of essential fish habitat contained in the plan.

"(2) Each Council shall—

"(A) notify the Secretary regarding, and may comment on and make recommendations concerning, any activity undertaken, or proposed to be undertaken, by any Federal or State agency that, in the view of the Council, may have an adverse effect on essential fish habitat of a fishery under its authority; and

"(B) comment on and make recommendations to any Federal or State department or agency concerning any such activity that, in the view of the Council is likely to substantially affect the habitat of an anadromous fishery resource under its jurisdiction.

"(3) If the Secretary receives information from a Council or determines from other sources that an action authorized, funded, carried out, or proposed to be carried out by any Federal agency may result in the destruction or adverse modification of any essential fish habitat identified under paragraph (1), the Secretary shall comment on and make recommendations to the Federal agency concerning that action.

"(4) Within 45 days after receiving a comment or recommendation under paragraphs (2) or (3) from a Council or the Secretary, a Federal agency shall provide a detailed response, in writing, to the commenting Council and the Secretary regarding the matter. The response shall include a description of measures being considered by the agency for avoiding, mitigating, or offsetting the impact of the activity on such habitat. In the case of a response that is inconsistent with a recommendation from any Council or the Secretary, the Federal agency shall explain its reasons for not following the recommendations.

"(d) GEAR EVALUATION AND NOTIFICATION OF ENTRY.—

"(1) Each Council shall submit to the Secretary by June 1, 1995, information describing (A) all fishing technologies employed under such Council's authority; and (B) all fisheries under the authority of such Council. The Secretary shall compile such information, along with information to comply with both (A) and (B) for fisheries to which section 302(a)(3) applies.

"(2) By July 15, 1995, the Secretary shall publish a proposed list of all technologies and fisheries, for each Council and for fisheries to which section 302(a)(3) applies, in the Federal Register for a public comment period of not less than 60 days. The Secretary shall include with such list specific guidelines for determining when a technology or fishery is sufficiently different from those listed as to require notification under paragraph (3). Within 30 days after the close of the public comment period the Secretary shall publish in the Federal Register a final list (including the guidelines), after taking into account any public comment received.

"(3) Beginning on the date that is 180 days after the date of the publication of the final list required under paragraph (2), no person or vessel shall employ a fishing technology or engage in a fishery that is not included on the final list for the appropriate Council or for fisheries to which section 302(a)(3) applies without first giving 90 days advance written notice of the intent to employ such unlisted technology or engage in such unlisted fishery to the appropriate Council, or the Secretary with respect to a fishery to which section 302(a)(3) applies. Such notice shall be by first class mail, return receipt requested, and shall include information on the use of the unlisted technology in other fisheries, if any, and a detailed description, including drawings, maps or diagrams if appropriate, of the unlisted technology or unlisted fishery which such person or vessel seeks to employ or engage in.

"(4) A Council may submit to the Secretary amendments to the final list published under paragraph (2) to reflect any substantial changes in the fishing technologies employed or fisheries engaged in under the authority of such Council. The Secretary may submit any amendments for fisheries to which section 302(a)(3) applies. The Secretary shall publish any such amendments in the Federal Register as proposed amendments (along with any proposed revisions to the guidelines) to the final list for a public comment period of not less than 60 days. Within 45 days of the close of the comment period, the Secretary shall publish a revised final list incorporating such proposed amendments, after taking into account any public comments received.

"(5) A Council may request the Secretary to promulgate emergency regulations under subsection (e) prohibiting any persons or vessels from employing an unlisted technology or engaging in an unlisted fishery if the appropriate Council, or the Secretary for fisheries to which section 302(a)(3) applies, determines that use of such technology or entry into such fishery would compromise the effectiveness of conservation and management efforts under this Act.

"(6) If, after providing the notice required under paragraph (3), no emergency regulations are implemented under paragraph (5), the person or vessel submitting notice under paragraph (3) may, after the required 90 day period has lapsed, employ the unlisted technology or enter the unlisted fishery to which such notice applies. The signed return receipt shall constitute adequate evidence of the submittal of such notice and the date upon which the 90-day period begins.

"(7) A violation of this subsection shall be considered a violation of section 307, punishable under section 308.

"(e) EMERGENCY ACTIONS.—

"(1) If the Secretary finds that an emergency exists involving any fishery, he may promulgate emergency regulations necessary to address the emergency, without regard to whether a fishery management plan exists for such fishery.

"(2) If a Council finds that an emergency exists involving any fishery within its jurisdiction, whether or not a fishery management plan exists for such fishery—

"(A) the Secretary shall promulgate emergency regulations under paragraph (1) to address the emergency if the Council, by unanimous vote of the voting members of the Council, requests the taking of such action; and

"(B) the Secretary may promulgate emergency regulations under paragraph (1) to address the emergency if the Council, by less than a unanimous vote, requests the taking of such action.

"(3) Any emergency regulation which changes an existing fishery management plan shall be treated as an amendment to such plan for the period in which such regulation is in effect. Any emergency regulation promulgated under this subsection—

"(A) shall be published in the Federal Register together with the reasons therefor;

"(B) shall, except as provided in subparagraph (C), remain in effect for not more than 180 days after the date of publication, and may be extended by publication in the Federal Register for an additional period of not more than 180 days, provided the public has had an opportunity to comment on the emergency regulation, and, in the case of a Council recommendation for emergency regulations, the Council is actively preparing a fishery management plan, amendment, or proposed regulations to address the emergency on a permanent basis;

"(C) that responds to a public health emergency may remain in effect until the circumstances that created the emergency no longer exist, provided that the Secretary of Health and Human Services concurs with the Secretary's action and the public has an opportunity to comment after the regulation is published;

"(D) that reduces overfishing may be approved without regard to the requirements of section 301(a)(1); and

"(E) may be terminated by the Secretary at an earlier date by publication in the Federal Register of a notice of termination, except for emergency regulations promulgated under paragraph (2) in which case such early termination may be made only upon the agreement of the Secretary and the Council concerned.

"(4) The Secretary may, pursuant to guidelines established by a Council in a fishery management plan, close or restrict a particular fishery covered by such fishery management plan in order to prevent overfishing or reduce bycatch. Any such guidelines shall specify appropriate means for providing timely notice to fishermen of any closure or restriction. In exercising the authority granted under this paragraph, the Secretary shall not be required to provide an opportunity for notice and comment if such closure or restriction is done in accordance with the fishery management plan guidelines and does not extend beyond the end of the current fishing period established for that fishery by the fishery management plan.".

SEC. 114. STATE JURISDICTION.

(a) Section 306(b) (16 U.S.C. 1856(b)) is amended by adding at the end the following:

"(3) If the State involved requests that a hearing be held pursuant to paragraph (1), the Secretary shall conduct such hearing prior to taking any action under paragraph (1).".

(b) Section 306(c)(1) (16 U.S.C. 1856(c)(1) is amended—

(1) by striking "and" in subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting a semicolon and the word "and"; and

(3) by inserting after subparagraph (B) the following:

"(C) the owner or operator of the vessel submits reports on the tonnage of fish received from U.S. vessels and the locations from which such fish were harvested, in accordance with such procedures as the Secretary by regulation shall prescribe.".

SEC. 115. PROHIBITED ACTS.

(a) Section 307(1)(J)(i) (16 U.S.C. 1857(1)(J)(i)) is amended by striking "American Lobster Fishery Management Plan, as implemented by" and ", or any successor to that plan, implemented under this title".

(b) Section 307(1)(L) (16 U.S.C. 1857(1)(L)) is amended to read as follows:

"(L) to forcibly assault, resist, oppose, impede, intimidate, sexually harass, or interfere with any observer on a vessel under this Act, or any data collector employed by or under contract to the National Marine Fisheries Service;".

(c) Section 307(1)(M) (16 U.S.C. 1857(1)(M)) is amended to read as follows:

"(M) to engage in large-scale driftnet fishing on a vessel of the United States or a vessel subject to the jurisdiction of the United States upon the high seas beyond the exclusive economic zone of any nation or within the exclusive economic zone of the United States. Any vessel that is shoreward of the outer boundary of the exclusive economic zone of the United States or beyond the exclusive economic zone of any nation, and that has onboard gear that is capable of use for large-scale driftnet fishing, shall be presumed to be engaged in such fishing, but that presumption may be rebutted; or".

(d) Section 307(2)(A) (16 U.S.C. 1857(2)(A)) is amended to read as follows:

"(A) in fishing within the boundaries of any State, except—

"(i) recreational fishing permitted under section 201(i),

"(ii) fish processing permitted under section 306(c), or

"(iii) transshipment at sea of fish products within the boundaries of any State in accordance with a permit approved under section 204(b)(6)(A)(ii);".

(e) Section 307(2)(B) (16 U.S.C. 1857(2)(B)) is amended by striking "201(j)" and inserting "201(i)".

(f) Section 307(3) (16 U.S.C. 1857(3)) is amended to read as follows:

"(3) for any vessel of the United States, and for the owner or operator of any vessel of the United States, to transfer at sea directly or indirectly, or attempt to so transfer at sea, any United States harvested fish to any foreign fishing vessel, while such foreign vessel is within the exclusive economic zone or within the boundaries of any State except to the extent that the foreign fishing vessel has been permitted under section 204(b)(6)(B) or section 306(c) to receive such fish;".

(g) Section 307(4) (16 U.S.C. 1857(4)) is amended by inserting "or within the boundaries of any State" after "zone".

SEC. 116. CIVIL PENALTIES AND PERMIT SANCTIONS.

(a) The first sentence of section 308(b) (16 U.S.C. 1858(b)) is amended to read as follows: "Any person against whom a civil penalty is assessed under subsection (a), or against whom a permit sanction is imposed under subsection (g) (other than a permit suspension for nonpayment of penalty or fine), may obtain review thereof in the United States district court for the appropriate district by filing a complaint against the Secretary in such court within 30 days from the date of such order.".

(b) Section 308(g)(1)(C) (16 U.S.C. 1858(g)(1)(C)) is amended by striking the matter from "(C) any" through "overdue" and inserting the following: "(C) any amount in settlement of a civil forfeiture imposed on a vessel or other property, or any civil penalty or criminal fine imposed on a vessel or owner or operator of a vessel or any other person who has been issued or has applied for a permit under any marine resource law enforced by the Secretary, has not been paid and is overdue,".

(c) Section 308(16 U.S.C. 1858) is amended by inserting at the end thereof the following:

"(h) After deduction for any administrative or enforcement costs incurred, all funds collected under this section shall be deposited in a separate account of the Ocean Conservation Trust Fund established under section 315.".

SEC. 117. ENFORCEMENT.

(a) Section 311(e)(1) (16 U.S.C. 1861(e)(1)) is amended—

(1) by striking "fishery" each place it appears and inserting "marine";

(2) by inserting "of not less than 20 percent of the penalty collected" after "reward" in subparagraph (B), and

(3) by striking subparagraph (E) and inserting the following:

"(E) claims of parties in interest to property disposed of under section 612(b) of the Tariff Act of 1930 (19 U.S.C. 1612(b)), as made applicable by section 310(c) of this Act or by any other marine resource law enforced by the Secretary, to seizures made by the Secretary, in amounts determined by the Secretary to be applicable to such claims at the time of seizure; and".

(b) Section 311(e)(2) (16 U.S.C. 1861(e)(2)) is amended to read as follows:

"(2) Any person found in an administrative or judicial proceeding to have violated this Act or any other marine resource law enforced by the Secretary shall be liable for the cost incurred in the sale, storage, care, and maintenance of any fish or other property lawfully seized in connection with the violation.".

(c) Section 311 (16 U.S.C. 1861) is amended by redesignating subsection (f) as subsection (h), and by inserting the following after subsection (e):

"(f) ANNUAL REPORT ON ENFORCEMENT.—Each year at the time the President's budget is submitted to the Congress, the Secretary and the Secretary of the Department in which the Coast Guard is operating shall, after consultation with the Councils, submit a report on the effectiveness of the enforcement of fishery management plans and regulations to implement such plans under the jurisdiction of each Council, including—

"(1) an analysis of the adequacy of federal personnel and funding resources related to the enforcement of fishery management plans and regulations to implement such plans; and

"(2) recommendations to improve enforcement that should be considered in developing amendments to plans or to regulations implementing such plans.

"(g) FISHERMEN'S INFORMATION NETWORKS.—The Secretary, in consultation with the Secretary of the department in which the Coast Guard is operating, shall conduct a program to encourage the formation of volunteer networks, to be designated as Fishermen's Information Networks, to advise on and assist in the monitoring, reporting, and prevention of violations of this Act.".

SEC. 118. NORTH PACIFIC FISHERIES CONSERVATION.

Section 313 (16 U.S.C. 1862) is amended—

(1) by striking "research plan" in the section heading and inserting "conservation"; and

(b) by adding at the end the following:

"(f) REDUCTION OF WASTE.—

"(1) No later than January 1, 1996, the North Pacific Fishery Management Council shall include in each fishery management plan under its jurisdiction conservation and management measures, including fees or other incentives, to reduce bycatch in each fishery. Notwithstanding section 304(d), in implementing this subsection the Council may recommend, and the Secretary may approve and implement any such recommendation, consistent with the other provisions of this Act, a system of fees to provide an incentive to reduce bycatch, and, in particular, economic and regulatory discards. Any such system of fees or incentives shall be fair and equitable to all fishermen and United States fish processors, and shall not have economic allocation as its sole purpose.

"(2) Not later than January 1, 1997, the North Pacific Fishery Management Council shall recommend, and the Secretary may approve and implement any such recommendation, consistent with the other provisions of this Act, conservation and management measures to ensure total catch measurement in each fishery under the Council's jurisdiction. Such conservation and management measures shall ensure the accurate enumeration of target species, economic discards, and regulatory discards.

"(3) Beginning on January 1, 1998, such conservation and management measures shall include an allocation preference to fishing and processing practices within each gear group that result in the lowest levels of economic discards, processing waste, regulatory discards, and other bycatch. In determining which practices shall be given priority, the reduction of economic discards shall be given the greatest weight, followed by processing waste (where applicable), regulatory discards and other bycatch, in that order.

"(4) In determining the level of target species catch, economic discards, regulatory discards, other bycatch, and processing waste, the Council and Secretary shall base such determinations on observer data or the best available information.

"(5) In the case of fisheries occurring under an individual transferable quota system under the jurisdiction of the North Pacific Fishery Management Council after January 1, 1998—

"(A) the Council shall designate non-target species, bycatch species, and regulatory discards for each such fishery;

"(B) the Council may not recommend, and the Secretary may not approve, any assignment or allocation of individual transferable quotas for regulatory discards, or non-target species for those fisheries, other than for each individual fishing season on an annual basis pursuant to subparagraph (C) of this subsection; and

"(C) the allocation preference required under paragraph (3) shall be implemented by giving priority in the allocation of quotas for regulatory discards and non-target species and to fishing practices that result in the lowest levels of economic discards, regulatory discards, processing waste, and other bycatch.

"(6) Nothing in this section shall be construed to preclude the North Pacific Fishery Management Council from allocating a portion of any quota for a directed fishery for use as bycatch in another fishery or fisheries, if the Council determines such allocation is necessary to prosecute a fishery, after taking into account the requirements of this section regarding reduction of bycatch and processing waste.

"(g) FULL RETENTION AND FULL UTILIZATION.—

"(1) The North Pacific Fishery Management Council shall, consistent with the other provisions of this Act, submit to the Secretary by January 1, 1997, a plan to phase-in by January 1, 2000, to the maximum extent practicable, fishery management plan amendments to require full retention by fishing vessels and full utilization by United States fish processors of all fishery resources, except regulatory discards, caught under the jurisdiction of such Council if such fishery resources cannot be quickly returned alive to the sea with the expectation of extended survival.

"(2) The plan shall include conservation and management measures to minimize processing waste and ensure the optimum utilization of target species, including standards setting minimum percentages of target species harvest which must be processed for human consumption.

"(3) In determining the maximum extent practicable, the North Pacific Fishery Management Council shall consider—

"(A) the state of available technology;

"(B) the extent to which species brought on board can be safely returned alive, with the expectation of extended survival, to the sea;

"(C) the extent to which each species is fully utilized as a target species by United States fishermen;

"(D) the impact of different processing practices on the price paid to fishermen and processors;

"(E) the nature and economic costs of each specific fishery; and

"(F) the effect of a full retention or full utilization requirement in a given fishery on other fisheries when compared with the beneficial effect of reducing economic discards and processing waste.

"(4) Notwithstanding section 304(f), the North Pacific Fishery Management Council may propose, and the Secretary may approve and implement any such recommendation, consistent with the other provisions of this Act, a system of fines or other incentives to implement this section. Any such fines or incentive system shall be fair and equitable to all fishing vessels and United States fish processors, and shall not have economic allocation as its sole purpose.

"(h) REGULATORY DISCARDS.—

"(1) Regulatory discards shall not be considered an economic discard for purposes of this section, however, the North Pacific Fishery Management Council shall seek to reduce the incidental catch of regulatory discards to the maximum extent practicable while allowing for the prosecution of fisheries under its jurisdiction.

"(2) Not later than January 1, 1996, the North Pacific Fishery Management Council shall propose, and the Secretary may approve and implement any such recommendation, consistent with the other provisions of this Act, for each groundfish fishery under the Council's jurisdiction, conservation and management measures to reduce the incidental harvest of regulatory discards to the minimum level necessary to prosecute directed fisheries for designated target species, and to otherwise meet the requirements of this section. Notwithstanding section 304(f), such conservation and management measures may include a system of fines, caps, or other incentives to reduce the incidental harvest of regulatory discards. Any system of fines or incentives under this section shall be fair and equitable to all fishing vessels and United States fish processors, and shall not have economic allocation as its sole purpose.

"(3) The North Pacific Fishery Management Council shall establish for each fishery which incidentally harvests regulatory discards under the Council's jurisdiction a cap which prevents such regulatory discards from being overfished or from being placed in risk of being overfished. Upon reaching such cap, the commercial fishery in which such regulatory discards are incidentally caught shall be closed for that season.

"(i) OBSERVER PROGRAM.—

"(1) Beginning January 1, 1996, the North Pacific Fishery Management Council shall require under the authority granted to it by subsection (a)—

"(A) 100 percent observer coverage on all fishing vessels which can safely accommodate an observer or observers, and at all United States fish processors, and

"(B) for vessels which cannot safely accommodate an observer, statistically reliable sampling of a fishing vessel's effort in each fishery in which that fishing vessel participates,

when such vessel or processor is fishing in a fishery under the North Pacific Fishery Management Council's jurisdiction. In implementing subparagraph (A) the North Pacific Fishery Management Council shall require that more than one observer be stationed on a fishing vessel or at a United States fish processor whenever the Council determines that more than one such observer is necessary to accurately monitor that vessel or processor's operation.

"(2) Observers stationed on fishing vessels or at United States fish processors under the authority of this section shall be paid by the Secretary using funds deposited in the North Pacific Fishery Observer Fund. Such payment shall not make an observer an employee of the Federal Government, unless such observer is otherwise employed by an agency of the United States.

"(3) Failure to pay the fee established by the North Pacific Fishery Management Council under subsection (a) shall be a considered a violation of section 307, punishable under section 308. Any fines collected pursuant to the authority granted by this subsection shall be deposited in the North Pacific Fishery Observer Fund account in the United States Treasury, and shall remain available until expended under the terms of that fund.

"(4) Notwithstanding sections 304(f) and subsection (b), the Secretary is authorized to recover from vessels participating in a fishery under an individual fishing quota regime or other limited access program established by the North Pacific Fishery Management Council, the full cost of any observers stationed on such vessel (including all costs for salaries, expenses, equipment, food and lodging, transportation, insurance, and analysis of observer data, plus reasonable costs for training and administrative overhead). Each participant in an individual fishing quota regime shall only be required to contribute the same proportion of the costs as that participant's quota shares represent to the total number of quota shares in such regime. To the extent that the costs recovered under this paragraph exceed the fee established by the Council under subsection (b), the Secretary shall deduct any payment by a vessel under subsection (b) from the amount owed by such vessel under this paragraph. The Secretary shall deposit any fees collected under this paragraph in the North Pacific Fishery Observer Fund account in the United States Treasury.

"(j) INDUSTRY ASSISTANCE.—

"(1) The Secretary shall submit a plan by June 1, 1995, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives to develop jointly with industry accurate methods of weighing the fish harvested by U.S. fishing vessels in fisheries under the jurisdiction of the North Pacific Fishery Management Council. Such plan shall include methods for assessing contributions from industry to fund such development, as well as recommendations from the Secretary concerning the level of funds needed to successfully implement the plan in Fiscal Year 1996.

"(2) The Secretary shall submit by January 1, 1995, to the Committee on Commerce, 1995, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a plan to develop markets and harvesting and processing techniques for arrowtooth flounder. The Secretary shall include in such plan recommendations concerning the level of funds needed to successfully implement the plan in Fiscal Year 1996.

"(3) For fiscal years 1995, 1996, 1997, and 1998, $50,000 is authorized to be appropriated for the purposes of implementing paragraph (1), and $250,000 is authorized to be appropriated for programs to implement paragraph (2).

"(k) DEFINITION.—For the purposes of this section, 'processing waste' means that portion of a fish which is processed and which could be used for human consumption or other commercial use, but which is not so used.".

SEC. 119. TRANSITION TO SUSTAINABLE FISHERIES.

(a) The Act is amended by adding at the end of title III the following:

"SEC. 315. TRANSITION TO SUSTAINABLE FISHERIES.

"(a) SUSTAINABLE DEVELOPMENT STRATEGY.—

"(1) At the discretion of the Secretary or at the request of the Governor of an affected State or a fishery dependent community, the Secretary, in consultation with the Councils and Federal agencies, as appropriate, may work with regional authorities, affected States, fishery dependent communities, the fishing industry, conservation organizations, and other interested parties, to develop a sustainable development strategy for any fishery classified as overfished under section 305(a) or determined to be a commercial fishery failure under section 316.

"(2) Such sustainable development strategy shall—

"(A) take into consideration the economic, social, and ecological factors affecting the fishery and provide recommendations for addressing such factors in the development of a fishery recovery effort under section 305(b);

"(B) identify Federal and State programs which can be used to provide assistance to fishery dependent communities during development and implementation of a fishery recovery effort;

"(C) develop a balanced and comprehensive long-term plan to guide the transition to a sustainable fishery, identifying alternative economic opportunities and establishing long-term objectives for the fishery including vessel types and sizes, harvesting and processing capacity, and optimal fleet size;

"(D) establish procedures to implement such a plan and facilitate consensus and coordination in regional decision-making; and

"(E) include any program established under subsection (b) to reduce the number of vessels or level of capital investment in the fishery.

"(2) REPORT.—The Secretary shall complete and submit to the Congress a report on any sustainable development strategy developed under this section.

"(b) BUY-OUT PROGRAM.—

"(1) The Secretary, in consultation with the appropriate Council, may develop and implement a buy-out program for fishing vessels or permits in a fishery for the purpose of reducing the number of fishing vessels and fishing effort in such fishery, if the Secretary, with the concurrence of the majority of the voting members of such Council, determines that a buy-out program is necessary for the development and implementation of a fishery recovery effort under section 305(b).

"(2) Any buy-out program developed or implemented in a fishery shall—

"(A) require a fishery management plan to be in place for such fishery that is adequate to limit access to the fishery and prevent the replacement of fishing effort removed by the buy-out program;

"(B) require fishing vessels or permits acquired under such program to be disposed of in a manner ensuring that such vessels or permits do not re-enter the fishery or contribute to excess fishing effort in other fisheries;

"(C) establish criteria for determining types and numbers of vessels which are eligible for participation in such program consistent with—

"(i) any strategy developed under subsection (a);

"(ii) the requirements of applicable fishery management plans; and

"(iii) the need to minimize program costs;

"(D) establish procedures (such as submission of owner bid under an auction system or fair market-value assessment) to be used in determining the level of payment for fishing vessels or permits acquired under the program; and

"(E) identify Federal and non-Federal mechanisms for funding the buy-out program, consistent with paragraphs (3) and (4).

"(3) The Federal share of the cost of a buy-out program implemented under this section shall not exceed 50 percent of the cost of that program. Such Federal share may be provided from monies made available under subsection (d)of this section, section 316(b) of this Act, or under section 2(b) of the Act of August 11, 1939 (15 U.S.C. 713c-3(b)).

"(4) Notwithstanding section 305(f)(1), the Secretary, with the concurrence of a majority of the voting members of the affected Council, may establish a fee system to collect those funds required for the non-Federal share of such program that are not available from other non-Federal sources. Under such fee system, the Secretary may assess an annual fee on holders of fishing permits in the fishery for which the buy-out program is established which may not exceed 5 percent annually of the value of the fish harvested under the fishing permit. Assessments may not be used to pay any costs of administrative overhead or other costs not directly incurred in carrying out the specific buy-out program under which they are collected and shall be deposited in the Ocean Conservation Trust fund established under subsection (d).

"(5)(A) Upon completion of a proposal for a buy-out program (including any fee system to be established under this subsection), the Secretary shall immediately—

"(i) submit the proposed program and regulations necessary for its implementation to the appropriate Council for consideration and comment;

"(ii) publish in the Federal Register a notice stating that the proposed program and regulations are available and that written data, views, or comments of interested persons on the proposed program and regulations may be submitted to the Secretary during the 60-day period beginning on the date the notice is published.

"(B) During the 60-day public comment period—

"(i) the Secretary shall conduct a public hearing in each State affected by the proposed buy-out program; and

"(ii) the appropriate Council shall submit its comments and recommendations, if any, regarding the proposed program and regulations.

"(C) Within 45 days after the close of the public comment period, the Secretary, in consultation with the affected Council, shall analyze the public comment received and publish a final buy-out program and regulations for its implementation. The Secretary shall include an explanation of any substantive differences between the proposed and final program and regulations.

"(c) TASK FORCE.—The Secretary shall establish a task force to assist in the development of a sustainable development strategy or a buy-out program under this section. Such task force shall, at a minimum, consist of members of the affected communities and individuals with expertise in fishery management and conservation, economics, and sociology. Members of the task force are authorized to receive per diem and travel expenses consistent with section 302 of this Act.

"(d) OCEAN CONSERVATION TRUST FUND.—There is established in the Treasury an Ocean Conservation Trust Fund. The Fund shall be available, without appropriation or fiscal year limitation, only to the Secretary for the purpose of carrying out the provisions of this section subject to the restrictions of this Act. This fund shall consist of all monies deposited into it in accordance with this section and section 308(h). Sums in the Fund that are not currently needed for the purpose of this section shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

"SEC. 316. FISHERIES DISASTER RELIEF.

"(a) DETERMINATION OF FAILURE.—At the discretion of the Secretary or at the request of the Governor of an affected State or a fishery dependent community, the Secretary shall determine whether there is a commercial fishery failure due to a fishery resource disaster as a result of—

"(1) natural causes;

"(2) man-made causes beyond the control of fishery managers to mitigate through conservation and management measures; or

"(3) undetermined causes.

"(b) ECONOMIC ASSISTANCE.—

"(1) Upon the determination under subsection (a) that there is a commercial fishery failure, the Secretary is authorized to make sums available to be used by the affected State, fishery dependent community, or by the Secretary in cooperation with the affected State or fishery dependent community for—

"(A) assessing the economic and social effects of the commercial fishery failure; and

"(B) any activity that the Secretary determines is appropriate to restore the fishery or prevent a similar failure in the future and to assist a fishery dependent community affected by such failure.

"(2) Before making funds available for an activity authorized under this section, the Secretary shall make a determination that such activity will not expand the size or scope of the commercial fishery failure into other fisheries or other geographic regions.

"(c) FEDERAL COST-SHARING.—The Federal share of the cost of any activity carried out under the authority of this section shall not exceed 75 percent of the cost of that activity.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary for each of the fiscal years 1995, 1996, 1997, 1998 and 1999, provided that such sums are designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.".

(b) CONFORMING AMENDMENT.—Section 2(b)(1)(A) of the Act of August 11, 1939 (15 U.S.C. 713c-3(b)(1)(A)) is amended—

(1) by striking "and" at the end of clause (ii); and

(2) by adding at the end the following new clause:

"(iii) to fund the Federal share of a buy-out program established under section 315(b) of the Magnuson Fishery Conservation and Management Act.".

TITLE II—FISHERY MONITORING AND RESEARCH

SEC. 201. CHANGE OF TITLE.

The heading of title IV (16 U.S.C. 1881 et seq.) is amended to read as follows:

"TITLE IV—FISHERY MONITORING AND RESEARCH".

SEC. 202. REGISTRATION AND DATA MANAGEMENT.

Title IV (16 U.S.C. 1881 et seq.) is amended by inserting after the title heading the following:

"SEC. 401. REGISTRATION AND DATA MANAGEMENT.

"(a) STANDARDIZED FISHING VESSEL REGISTRATION AND DATA MANAGEMENT SYSTEM.—The Secretary shall, in cooperation with the Secretary of the department in which the Coast Guard is operating, the States, the Councils, and Marine Fisheries Commissions, develop recommendations for implementation of a standardized fishing vessel registration and data management system on a national or regional basis. The proposed system shall be developed after consultation with interested governmental and nongovernmental parties and shall—

"(1) be designed to standardize the requirements of vessel registration and data collection systems required by this Act, the Marine Mammal Protection Act (16 U.S.C. 1361 et seq.), and any other marine resource law implemented by the Secretary;

"(2) integrate programs under existing fishery management plans into a nonduplicative data collection and management system;

"(3) avoid duplication of existing state, tribal, or federal systems (other than a federal system under paragraph (1)) and rely, to the maximum extent practicable, on information collected from existing systems;

"(4) provide for implementation through cooperative agreements with appropriate state, regional, or tribal entities;

"(5) establish standardized units of measurement, nomenclature, and formats for the collection and submission of information;

"(6) minimize the paperwork required for vessels registered under the system;

"(7) include all species of fish within the geographic areas of authority of the Councils and all fishing vessels, except for private recreational fishing vessels used exclusively for pleasure; and

"(8) prescribe procedures necessary to ensure the confidentiality of information collected under this section.

"(b) The registration and data management system should, at a minimum, obtain the following information for each fishing vessel—

"(1) the name and official number or other identification, together with the name and address of the owner or operator or both;

"(2) vessel capacity, type and quantity of fishing gear, mode of operation (catcher, catcher processor or other), and such other pertinent information with respect to vessel characteristics as the Secretary may require;

"(3) identification of the fisheries in which the fishing vessel participates;

"(4) estimated amounts of fish caught, and processed (if applicable) in each fishery; and

"(5) the geographic area of operations and the season or period during which the fishing vessel operates.

"(c) The registration and data management system should, at a minimum, provide basic fisheries performance data for each fishery, including—

"(1) the number of vessels participating in the fishery;

"(2) the time period in which the fishery occurs;

"(3) the approximate geographic location, or official reporting area where the fishery occurs;

"(4) a description of fishery gear used in the fishery, including the amount of such gear and the appropriate unit of fishery effort;

"(5) catch and ex-vessel value of the catch for each stock of fish in the fishery; and

"(6) the amount and types of economic and regulatory discards, and an estimate of any other bycatch.

"(d) PUBLIC COMMENT.—On or before December 1, 1995, the Secretary shall publish in the Federal Register for a 60-day public comment period, a proposal that would provide for implementation of a standardized fishing vessel registration and data collection system that meets the requirements of subsections (a) through (c). The proposal shall include—

"(1) a description of the arrangements for consultation and cooperation with the department in which the Coast Guard is operating, the States, the Councils, Marine Fisheries Commissions, the fishing industry and other interested parties; and

"(2) proposed regulations and legislation necessary to implement the proposal.

"(e) CONGRESSIONAL TRANSMITTAL.—On or March 1, 1996, the Secretary, after consideration of comments received under subsection (b), shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a proposal for implementation of a national fishing vessel registration system that includes—

"(1) any modifications made after comment and consultation;

"(2) a proposed implementation schedule; and

"(3) recommendations for any such additional legislation as the Secretary considers necessary or desirable to implement the proposed system.

"(f) REPORT TO CONGRESS.—By March 1, 1996, the Secretary shall report to Congress on the need to include private recreational fishing vessels used exclusively for pleasure into a national fishing vessel registration and data collection system. In preparing its report, the Secretary shall cooperate with the Secretary of the department in which the Coast Guard is operating, the States, the Councils, and Marine Fisheries Commissions, and consult with governmental and nongovernmental parties.".

SEC. 203. DATA COLLECTION.

Section 402 is amended to read as follows:

"SEC. 402. DATA COLLECTION.

"(a) COUNCIL REQUESTS.—If a Council determines that additional information and data (other than information and data that would disclose proprietary or confidential commercial or financial information regarding fishing operations or fish processing operations) would be beneficial for developing, implementing, or revising a fishery management plan or for determining whether a fishery is in need of management, the Council may request that the Secretary implement a data collection program for the fishery which would provide the types of information and data (other than information and data that would disclose proprietary or confidential commercial or financial information regarding fishing operations or fish processing operations) specified by the Council. The Secretary shall approve such a data collection program if he determines that the need is justified, and shall promulgate regulations to implement the program within 60 days after such determination is made. If the Secretary determines that the need for a data collection program is not justified, the Secretary shall inform the Council of the reasons for such determination in writing. The determinations of the Secretary under this subsection regarding a Council request shall be made within a reasonable period of time after receipt of that request.

"(b) CONFIDENTIALITY OF INFORMATION.—Any information submitted to the Secretary by any person in compliance with any requirement under this Act shall be confidential and shall not be disclosed if disclosure would significantly impair the commercial interests of the person from whom the information was obtained, except—

"(1) to Federal employees and Council employees who are responsible for fishery management plan development and monitoring;

"(2) to State employees pursuant to an agreement with the Secretary that prevents public disclosure of the identity or business of any person;

"(3) when required by court order;

"(4) when such information is used to verify catch under an individual transferable quota system; or

"(5) unless the Secretary has obtained written authorization from the person submitting such information to release such information and such release does not violate other requirements of this subsection.

The Secretary shall, by regulation, prescribe such procedures as may be necessary to preserve such confidentiality, except that the Secretary may release or make public any such information in any aggregate or summary form which does not directly or indirectly disclose the identity or business of any person who submits such information. Nothing in this subsection shall be interpreted or construed to prevent the use for conservation and management purposes by the Secretary, or with the approval of the Secretary, the Council, of any information submitted in compliance with regulations promulgated under this Act.

"(c) RESTRICTION ON USE OF CERTAIN DATA.—

"(1) The Secretary shall promulgate regulations to restrict the use, in civil enforcement or criminal proceedings under this Act, the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.), or the Endangered Species Act (16 U.S.C. 1531 et seq.), of information collected by voluntary fishery data collectors, including sea samplers, while aboard any vessel for conservation and management purposes if the presence of such a fishery data collector aboard is not required by any of such Acts or regulations thereunder.

"(2) The Secretary may not require the submission of a Federal or State income tax return or statement as a prerequisite for issuance of a Federal fishing permit until such time as the Secretary has promulgated regulations to ensure the confidentiality of information contained in such return or statement, to limit the information submitted to that necessary to achieve a demonstrated conservation and management purpose, and to provide appropriate penalties for violation of such regulations.".

SEC. 204. OBSERVERS.

Title IV of the Act (16 U.S.C. 1882) is amended by adding the following new section 403:

"SEC. 403. OBSERVERS.

"(a) GUIDELINES FOR CARRYING OBSERVERS.—Within one year of the date of enactment of the Sustainable Fisheries Act, the Secretary shall promulgate regulations, after notice and public comment, for fishing vessels that are required to carry observers. The regulations shall include guidelines for determining—

"(1) when a vessel is not required to carry an observer on board because the facilities of such vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized; and

"(2) actions which vessel owners or operators may reasonably be asked to take to render such facilities adequate and safe.

"(b) TRAINING.—The Secretary, in cooperation with State programs and the National Sea Grant College Program, shall—

"(1) establish programs to ensure that each observer receives adequate training in collecting and analyzing data necessary for the conservation and management purposes of the fishery to which such observer is assigned; and

"(2) require that an observer demonstrate competence in fisheries science and statistical analysis at a level sufficient to enable such person to fulfill the responsibilities of the position.

"(c) WAGES AS MARITIME LIENS.—Claims for observers' wages shall be considered maritime liens against the vessel and be accorded the same priority as seamen's liens under admiralty and general maritime law.".

SEC. 205. FISHERIES RESEARCH.

Section 404 is amended to read as follows:

"SEC. 404. FISHERIES RESEARCH.

"(a) IN GENERAL.—The Secretary shall initiate and maintain, in cooperation with the Councils, a comprehensive program of fishery research to carry out and further the purposes, policy, and provisions of this Act. Such program shall be designed to acquire knowledge and information, including statistics, on fishery conservation and management and on the economics of the fisheries.

"(b) STRATEGIC PLAN.—Within one year after the date of enactment of the Sustainable Fisheries Act, and at least every 3 years thereafter, the Secretary shall develop and publish in the Federal Register a strategic plan for fisheries research for the five years immediately following such publication. The plan shall—

"(1) identify and describe a comprehensive program with a limited number of priority objectives for research in each of the areas specified in subsection (c);

"(2) indicate the goals and timetables for the program described in paragraph (1); and

"(3) provide a role for commercial fishermen in such research, including involvement in field testing.

"(c) AREAS OF RESEARCH.—The areas of research referred to in subsection (a) are as follows:

"(1) Research to support fishery conservation and management, including but not limited to, research on the economics of fisheries and biological research concerning the abundance and life history parameters of stocks of fish, the interdependence of fisheries or stocks of fish, the identification of essential fish habitat, the impact of pollution on fish populations, the impact of wetland and estuarine degradation, and other matters bearing upon the abundance and availability of fish.

"(2) Conservation engineering research, including the study of fish behavior and the development and testing of new gear technology and fishing techniques to minimize bycatch and any adverse effects on essential fish habitat and promote efficient harvest of target species.

"(3) Information management research, including the development of a fishery information base and an information management system that will permit the full use of

data in the support of effective fishery conservation and management.

"(d) PUBLIC NOTICE.—In developing the plan required under subsection (a), the Secretary shall consult with relevant Federal, State, and international agencies, scientific and technical experts, and other interested persons, public and private, and shall publish a proposed plan in the Federal Register for the purpose of receiving public comment on the plan. The Secretary shall ensure that affected commercial fishermen are actively involved in the development of the portion of the plan pertaining to conservation engineering research. Upon final publication in the Federal Register, the plan shall be submitted by the Secretary to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives.".

SEC. 206. INCIDENTAL HARVEST RESEARCH.

Section 405 is amended to read as follows:

"SEC. 405. INCIDENTAL HARVEST RESEARCH.

"(a) Within 9 months after the date of enactment of the Sustainable Fisheries Act, the Secretary shall, after consultation with the Gulf of Mexico Fishery Management Council and South Atlantic Fishery Management Council, conclude the collection of data in the program to assess the impact on fishery resources of incidental harvest by the shrimp trawl fishery within the authority of such Councils. Within the same time period, the Secretary shall make available to the public aggregated summaries of data collected prior to June 30, 1994 under such program.

"(b) The program concluded pursuant to subsection (a) shall provide for the identification of stocks of fish which are subject to significant incidental harvest in the course of normal shrimp trawl fishing activity.

"(c) For stocks of fish identified pursuant to subsection (b), with priority given to stocks which (based upon the best available scientific information) are considered to be overfished, the Secretary shall conduct—

"(1) a program to collect and evaluate data on the nature and extent (including the spatial and temporal distribution) of incidental mortality of such stocks as a direct result of shrimp trawl fishing activities;

"(2) an assessment of the status and condition of such stocks, including collection of information which would allow the estimation of life history parameters with sufficient accuracy and precision to support sound scientific evaluation of the effects of various management alternatives on the status of such stocks; and

"(3) a program of data collection and evaluation for such stocks on the magnitude and distribution of fishing mortality and fishing effort by sources of fishing mortality other than shrimp trawl fishing activity.

"(d) The Secretary shall, in cooperation with affected interests, commence a program to design and evaluate the efficacy of technological devices and other changes in fishing technology for the reduction of incidental mortality of nontarget fishery resources in the course of shrimp trawl fishing activity which are designed to be inexpensive to operate and which cause insignificant loss of shrimp. Such program shall take into account local conditions and include evaluation of any reduction in incidental mortality, as well as any reduction or increase in the retention of shrimp in the course of normal fishing activity.

"(e) The Secretary shall, within one year of completing the programs required by this subsection, submit a detailed report on the results of such programs to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives.

"(f) Any measure implemented under this Act to reduce the incidental mortality of nontarget fishery resources in the course of shrimp trawl fishing shall, to the extent practicable,—

"(1) apply to such fishing throughout the range of the nontarget fishery resource concerned; and

"(2) be implemented first in those areas and at those times where the greatest reduction of such incidental mortality can be achieved.".

SEC. 207. REPEAL.

Section 406 (16 U.S.C. 1882) is repealed.

SEC. 208. CLERICAL AMENDMENTS.

The table of contents is amended by striking the matter relating to title IV and inserting the following:

"Sec. 315. Transition to sustainable fisheries.
"Sec. 316. Fisheries disaster relief.
"TITLE IV—FISHERY MONITORING AND RESEARCH
"Sec. 401. Registration.
"Sec. 402. Data collection.
"Sec. 403. Observers.
"Sec. 404. Fisheries research.
"Sec. 405. Incidental harvest research.".

TITLE III—FISHERIES STOCK RECOVERY FINANCING

SEC. 301. SHORT TITLE.

This title may be cited as the "Fisheries Stock Recovery Financing Act".

SEC. 302. FISHERIES STOCK RECOVERY REFINANCING.

Title XI of the Merchant Marine Act, 1936 (46 U.S.C. 1271 et seq.), is amended by adding at the end the following new section:

"Sec. 1111. (a) Pursuant to the authority granted under section 1103(a) of this title, the Secretary shall, under such terms and conditions as the Secretary shall prescribe by regulation, guarantee and make commitments to guarantee the principal of, and interest on, obligations which aid in refinancing, in a manner consistent with the reduced cash flows available to obligors because of reduced harvesting allocations during implementation of a fishery recovery effort, existing obligations relating to fishing vessels or fishery facilities. Guarantees under this section shall be subject to all other provisions of this title not inconsistent with the provisions of this section. The provisions of this section shall, notwithstanding any other provisions of this title, apply to guarantees under this section.

"(b) Obligations eligible to be refinanced under this section shall include all obligations which financed or refinanced any expenditures associated with the ownership or operation of fishing vessels or fishery facilities, including but not limited to expenditures for reconstructing, reconditioning, purchasing, equipping, maintaining, repairing, supplying, or any other aspect whatsoever of operating fishing vessels or fishery facilities, excluding only such obligations—

"(1) which were not in existence prior to the time the Secretary approved a fishery recovery effort eligible for guarantees under this section and whose purpose, in whole or in part, involved expenditures which resulted in increased vessel harvesting capacity; and

"(2) as may be owed by an obligor either to any stockholder, partner, guarantor, or other principal of such obligor or to any unrelated party if the purpose of such obligation had been to pay an obligor's preexisting obligation to such stockholder, partner, guarantor, or other principal of such obligor.

"(c) The Secretary shall refinance up to 100 percent of the principal of, and interest on, such obligations, but, in no event, shall the Secretary refinance an amount exceeding 75 percent of the unencumbered (after deducting the amount to be refinanced by guaranteed obligations under this section) market value, as determined by an independent marine surveyor, of the fishing vessel or fishery facility to which such obligations relate plus 75 percent of the unencumbered (including but not limited to homestead exemptions) market value, as determined by an independent marine surveyor, of all other supplementary collateral. The Secretary shall do so regardless of—

"(1) any fishing vessel or fishery facility's actual cost or depreciated actual cost; and

"(2) any limitations elsewhere in this title on the amount of obligations to be guaranteed or such amount's relationship to actual cost or depreciated actual cost.

"(d) Obligations guaranteed under this section shall have such maturity dates and other provisions as are consistent with the intent and purpose of this section (including but not limited to provisions for obligors to pay only the interest accruing on the principal of such obligations during the period in which fisheries stocks are recovering, with the principal and interest accruing thereon being fully amortized between the date stock recovery is projected to be completed and the maturity date of such obligations).

"(e) No provision of section 1104A(d) of this title shall apply to obligations guaranteed under this section.

"(f) The Secretary shall neither make commitments to guarantee nor guarantee obligations under this section unless—

"(1) the Secretary has first approved the fishery recovery effort, for the fishery in which vessels eligible for the guarantee of obligations under this section are participants; and

"(2) the Secretary has considered such factors as—

"(A) the projected degree and duration of reduced fisheries allocations;

"(B) the projected reduction in fishing vessel and fishery facility cash flows;

"(C) the projected severity of the impact on fishing vessels and fishery facilities;

"(D) the projected effect of the fishery recovery effort;

"(E) the provisions of any related fishery management plan under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.); and

"(F) the need for and advisability of guarantees under this section;

"(3) the Secretary finds that the obligation to be guaranteed will, considering the projected effect of the fishery recovery effort involved and all other aspects of the obligor, project, property, collateral, and any other aspects whatsoever of the obligation involved, constitute, in the Secretary's opinion, a reasonable prospect of full repayment; and

"(4) the obligors agree to provide such security and meet such other terms and conditions as the Secretary may, pursuant to regulations prescribed under this section, require to protect the interest of the United States and carry out the purpose of this section.

"(g) All obligations guaranteed under this section shall be accounted for separately, in a subaccount of the Federal Ship Financing Fund to be known as the Fishery Recovery

Refinancing Account, from all other obligations guaranteed under the other provisions of this title and the assets and liabilities of the Federal Ship Financing Fund and the Fishery Recovery Refinancing Account shall be segregated accordingly.

"(h) For the purposes of this section, the term 'fishery recovery effort' means a fishery management plan, amendment, or regulations required under section 305(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854(b)) to rebuild a fishery which the Secretary has determined to be a commercial fishery failure under section 316 of such Act.".

SEC. 303. FEDERAL FINANCING BANK RELATING TO FISHING VESSELS AND FISHERY FACILITIES.

Section 1104A(b)(2) of the Merchant Marine Act, 1936 (46 U.S.C. 1274(b)(2)), is amended by striking "*Provided, further*, That in the case of a fishing vessel or fishery facility, the obligation shall be in an aggregate principal amount equal to 80 percent of the actual cost or depreciated actual cost of the fishing vessel or fishery facility, except that no debt may be placed under this proviso through the Federal Financing Bank:" and inserting the following: "*Provided, further*, That in the case of a fishing vessel or fishery facility, the obligation shall be in an aggregate principal amount not to exceed 80 percent of the actual cost or depreciated actual cost of the fishing vessel or fishery facility, and obligations related to fishing vessels and fishery facilities under this title shall be placed through the Federal Financing Bank unless placement through the Federal Financing Bank is not reasonably available or placement elsewhere is available at a lower annual effective yield than placement through the Federal Financing Bank:".

SEC. 304. FEES FOR GUARANTEEING OBLIGATIONS.

Section 1104A(e) of the Merchant Marine Act, 1936 (46 U.S.C. 1274(e)), is amended to read as follows:

"(e)(1) The Secretary is authorized to fix a fee for the guarantee of obligations under this title. Obligors shall pay all such fees to the Secretary when moneys are first advanced under guaranteed obligations and at least 60 days prior to each anniversary date thereafter. All such fees shall be computed and shall be payable to the Secretary under such regulations as the Secretary may prescribe.

"(2) For fishing vessels and fishery facilities, such fee shall—

"(A) if the obligation will not be purchased by the Federal Financing Bank, be in an amount equal to 1 percent per year of the average principal amount of the obligation outstanding (unless such obligation is issued under section 1111 of this title, in which case such fee shall be 1 and one-half percent per year of such average principal amount; and

"(B) if the obligation will be purchased by the Federal Financing Bank, be in an amount equal to 2 percent per year of the average principal amount of the obligation outstanding (unless such obligation is issued under section 1111 of this title, in which case such fee shall be 2 and one-half percent per year of such average principal amount), less any fee the Federal Financing Bank customarily charges for its services with respect to federally guaranteed obligations purchased by it and less the amount, if any, by which the interest rate on such obligation (which shall be fixed at the time the Federal Financing Bank commits to purchase such obligation) exceeds the current new issue rate on outstanding marketable obligations of the United States of comparable maturity.

"(3) For everything other than fishing vessels and fishery facilities, such fee shall—

"(A) if the security for the guarantee of an obligation under this title relates to a delivered vessel, not be less than one-half of 1 percent per year nor more than 1 percent per year of the average principal amount of such obligation outstanding, excluding the average amount (except interest) on deposit in an escrow fund created under section 1108 of this title; and

"(B) if the security for the guarantee of an obligation under this title relates to a vessel to be constructed, reconstructed, or reconditioned, not be less than one-quarter of 1 percent per year nor more than one-half of 1 percent per year of the average principal amount of such obligation outstanding, excluding the average amount (except interest) on deposit in an escrow fund created under section 1108 of this title. For the purposes of this subsection, if the security for the guarantee of an obligation under this title relates both to a delivered vessel or vessels and to a vessel or vessels to be constructed, reconstructed, or reconditioned, the principal amount of such obligation shall be prorated in accordance with regulations prescribed by the Secretary. The regulations to be prescribed by the Secretary under this subsection shall provide a formula for determining the creditworthiness of obligors under which the most creditworthy obligors pay a fee computed on the lowest allowable percentage and the least creditworthy obligors pay a fee which may be computed on the highest allowable percentage (the range of creditworthiness to be based on obligors which have actually issued guaranteed obligations).".

SEC. 305. SALE OF ACQUIRED COLLATERAL.

Section 1104A(a)(3) of the Merchant Marine Act, 1936 (46 U.S.C. 1274(a)(3)), is amended by inserting after "financing" the following: "(without requiring subsidy cost ceiling or other authorization under the Federal Credit Reform Act of 1990)".

TITLE IV—ATLANTIC TUNAS CONVENTION ACT

SEC. 401. SHORT TITLE.

This title may be cited as the "Atlantic Tunas Convention Authorization Act of 1994".

SEC. 402. RESEARCH AND MONITORING ACTIVITIES.

(a) REPORT TO CONGRESS.—The Secretary of Commerce shall, within 90 days after the date of enactment of this Act, submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives—

(1) identifying current governmental and nongovernmental research and monitoring activities on Atlantic bluefin tuna and other highly migratory species;

(2) describing the personnel and budgetary resources allocated to such activities; and

(3) explaining how each activity contributes to the conservation and management of Atlantic bluefin tuna and other highly migratory species.

(b) RESEARCH AND MONITORING PROGRAM.—Section 3 of the Act of September 4, 1980 (16 U.S.C. 971i) is amended—

(1) by amending the section heading to read as follows:

"SEC. 3. RESEARCH ON ATLANTIC HIGHLY MIGRATORY SPECIES.";

(2) by striking the last sentence;

(3) by inserting "(a) BIENNIAL REPORT ON BLUEFIN TUNA.—" before "The Secretary of Commerce shall"; and

(4) by adding at the end the following:

"(b) HIGHLY MIGRATORY SPECIES RESEARCH AND MONITORING.—

"(1) Within 6 months after the date of enactment of the Atlantic Tunas Convention Authorization Act of 1994, the Secretary of Commerce, in cooperation with the advisory committee established under section 4 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971b) and in consultation with the United States Commissioners on the International Commission for the Conservation of Atlantic Tunas (referred to elsewhere in this section as the 'Commission') and the Secretary of State, shall develop and implement a comprehensive research and monitoring program to support the conservation and management of Atlantic bluefin tuna and other highly migratory species that shall—

"(A) identify and define the range of stocks of highly migratory species in the Atlantic Ocean, including Atlantic bluefin tuna; and

"(B) provide for appropriate participation by nations which are members of the Commission.

"(2) The program shall provide for, but not be limited to—

"(A) statistically designed tagging studies;

"(B) genetic and biochemical stock analyses;

"(C) population censuses carried out through aerial surveys of fishing grounds;

"(D) adequate observer coverage and port sampling of commercial and recreational fishing activity;

"(E) collection of comparable real-time data on commercial and recreational catches and landings through the use of permits, logbooks, landing reports for charter operations and fishing tournaments, and programs to provide reliable estimates of the catch by private anglers;

"(F) studies of the life history parameters of Atlantic bluefin tuna and other highly migratory species;

"(G) integration of data from all sources and the preparation of data bases to support management decisions; and

"(H) other research as necessary.".

SEC. 403. ADVISORY COMMITTEE PROCEDURES.

Section 4 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971b) is amended—

(1) by inserting "(a)" before "There"; and

(2) by adding at the end the following:

"(b)(1) A majority of the members of the advisory committee shall constitute a quorum, but one or more such members designated by the advisory committee may hold meetings to provide for public participation and to discuss measures relating to the United States implementation of Commission recommendations.

"(2) The advisory committee shall elect a Chairman for a 2-year term from among its members.

"(3) The advisory committee shall meet at appropriate times and places at least twice a year, at the call of the Chairman or upon the request of the majority of its voting members, the United States Commissioners, the Secretary, or the Secretary of State.

"(4)(A) The Secretary shall provide to the advisory committee in a timely manner such administrative and technical support services as are necessary for the effective functioning of the committee.

"(B) The Secretary and the Secretary of State shall furnish the advisory committee with relevant information concerning fisheries and international fishery agreements.

"(5) The advisory committee shall determine its organization, and prescribe its practices and procedures for carrying out its functions under this Act, the Magnuson

Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), and the Convention. The advisory committee shall publish and make available to the public a statement of its organization, practices, and procedures.".

SEC. 404. REGULATIONS.

Section 6(c)(3) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971d(c)(3)) is amended by adding "or fishery mortality level" after "quota of fish" in the last sentence.

SEC. 405. FINES AND PERMIT SANCTIONS.

Section 7(e) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971(e)) is amended to read as follows:

"(e) The civil penalty and permit sanctions of section 308 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1858) are hereby made applicable to violations of this section as if they were violations of section 307 of that Act.".

SEC. 406. AUTHORIZATION OF APPROPRIATIONS.

Section 10 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971h) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS.

"Sec. 10. There are authorized to be appropriated to carry out this Act, including use for payment of the United States share of the joint expenses of the Commission as provided in article X of the Convention, the following sums:

"(1) For fiscal year 1994, $2,750,000, of which $50,000 are authorized in the aggregate for the advisory committee established under section 4 and the species working groups established under section 4A, and $1,500,000 are authorized for research activities under this Act.

"(2) For fiscal year 1995, $4,000,000, of which $62,000 are authorized in the aggregate for such advisory committee and such working groups, and $2,500,000 are authorized for such research activities.

"(3) For fiscal year 1996, $4,000,000 of which $75,000 are authorized in the aggregate for such advisory committee and such working groups, and $2,500,000 are authorized for such research activities.".

SEC. 407. REPORT.

The Atlantic Tuna Convention Act of 1975 (16 U.S.C. 971 et seq.) is amended by adding at the end thereof the following new section:

"ANNUAL REPORT.

"Sec. 11. By April 1, 1995, and annually thereafter, the Secretary of Commerce shall prepare and transmit to Congress a report, that—

"(1) details for the 10-year period the catches and imports to the United States of highly migratory species (including tunas, swordfish, marlin and sharks) from nations fishing on Atlantic stocks of such species that are subject to management by the International Commission for the Conservation of Atlantic Tunas;

"(2) identifies those fishing nations whose harvests are incompatible with existing international conservation and management programs;

"(3) for those nations whose harvests are determined to be incompatible under paragraph (2), certifies pursuant to section 8 of the Fishermen's Protective Act (22 U.S.C. 1978) that such nations are conducting fishing operations in a manner which diminishes the effectiveness of an international fishery conservation and management regime; and

"(4) describes reporting requirements established by the Secretary to ensure that imported fish products are in compliance with all international management measures, including minimum size requirements, established by the Commission and other international fishery organizations to which the United States is a party.".

SUMMARY OF MAJOR PROVISIONS—SUSTAINABLE FISHERIES ACT OF 1994

The Sustainable Fisheries Act amends the Magnuson Fishery Conservation and Management Act to extend the authorization of appropriations through 1999, strengthen conservation efforts and rebuild depleted fisheries. Major provisions include the following:

FISHERIES CONSERVATION

Preventing overfishing and rebuilding depleted fisheries. The bill would require the Councils to define overfishing in each fishery management plan. It also calls for an annual report by the Secretary of Commerce (Secretary) on the status of fisheries under each Council and identification of fisheries that are overfished or approaching an overfished condition. A Council would have one year to come up with a plan to stop overfishing and rebuild the fishery, and the Secretary would be required to step in if the Council fails to act. While a plan is under development, interim measures to reduce overfishing could be implemented as emergency measures. To deal with the socioeconomic issues associated with rebuilding the fishery, the Secretary would work with the states and local communities to develop a sustainable development strategy.

Habitat protection. The Secretary would be required to identify essential habitat for all fisheries under management, based on information provided by the Councils. The bill also would expand the existing authority of the Councils and the Secretary to comment and make recommendations to Federal agencies concerning actions that would affect essential fish habitat. In addition, the Secretary and the Councils would develop and publish a list of fisheries and approved gear for each fishery. Ninety days prior to using a new gear type or expanding into a new fishery, a fisherman would be required to provide a Council with notice and the opportunity to take emergency action to restrict such gear or fishery.

Bycatch and waste reduction. The bill defines categories of bycatch and requires any fishery management plan developed by a Council or the Secretary to (1) assess the level of bycatch occurring in each fishery, including the effect of a fishery on other stocks of fish in the ecosystem; and (2) minimize, to the extent practicable, mortality caused by waste and discards of unusable fish. In addition, the bill would encourage plans to provide incentives for fishing vessels within each gear group to reduce bycatch. Finally, provisions are included to establish specific timetables for reducing waste and promoting full utilization in the North Pacific fisheries.

MANAGEMENT PROCESS

Streamlining the approval process for plans and regulations. The bill simplifies and tightens the approval process for fishery management plans and regulations.

Council procedures and conflicts of interest. The bill proposes a number of changes to increase Council accountability, requiring that (1) a Council member be recused from voting on a Council decision "which would have a significant and predictable effect" on any financial interest; (2) each Council keep detailed minutes of each Council meeting, including a complete and accurate description of discussions and conclusions; (3) each Council record all roll call votes; and (4) with advance notice and member concurrence, each Council consider additional agenda items at meetings. The bill also establishes procedures for appointing a treaty tribe representative to the Pacific Council.

Individual transferable quotas (ITQS). The bill prohibits the Secretary from approving ITQ programs until guidelines are established to deal with ITQ-related issues such as initial allocation, eligibility for participation, consolidation, and access by entry-level fishermen. To cover management costs of an ITQ program, the Secretary would be authorized to establish an annual fee of up to four percent of the value of fish harvested or processed, and an additional one percent transfer fee. A 5-year fee exemption is provided in the existing programs for the surf clam and ocean quahog fishery and the wreckfish fishery. The bill also clarifies that ITQs do not convey a property right and are subject to termination at any time.

Scientific basis for management. The bill includes several provisions to improve monitoring and data collection for fisheries management: (1) development (in cooperation with the states and the Councils) of a federal plan for a standardized vessel registration and data management system to ensure the availability of basic fisheries data; (2) establishment of an observer training and education program and regulations for vessels that carry observers, including protection from sexual harassment; and (3) an expanded research program to provide better biological information and to study the effects of fishing on the marine ecosystem.

Enforcement. The bill would (1) establish voluntary fishermen's networks to promote compliance with fishery regulations; (2) require an annual report analyzing the adequacy and effectiveness of enforcement efforts; (3) encourage a reward of not less than 20 percent of any penalty assessed for information leading to an enforcement action; (4) require that fishery management plans identify needed enforcement.

TRANSITION TO SUSTAINABLE FISHERIES

Fisheries disaster relief. At the discretion of the Secretary or at the request of an affected State or community, the Secretary would (1) determine whether there is a commercial fishery failure; and (2) make relief funds available to the affected State or community, with the Federal cost-share not to exceed 75 percent.

Vessel or permit buy-out. As part of a sustainable development strategy and to limit effort in an overfished fishery, the Secretary would be authorized to develop and implement a vessel or permit buy-out program requiring that (1) a fishery management plan is in place that limits access to the fishery and prevents replacement of fishing effort that is bought out; (2) vessels or permits acquired under the buy-out program cannot reenter the fishery or contribute to excess fishing effort in other fisheries; and (3) criteria are established to determine types and numbers of vessels which are eligible for participation. The bill specifies that the Federal share of a buy-out program may not exceed 50 percent of the program costs. Working with the Council, the Secretary would be authorized to establish a fee system to collect the non-Federal share of funds for the program. Annual fees could not exceed 5 percent of the value of fish harvested in the fishery and would be deposited into a newly established Ocean Conservation Trust fund.

Vessel refinancing. The bill would amend Title XI of the Merchant Marine Act of 1936 to provide for a fisheries stock recovery refinancing program under the Fishing Vessel Obligation Guarantee Program. For those fisheries in which a fishery recovery effort is

under way, the Secretary would be authorized to refinance vessel mortgages, providing for an extended repayment schedule (including interest-only payments) that reflects reduced vessel income due to stock rebuilding restrictions.

INTERNATIONAL MANAGEMENT

Highly migratory species. The bill would require the Secretary to establish advisory panels for development of fishery management plans under the Magnuson Act for Atlantic tuna and other highly migratory species. It also amends the Atlantic Tunas Convention Act to (1) extend the authorization of appropriations; (2) make penalties and permit sanctions consistent with the Magnuson Act; (3) establish advisory committee procedures and expand research efforts; (4) require an annual report on international trade activities and calling for trade sanctions on nations that fail to comply with ICCAT.

Mr. STEVENS. Mr. President, I am pleased to introduce this bill with Senator KERRY to improve and reauthorize the Magnuson Fishery Conservation and Management Act.

Over the past 2 years, the Commerce Committee has held hearings in Massachusetts and Alaska, as well as numerous hearings here in Washington, DC.

Since the last time we revised the Magnuson Act in 1990, the act has been successful in many of the ways we intended.

However, it is clear from our review that the act needs fine turning in places, and major improvements in other areas.

This bill includes;

First, significant new mandates to reduce waste in U.S. fisheries;

Second, new conflict-of-interest and recusal requirements for regional Fishery Management Council members, as well as other reforms to the Council process; and

Third, the creation of guidelines for individual transferable quotas, or ITQs, to help define and clarify these new management tools.

In addressing these and other issues, Senator KERRY and I incorporated many of the suggestions from our colleagues on the Commerce Committee and fishermen in our home states, as well as from the administration, industry groups, conservation groups, and various members of both the House and Senate.

We hope the bill we introduce today will provide a solid foundation on which to build a consensus for the reauthorization of the Magnuson Act in the 104th Congress.

WASTE REDUCTION

This bill incorporates virtually all of the operative provisions of S. 2022, a bill I introduced earlier this year to address the problems of fishery waste in the North Pacific.

The bill we are introducing today includes specific definitions of "bycatch," "economic discards" and "regulatory discards" (which we in the North Pacific call prohibited species) in order to clearly delineate between specific types of waste which may require different solutions.

The bill requires each Council to assess bycatch and to minimize the mortality caused by economic and regulatory discards in each fishery which is managed by that Council.

For the North Pacific, the bill also requires the Council to incorporate provisions in its fishery management plans to reduce bycatch, economic and regulatory discards, as well as to reduce "processing waste" and to achieve full retention and full utilization by specific dates.

These are the same mandates for the North Pacific and the same basic definitions as those that I included in S. 2022 earlier this year.

This bill directs the Council to take additional steps to ensure that the valuable fishery resources off Alaska are available for future generations.

In addition to the provisions from my earlier bill, we have also included a definition of "overfishing."

This bill requires each Council to include in each fishery management plan specific criteria for determining when a fishery under that Council's jurisdiction is overfished or is approaching such a condition. The intent of this provision is to get the Councils to establish a mechanism to provide sufficient warning so that preventive measures can be put in place before any additional fisheries become overfished.

The Secretary of Commerce (Secretary) will use the criteria to report to Congress (and back to the Councils) on the fisheries within each Council's geographical area that are overfished or approaching a condition of being overfished.

Each Council will have one year to submit appropriate fishery management plans, amendments or regulations to prevent the overfishing of fisheries approaching that condition, and to stop overfishing and begin to rebuild fisheries that are already overfished.

If the Council fails to take action to begin this process within one year, the Secretary will be required to prepare an appropriate fishery management plan or plan amendment.

We know from current National Marine Fisheries Service data that our fisheries in Alaska are not overfished.

I have included these provisions to make sure Alaska's fisheries remain healthy for generations to come.

COUNCIL REFORM

This bill includes measures to reform the Council process, perhaps the most difficult issue we've dealt with in this reauthorization process.

Our bill would prevent Council members from voting on certain matters that benefit them financially, but does not require such widespread recusal by Council members that the Councils would be rendered ineffective.

I still believe in the basic goal Senator Magnuson and I had for the original Act—that the Councils should be made up of the people directly affected by fishery management decisions.

Senator KERRY and I have incorporated valuable portions of other proposals, including the administration's proposal (which was based on the existing Alaska Board of Fisheries recusal process) and Senator Breaux's proposal in the recusal section of our bill.

This bill requires Council members to recuse themselves from voting on Council decisions that would have a "significant and predictable effect" on their financial interests.

A Council decision would be considered to have a "significant and predictable effect" if there is "a close causal link between the Council decision and an expected benefit, shared only by a minority of persons within the same industry sector or gear group, to the financial interest" of the Council member.

This language will prevent Council members from voting on decisions benefitting only themselves or a minority in their gear group, but will not prevent them from expressing views or from voting on most matters on which they have expertise.

The Secretary, with the concurrence of the Council, will select a "designated official" with Federal conflict-of-interest experience to attend Council meetings and make determinations regarding the financial interests of members.

These determinations will occur at the request of the affected Council member or at the initiative of the designated official.

Any Council member can ask for a review by the Secretary of a determination, but this review will not be treated as cause for the invalidation or reconsideration by the Secretary of a Council decision.

This bill also increases Council reporting requirements, and includes a provision to require a roll call vote for the record at the request of any Council member.

ITQ'S

This bill establishes a definition and sets out general requirements for any individual transferable quota [ITQ] systems.

The bill prohibits the Secretary from approving any more ITQ plans until ITQ guidelines are completed.

Under this bill, the Secretary would be required to convene an advisory panel within 60 days to provide recommendations for the ITQ guidelines.

The guidelines would be required to, among other things:

First, provide for the fair and equitable allocation of fishing privileges;

Second, provide for the collection of fees of up to four percent annually of the value of the fish harvested or processed under an ITQ, and an additional one percent of the value of fish harvested or processed by a person receiving an initial quota or transferring a quota;

Third, address methods for providing for new entrants, including, in fisheries where appropriate, mechanisms to provide a portion of the annual harvest for entry-level fishermen or small vessel owners who do not hold an ITQ; and

Fourth, provide requirements for the effective monitoring and enforcement of ITQ systems, and provide for penalties, including the revocation of fishing privileges under ITQ systems.

This bill clearly states that an ITQ does not constitute a property right, and that no provision of law shall be construed to limit the ability of the Secretary to terminate or limit an ITQ at any time and without compensation.

The bill also specifies that holders of an ITQ may include fishing vessel owners, fishermen, crew members or other citizens of the United States, as well as United States fish processors.

By requiring the ITQ guidelines to provide for the fair and equitable allocation of fishing privileges, we mean for the Councils and Secretary to fairly and equitably allocate fishing privileges among all of the potential holders of ITQs if the potential holders have historically participated in the fishery.

The bill provides for increased fees to be assessed on any ITQ in order to, among other things, allow the Secretary to recoup the increased enforcement costs of ITQ systems, and to extract from ITQ holders an increased rent commensurate with the increased privilege received from ITQs.

The bill requires existing ITQ plans to come into compliance with these ITQ guidelines by June 30, 1997.

OTHER PROVISIONS

I will briefly mention some of the other improvements to the Magnuson Act included in our bill.

The bill simplifies the review process by the Secretary of fishery management plans and amendments by eliminating a preliminary evaluation required under current law.

The bill also provides a framework for Secretarial review of proposed regulations, providing the councils and with greater certainty that proposed regulations and regulatory amendments will be implemented in a timely manner.

There are provisions providing for the increased protection of fishery habitat essential to the life cycles of fish stocks.

The bill also defines the term, "fishery dependent community" for purposes of its use in the Magnuson Act as part of a new national standard and for purposes of defining who is eligible for programs included in new sections 315 and 316 of the Magnuson Act.

A new national standard is added to the Magnuson Act which requires all Councils "to take into account the importance of the harvest of fishery resources to fishery dependent communities" in recommending conservation and management measures under each fishery management plan.

This new standard has been included in the bill as a means of ensuring that all of the Councils consider measures like the closure of the Gulf of Alaska pollock fishery to certain vessels, community development quotas, and the allocation of Pacific whiting to shore plants that have already been included in fishery management plans by the North Pacific Council and the Pacific Council in order to address the needs of certain fishery dependent communities.

Another provision requires consideration be given to fishery dependent communities in developing any limited access systems, including ITQ systems.

By including these new provisions we intend to increase the Councils' consideration of the needs of coastal communities dependent on fishery resources.

In addition, the bill contains important new sections authorizing vessel and permit buy-back programs, and providing authorization for emergency funding for fishery failures which affect fishery dependent communities.

Funding for buy-back programs could be self-financed at up to 5 percent of the value of the fishery, but we also authorize the use of certain Federal funding for buy-outs and emergencies under certain circumstances.

These new measures will provide a relief mechanism for fisheries when factors beyond the control of the Council result in a fishery failure, and will provide an additional tool to address overcapitalization problems.

I look forward to working with Senator KERRY and our colleagues on the Commerce Committee on this legislation over the fall, and hope to reintroduce this bill as early in the session of Congress as possible.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 2539. A bill to provide for the settlement of certain claims under the Alaska Native Claims Settlement Act, and for other purposes; to the Committee on Energy and Natural Resources.

THE LANDLESS NATIVES LAND ALLOCATION ACT

• Mr. MURKOWSKI. Mr. President, I introduce S. 2539, the Landless Native Land Allocation Act of 1994. I am joined by Senator TED STEVENS in introducing this important legislation.

This legislation is intended to provide entitlements pursuant to the Alaska Native Claims Settlement Act [ANCSA] for five southeastern Alaska Native communities, namely Haines, Ketchikan, Petersburg, Tenakee, and Wrangell. These five communities were inadvertently and unfairly left off the list of Native communities eligible for ANCSA benefits at the time of its enactment in 1971. The facts and circumstances do not justify this omission and I call for Congress to rectify the situation.

Mr. President, as many Members of this body know, ANCSA was enacted to recognize and settle the aboriginal claims by Alaska Natives to the lands they had lived on and used for hundreds of years.

In passing ANCSA, Congress created a settlement mechanism that called for the establishment of Native corporations to receive and manage the $1 billion and 44 million acres awarded under the Act. Congress intended these corporations to be the vehicles through which Alaska natives could use their settlement resources to integrate into the non-Native economy. In many cases Native corporations have established businesses, effectively managed their resources, and prospered financially. Furthermore, Native corporations have served an important role as stewards of the ANCSA lands. These lands are an essential element of the traditional Native culture and way of life.

The five Native communities of Haines, Ketchikan, Petersburg, Tanakee, and Wrangell inexplicably were not listed under ANCSA as communities eligible to form village or urban corporations. This omission occurred despite the five communities comprising over 20 percent of the southeast Alaska regional corporation's shareholders and displaying historic cultural and traditional Alaska Native qualities.

For two decades, the five communities have attempted to appeal their omission from the ANCSA list of eligible Native communities. Such attempts have yet to find success as ANCSA does not provide southeast Native communities with the same right to eligibility determinations enjoyed by villages in other areas of Alaska. This lack of evenhanded treatment is unexplained in the Act or legislative record.

As a result of the unclear history surrounding the eligibility determination of the five communities, Congress, in 1993, directed the Secretary of the Interior to prepare a report examining whether it had inadvertently denied ANCSA eligibility to the five communities of Haines, Ketchikan, Petersburg, Tenakee, and Wrangell. A thorough review of ANCSA and its legislative history provides the basis for the report.

Published in February 1994, the report finds that the five communities do not differ significantly from southeast Alaska native communities that were permitted to form village or urban corporations under ANCSA. The five are similar to other southeast Alaska communities in the percentage of natives residing in the communities as well as historic native use and occupation of the land in and around the communities.

Furthermore, the report indicates that the omission of the five communities from ANCSA is not clearly explained in any provision of ANCSA or

in the accompanying conference report.

Mr. President, the report examines many other comparisons of the five communities with eligible southeast Native communities. Based on the overall data, it is apparent that Congress inadvertently omitted the five communities from ANCSA eligibility. If there are reasons for this omission, they are not clearly explained or evidenced in the RECORD and thus should be given no weight. Therefore, Congress should act to rectify the inequity suffered by the five communities for the last two decades by providing them the right to incorporate and receive benefits under ANCSA.

Specifically, S. 2539 would allow the five communities to incorporate as village corporations under ANCSA. These newly created corporations will be known as Landless Village Corporations. Each Native member of the five communities will be issued shares of stock in their respective Landless Village Corporation in proportion to the amount of shares they hold in Sealaska Corporation.

The Landless Village Corporations will be allowed to select certain public lands and receive from the Secretary of the Interior a patent for the surface rights thereto pursuant to ANCSA. As provided for in ANCSA, the Native regional corporation for southeast Alaska will receive the subsurface rights of the selected lands. Eligible public lands will include all public land in southeast Alaska excluding: (i) Conservation system units, (ii) lands within the Tongass National Forest Land Management Plan timber base, (iii) lands withdrawn for national defense purposes, (iv) lands selected by Regional, Village or Urban Corporations pursuant to ANCSA; and, (v) lands selected pursuant to the Alaska Statehood Act.

The number of acres of and a Landless Village Corporation may select will be based on the number of Natives enrolled to it. This population based method is the same method used by most village corporations under ANCSA and will best provide the Landless Village Corporations with an equitable settlement. It will result in the corporations being allowed to select from three to seven townships each.

It is well known that the lumber mills of southeast Alaska and the people who work for them have suffered significant economic hardship because of Forest Service timber policies aimed at reducing timber sales in southeast. Therefore, in order to support the sagging economy of southeastern Alaska, it will be required that timber harvested from lands selected by the Landless Village Corporations be processed in southeastern Alaska.

While I realize that there is no time for the 103d Congress to consider this legislation at this late date in the session, much work has gone into the development of this bill and I believe it is important that it receive the distinction of being introduced. I introduced this legislation at the request of my constituents in southeast Alaska and have developed this bill in close consultations with their representatives.

I intend to introduce this legislation next year and seek a hearing before the Senate Energy and Natural Resources Committee. Introduction in this Congress will provide the concepts in this bill with important public exposure that will serve the interested parties and enhance the opportunity for constructive public comment as we work to produce a fair settlement with broad public support.

Therefore, Mr. President, I ask my colleagues to support me in this effort to provide these Native communities in southeast Alaska with their just ANCSA entitlement and I look forward to their cooperation.●

By Mr. D'AMATO (for himself and Mr. MOYNIHAN):

S. 2541. A bill to amend the Age Discrimination in Employment Act of 1967 to protect elected judges against discrimination based on age; to the Committee on Labor and Human Resources.

AGE DISCRIMINATION ACT AMENDMENTS

Mr. MOYNIHAN. Mr. President, I join my colleague from New York in introducing this important piece of legislation which would correct an anomaly in the Age Discrimination in Employment Act of 1967 relating to the mandatory retirement of elected judges. Today, many able jurists in my State are unjustly prevented from serving on the bench past the Page of 70. This simple legislation would eliminate this vestige of age discrimination by allowing these judges to determine at their own will when they should retire.

Mr. President, I might remind the Senate that there are more than a dozen distinguished Members of this body over the age of 70, and a few others well on their way. The Senate benefits from their wisdom and experience much the same as my State would profit from the sagacity of our elder jurists.

I urge my colleagues to support this bill.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 2542. A bill to require the Secretary of the Interior to carry out an expedited negotiated settlement of the land rights of the owners of patented and unpatented mining claims within Denali National Parks, AK, and for other purposes; to the Committee on Energy and Natural Resources.

DENALI MINING CLAIMS ACT

● Mr. MURKOWSKI. Mr. President, I introduce the Denali Mining Claims Act of 1994. Last November, I held an oversight hearing in Anchorage focusing on the difficulties that many Alaskan miners face when their claims are surrounded by Federal lands. Over 20 miners testified that Government regulations and procedures prevented them from mining their land even though they were promised continued access and use when the Alaska National Interest Lands Conservation Act was passed in 1980.

Mr. President, the legislation I am introducing today should help resolve many of the inholding problems within Denali National Park and Preserve. When Denali was expanded by ANILCA, the Kantishna Hills Mining District and two others were surrounded by Federal lands. At that time there were over 250 claims in the Kantishna area. Since 1980 the effect of litigation relating to the management of such mining claims has resulted in the cessation of all significant mining operations in the Denali area. ANILCA specifically allowed for mining in Kantishna, yet the National Park Service has literally vetoed all attempts to mine within the area.

I would prefer that these miners be permitted to mine their claims, a right statutorily preserved under ANILCA, however, I recognize that the National Park Service does not support mining in Denali and will continue to delay and deny plans of operation submitted in accordance with established guidelines.

To resolve this dispute, my bill directs the Park Service to enter into good faith negotiations with individuals who have patents or mining claims that they wish to sell in an attempt to find a reasonable way to compensate people for valuable claims or land that they are prevented from using. If good faith negotiations fail, my bill provides two additional options: A miner can choose to receive an offer of a fixed price per acre based upon a 1983 congressionally mandated study of the value of the claims, or the Secretary of Interior will use the Federal court system to institute a takings procedure. This bill provides three options to create as much flexibility as possible in the process.

Should negotiations between the Park Service and claims owner fail, the Park Service would be required and the land owner allowed to make a statement to Congress giving their reasons for the failure to reach an acceptable compromise. If a fixed price per acre is used to set a fair price, the valuation would vary depending upon the status of the claim and whether it had direct road access and/or a view of Denali itself. The final option would be use of the court system in a takings procedure.

Mr. President, previous attempts by the National Park Service to set a fair price on the value of mineral claims in Denali Park and Preserve have resulted in heated disputes over valuations and the length of time required to reach an

agreement. My legislation would provide a balanced approach to determining mineral and land values within a reasonable time frame. It would do so using a fixed process including good-faith, full disclosure negotiations. If a mining claim holder choose not to participate in this process, there would be no penalty.

Mr. President, I realize this legislation will not be acted on before the adjournment of this Congress. I am introducing this bill now to give interested parties an opportunity to comment upon it. It is my intention to reintroduce this bill at the beginning of the next Congress and work toward its passage.●

By Mr. CRAIG:

S. 2544. A bill to amend the Fair Labor Standards Act of 1938 to adjust the maximum hour exemption for agricultural employees, and for other purposes; to the Committee on Labor and Human Resources.

FAIR LABOR STANDARDS ACT AMENDMENT

● Mr. CRAIG. Mr. President, I am introducing a bill today, which this body previously approved as an amendment to the first bill amending the Fair Labor Standards Act [FLSA] that the Senate passed in 1989. This bill would solve a problem with the interpretation of a provision of the FLSA, clarifying that the maximum hour exemption for agricultural employees applies to water delivery organizations that supply 90 percent or more of their water for agricultural purposes.

This would restore an exemption that was always intended by Congress. The Department of Labor has interpreted current law to require that 100 percent of water delivered by a qualified delivery organization must be used for agricultural purposes. Thus, if even a negligible amount of water ends up being used for road watering, lawn and garden irrigation, stock consumption, or construction, for example, delivery organizations are assessed severe penalties.

The exemption for overtime pay requirements was placed in the FLSA to protect the economies of rural areas. Irrigation has never been, and can not be, a 40-hour-per-week undertaking. During the summer, water must be managed and delivered continually. Later in the year, following the harvest, the work load is light, consisting mainly of maintenance duties.

Winter compensation and time off traditionally have been the method of compensating for longer summer hours. Without this exemption, delivery organizations are forced to lay off their employees in the winter. Therefore, my bill would benefit farmers and employees, who would continue to earn a year-round income.

I realize that it is late in the legislative season in the 103d Congress and action on this legislation is not likely this year. However, I am introducing the bill at this time to make my colleagues aware of my intention to pursue this matter in the 104th Congress, and will reintroduce similar legislation on the first day of that Congress.

I ask unanimous consent that a copy of the bill be printed in the RECORD.

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

S. 2544

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT TO THE FAIR LABOR STANDARDS ACT OF 1938.

Section 13(b)(12) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(b)(12)) is amended by inserting after "water" the following: ", at least 90 percent of which is ultimately delivered".●

By Mr. FEINGOLD:

S. 2545. A bill to provide for home community-based services for individuals with disabilities; read the first time.

HOME AND COMMUNITY-BASED SERVICES

● Mr. FEINGOLD. Mr. President, I am pleased to introduce legislation to reform fundamentally the way we provide long-term care in this country.

Though it is now apparent that we will not be voting on comprehensive health care reform in this Congress, we must not wait to renew our efforts. We should begin now, and universal coverage should again be our goal.

This legislation does not attempt to reform our health care system in any comprehensive way, but it does serve to resume the debate, and can be a first step in the effort to pursue universal coverage.

The measure I introduce today establishes a system of consumer-oriented, consumer-directed home and community-based long-term care services for individuals with disabilities of any age.

It is similar in large part to the excellent long-term care proposal included in President Clinton's health care reform bill, as well as to the provisions establishing home and community long-term care benefits in the versions of the President's bill that came out of the Senate Committee on Labor and Human Resources and the Senate Committee on Finance—provisions which had, in both cases, strong bipartisan support.

The legislation also provides for a hospital—long-term care link program, identical to legislation I introduced on S. 52, on the first day for introduction of bills in the 103d Congress.

The hospital link program is based on our experiences in Wisconsin where such an initiative has helped direct individuals needing long-term care services out of hospitals, and back to their own homes and communities. The hospital discharge is a critical point of embarkation into the long-term care system for many, and this program helps ensure that those who leave a hospital in need of long-term care can receive needed services where they prefer them—in their own homes.

Mr. President, a key feature of this proposal that was not included in the other long-term care proposals I mentioned is a provision that allows States to channel any savings this program generates in Medicaid funded long-term care services, institutional or home and community-based, back into this more flexible program.

In the long run, it is this provision that will result in helping to realize significant savings from a system that currently diverts the vast majority of its resources into expensive institutional settings.

Mr. President, though I am convinced that long-term care reform can result in substantial savings to taxpayers—and this has been our experience in Wisconsin—this measure does not depend on hypothetical savings for funding. This measure includes funding provisions consisting of specific cuts within the health care system, scored by the Congressional Budget Office to reduce Federal spending under Medicare.

Included in these proposed spending cuts is a provision that reduces the subsidy we give to the wealthiest Medicare beneficiaries through the Part B premium. The provision would peg the part B premium to income, reducing the taxpayer subsidy for individuals with income over $100,000 and couples with income over $125,000. The subsidy would be completely phased out for individuals with income over $125,000, and couples with income over $150,000.

Other savings are generated from a 10 percent home health copayment applied to individuals with incomes over 150 percent of poverty—still only half the copayment charged on other Medicare services; modifying the routine cost limits for home health services; correcting an anomaly in the formula for certain outpatient services; and continuing the reduction in the inpatient hospital capital reimbursement formula.

Over the 5 fiscal years for which we have estimates, the proposal actually generates savings in each year, producing a total of $6.1 billion in deficit reduction over that time.

This must be the approach we adopt, even for those proposals which experience shows will result in savings. By including funding provisions in this long-term care reform measure, we ensure that any additional savings produced by these reforms will only further reduce the budget deficit.

Mr. President, I am proud to note that, like the President's initial long-term care proposal and the provisions reported out of the two Senate Committees, this legislation has its roots in Wisconsin's own Community Options Program, known as COP—a program for which I was privileged to advocate

and help develop during my 10 years as chair of the Wisconsin Senate Aging Committee.

With the end of the 103d Congress upon us, and our efforts to achieve comprehensive health care reform set aside, at least for the remainder of this session, long-term care reform generally, and this proposal in particular, can serve to renew the best parts of the health care debate.

In part, we saw this potential in the efforts of the two Senate committees charged with primary oversight of health care reform. Both reported out proposals that included language very much like this legislation, and in each case, that language has strong bipartisan support.

Beyond that, this proposal can be adopted independently of the comprehensive reform that has been unable to attract a majority of Members. It is my hope that the momentum generated by reforming long-term care will help advance the push for comprehensive health care reform.

In the respect, Mr. President, though it can be considered apart from the remainder of health care reform, long-term care reform contains the important elements around which a consensus might develop for a more general health care bill. This means that not only can it proceed apart from comprehensive reform I strongly support, it can serve to reinitiate the push for broader changes.

Home and community-based long-term care reform can be the building block of health care reform.

This proposal will not interrupt my own efforts to push for those elements of health care reform that can deliver needed services and contain costs. To the contrary, it can accomplish both.

Mr. President, I have spoken with nearly every Member of the Senate about our experience in Wisconsin with long-term care reform, and I hope to have reached all 100 Members, including new members, by early next year. The Wisconsin experience is especially relevant, because, as a State, we have faced many of the same problems that continue to face the Nation as whole in long-term care.

In the early 1980's, Wisconsin's Medicaid nursing home bed use was soaring, as was the daily cost of a nursing home bed. Long-term care consumers had little choice but to enter an institution, or go without services. There was almost a complete absence of community- or home-based long-term care services for people in need of support. With the rare exception of a few older disabled with sufficient resources to create their own system of in-home supports, many were forced to enter nursing homes who would have liked to have remained in their own home or community.

Mr. President, there are many compelling reasons to reform our long-term care system. Over the past year and a half, I have detailed many of them on this floor: an exploding population of the very old the largest group of long-term care consumers; the relative shrinking population of caregivers; the growing need of family caregivers to leave the workplace just to provide a loved one with long-term care; and, the enormous and rapidly increasing expense to the taxpayer of institutional settings.

But, Mr. President, as with health care reform overall, I view long-term care reform first and foremost as a matter of simple humanity.

Chuck McLaughlin, of Black River Falls, WI, administers COP for Jackson County. He testified before a Senate Special Committee on Aging field hearing that I chaired about what that lack of choice meant to many disabled, especially elderly disabled, before Wisconsin implemented its reforms.

McLaughlin noted that though some "eventually adjusted to leaving their home and entering the nursing home, others never did." Although McLaughlin noted he had no hard empirical evidence to document the fact, he said he "saw people who simply willed their own death because they saw no reason to continue living. These were people who were literally torn from familiar places and familiar people. People who had lost the continuity of their lives an the history that so richly made them into who they were now. People who had nurtured and sustained their communities which in turn provided them with positive status in that community. These people were truly uprooted and adrift in an alien environment lacking familiar sights, sounds, and smells. Many of them simply chose not to live any longer. While the medical care they received was excellent, they were more than just their physical bodies. Modern medicine has no treatment for a broken spirit."

For many, the current long-term care system is so inflexible as to be inhumane. Even if there were no other reason to reform the system, this would be reason enough.

Mr. President, earlier this year I issued a report reviewing the long-term care provisions in President Clinton's health care reform legislation and offering some modifications to those provisions based on our experience in Wisconsin. In that report, I noted that Chuck McLaughlin's eloquent comments on the importance of community were not only relevant, even central, to the discussion of long-term care, but that community must also be the focus of our efforts in many other areas of our lives as Americans and citizens of the world.

More often than not the critical problems we face stem from a failure of community or a lack of adequate community-based supports—for example jobs and economic development, housing, crime, and education. These and other important issues are usually confronted by policymakers at a distance—from Washington, DC or from State capitals—essentially from the top down.

Too often we have tried to solve these challenges, including the challenge of long-term care, by imposing a superior vision from above. This approach has led to inflexible systems that cannot react to individual needs, but rather end up trying to fit the problem to their own structure.

This fundamental weakness is often enough to undermine even the sometimes huge amounts of money that we send along to implement the problem solving. It also limits the kinds of creative approaches those who are on the ground may see as useful and necessary.

Mr. President, just as we have a need to reinvent Government to respond more efficiently to our country's needs and our national deficit, we need also to reinvent community to allow flexible approaches to problems, and to allow those in the community to exercise their judgment as to how best solve problems.

A great strength of the Wisconsin long-term care reforms, and especially the home and community-based benefit on which this legislation is based, is that it is focused on the needs of the individual. Eligibility is based on disability, not age, and services are centered around the particular needs of an individual rather than the perceived needs of a group.

The approach this legislation takes is not only appropriate, but integral to the nature of long-term care.

Mr. President, of the many misconceptions about long-term care, and about programs providing long-term care services, the most common may be that long-term care is purely an elderly issue. Though it is true that the elderly make up the largest part of the population needing long-term care services, long-term care is an issue facing millions of younger Americans. Approximately 1 million children have severe disabilities that require long-term care services. And over and above those individuals needing assistance for long-term disabilities, long-term care is a problem facing millions more who are the family members of those needing services.

Beyond the wide variety of ages among those needing long-term care services, there is a diversity of needs. From families that have a loved one afflicted with Alzheimer's disease, to individuals with cerebral palsy, however well intentioned, no one set of services will address the individual needs of long-term care consumers.

Rather than trying to fit all of those needing long-term care services into one set of services, this legislation lets

case managers, working with long-term care consumers and their families, determine just what services are needed and preferred.

Mr. President, as I noted earlier, the failure to enact comprehensive reform will not interrupt my own efforts to advocate and push individual reforms that respond to the needs of people and that can help save our health care system money.

In home and community-based long-term care reform, we can achieve both.

For taxpayers in Wisconsin, COP has saved hundreds of millions of dollars that would otherwise have been spent on more expensive institutional care.

During the 1980's, while the rest of the country was experiencing a 24-percent increase in Medicaid nursing home bed use, in Wisconsin, thanks to COP and other long-term care reforms, Medicaid nursing home bed use actually dropped by 19 percent. In a recent talk, Governor Tommy Thompson noted that COP saves Wisconsin taxpayers about $25 million every year.

At the same time, COP has provided an alternative that allows the consumer to participate in determining the plan of care and in the execution of that plan.

But, Mr. President, at the Federal level we are behind Wisconsin and other States in reforming long-term care. Despite the creation of community-based Medicaid waiver programs, consumers are, for the most part, faced with few alternatives.

In describing the situation facing many elderly disabled prior to the establishment of COP in Wisconsin, Chuck McLaughlin testified before our field hearing that he recalled thinking that when he went to a grocery store there was incredible choice. He noted that there was an entire aisle for various types of pet food.

But when elderly people encountered frailty and the loss of independence, there were basically no choices for them. It seemed a sad reality that society was doing a much better job at providing meal diversity to cats and dogs than we were doing at offering choices to humans facing frailty.

Mr. President, that is the plight of many needing long-term care today. The disabled of all ages have few options. And those that they do have are expensive for them, for their families, and for taxpayers.

This proposal will begin to provide the flexibility that state and local government needs to provide consumer-oriented and consumer-directed services.

Mr. President, I want to emphasize that I will continue to strive for comprehensive health care reform, reform that establishes universal coverage—guaranteed coverage that can never be taken away.

This legislation by itself will not achieve that coverage, but it can be an important first step to achieving it.

More importantly, long-term care reform is necessary for its own sake. The 10 million individuals, and their families, who need long-term care today foreshadow a need that will expand as our population ages.

Nearly every American lacks long-term care security. Only the very will off are not exposed to the risk of financial devastation that can accompany a long-term disability.

Now is the time to begin putting a structure in place that builds on the informal family supports, that provides the needed consumer-oriented and consumer-directed services, and that will save taxpayers money.

Mr. President, I ask unanimous consent that the text of the bill, along with a summary of the legislation, be printed in the RECORD.

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

S. 2545

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Home and Community-Based Services for Individuals with Disabilities Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
TITLE I—HOME AND COMMUNITY-BASED SERVICES FOR INDIVIDUALS WITH DISABILITIES
Sec. 102. State programs for home and community-based services for individuals with disabilities.
Sec. 103. State plans.
Sec. 104. Individuals with disabilities defined.
Sec. 105. Home and community-based services covered under State plan.
Sec. 106. Cost sharing.
Sec. 107. Quality assurance and safeguards.
Sec. 108. Advisory groups.
Sec. 109. Payments to States.
Sec. 110. Appropriations; allotments to States.
Sec. 111. Federal evaluations.
Sec. 112. Information and technical assistance grants relating to development of hospital linkage programs.
TITLE II—PROVISIONS RELATING TO MEDICARE
Sec. 201. Recapture of certain health care subsidies received by high-income individuals.
Sec. 202. Imposition of 10 percent copayment on home health services under medicare.
Sec. 203. Reduction in payments for capital-related costs for inpatient hospital services.
Sec. 204. Elimination of formula-driven overpayments for certain outpatient hospital services.
Sec. 205. Reduction in routine cost limits for home health services.

TITLE I—HOME AND COMMUNITY-BASED SERVICES FOR INDIVIDUALS WITH DISABILITIES

SEC. 102. STATE PROGRAMS FOR HOME AND COMMUNITY-BASED SERVICES FOR INDIVIDUALS WITH DISABILITIES.

(a) IN GENERAL.—Each State that has a plan for home and community-based services for individuals with disabilities submitted to and approved by the Secretary under section 103(b) may receive payment in accordance with section 109.

(b) ENTITLEMENT TO SERVICES.—Nothing in this title shall be construed to create a right to services for individuals or a requirement that a State with an approved plan expend the entire amount of funds to which it is entitled under this title.

(c) DESIGNATION OF AGENCY.—Not later than 6 months after the date of enactment of this Act, the Secretary shall designate an agency responsible for program administration under this title.

SEC. 103. STATE PLANS.

(a) PLAN REQUIREMENTS.—In order to be approved under subsection (b), a State plan for home and community-based services for individuals with disabilities must meet the following requirements:

(1) STATE MAINTENANCE OF EFFORT.—

(A) IN GENERAL.—A State plan under this title shall provide that the State will, during any fiscal year that the State is furnishing services under this title, make expenditures of State funds in an amount equal to the State maintenance of effort amount for the year determined under subparagraph (B) for furnishing the services described in subparagraph (C) under the State plan under this title or the State plan under title XIX of the Social Security Act.

(B) STATE MAINTENANCE OF EFFORT AMOUNT.—

(i) IN GENERAL.—The maintenance of effort amount for a State for a fiscal year is an amount equal to—

(I) for fiscal year 1996, the base amount for the State (as determined under clause (ii)) updated through the midpoint of fiscal year 1996 by the estimated percentage change in the index described in clause (iii) during the period beginning on October 1, 1994, and ending at that midpoint; and

(II) for succeeding fiscal years, an amount equal to the amount determined under this clause for the previous fiscal year updated through the midpoint of the year by the estimated percentage change in the index described in clause (iii) during the 12-month period ending at that midpoint, with appropriate adjustments to reflect previous underestimations or overestimations under this clause in the projected percentage change in such index.

(ii) STATE BASE AMOUNT.—The base amount for a State is an amount equal to the total expenditures from State funds made under the State plan under title XIX of the Social Security Act during fiscal year 1994 with respect to medical assistance consisting of the services described in subparagraph (C).

(iii) INDEX DESCRIBED.—For purposes of clause (i), the Secretary shall develop an index which reflects the projected increases in spending for services under subparagraph (C), adjusted for differences among the States.

(C) MEDICAID SERVICES DESCRIBED.—The services described in this subparagraph are the following:

(i) Personal care services (as described in section 1905(a)(24) of the Social Security Act).

(ii) Home or community-based services furnished under a waiver granted under subsection (c), (d), or (e) of section 1915 of such Act.

(iii) Home and community care furnished to functionally disabled elderly individuals under section 1929 of such Act.

(iv) Community supported living arrangements services under section 1930 of such Act.

(v) Services furnished in a hospital, nursing facility, intermediate care facility for the mentally retarded, or other institutional setting specified by the Secretary.

(2) ELIGIBILITY.—

(A) IN GENERAL.—Within the amounts provided by the State and under section 109 for such plan, the plan shall provide that services under the plan will be available to individuals with disabilities (as defined in section 104(a)) in the State.

(B) INITIAL SCREENING.—The plan shall provide a process for the initial screening of an individual who appears to have some reasonable likelihood of being an individual with disabilities. Any such process shall require the provision of assistance to individuals who wish to apply but whose disability limits their ability to apply. The initial screening and the determination of disability (as defined under section 104(b)(1)) shall be conducted by a public agency.

(C) RESTRICTIONS.—

(i) IN GENERAL.—The plan may not limit the eligibility of individuals with disabilities based on—

(I) income;

(II) age;

(III) residential setting (other than with respect to an institutional setting, in accordance with clause (ii)); or

(IV) other grounds specified by the Secretary;

except that through fiscal year 2004, the Secretary may permit a State to limit eligibility based on level of disability or geography (if the State ensures a balance between urban and rural areas).

(ii) INSTITUTIONAL SETTING.—The plan may limit the eligibility of individuals with disabilities based on the definition of the term "institutional setting", as determined by the State.

(D) CONTINUATION OF SERVICES.—The plan must provide assurances that, in the case of an individual receiving medical assistance for home and community-based services under the State medicaid plan under title XIX of the Social Security Act as of the date a State's plan is approved under this title, the State will continue to make available (either under this plan, under the State medicaid plan, or otherwise) to such individual an appropriate level of assistance for home and community-based services, taking into account the level of assistance provided as of such date and the individual's need for home and community-based services.

(3) SERVICES.—

(A) NEEDS ASSESSMENT.—Not later than the end of the second year of implementation, the plan or its amendments shall include the results of a statewide assessment of the needs of individuals with disabilities in a format required by the Secretary. The needs assessment shall include demographic data concerning the number of individuals within each category of disability described in this title, and the services available to meet the needs of such individuals.

(B) SPECIFICATION.—Consistent with section 105, the plan shall specify—

(i) the services made available under the plan,

(ii) the extent and manner in which such services are allocated and made available to individuals with disabilities, and

(iii) the manner in which services under the plan are coordinated with each other and with health and long-term care services available outside the plan for individuals with disabilities.

(C) TAKING INTO ACCOUNT INFORMAL CARE.—A State plan may take into account, in determining the amount and array of services made available to covered individuals with disabilities, the availability of informal care. Any individual plan of care developed under section 105(b)(1)(B) that includes informal care shall be required to verify the availability of such care.

(D) ALLOCATION.—The State plan—

(i) shall specify how services under the plan will be allocated among covered individuals with disabilities,

(ii) shall attempt to meet the needs of individuals with a variety of disabilities within the limits of available funding,

(iii) shall include services that assist all categories of individuals with disabilities, regardless of their age or the nature of their disabling conditions,

(iv) shall demonstrate that services are allocated equitably, in accordance with the needs assessment required under subparagraph (A), and

(v) shall ensure that—

(I) the proportion of the population of low-income individuals with disabilities in the State that represents individuals with disabilities who are provided home and community-based services either under the plan, under the State medicaid plan, or under both, is not less than,

(II) the proportion of the population of the State that represents individuals who are low-income individuals.

(E) LIMITATION ON LICENSURE OR CERTIFICATION.—The State may not subject consumer-directed providers of personal assistance services to licensure, certification, or other requirements which the Secretary finds not to be necessary for the health and safety of individuals with disabilities.

(F) CONSUMER CHOICE.—To the extent feasible, the State shall follow the choice of an individual with disabilities (or that individual's designated representative who may be a family member) regarding which covered services to receive and the providers who will provide such services.

(4) COST SHARING.—The plan shall impose cost sharing with respect to covered services in accordance with section 106.

(5) TYPES OF PROVIDERS AND REQUIREMENTS FOR PARTICIPATION.—The plan shall specify—

(A) the types of service providers eligible to participate in the program under the plan, which shall include consumer-directed providers of personal assistance services, except that the plan—

(i) may not limit benefits to services provided by registered nurses or licensed practical nurses; and

(ii) may not limit benefits to services provided by agencies or providers certified under title XVIII of the Social Security Act; and

(B) any requirements for participation applicable to each type of service provider.

(6) PROVIDER REIMBURSEMENT.—

(A) PAYMENT METHODS.—The plan shall specify the payment methods to be used to reimburse providers for services furnished under the plan. Such methods may include retrospective reimbursement on a fee-for-service basis, prepayment on a capitation basis, payment by cash or vouchers to individuals with disabilities, or any combination of these methods. In the case of payment to consumer-directed providers of personal assistance services, including payment through the use of cash or vouchers, the plan shall specify how the plan will assure compliance with applicable employment tax and health care coverage provisions.

(B) PAYMENT RATES.—The plan shall specify the methods and criteria to be used to set payment rates for—

(i) agency administered services furnished under the plan; and

(ii) consumer-directed personal assistance services furnished under the plan, including cash payments or vouchers to individuals with disabilities, except that such payments shall be adequate to cover amounts required under applicable employment tax and health care coverage provisions.

(C) PLAN PAYMENT AS PAYMENT IN FULL.—The plan shall restrict payment under the plan for covered services to those providers that agree to accept the payment under the plan (at the rates established pursuant to subparagraph (B)) and any cost sharing permitted or provided for under section 106 as payment in full for services furnished under the plan.

(7) QUALITY ASSURANCE AND SAFEGUARDS.—The State plan shall provide for quality assurance and safeguards for applicants and beneficiaries in accordance with section 107.

(8) ADVISORY GROUP.—The State plan shall—

(A) assure the establishment and maintenance of an advisory group under section 108(b), and

(B) include the documentation prepared by the group under section 108(b)(4).

(9) ADMINISTRATION AND ACCESS.—

(A) STATE AGENCY.—The plan shall designate a State agency or agencies to administer (or to supervise the administration of) the plan.

(B) COORDINATION.—The plan shall specify how it will—

(i) coordinate services provided under the plan, including eligibility prescreening, service coordination, and referrals for individuals with disabilities who are ineligible for services under this title with the State medicaid plan under title XIX of the Social Security Act, titles V and XX of such Act, programs under the Older Americans Act of 1965, programs under the Developmental Disabilities Assistance and Bill of Rights Act, the Individuals with Disabilities Education Act, and any other Federal or State programs that provide services or assistance targeted to individuals with disabilities, and

(ii) coordinate with health plans.

(C) ADMINISTRATIVE EXPENDITURES.—Effective beginning with fiscal year 2004, the plan shall contain assurances that not more than 10 percent of expenditures under the plan for all quarters in any fiscal year shall be for administrative costs.

(D) INFORMATION AND ASSISTANCE.—The plan shall provide for a single point of access to apply for services under the State program for individuals with disabilities. Notwithstanding the preceding sentence, the plan may designate separate points of access to the State program for individuals under 22 years of age, for individuals 65 years of age or older, or for other appropriate classes of individuals.

(10) REPORTS AND INFORMATION TO SECRETARY; AUDITS.—The plan shall provide that the State will furnish to the Secretary—

(A) such reports, and will cooperate with such audits, as the Secretary determines are needed concerning the State's administration of its plan under this title, including the processing of claims under the plan, and

(B) such data and information as the Secretary may require in a uniform format as specified by the Secretary.

(11) USE OF STATE FUNDS FOR MATCHING.—The plan shall provide assurances that Federal funds will not be used to provide for the State share of expenditures under this title.

(12) HEALTH CARE WORKER REDEPLOYMENT.—The plan shall provide for the following:

(A) Before initiating the process of implementing the State program under such plan, negotiations will be commenced with labor unions representing the employees of the affected hospitals or other facilities.

(B) Negotiations under subparagraph (A) will address the following:

(i) The impact of the implementation of the program upon the workforce.

(ii) Methods to redeploy workers to positions in the proposed system, in the case of workers affected by the program.

(C) The plan will provide evidence that there has been compliance with subparagraphs (A) and (B), including a description of the results of the negotiations.

(13) TERMINOLOGY.—The plan shall adhere to uniform definitions of terms, as specified by the Secretary.

(b) APPROVAL OF PLANS.—The Secretary shall approve a plan submitted by a State if the Secretary determines that the plan—

(1) was developed by the State after a public comment period of not less than 30 days, and

(2) meets the requirements of subsection (a).

The approval of such a plan shall take effect as of the first day of the first fiscal year beginning after the date of such approval (except that any approval made before January 1, 1996, shall be effective as of January 1, 1996). In order to budget funds allotted under this title, the Secretary shall establish a deadline for the submission of such a plan before the beginning of a fiscal year as a condition of its approval effective with that fiscal year. Any significant changes to the State plan shall be submitted to the Secretary in the form of plan amendments and shall be subject to approval by the Secretary.

(c) MONITORING.—The Secretary shall annually monitor the compliance of State plans with the requirements of this title according to specified performance standards. In accordance with section 109(e), States that fail to comply with such requirements may be subject to a reduction in the Federal matching rates available to the State under section 109(a) or the withholding of Federal funds for services or administration until such time as compliance is achieved.

(d) TECHNICAL ASSISTANCE.—The Secretary shall ensure the availability of ongoing technical assistance to States under this section. Such assistance shall include serving as a clearinghouse for information regarding successful practices in providing long-term care services.

(e) REGULATIONS.—The Secretary shall issue such regulations as may be appropriate to carry out this title on a timely basis.

SEC. 104. INDIVIDUALS WITH DISABILITIES DEFINED.

(a) IN GENERAL.—For purposes of this title, the term 'individual with disabilities' means any individual within one or more of the following categories of individuals:

(1) INDIVIDUALS REQUIRING HELP WITH ACTIVITIES OF DAILY LIVING.—An individual of any age who—

(A) requires hands-on or standby assistance, supervision, or cueing (as defined in regulations) to perform three or more activities of daily living (as defined in subsection (d)), and

(B) is expected to require such assistance, supervision, or cueing over a period of at least 90 days.

(2) INDIVIDUALS WITH SEVERE COGNITIVE OR MENTAL IMPAIRMENT.—An individual of any age—

(A) whose score, on a standard mental status protocol (or protocols) appropriate for measuring the individual's particular condition specified by the Secretary, indicates either severe cognitive impairment or severe mental impairment, or both;

(B) who—

(i) requires hands-on or standby assistance, supervision, or cueing with one or more activities of daily living,

(ii) requires hands-on or standby assistance, supervision, or cueing with at least such instrumental activity (or activities) of daily living related to cognitive or mental impairment as the Secretary specifies, or

(iii) displays symptoms of one or more serious behavioral problems (that is on a list of such problems specified by the Secretary) which create a need for supervision to prevent harm to self or others; and

(C) who is expected to meet the requirements of subparagraphs (A) and (B) over a period of at least 90 days.

Not later than 2 years after the date of enactment of this Act, the Secretary shall make recommendations regarding the most appropriate duration of disability under this paragraph.

(3) INDIVIDUALS WITH SEVERE OR PROFOUND MENTAL RETARDATION.—An individual of any age who has severe or profound mental retardation (as determined according to a protocol specified by the Secretary).

(4) YOUNG CHILDREN WITH SEVERE DISABILITIES.—An individual under 6 years of age who—

(A) has a severe disability or chronic medical condition that limits functioning in a manner that is comparable in severity to the standards established under paragraphs (1), (2), or (3), and

(B) is expected to have such a disability or condition and require such services over a period of at least 90 days.

(5) STATE OPTION WITH RESPECT TO INDIVIDUALS WITH COMPARABLE DISABILITIES.—Not more than 2 percent of a State's allotment for services under this title may be expended for the provision of services to individuals with severe disabilities that are comparable in severity to the criteria described in paragraphs (1) through (4), but who fail to meet the criteria in any single category under such paragraphs.

(b) DETERMINATION.—

(1) IN GENERAL.—In formulating eligibility criteria under subsection (a), the Secretary shall establish criteria for assessing the functional level of disability among all categories of individuals with disabilities that are comparable in severity, regardless of the age or the nature of the disabling condition of the individual. The determination of whether an individual is an individual with disabilities shall be made by a public or nonprofit agency that is specified under the State plan and that is not a provider of home and community-based services under this title and by using a uniform protocol consisting of an initial screening and a determination of disability specified by the Secretary. A State may not impose cost sharing with respect to a determination of disability. A State may collect additional information, at the time of obtaining information to make such determination, in order to provide for the assessment and plan described in section 105(b) or for other purposes.

(2) PERIODIC REASSESSMENT.—The determination that an individual is an individual with disabilities shall be considered to be effective under the State plan for a period of not more than 6 months (or for such longer period in such cases as a significant change in an individual's condition that may affect such determination is unlikely). A reassessment shall be made if there is a significant change in an individual's condition that may affect such determination.

(c) ELIGIBILITY CRITERIA.—The Secretary shall reassess the validity of the eligibility criteria described in subsection (a) as new knowledge regarding the assessments of functional disabilities becomes available. The Secretary shall report to the Congress on its findings under the preceding sentence as determined appropriate by the Secretary.

(d) ACTIVITY OF DAILY LIVING DEFINED.—For purposes of this title, the term 'activity of daily living' means any of the following: eating, toileting, dressing, bathing, and transferring.

SEC. 105. HOME AND COMMUNITY-BASED SERVICES COVERED UNDER STATE PLAN.

(a) SPECIFICATION.—

(1) IN GENERAL.—Subject to the succeeding provisions of this section, the State plan under this title shall specify—

(A) the home and community-based services available under the plan to individuals with disabilities (or to such categories of such individuals), and

(B) any limits with respect to such services.

(2) FLEXIBILITY IN MEETING INDIVIDUAL NEEDS.—Subject to subsection (e)(2), such services may be delivered in an individual's home, a range of community residential arrangements, or outside the home.

(b) REQUIREMENT FOR NEEDS ASSESSMENT AND PLAN OF CARE.—

(1) IN GENERAL.—The State plan shall provide for home and community-based services to an individual with disabilities only if the following requirements are met:

(A) COMPREHENSIVE ASSESSMENT.—

(i) IN GENERAL.—A comprehensive assessment of an individual's need for home and community-based services (regardless of whether all needed services are available under the plan) shall be made in accordance with a uniform, comprehensive assessment tool that shall be used by a State under this paragraph with the approval of the Secretary. The comprehensive assessment shall be made by a public or nonprofit agency that is specified under the State plan and that is not a provider of home and community-based services under this title.

(ii) EXCEPTION.—The State may elect to waive the provisions of clause (i) if—

(I) with respect to any area of the State, the State has determined that there is an insufficient pool of entities willing to perform comprehensive assessments in such area due to a low population of individuals eligible for home and community-based services under this title residing in the area, and

(II) the State plan specifies procedures that the State will implement in order to avoid conflicts of interest.

(B) INDIVIDUALIZED PLAN OF CARE.—

(i) IN GENERAL.—An individualized plan of care based on the assessment made under subparagraph (A) shall be developed by a public or nonprofit agency that is specified under the State plan and that is not a provider of home and community-based services under this title, except that the State may elect to waive the provisions of this sentence if, with respect to any area of the State, the State has determined there is an insufficient pool of entities willing to develop individualized plans of care in such area due to a low population of individuals eligible for home and community-based services under this title residing in the area, and the State plan specifies procedures that the State will implement in order to avoid conflicts of interest.

(ii) REQUIREMENTS WITH RESPECT TO PLAN OF CARE.—A plan of care under this subparagraph shall—

(I) specify which services included under the individual plan will be provided under the State plan under this title,

(II) identify (to the extent possible) how the individual will be provided any services specified under the plan of care and not provided under the State plan,

(III) specify how the provision of services to the individual under the plan will be coordinated with the provision of other health care services to the individual, and

(IV) be reviewed and updated every 6 months (or more frequently if there is a change in the individual's condition).

The State shall make reasonable efforts to identify and arrange for services described in subclause (II). Nothing in this subsection shall be construed as requiring a State (under the State plan or otherwise) to provide all the services specified in such a plan.

(C) INVOLVEMENT OF INDIVIDUALS.—The individualized plan of care under subparagraph (B) for an individual with disabilities shall—

(i) be developed by qualified individuals (specified in subparagraph (B));

(ii) be developed and implemented in close consultation with the individual (or the individual's designated representative); and

(iii) be approved by the individual (or the individual's designated representative).

(c) REQUIREMENT FOR CARE MANAGEMENT.—

(1) IN GENERAL.—The State shall make available to each category of individuals with disabilities care management services that at a minimum include—

(A) arrangements for the provision of such services, and

(B) monitoring of the delivery of services.

(2) CARE MANAGEMENT SERVICES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the care management services described in paragraph (1) shall be provided by a public or private entity that is not providing home and community-based services under this title.

(B) EXCEPTION.—A person who provides home and community-based services under this title may provide care management services if—

(i) the State determines that there is an insufficient pool of entities willing to provide such services in an area due to a low population of individuals eligible for home and community-based services under this title residing in such area; and

(ii) the State plan specifies procedures that the State will implement in order to avoid conflicts of interest.

(d) MANDATORY COVERAGE OF PERSONAL ASSISTANCE SERVICES.—The State plan shall include, in the array of services made available to each category of individuals with disabilities, both agency-administered and consumer-directed personal assistance services (as defined in subsection (h)).

(e) ADDITIONAL SERVICES.—

(1) TYPES OF SERVICES.—Subject to subsection (f), services available under a State plan under this title may include any (or all) of the following:

(A) Homemaker and chore assistance.

(B) Home modifications.

(C) Respite services.

(D) Assistive devices, as defined in the Technology Related Assistance for Individuals with Disabilities Act.

(E) Adult day services.

(F) Habilitation and rehabilitation.

(G) Supported employment.

(H) Home health services.

(I) Transportation.

(J) Any other care or assistive services specified by the State and approved by the Secretary that will help individuals with disabilities to remain in their homes and communities.

(2) CRITERIA FOR SELECTION OF SERVICES.—The State electing services under paragraph (1) shall specify in the State plan—

(A) the methods and standards used to select the types, and the amount, duration, and scope, of services to be covered under the plan and to be available to each category of individuals with disabilities, and

(B) how the types, and the amount, duration, and scope, of services specified, within the limits of available funding, provide substantial assistance in living independently to individuals within each of the categories of individuals with disabilities.

(f) EXCLUSIONS AND LIMITATIONS.—A State plan may not provide for coverage of—

(1) room and board,

(2) services furnished in a hospital, nursing facility, intermediate care facility for the mentally retarded, or other institutional setting specified by the Secretary, or

(3) items and services to the extent coverage is provided for the individual under a health plan or the medicare program.

(g) PAYMENT FOR SERVICES.—In order to pay for covered services, a State plan may provide for the use of—

(1) vouchers,

(2) cash payments directly to individuals with disabilities,

(3) capitation payments to health plans, and

(4) payment to providers.

(h) PERSONAL ASSISTANCE SERVICES.—

(1) IN GENERAL.—For purposes of this title, the term 'personal assistance services' means those services specified under the State plan as personal assistance services and shall include at least hands-on and standby assistance, supervision, cueing with activities of daily living, and such instrumental activities of daily living as deemed necessary or appropriate, whether agency-administered or consumer-directed (as defined in paragraph (2)). Such services shall include services that are determined to be necessary to help all categories of individuals with disabilities, regardless of the age of such individuals or the nature of the disabling conditions of such individuals.

(2) CONSUMER-DIRECTED.—For purposes of this title:

(A) IN GENERAL.—The term 'consumer-directed' means, with reference to personal assistance services or the provider of such services, services that are provided by an individual who is selected and managed (and, at the option of the service recipient, trained) by the individual receiving the services.

(B) STATE RESPONSIBILITIES.—A State plan shall ensure that where services are provided in a consumer-directed manner, the State shall create or contract with an entity, other than the consumer or the individual provider, to—

(i) inform both recipients and providers of rights and responsibilities under all applicable Federal labor and tax law; and

(ii) assume responsibility for providing effective billing, payments for services, tax withholding, unemployment insurance, and workers' compensation coverage, and act as the employer of the home care provider.

(C) RIGHT OF CONSUMERS.—Notwithstanding the State responsibilities described in subparagraph (B), service recipients, and, where appropriate, their designated representative, shall retain the right to independently select, hire, terminate, and direct (including manage, train, schedule, and verify services provided) the work of a home care provider.

(3) AGENCY ADMINISTERED.—For purposes of this title, the term 'agency-administered' means, with respect to such services, services that are not consumer-directed.

SEC. 106. COST SHARING.

(a) NO COST SHARING FOR POOREST.—

(1) IN GENERAL.—The State plan may not impose any cost sharing for individuals with income (as determined under subsection (d)) less than 150 percent of the official poverty level (referred to in paragraph (2)) applicable to a family of the size involved.

(2) OFFICIAL POVERTY LEVEL.—The term 'applicable poverty level' means, for a family for a year, the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

(b) SLIDING SCALE FOR REMAINDER.—

(1) REQUIRED COINSURANCE.—The State plan shall impose cost sharing in the form of coinsurance (based on the amount paid under the State plan for a service)—

(A) at a rate of 10 percent for individuals with disabilities with income not less than 150 percent, and less than 175 percent, of such official poverty line (as so applied);

(B) at a rate of 15 percent for such individuals with income not less than 175 percent, and less than 225 percent, of such official poverty line (as so applied);

(C) at a rate of 25 percent for such individuals with income not less than 225 percent, and less than 275 percent, of such official poverty line (as so applied);

(D) at a rate of 30 percent for such individuals with income not less than 275 percent, and less than 325 percent, of such official poverty line (as so applied);

(E) at a rate of 35 percent for such individuals with income not less than 325 percent, and less than 400 percent, of such official poverty line (as so applied); and

(F) at a rate of 40 percent for such individuals with income equal to at least 400 percent of such official poverty line (as so applied).

(2) REQUIRED ANNUAL DEDUCTIBLE.—The State plan shall impose cost sharing in the form of an annual deductible—

(A) of $100 for individuals with disabilities with income not less than 150 percent, and less than 175 percent, of such official poverty line (as so applied);

(B) of $200 for such individuals with income not less than 175 percent, and less than 225 percent, of such official poverty line (as so applied);

(C) of $300 for such individuals with income not less than 225 percent, and less than 275 percent, of such official poverty line (as so applied);

(D) of $400 for such individuals with income not less than 275 percent, and less than 325 percent, of such official poverty line (as so applied);

(E) of $500 for such individuals with income not less than 325 percent, and less than 400 percent, of such official poverty line (as so applied); and

(F) of $600 for such individuals with income equal to at least 400 percent of such official poverty line (as so applied).

(c) RECOMMENDATION OF THE SECRETARY.—The Secretary shall make recommendations to the States as to how to reduce cost-sharing for individuals with extraordinary out-of-pocket costs for whom the cost-sharing provisions of this section could jeopardize

their ability to take advantage of the services offered under this title. The Secretary shall establish a methodology for reducing the cost-sharing burden for individuals with exceptionally high out-of-pocket costs under this title.

(d) DETERMINATION OF INCOME FOR PURPOSES OF COST SHARING.—The State plan shall specify the process to be used to determine the income of an individual with disabilities for purposes of this section. Such standards shall include a uniform Federal definition of income and any allowable deductions from income.

SEC. 107. QUALITY ASSURANCE AND SAFEGUARDS.

(a) QUALITY ASSURANCE.—

(1) IN GENERAL.—The State plan shall specify how the State will ensure and monitor the quality of services, including—

(A) safeguarding the health and safety of individuals with disabilities,

(B) setting the minimum standards for agency providers and how such standards will be enforced,

(C) setting the minimum competency requirements for agency provider employees who provide direct services under this title and how the competency of such employees will be enforced,

(D) obtaining meaningful consumer input, including consumer surveys that measure the extent to which participants receive the services described in the plan of care and participant satisfaction with such services,

(E) establishing a process to receive, investigate, and resolve allegations of neglect and/or abuse,

(F) establishing optional training programs for individuals with disabilities in the use and direction of consumer directed providers of personal assistance services,

(G) establishing an appeals procedure for eligibility denials and a grievance procedure for disagreements with the terms of an individualized plan of care;

(H) providing for participation in quality assurance activities, and

(I) specifying the role of the long-term care ombudsman (under the Older Americans Act of 1965) and the Protection and Advocacy Agency (under the Developmental Disabilities Assistance and Bill of Rights Act) in assuring quality of services and protecting the rights of individuals with disabilities.

(2) ISSUANCE OF REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue regulations implementing the quality provisions of this subsection.

(b) FEDERAL STANDARDS.—The State plan shall adhere to Federal quality standards in the following areas:

(1) Case review of a specified sample of client records.

(2) The mandatory reporting of abuse, neglect, or exploitation.

(3) The development of a registry of provider agencies or home care workers and consumer directed providers of personal assistance services against whom any complaints have been sustained, which shall be available to the public.

(4) Sanctions to be imposed on States or providers, including disqualification from the program, if minimum standards are not met.

(5) Surveys of client satisfaction.

(6) State optional training programs for informal caregivers.

(c) CLIENT ADVOCACY.—

(1) IN GENERAL.—The State plan shall provide that the State will expend the amount allocated under section 110(b)(2) for client advocacy activities. The State may use such funds to augment the budgets of the long-term care ombudsman (under the Older Americans Act of 1965) and the Protection and Advocacy Agency (under the Developmental Disabilities Assistance and Bill of Rights Act) or may establish a separate and independent client advocacy office in accordance with paragraph (2) to administer a new program designed to advocate for client rights.

(2) CLIENT ADVOCACY OFFICE.—

(A) IN GENERAL.—A client advocacy office established under this paragraph shall—

(i) identify, investigate, and resolve complaints that—

(I) are made by, or on behalf of, clients; and

(II) relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of the clients (including the welfare and rights of the clients with respect to the appointment and activities of guardians and representative payees), of—

(aa) providers, or representatives of providers, of long-term care services;

(bb) public agencies; or

(cc) health and social service agencies;

(ii) provide services to assist the clients in protecting the health, safety, welfare, and rights of the clients;

(iii) inform the clients about means of obtaining services provided by providers or agencies described in clause (i)(II) or services described in clause (ii);

(iv) ensure that the clients have regular and timely access to the services provided through the office and that the clients and complainants receive timely responses from representatives of the office to complaints; and

(v) represent the interests of the clients before governmental agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the clients with regard to the provisions of this title.

(B) CONTRACTS AND ARRANGEMENTS.—

(i) IN GENERAL.—Except as provided in clause (ii), the State agency may establish and operate the office, and carry out the program, directly, or by contract or other arrangement with any public agency or nonprofit private organization.

(ii) LICENSING AND CERTIFICATION ORGANIZATIONS; ASSOCIATIONS.—The State agency may not enter into the contract or other arrangement described in clause (i) with an agency or organization that is responsible for licensing, certifying, or providing long-term care services in the State.

(d) SAFEGUARDS.—

(1) CONFIDENTIALITY.—The State plan shall provide safeguards which restrict the use or disclosure of information concerning applicants and beneficiaries to purposes directly connected with the administration of the plan.

(2) SAFEGUARDS AGAINST ABUSE.—The State plans shall provide safeguards against physical, emotional, or financial abuse or exploitation (specifically including appropriate safeguards in cases where payment for program benefits is made by cash payments or vouchers given directly to individuals with disabilities). All providers of services shall be required to register with the State agency.

(3) REGULATIONS.—Not later than January 1, 1996, the Secretary shall promulgate regulations with respect to the requirements on States under this subsection.

(e) SPECIFIED RIGHTS.—The State plan shall provide that in furnishing home and community-based services under the plan the following individual rights are protected:

(1) The right to be fully informed in advance, orally and in writing, of the care to be provided, to be fully informed in advance of any changes in care to be provided, and (except with respect to an individual determined incompetent) to participate in planning care or changes in care.

(2) The right to—

(A) voice grievances with respect to services that are (or fail to be) furnished without discrimination or reprisal for voicing grievances,

(B) be told how to complain to State and local authorities, and

(C) prompt resolution of any grievances or complaints.

(3) The right to confidentiality of personal and clinical records and the right to have access to such records.

(4) The right to privacy and to have one's property treated with respect.

(5) The right to refuse all or part of any care and to be informed of the likely consequences of such refusal.

(6) The right to education or training for oneself and for members of one's family or household on the management of care.

(7) The right to be free from physical or mental abuse, corporal punishment, and any physical or chemical restraints imposed for purposes of discipline or convenience and not included in an individual's plan of care.

(8) The right to be fully informed orally and in writing of the individual's rights.

(9) The right to a free choice of providers.

(10) The right to direct provider activities when an individual is competent and willing to direct such activities.

SEC. 108. ADVISORY GROUPS.

(a) FEDERAL ADVISORY GROUP.—

(1) ESTABLISHMENT.—The Secretary shall establish an advisory group, to advise the Secretary and States on all aspects of the program under this title.

(2) COMPOSITION.—The group shall be composed of individuals with disabilities and their representatives, providers, Federal and State officials, and local community implementing agencies. A majority of its members shall be individuals with disabilities and their representatives.

(b) STATE ADVISORY GROUPS.—

(1) IN GENERAL.—Each State plan shall provide for the establishment and maintenance of an advisory group to advise the State on all aspects of the State plan under this title.

(2) COMPOSITION.—Members of each advisory group shall be appointed by the Governor (or other chief executive officer of the State) and shall include individuals with disabilities and their representatives, providers, State officials, and local community implementing agencies. A majority of its members shall be individuals with disabilities and their representatives. The members of the advisory group shall be selected from the those nominated as described in paragraph (3).

(3) SELECTION OF MEMBERS.—Each State shall establish a process whereby all residents of the State, including individuals with disabilities and their representatives, shall be given the opportunity to nominate members to the advisory group.

(4) PARTICULAR CONCERNS.—Each advisory group shall—

(A) before the State plan is developed, advise the State on guiding principles and values, policy directions, and specific components of the plan,

(B) meet regularly with State officials involved in developing the plan, during the development phase, to review and comment on all aspects of the plan,

(C) participate in the public hearings to help assure that public comments are addressed to the extent practicable,

(D) report to the Governor and make available to the public any differences between the group's recommendations and the plan,

(E) report to the Governor and make available to the public specifically the degree to which the plan is consumer-directed, and

(F) meet regularly with officials of the designated State agency (or agencies) to provide advice on all aspects of implementation and evaluation of the plan.

SEC. 109. PAYMENTS TO STATES.

(a) IN GENERAL.—Subject to section 103(a)(9)(C) (relating to limitation on payment for administrative costs), the Secretary, in accordance with the Cash Management Improvement Act, shall authorize payment to each State with a plan approved under this title, for each quarter (beginning on or after January 1, 1996), from its allotment under section 110(b), an amount equal to—

(1)(A) with respect to the amount demonstrated by State claims to have been expended during the year for home and community-based services under the plan for individuals with disabilities that does not exceed 20 percent of the amount allotted to the State under section 110(b), 100 percent of such amount; and

(B) with respect to the amount demonstrated by State claims to have been expended during the year for home and community-based services under the plan for individuals with disabilities that exceeds 20 percent of the amount allotted to the State under section 110(b), the Federal home and community-based services matching percentage (as defined in subsection (b)) of such amount; plus

(2) an amount equal to 90 percent of the amount demonstrated by the State to have been expended during the quarter for quality assurance activities under the plan; plus

(3) an amount equal to 90 percent of amount expended during the quarter under the plan for activities (including preliminary screening) relating to determination of eligibility and performance of needs assessment; plus

(4) an amount equal to 90 percent (or, beginning with quarters in fiscal year 2004, 75 percent) of the amount expended during the quarter for the design, development, and installation of mechanical claims processing systems and for information retrieval; plus

(5) an amount equal to 50 percent of the remainder of the amounts expended during the quarter as found necessary by the Secretary for the proper and efficient administration of the State plan.

(b) FEDERAL HOME AND COMMUNITY-BASED SERVICES MATCHING PERCENTAGE.—In subsection (a), the term 'Federal home and community-based services matching percentage' means, with respect to a State, the State's Federal medical assistance percentage (as defined in section 1905(b) of the Social Security Act) increased by 15 percentage points, except that the Federal home and community-based services matching percentage shall in no case be more than 95 percent.

(c) PAYMENTS ON ESTIMATES WITH RETROSPECTIVE ADJUSTMENTS.—The method of computing and making payments under this section shall be as follows:

(1) The Secretary shall, prior to the beginning of each quarter, estimate the amount to be paid to the State under subsection (a) for such quarter, based on a report filed by the State containing its estimate of the total sum to be expended in such quarter, and such other information as the Secretary may find necessary.

(2) From the allotment available therefore, the Secretary shall provide for payment of the amount so estimated, reduced or increased, as the case may be, by any sum (not previously adjusted under this section) by which the Secretary finds that the estimate of the amount to be paid the State for any prior period under this section was greater or less than the amount which should have been paid.

(d) APPLICATION OF RULES REGARDING LIMITATIONS ON PROVIDER-RELATED DONATIONS AND HEALTH CARE RELATED TAXES.—The provisions of section 1903(w) of the Social Security Act shall apply to payments to States under this section in the same manner as they apply to payments to States under section 1903(a) of such Act.

(e) FAILURE TO COMPLY WITH STATE PLAN.—If a State furnishing home and community-based services under this title fails to comply with the State plan approved under this title, the Secretary may either reduce the Federal matching rates available to the State under subsection (a) or withhold an amount of funds determined appropriate by the Secretary from any payment to the State under this section.

SEC. 110. APPROPRIATIONS; ALLOTMENTS TO STATES.

(a) APPROPRIATIONS.—

(1) FISCAL YEARS 1996 THROUGH 2004.—Subject to paragraph (5)(C), for purposes of this title, the appropriation authorized under this title for each of fiscal years 1996 through 2004 is the following:

(A) For fiscal year 1996, $1,800,000,000.

(B) For fiscal year 1997, $3,500,000,000.

(C) For fiscal year 1998, $5,800,000,000.

(D) For fiscal year 1999, $7,300,000,000.

(E) For fiscal year 2000, $10,000,000,000.

(F) For fiscal year 2001, $15,700,000,000.

(G) For fiscal year 2002, $22,800,000,000.

(H) For fiscal year 2003, $30,700,000,000.

(I) For fiscal year 2004, $34,600,000,000.

(2) SUBSEQUENT FISCAL YEARS.—For purposes of this title, the appropriation authorized for State plans under this title for each fiscal year after fiscal year 2004 is the appropriation authorized under this subsection for the preceding fiscal year multiplied by—

(A) a factor (described in paragraph (3)) reflecting the change in the consumer price index for the fiscal year, and

(B) a factor (described in paragraph (4)) reflecting the change in the number of individuals with disabilities for the fiscal year.

(3) CPI INCREASE FACTOR.—For purposes of paragraph (2)(A), the factor described in this paragraph for a fiscal year is the ratio of—

(A) the annual average index of the consumer price index for the preceding fiscal year, to—

(B) such index, as so measured, for the second preceding fiscal year.

(4) DISABLED POPULATION FACTOR.—For purposes of paragraph (2)(B), the factor described in this paragraph for a fiscal year is 100 percent plus (or minus) the percentage increase (or decrease) change in the disabled population of the United States (as determined for purposes of the most recent update under subsection (b)(3)(D)).

(5) ADDITIONAL FUNDS DUE TO MEDICAID OFFSETS.—

(A) IN GENERAL.—Each participating State must provide the Secretary with information concerning offsets and reductions in the medicaid program resulting from home and community-based services provided disabled individuals under this title, that would have been paid for such individuals under the State medicaid plan. At the time a State first submits its plan under this title and before each subsequent fiscal year (through fiscal year 2004), the State also must provide the Secretary with such budgetary information (for each fiscal year through fiscal year 2004), as the Secretary determines to be necessary to carry out this paragraph.

(B) REPORTS.—Each State with a program under this title shall submit such reports to the Secretary as the Secretary may require in order to monitor compliance with subparagraph (A). The Secretary shall specify the format of such reports and establish uniform data reporting elements.

(C) ADJUSTMENTS TO APPROPRIATION.—

(i) IN GENERAL.—For each fiscal year (beginning with fiscal year 1996 and ending with fiscal year 2004) and based on a review of information submitted under subparagraph (A), the Secretary shall determine the amount by which the appropriation authorized under subsection (a) will increase. The amount of such increase for a fiscal year shall be limited to the reduction in Federal expenditures of medical assistance (as determined by Secretary) that would have been made under title XIX of the Social Security Act but for the provision of home and community based services under the program under this title.

(ii) ANNUAL PUBLICATION.—The Secretary shall publish before the beginning of such fiscal year, the revised appropriation authorized under this subsection for such fiscal year.

(D) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring States to determine eligibility for medical assistance under the State medicaid plan on behalf of individuals receiving assistance under this title.

(b) ALLOTMENTS TO STATES.—

(1) IN GENERAL.—The Secretary shall allot the amounts available under the appropriation authorized for the fiscal year under paragraph (1) of subsection (a) (without regard to any adjustment to such amount under paragraph (5) of such subsection), to the States with plans approved under this title in accordance with an allocation formula developed by the Secretary which takes into account—

(A) the percentage of the total number of individuals with disabilities in all States that reside in a particular State;

(B) the per capita costs of furnishing home and community-based services to individuals with disabilities in the State; and

(C) the percentage of all individuals with incomes at or below 150 percent of the official poverty line (as described in section 106(a)(2)) in all States that reside in a particular State.

(2) ALLOCATION FOR CLIENT ADVOCACY ACTIVITIES.—Each State with a plan approved under this title shall allocate one-half of one percent of the State's total allotment under paragraph (1) for client advocacy activities as described in section 107(c).

(3) NO DUPLICATE PAYMENT.—No payment may be made to a State under this section for any services provided to an individual to the extent that the State received payment for such services under section 1903(a) of the Social Security Act.

(4) REALLOCATIONS.—Any amounts allotted to States under this subsection for a year that are not expended in such year shall remain available for State programs under this

title and may be reallocated to States as the Secretary determines appropriate.

(5) SAVINGS DUE TO MEDICAID OFFSETS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), from the total amount of the increase in the amount available for a fiscal year under paragraph (1) of subsection (a) resulting from the application of paragraph (5) of such subsection, the Secretary shall allot to each State with a plan approved under this title, an amount equal to the Federal offsets and reductions in the State's medicaid plan for such fiscal year that was reported to the Secretary under subsection (a)(5), reduced or increased, as the case may be, by any amount by which the Secretary determines that any estimated Federal offsets and reductions in such State's medicaid plan reported to the Secretary under subsection (a)(5) for the previous fiscal year were greater or less than the actual Federal offsets and reductions in such State's medicaid plan.

(B) CAP ON STATE SAVINGS ALLOTMENT.—In no case shall the allotment made under this paragraph to any State for a fiscal year exceed the product of—

(i) the Federal medical assistance percentage for such State (as defined under section 1905(b) of the Social Security Act); multiplied by

(ii)(I) for fiscal year 1996, the base medical assistance amount for the State (as determined under subparagraph (C)) updated through the midpoint of fiscal year 1996 by the estimated percentage change in the index described in section 103(a)(1)(B)(iii) during the period beginning on October 1, 1994, and ending at that midpoint; and

(II) for succeeding fiscal years, an amount equal to the amount determined under this clause for the previous fiscal year updated through the midpoint of the year by the estimated percentage change in such index during the 12-month period ending at that midpoint, with appropriate adjustments to reflect previous underestimations or overestimations under this clause in the projected percentage change in such index.

(C) BASE MEDICAL ASSISTANCE AMOUNT.—The base medical assistance amount for a State is an amount equal to the total expenditures from Federal and State funds made under the State plan under title XIX of the Social Security Act during fiscal year 1994 with respect to medical assistance consisting of the services described in section 103(a)(1)(C).

(c) STATE ENTITLEMENT.—This title constitutes budget authority in advance of appropriations Acts, and represents the obligation of the Federal Government to provide for the payment to States of amounts described in subsection (a).

SEC. 111. FEDERAL EVALUATIONS.

(a) IN GENERAL.—Not later than December 31, 2001, December 31, 2004, and each December 31 thereafter, the Secretary shall provide to Congress analytical reports that evaluate—

(1) the extent to which individuals with low incomes and disabilities are equitably served;

(2) the adequacy and equity of service plans to individuals with similar levels of disability across States;

(3) the comparability of program participation across States, described by level and type of disability; and

(4) the ability of service providers to sufficiently meet the demand for services.

(b) GERIATRIC ASSESSMENTS.—Not later than 18 months after the date of enactment of this Act, the Secretary shall report to Congress concerning the feasibility of providing reimbursement under health plans and other payers of health services for full geriatric assessment, when recommended by a physician.

SEC. 112. INFORMATION AND TECHNICAL ASSISTANCE GRANTS RELATING TO DEVELOPMENT OF HOSPITAL LINKAGE PROGRAMS.

(a) FINDINGS.—Congress finds that—

(1) demonstration programs and projects have been developed to offer care management to hospitalized individuals awaiting discharge who are in need of long-term health care services that meet individual needs and preferences in home and community-based settings as an alternative to long-term nursing home care or institutional placement; and

(2) there is a need to disseminate information and technical assistance to hospitals and State and local community organizations regarding such programs and projects and to provide incentive grants to State and local public and private agencies, including area agencies on aging, to establish and expand programs that offer care management to individuals awaiting discharge from acute care hospitals who are in need of long-term care so that services to meet individual needs and preferences can be arranged in home and community-based settings as an alternative to long-term placement in nursing homes or other institutional settings.

(b) DISSEMINATION OF INFORMATION, TECHNICAL ASSISTANCE, AND INCENTIVE GRANTS TO ASSIST IN THE DEVELOPMENT OF HOSPITAL LINKAGE PROGRAMS.—Part C of title III of the Public Health Service Act (42 U.S.C. 248 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 327B. DISSEMINATION OF INFORMATION, TECHNICAL ASSISTANCE AND INCENTIVE GRANTS TO ASSIST IN THE DEVELOPMENT OF HOSPITAL LINKAGE PROGRAMS.

"(a) DISSEMINATION OF INFORMATION.—The Secretary shall compile, evaluate, publish and disseminate to appropriate State and local officials and to private organizations and agencies that provide services to individuals in need of long-term health care services, such information and materials as may assist such entities in replicating successful programs that are aimed at offering care management to hospitalized individuals who are in need of long-term care so that services to meet individual needs and preferences can be arranged in home and community-based settings as an alternative to long-term nursing home placement. The Secretary may provide technical assistance to entities seeking to replicate such programs.

"(b) INCENTIVE GRANTS TO ASSIST IN THE DEVELOPMENT OF HOSPITAL LINKAGE PROGRAMS.—The Secretary shall establish a program under which incentive grants may be awarded to assist private and public agencies, including area agencies on aging, and organizations in developing and expanding programs and projects that facilitate the discharge of individuals in hospitals or other acute care facilities who are in need of long-term care services and placement of such individuals into home and community-based settings.

"(c) ADMINISTRATIVE PROVISIONS.—

"(1) ELIGIBLE ENTITIES.—To be eligible to receive a grant under subsection (b) an entity shall be—

"(A)(i) a State agency as defined in section 102(43) of the Older Americans Act of 1965; or

"(ii) a State agency responsible for administering home and community care programs under title XIX of the Social Security Act; or

"(B) if no State agency described in subparagraph (A) applies with respect to a particular State, a public or nonprofit private entity.

"(2) APPLICATIONS.—To be eligible to receive an incentive grant under subsection (b), an entity shall prepare and submit to the Secretary an application at such time, in such manner and containing such information as the Secretary may require, including—

"(A) an assessment of the need within the community to be served for the establishment or expansion of a program to facilitate the discharge of individuals in need of long-term care who are in hospitals or other acute care facilities into home and community-care programs that provide individually planned, flexible services that reflect individual choice or preference rather than nursing home or institutional settings;

"(B) a plan for establishing or expanding a program for identifying individuals in hospital or acute care facilities who are in need of individualized long-term care provided in home and community-based settings rather than nursing homes or other institutional settings and undertaking the planning and management of individualized care plans to facilitate discharge into such settings;

"(C) assurances that nongovernmental case management agencies funded under grants awarded under this section are not direct providers of home and community-based services;

"(D) satisfactory assurances that adequate home and community-based long term care services are available, or will be made available, within the community to be served so that individuals being discharged from hospitals or acute care facilities under the proposed program can be served in such home and community-based settings, with flexible, individualized care which reflects individual choice and preference;

"(E) a description of the manner in which the program to be administered with amounts received under the grant will be continued after the termination of the grant for which such application is submitted; and

"(F) a description of any waivers or approvals necessary to expand the number of individuals served in federally funded home and community-based long term care programs in order to provide satisfactory assurances that adequate home and community-based long term care services are available in the community to be served.

"(3) AWARDING OF GRANTS.—

"(A) PREFERENCES.—In awarding grants under subsection (b), the Secretary shall give preference to entities submitting applications that—

"(i) demonstrate an ability to coordinate activities funded using amounts received under the grant with programs providing individualized home and community-based case management and services to individuals in need of long term care with hospital discharge planning programs; and

"(ii) demonstrate that adequate home and community-based long term care management and services are available, or will be made available to individuals being served under the program funded with amounts received under subsection (b).

"(B) DISTRIBUTION.—In awarding grants under subsection (b), the Secretary shall ensure that such grants—

"(i) are equitably distributed on a geographic basis;

"(ii) include projects operating in urban areas and projects operating in rural areas; and

"(iii) are awarded for the expansion of existing hospital linkage programs as well as the establishment of new programs.

"(C) EXPEDITED CONSIDERATION.—The Secretary shall provide for the expedited consideration of any waiver application that is necessary under title XIX of the Social Security Act to enable an applicant for a grant under subsection (b) to satisfy the assurance required under paragraph (1)(D).

"(4) USE OF GRANTS.—An entity that receives amounts under a grant under subsection (b) may use such amounts for planning, development and evaluation services and to provide reimbursements for the costs of one or more case mangers to be located in or assigned to selected hospitals who would—

"(A) identify patients in need of individualized care in home and community-based long-term care;

"(B) assess and develop care plans in cooperation with the hospital discharge planning staff; and

"(C) arrange for the provision of community care either immediately upon discharge from the hospital or after any short term nursing-home stay that is needed for recuperation or rehabilitation;

"(5) DIRECT SERVICES SUBJECT TO REIMBURSEMENTS.—None of the amounts provided under a grant under this section may be used to provide direct services, other than case management, for which reimbursements are otherwise available under title XVIII or XIX of the Social Security Act.

"(6) LIMITATIONS.—

"(A) TERM.—Grants awarded under this section shall be for terms of less than 3 years.

"(B) AMOUNT.—Grants awarded to an entity under this section shall not exceed $300,000 per year. The Secretary may waive the limitation under this subparagraph where an applicant demonstrates that the number of hospitals or individuals to be served under the grant justifies such increased amounts.

"(C) SUPPLANTING OF FUNDS.—Amounts awarded under a grant under this section may not be used to supplant existing State funds that are provided to support hospital link programs.

"(d) EVALUATION AND REPORTS.—

"(1) BY GRANTEES.—An entity that receives a grant under this section shall evaluate the effectiveness of the services provided under the grant in facilitating the placement of individuals being discharged from hospitals or acute care facilities into home and community-based long term care settings rather than nursing homes. Such entity shall prepare and submit to the Secretary a report containing such information and data concerning the activities funded under the grant as the Secretary determines appropriate.

"(2) BY SECRETARY.—Not later than the end of the third fiscal year for which funds are appropriated under subsection (e), the Secretary shall prepare and submit to the appropriate committees of Congress, a report concerning the results of the evaluations and reports conducted and prepared under paragraph (1).

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for each of the fiscal years 1994 through 1996.".

TITLE II—PROVISIONS RELATING TO MEDICARE

SEC. 201. RECAPTURE OF CERTAIN HEALTH CARE SUBSIDIES RECEIVED BY HIGH-INCOME INDIVIDUALS.

(a) IN GENERAL.—Subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new part:

"PART VIII—CERTAIN HEALTH CARE SUBSIDIES RECEIVED BY HIGH-INCOME INDIVIDUALS

"Sec. 59B. Recapture of certain health care subsidies.

"SEC. 59B. RECAPTURE OF CERTAIN HEALTH CARE SUBSIDIES.

"(a) IMPOSITION OF RECAPTURE AMOUNT.—In the case of an individual, if the modified adjusted gross income of the taxpayer for the taxable year exceeds the threshold amount, such taxpayer shall pay (in addition to any other amount imposed by this subtitle) a recapture amount for such taxable year equal to the aggregate of the Medicare part B recapture amounts (if any) for months during such year that a premium is paid under part B of title XVIII of the Social Security Act for the coverage of the individual under such part.

"(b) MEDICARE PART B PREMIUM RECAPTURE AMOUNT FOR MONTH.—For purposes of this section, the Medicare part B premium recapture amount for any month is the amount equal to the excess of—

"(1) 200 percent of the monthly actuarial rate for enrollees age 65 and over determined for that calendar year under section 1839(a)(1) of the Social Security Act, over

"(2) the total monthly premium under section 1839 of the Social Security Act (determined without regard to subsections (b) and (f) of section 1839 of such Act).

"(c) PHASE-IN OF RECAPTURE AMOUNT.—

"(1) IN GENERAL.—If the modified adjusted gross income of the taxpayer for any taxable year exceeds the threshold amount by less than $25,000, the recapture amount imposed by this section for such taxable year shall be an amount which bears the same ratio to the recapture amount which would (but for this subsection) be imposed by this section for such taxable year as such excess bears to $25,000.

"(2) JOINT RETURNS.—If a recapture amount is determined separately for each spouse filing a joint return, paragraph (1) shall be applied by substituting '$50,000' for '$25,000' each place it appears.

"(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) THRESHOLD AMOUNT.—The term 'threshold amount' means—

"(A) except as otherwise provided in this paragraph, $100,000,

"(B) $125,000 in the case of a joint return, and

"(C) zero in the case of a taxpayer who—

"(i) is married (as determined under section 7703) but does not file a joint return for such year, and

"(ii) does not live apart from his spouse at all times during the taxable year.

"(2) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means adjusted gross income—

"(A) determined without regard to sections 135, 911, 931, and 933, and

"(B) increased by the amount of interest received or accrued by the taxpayer during the taxable year which is exempt from tax.

"(3) JOINT RETURNS.—In the case of a joint return—

"(A) the recapture amount under subsection (a) shall be the sum of the recapture amounts determined separately for each spouse, and

"(B) subsections (a) and (c) shall be applied by taking into account the combined modified adjusted gross income of the spouses.

"(4) COORDINATION WITH OTHER PROVISIONS.—

"(A) TREATED AS TAX FOR SUBTITLE F.—For purposes of subtitle F, the recapture amount imposed by this section shall be treated as if it were a tax imposed by section 1.

"(B) NOT TREATED AS TAX FOR CERTAIN PURPOSES.—The recapture amount imposed by this section shall not be treated as a tax imposed by this chapter for purposes of determining—

"(i) the amount of any credit allowable under this chapter, or

"(ii) the amount of the minimum tax under section 55.

"(C) TREATED AS PAYMENT FOR MEDICAL INSURANCE.—The recapture amount imposed by this section shall be treated as an amount paid for insurance covering medical care, within the meaning of section 213(d)."

(b) TRANSFERS TO FEDERAL SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND.—

(1) IN GENERAL.—There are hereby appropriated to the Federal Supplementary Medical Insurance Trust Fund amounts equivalent to the aggregate increase in liabilities under chapter 1 of the Internal Revenue Code of 1986 which is attributable to the application of section 59B(a) of such Code, as added by this section.

(2) TRANSFERS.—The amounts appropriated by paragraph (1) to the Federal Supplementary Medical Insurance Trust Fund shall be transferred from time to time (but not less frequently than quarterly) from the general fund of the Treasury on the basis of estimates made by the Secretary of the Treasury of the amounts referred to in paragraph (1). Any quarterly payment shall be made on the first day of such quarter and shall take into account the recapture amounts referred to in such section 59B(a) for such quarter. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(c) REPORTING REQUIREMENTS.—

(1) Paragraph (1) of section 6050F(a) of the Internal Revenue Code of 1986 (relating to returns relating to social security benefits) is amended by striking "and" at the end of subparagraph (B) and by inserting after subparagraph (C) the following new subparagraph:

"(D) the number of months during the calendar year for which a premium was paid under part B of title XVIII of the Social Security Act for the coverage of such individual under such part, and".

(2) Paragraph (2) of section 6050F(b) of such Code is amended to read as follows:

"(2) the information required to be shown on such return with respect to such individual."

(3) Subparagraph (A) of section 6050F(c)(1) of such Code is amended by inserting before the comma "and in the case of the information specified in subsection (a)(1)(D)".

(4) The heading for section 6050F of such Code is amended by inserting "and medicare part b coverage" before the period.

(5) The item relating to section 6050F in the table of sections for subpart B of part III of subchapter A of chapter 61 of such Code is amended by inserting "and Medicare part B coverage" before the period.

(d) WAIVER OF CERTAIN ESTIMATED TAX PENALTIES.—No addition to tax shall be imposed under section 6654 of the Internal Revenue Code of 1986 (relating to failure to pay estimated income tax) for any period before April 16, 1997, with respect to any underpayment to the extent that such underpayment resulted from section 59B(a) of the Internal Revenue Code of 1986, as added by this section.

(e) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new item:

"Part VIII. Certain health care subsidies received by high-income individuals."

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1994.

SEC. 202. IMPOSITION OF 10 PERCENT COPAYMENT ON HOME HEALTH SERVICES UNDER MEDICARE.

(a) IN GENERAL.—

(1) PART A.—Section 1813(a) of the Social Security Act (42 U.S.C. 1395e(a)) is amended by adding at the end the following new paragraph:

"(5)(A) The amount payable for a home health service furnished to an individual under this part shall be reduced by a copayment amount equal to 10 percent of the average nationwide per visit cost for such a service furnished under this title (as determined by the Secretary on a prospective basis for services furnished during a calendar year).

"(B) Subparagraph (A) shall not apply to individuals whose family income does not exceed 150 percent of the official poverty line (referred to in section 1905(p)(2)) for a family of the size involved.".

(2) PART B.—

(A) IN GENERAL.—Section 1833(b) of the Social Security Act (42 U.S.C. 1395l(b)) is amended by adding at the end the following new sentence: "If the total amount of the expenses incurred by an individual as determined under the preceding provisions of this subsection include expenses for a home health service, such expenses shall be further reduced by a copayment amount equal to 10 percent of the average nationwide per visit cost for such a service furnished under this title (as determined by the Secretary on a prospective basis for services furnished during a calendar year). The preceding sentence shall not apply to individuals whose family income does not exceed 150 percent of the official poverty line (referred to in section 1905(p)(2)) for a family of the size involved.".

(B) CONFORMING AMENDMENT.—Section 1833(a)(2) of the Social Security Act (42 U.S.C. 1395l(a)(2)) is amended—

(i) in subparagraph (A), by striking "to home health services," and by striking the comma after "opinion)";

(ii) in subparagraph (D), by striking "and" at the end;

(iii) in subparagraph (E), by striking the semicolon at the end and inserting "; and"; and

(iv) by adding at the end the following new subparagraph:

"(F) with respect to any home health service—

"(i) the lesser of —

"(I) the reasonable cost of such service, as determined under section 1861(v), or

"(II) the customary charges with respect to such service,

less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A), or

"(ii) if such service is furnished by a public provider of services, or by another provider which demonstrates to the satisfaction of the Secretary that a significant portion of its patients are low-income (and requests that payment be made under this clause), free of charge or at nominal charges to the public, the amount determined in accordance with section 1814(b)(2).".

(3) PROVIDER CHARGES.—Section 1866(a)(2)(A)(i) of the Social Security Act (42 U.S.C. 1395cc(a)(2)(A)(i)) is amended—

(A) by striking "deduction or coinsurance" and inserting "deduction, coinsurance, or copayment"; and

(B) by striking "or (a)(4)" and inserting "(a)(4), or (a)(5)".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to home health services furnished on or after January 1, 1995.

SEC. 203. REDUCTION IN PAYMENTS FOR CAPITAL-RELATED COSTS FOR INPATIENT HOSPITAL SERVICES.

(a) PPS HOSPITALS.—

(1) REDUCTION IN BASE PAYMENT RATES FOR PPS HOSPITALS.—Section 1886(g)(1)(A) of the Social Security Act (42 U.S.C. 1395ww(g)(1)(A)) is amended by adding at the end the following new sentence: "In addition to the reduction described in the preceding sentence, for discharges occurring after September 30, 1995, the Secretary shall reduce by 7.31 percent the unadjusted standard Federal capital payment rate (as described in 42 CFR 412.308(c), as in effect on the date of the enactment of the Home and Community-Based Services for Individuals with Disabilities Act of 1994) and shall reduce by 10.41 percent the unadjusted hospital-specific rate (as described in 42 CFR 412.328(e)(1), as in effect on the date of the enactment of the Home and Community-Based Services for Individuals with Disabilities Act of 1994).".

(2) REDUCTION IN UPDATE.—Section 1886(g)(1) of the Social Security Act (42 U.S.C. 1395ww(g)(1)) is amended—

(A) in subparagraph (B)(i)—

(i) by striking "and (II)" and inserting "(II)", and

(ii) by striking the semicolon at the end and inserting the following: ", and (III) an annual update factor established for the prospective payment rates applicable to discharges in a fiscal year which (subject to reduction under subparagraph (C)) will be based upon such factor as the Secretary determines appropriate to take into account amounts necessary for the efficient and effective delivery of medically appropriate and necessary care of high quality;";

(B) by redesignating subparagraph (C) as subparagraph (D); and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C)(i) With respect to payments attributable to portions of cost reporting periods or discharges occurring during each of the fiscal years 1996 through 2003, the Secretary shall include a reduction in the annual update factor established under subparagraph (B)(i)(III) for discharges in the year equal to the applicable update reduction described in clause (ii) to adjust for excessive increases in capital costs per discharge for fiscal years prior to fiscal year 1992 (but in no event may such reduction result in an annual update factor less than zero).

"(ii) In clause (i), the term 'applicable update reduction' means, with respect to the update factor for a fiscal year—

"(I) 4.9 percentage points; or

"(II) if the annual update factor for the previous fiscal year was less than the applicable update reduction for the previous year, the sum of 4.9 percentage points and the difference between the annual update factor for the previous year and the applicable update reduction for the previous year.".

(b) PPS-EXEMPT HOSPITALS.—Section 1861(v)(1) of the Social Security Act (42 U.S.C. 1395x(v)(1)) is further amended by adding at the end the following new subparagraph:

"(T) Such regulations shall provide that, in determining the amount of the payments that may be made under this title with respect to the capital-related costs of inpatient hospital services furnished by a hospital that is not a subsection (d) hospital (as defined in section 1886(d)(1)(B)) or a subsection (d) Puerto Rico hospital (as defined in section 1886(d)(9)(A)), the Secretary shall reduce the amounts of such payments otherwise established under this title by 15 percent for payments attributable to portions of cost reporting periods occurring during each of the fiscal years 1996 through 2003.".

SEC. 204. ELIMINATION OF FORMULA-DRIVEN OVERPAYMENTS FOR CERTAIN OUTPATIENT HOSPITAL SERVICES.

(a) AMBULATORY SURGICAL CENTER PROCEDURES.—Section 1833(i)(3)(B)(i)(II) of the Social Security Act (42 U.S.C. 1395l(i)(3)(B)(i)(II)) is amended—

(1) by striking "of 80 percent"; and

(2) by striking the period at the end and inserting the following: ", less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).".

(b) RADIOLOGY SERVICES AND DIAGNOSTIC PROCEDURES.—Section 1833(n)(1)(B)(i)(II) of the Social Security Act (42 U.S.C. 1395l(n)(1)(B)(i)(II)) is amended—

(1) by striking "of 80 percent"; and

(2) by striking the period at the end and inserting the following: ", less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished during portions of cost reporting periods occurring on or after July 1, 1994.

SEC. 205. REDUCTION IN ROUTINE COST LIMITS FOR HOME HEALTH SERVICES.

(a) REDUCTION IN UPDATE TO MAINTAIN FREEZE IN 1996.—

(1) IN GENERAL.—Section 1861(v)(1)(L)(i) of the Social Security Act (42 U.S.C. 1395x(v)(1)(L)(i)) is amended—

(1) in subclause (II), by striking "or" at the end;

(2) in subclause (III), by striking "112 percent," and inserting "and before July 1, 1996, 112 percent, or"; and

(3) by inserting after subclause (III) the following new subclause:

"(IV) July 1, 1996, 100 percent (adjusted by such amount as the Secretary determines to be necessary to preserve the savings resulting from the enactment of section 13564(a)(1) of the Omnibus Budget Reconciliation Act of 1993).".

(2) ADJUSTMENT TO LIMITS.—Section 1861(v)(1)(L)(ii) of the Social Security Act (42 U.S.C. 1395x(v)(1)(L)(ii)) is amended by adding at the end the following new sentence: "The effect of the amendments made by section 205(a)(1) of the Home and Community-Based Services for Individuals with Disabilities Act of 1994 shall not be considered by the Secretary in making adjustments pursuant to this clause.".

(b) BASING LIMITS IN SUBSEQUENT YEARS ON MEDIAN OF COSTS.—

(1) IN GENERAL.—Section 1861(v)(1)(L)(i) of the Social Security Act (42 U.S.C. 1395x(v)(1)(L)(i)), as amended by subsection (a), is amended in the matter following subclause (IV) by striking "the mean" and inserting "the median".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to cost reporting periods beginning on or after July 1, 1997.

SUMMARY OF LONG-TERM CARE REFORM LEGISLATION

OVERALL

The measures establishes a new home and community-based long-term care program to persons of all ages. The program would provide funds to States in the form of a block grant, matched by State funds, on a voluntary basis. Federal and State financial participation is capped, and the program would not constitute an entitlement to individuals. In particular, neither States nor the Federal government would be required to spend anymore than set forth by this measure.

ELIGIBILITY

Those meeting any of the following criteria would be eligible for the program:

(1) Individuals requiring assistance with three or more activities of daily living.

(2) Individuals with severe mental retardation.

(3) Individuals with severe cognitive or mental impairment.

(4) Children, under 6, with severe disabilities.

In addition, States could set aside up to 2% of their program funding for individuals who may not meet any one of the above criteria, but who have a disability of comparable level of severity.

SERVICES

States participating in the program would be required to provide assessment, plan of care, personal assistance, and case management services. In addition, states may also offer homemaker services, home modifications, respite, assistive devices, adult day care, habilitation/rehabilitation, supported employment home health care, and any other service at State discretion.

FEDERAL ALLOTMENT TO STATES

The total Federal allotment to States under this program would be:

(A) for fiscal year 1996, $1,800,000,000;

(B) for fiscal year 1997, $3,500,000,000;

(C) for fiscal year 1998, $5,800,000,000;

(D) for fiscal year 1999, $7,300,000,000;

(E) for fiscal year 2000, $10,000,000,000;

(F) for fiscal year 2001, $15,700,000,000;

(G) for fiscal year 2002, $22,800,000,000;

(H) for fiscal year 2003, $30,700,000,000; and

(I) for fiscal year 2004, $34,600,000,000.

Thereafter, the total Federal allotment would be increased by factors relating to inflation, and the change in the number of disabled.

In addition, States would be allowed to capture any Medicaid savings generated by the new benefit, and apply that savings to their program.

COPAYMENTS AND DEDUCTIBLES

The program includes a sliding scale payment schedule for eligible individuals based on income. Individuals with incomes below 150% of poverty would have no copayment or deductible. Above 150% of poverty, copayments and deductibles would range from 10% and $100 respectively for those with incomes between 150% and 175% of poverty, up to 40% and $600 respectively for those with incomes above 400% of poverty.

HOSPITAL/HOME & COMMUNITY LINKAGE

The program includes a hospital/home and community-based long-term care linkage program, to establish and expand State run programs designed to help facilitate the placement of individuals in need of long-term health care services into home- and community-based settings rather than institutional settings. This provision authorizes up to $5 million per year for three years.

FUNDING PROVISIONS

The measure includes the following modifications to Medicare:

Applies an income test to Medicare Part B premiums for individuals with incomes over $100,000 and couples with incomes over $125,000, increasing to 100% of Medicare costs for individuals with incomes over $125,000 and couples with incomes over $150,000.

Applies a 10% copayment to home health services for individuals with incomes over 150% of poverty.

Modifies aggregate cost limits for home health agencies.

Eliminates formula-driven overpayments to hospitals for certain outpatient services.

Modifies reimbursement for inpatient-related capital costs.●

By Mr. FORD:

S. 2546. A bill to enhance the safety of air travel through a more effective Federal Aviation Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

FAA INDEPENDENT ESTABLISHMENT ACT

Mr. FORD. Mr. President, today I am introducing a bill to make the FAA an independent Federal agency. Over the past year, there has been much discussion as to what should, must, or needs to be done with the FAA. Much of the debate has been over the form of the organization. This has prevented us from beginning any sort of meaningful discussion about the substance of the problems and how to continue to provide a safe and efficient air transportation system.

We must begin the process of talking to the users of the system to hear their concerns and needs for the future. We must begin to talk to the controllers and employees of the FAA to hear their concerns and needs for the future. We must continue to recognize the needs of the airports, and the important role they play in facilitating the air transportation system.

We also must begin the process of talking to the administration. I caution all of the interested parties to recognize the bill that I have introduced as a means to begin the hard work of determining what is needed for the entire FAA to move forward and continue to provide a safe and efficient air transportation system. All parties to these discussions must understand that there are limits on what is doable. The bill introduced is not by any means a final product. Instead, I view the bill as a first step in a long process, a process that will take the entire aviation community time to address. Congressman OBERSTAR and I, earlier this year, in response to the administration's proposal to create a corporation, indicated our strong opposition to such a proposal. I know all concerned are aware of our views, and we now need to focus our sights on the potential problems down the road, and how to address those needs.

The question of how we provide and set the stage for air transportation in the future is critical to our economy, critical to our children, and critical to all of us that fly. We all are aware that airports and aviation are a key component in opening up business opportunities, generating jobs, and invigorating communities. I have seen first hand the impact one airline company can have on a community. UPS came to Louisville a number of years ago, and along came a host of other companies seeking to utilize their delivery services. A similar positive situation has occurred in northern Kentucky when Delta established a hub at the Cincinnati-Northern Kentucky International Airport.

We also know that travel and tourism is the No. 1 industry in this country, generating more than $740 billion in direct and indirect expenditures in the United States per year. The industry directly accounts for more than 5.1 million jobs. Our airports, airlines, airline employees, air traffic controllers, and general aviation community work hard to ensure that the system is safe and that travel and tourism continue. We must support their efforts.

That support must focus on how best to revamp the FAA, how to modernize the air traffic control system, and how to increase capacity of our Nation's airports. The FAA has done a credible job over the years in making the system safe. The criticisms of the FAA generally have focused on their inability to modernize the system. After the controller strike in 1981, Congress was promised a plan, the National Air Space Plan, to modernize the system over 10 years at a cost of $12 billion. That blueprint quickly became fodder for much criticism. The original plan was overly ambitious, and made too many promises. There were very few details in the NAS plan when it was authorized by the Congress. I recognize that modernization of a fail proof system takes time—it is not as easy as merely buying a computer at a store and plugging it in. Thorough testing and validation must occur—the machines must work virtually error free.

The FAA also knows that it must deliver the modernization package. Too much time and money has been lost. I also want to point out that it appears that much of what needs to occur at the FAA is beginning to happen. Whether you agree with the FAA or not on its decision to cut the microwave landing system or move forward with the advanced automation system [AAS], the fact is that the Administrator and Deputy Administrator have recognized that it is important to decide, and not merely continue to pour money into dry holes. The FAA recently stated that "[r]esponsibility, authority, and accountability are key elements to the success of the ATC automation program". I agree and urge the FAA to take their own words to heart. The FAA also recognized that

its "[f]ailure to manage risks was a primary contributing factor to the unacceptable cost growth and schedule delays". Again, I agree with FAA. Much scrutiny of the AAS program has led to these realizations. These are not factors that one can readily legislate, but rather factors that the FAA has now recognized and addressed.

I also want to point out that the recent passage of S. 1587, the Federal Acquisition Streamling Act, provided the entire FAA with significant relief from the procurement laws, something the administration has sought. In talking to procurement specialists, one thread appears to be that the laws are not the problem, but rather how the FAA carries out its procurement activities.

We also simply cannot afford to have an aviation transportation system that is not capable of providing sufficient airport capacity to meet future demands. Administrator Hinson recently indicated that airport capacity is the No. 1 priority for the agency. With the projected growth in traffic, airports must be able to handle all of the passengers—simply put, there is much that can be done to increase air space capacity. New approach procedures, precision runway monitors, and dual and triple independent approaches all can be used to increase capacity. Yet, 15 of the 33 high-volume airports have only one runway. Technology alone will not solve the problem.

We all know that the FAA is the premier aviation agency in the world. Yet, airport delays continue to be a problem. Some two-thirds of those delays are weather-related, and as much as I would like to be able to change the weather, Congress simply does not have that power. We can, though, work to figure out how to get new radars installed more quickly and efficiently. We can work to figure out what systems can be purchased off the shelf to provide weather-related information. We also must ensure that our hard-working controllers have the tools needed to safely guide aircraft, that power failures not occur, that ASR-9's work properly, and all of the host of hardware used to meter the system continue to function properly.

These types of problems are not a function of whether or not the FAA is a corporation, independent, or a part of the DOT. However, these issues need to be addressed. The FAA just submitted a master plan on its air traffic control automation program. Over the years, Congress has seen many of these sorts of documents. The plan submitted needs to be thoroughly reviewed and discussed. Does it get us to where we want to be at the end of the decade? Will we be able to provide a more efficient system? I appreciate the Administrator's diligence in submitting the plan, and it is clear that this year has been a different one at the FAA than those in the past. A thorough examination and revalidation of its mission and its programs has occurred. Again, the examination of the AAS program has served all of us well. I look forward to working with the administration further on its modernization efforts.

Over the years, the FAA has received more than its fair share of Federal funding. This past year, its funding declined—primarily as a result of cuts in the airport improvement program. The administration and Congress must work together to fully fund the needs of the FAA. The airlines and airports must work together to increase the spending out of the trust fund. They must come to the Hill and make the case for full funding. We all know that unlike the vast majority of programs under the Transportation Department, the FAA is funded through user fees. Either we have got to make folks understand the real need for those dollars, or cut the fees collected.

I want to work with the airlines, the unions, the airports, the general aviation community, State aviation officials, and the General Accounting Office to craft a workable bill to move the agency forward as a Federal Agency. I know I share a common desire with the administration to see that the skies remain safe, that the system remains efficient, and that the FAA has the ability to do its job. I also want to work with the administration, and I look forward to their input.

We have spent most of the year arguing over the need for a corporation. Through a series of statements and discussions, the administration is well aware of congressional opposition to the plan. We now must step back and recognize what is in all of our and the user's best interests. There is the promise that much of what all of us seek can be achieved and I hope the administration recognizes and takes advantage of this opportunity.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

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

S. 2546

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 "Federal Aviation Administration Independent Establishment Act of 1994".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the civil aviation industry in the United States has experienced an unprecedented period of rapid development and expansion over the past decade;

(2) the Federal Aviation Administration, an administration within the Department of Transportation, has been charged by the Congress with the responsibility for overseeing the safe operation of this essential segment of the national economy;

(3) the Federal Aviation Administration operates the most efficient air traffic control system in the world;

(4) the Federal Aviation Administration must be able to move forward with its plans to modernize the air transportation network in an efficient and cost effective manner to reduce delays, provide more direct routing of aircraft, and facilitate the use of satellite technology;

(5) funds must be collected from all of the users of the air transportation system on an equitable basis and those funds must be spent on improving the safety and efficiency of the air transportation system;

(6) the ability to expand capacity of the air traffic control system depends on a complex set of variables and the Federal Aviation Administration must have sufficient funds, resources and appropriate personnel to manage the future air traffic control system;

(7) the ability to expand capacity of the air traffic control system is highly dependent upon sufficient runway and airport capacity, and as such, Congress must ensure that appropriate funds are provided to fund the airport improvement program.

(8) the Federal Aviation Administration must oversee the growth and development of the entire air transportation system, and coordinate and facilitate research, development, implementation and installation of new technology, new runways and new airports; and

(9) the Federal Aviation Administration must coordinate its modernization plans with the ultimate users of the systems and seek input from the users and air traffic controllers, on how best to proceed with modernization efforts;

(10) the importance of the airport and airway system to our national defense and the need for a working relationship between civil and military aviation necessitates the continued highly successful relationship and cooperative efforts between the Federal Aviation Administration and the Department of Defense;

(11) to assure air safety through the continued modernization and expansion of the Nation's system of airports and airways, the Federal Aviation Administration must continue to emphasize research and development projects; and

(12) if the Federal Aviation Administration is provided with greater autonomy and consistent leadership, it can be expected to exercise vigorously its prerogatives with the direction and guidance of the President and under the ongoing oversight of the Congress.

SEC. 3. DEFINITIONS.

For the purposes of this Act—

(1) the term "Administration" means the Federal Aviation Administration established under section 4; and

(2) the term "Administrator" means the Administrator of the Federal Aviation Administration appointed under section 5(a).

SEC. 4. ESTABLISHMENT.

There is established as an independent establishment of the Government the Federal Aviation Administration. The Administration shall succeed the Federal Aviation Administration of the Department of Transportation in existence on the day before the effective date set forth in section 28(a).

SEC. 5. OFFICERS.

(a) The Administration shall be administered by an Administrator, who shall be appointed by the President to a 5-year term of office, by and with the advice and consent of the Senate. Under the supervision and direction of the President, the Administrator shall carry out all functions transferred to the Administrator by this Act and shall have authority and control over all personnel, programs, and activities of the Administration. The Administrator may be removed by

the President for neglect of duty or malfeasance in office. The Administrator shall be compensated at the rate prescribed for level I of the Executive Schedule pay rates.

(b) There shall be in the Administration a Deputy Administrator, who shall be appointed by the Administrator. The Deputy Administrator shall perform such functions, duties, and powers as the Administrator shall prescribe. The Deputy Administrator shall act for and perform the functions of the Administrator when the Administrator is absent or unable to serve, or when the office of the Administrator is vacant. The Deputy Administrator shall be compensated at the rate prescribed for level II of the Executive Schedule pay rates.

(c) There shall be in the Administration a maximum of 8 Assistant Administrators, who shall be appointed by the Administrator. The Assistant Administrators shall perform such functions as the Administrator shall prescribe. The Administrator shall designate the order in which the Assistant Administrators shall act for and perform the functions of the Administrator when the Administrator, or in the Administrator's place the Deputy Administrator, is absent or unable to serve, or when the offices of the Administrator and the Deputy Administrator are vacant. An Assistant Administrator shall be compensated at the rate prescribed for level IV in the Executive Schedule pay rates.

(d) There shall be in the Administration a Chief Counsel, who shall be appointed by the Administrator. The Chief Counsel shall be the chief legal officer for all legal matters arising from the conduct of the functions of the Administration. The Chief Counsel shall be compensated at the rate prescribed for level IV of the Executive Schedule pay rates.

(e) There shall be in the Administration an Inspector General appointed in accordance with the Inspector General Act of 1978, approved October 12, 1978 (5 App. U.S.C.). The Inspector General shall be compensated at the rate prescribed for level IV of the Executive Schedule pay rates.

(f)(1) Each of the officers referred to in this section must be a citizen of the United States. The Administrator must be a civilian.

(2) Such officers may not have a pecuniary interest in, or own stock in or bonds of, an aeronautical enterprise, or engage in another business, vocation, or employment.

SEC. 6. POWERS.

(a) The Administration shall be responsible for the exercise of all powers and the discharge of all duties of the Administration.

(b) In carrying out the functions of the Administration under this Act, the Administrator shall be governed by all applicable statutes, including the policy standards set forth in Subtitle VII of Title 49 United States Code.

(c) Nothing in this Act shall be construed to limit in any manner the authority of the Administrator to promote safety by establishing and administering accident prevention programs, encouraging airport development, educating the public on the importance of aeronautics, and encouraging the adoption of worldwide safety standards.

(d) Decisions of the Administrator made pursuant to the exercise of the functions enumerated in Subtitle VII of Title 49, United States Code, shall be administratively final, and appeals as currently authorized by law shall be taken directly to the National Transportation Safety Board or to any court of competent jurisdiction, as appropriate.

SEC. 7. TRANSFERS AND INCIDENTAL PROVISIONS.

(a) The following are transferred to the Administration:

(1) All functions vested by law in the Federal Aviation Administration of the Department of Transportation or its Administrator, and all functions vested by law in the Secretary of Transportation or the Department of Transportation which are administered through the Federal Aviation Administration, including those exercised under Subtitle VII of Title 49, United States Code, except for those functions exercised under section 40104 of title 49, United States Code, relative to fostering the development of civil aeronautics and air commerce, and exercised by the Secretary of Transportation under Part A, Subpart II (Economic Regulation) of such Subtitle.

(2) The functions of the Department of Transportation or the Federal Aviation Administration of the Department of Transportation necessary and appropriate for the performance of the functions transferred by paragraph (1) of this subsection.

(3) So much of the personnel, property, records, funds, accounts, and unexpended balances of appropriations, allocations, and other moneys of the Department of Transportation as are employed, used, held available, or to be made available in connection with the functions transferred by paragraphs (1) and (2) of this subsection.

(b) The personnel transferred under this section shall be so transferred without reduction in classification or compensation, except that after such transfer, such personnel shall be subject to changes in classification or compensation in the same manner, to the same extent, and according to the same procedure, as provided by law.

(c) The Administrator shall exercise all functions transferred by subsection (a) of this section and any other function vested in the Federal Aviation Administration or the Administrator of the Federal Aviation Administration by and law enacted on or after the date of enactment of this Act. The Administrator may from time to time make such provisions as the Administrator shall deem appropriate authorizing the performance by any other officer, employee, or office of the Administration of such functions.

SEC. 8. DEVELOPMENT PLAN.

The Administrator shall prepare a 3-year development plan outlining goals and objectives for personnel, technology, and regulation in such areas as air traffic control, aviation standards, airport security, airport and airway development, and research and development. The plan shall, not later than January 1, 1996, be submitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation in the House of Representatives, and updated plans shall be so submitted every 3 years thereafter.

SEC. 9. RULES; REGULATIONS.

(a) In the performance of the functions of the Administrator and the Administration, the Administrator is authorized to make, promulgate, issue, rescind, and amend rules and regulations. The promulgation of such rules and regulations shall be governed by the provisions of chapter 5 of title 5, United States Code.

(b) The Administrator shall consider comments and recommendations submitted by the Secretary of Transportation in response to any notice of proposed rulemaking by the Administrator, and shall address the comments raised by the Secretary during the course of the rulemaking, providing an explanation of any decision not to adopt a recommendation by the Secretary.

SEC. 10. DELEGATION.

Except as otherwise provided in this Act, the Administrator may delegate any function to such officers and employees of the Administration as the Administrator may designate, and may authorize such successive redelegations of such functions in the Administration as may be necessary or appropriate. No delegation of functions by the Administrator under this section or under any other provision of this Act shall relieve the Administrator of responsibility for the administration of such functions.

SEC. 11. PERSONNEL AND SERVICES.

(a) In the performance of the functions of the Administrator and in addition to the officers provided for by section 5, the Administrator is authorized to appoint, transfer, and fix the compensation of such officers and employees, including attorneys, as may be necessary to carry out the functions of the Administrator and the Administration. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the civil service laws and compensated in accordance with title 5, United States Code.

(b) The Administrator is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

(c) The Administrator is authorized to pay transportation expenses, and per diem in lieu of subsistence expenses, in accordance with chapter 57, of title 5, United States Code.

(d) The Administrator is authorized to utilize, on a reimbursable basis, the services of personnel of any Federal agency.

(e)(1)(A) The Administrator is authorized to accept voluntary and uncompensated services without regard to the provisions of section 1342 of title 31, United States Code, if such services will not be used to displace Federal employees employed on a full-time, part-time, or seasonal basis.

(B) The Administrator is authorized to accept volunteer service in accordance with the provisions of section 3111 of title 5, United States Code.

(2) The Administrator is authorized to provide for incidental expenses, including transportation, lodging, and subsistence for such volunteers.

(3) An individual who provides voluntary services under this subsection shall not be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and chapter 171 of title 28, United States Code, relating to tort claims.

(f)(1) The Administrator is authorized to grant to any employee of the Administration an incentive allowance of not to exceed 20 percent of the basic pay of the employee if necessary to provide safe and efficient service in major facilities which the Administrator finds—

(A) are critical to the national airspace system;

(B) have been chronically understaffed; or

(C) are in remote or high cost locations.

(2) An incentive allowance may be granted under paragraph (1) only of—

(A) the Administrator transmits a full written explanation of the proposed allowance and the reasons therefor, including the basis for each required determination and finding, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives; and

(B) the 60-day period immediately following the transmission of such written explanation has expired.

(g) The Administrator shall study ways to compensate or otherwise provide additional

incentives to encourage employees to seek, accept, and remain in supervisory and managerial positions, including compensation opportunities that are at least as substantial as those available to employees in nonsupervisory and nonmanagerial positions of comparable grades within the General Schedule. The Administrator shall, not later than 6 months after the effective date of this section, report to Congress on the results of such study, including any recommendations for legislative action.

SEC. 12. CONTRACTS.

The Administrator is authorized to enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary to carry out the functions of the Administrator and the Administration. The Administrator may enter into such contracts, leases, agreements, and transactions with any Federal agency or any instrumentality of the United States, or with any State, territory, or possession, or with any political subdivision thereof, or with any person, firm, association, corporation, or educational institution, on such terms and conditions as the Administrator may consider appropriate. The authority of the Administrator to enter into contracts and leases under this section shall be to such extent or in such amounts as are provided in appropriation Acts.

SEC. 13. FINANCE AND BUDGET.

(a)(1) There is established in the Treasury of the United States a trust fund to be known as the "Aviation Trust Fund Account", consisting of such amounts as may be appropriated or credited to the Aviation Trust Fund Account as provided in this subsection and section 9502(a) of the Internal Revenue Code of 1986 (26 U.S.C. 9502(a)), as amended by paragraph (2) of this subsection.

(2) There are appropriated to the Aviation Trust Fund Account amounts determined by the Secretary of the Treasury to be equivalent to those taxes described in section 9502(b) of the Internal Revenue Code of 1986 (26 U.S.C. 9502(b)) received after September 30, 1995.

(3) There are authorized to be appropriated to the Aviation Trust Fund Account such additional sums as may be required to make the expenditures referred to in paragraph (5) of this subsection.

(4) The Secretary of the Treasury shall invest such portion of the Aviation Trust Fund Account as is not, in the Secretary's judgment, required to meet current withdrawals. The interest on, and the proceeds from, any such investments shall be credited to and form a part of the Aviation Trust Fund Account.

(5) Amounts in the Aviation Trust Fund Account shall be available, without further appropriation, for making expenditures after October 1, 1995, to meet those obligations of the United States incurred by the Administration—

(A) under subtitle VII of title 49, United States Code; or

(B) for administrative expenses attributable to the activities described in subparagraphs (A) and (B).

(2)(A) Section 9502(a) of the Internal Revenue Code of 1986 (26 U.S.C. 9502(a)) is amended by inserting immediately before the period at the end the following: ", except that the interest and proceeds received after October 1, 1995, as a result of Trust Fund investments under section 9602(b) shall be credited to the Aviation Trust Fund Account established by section 14 of the Federal Aviation Administration Independent Establishment Act of 1994.".

(B) Section 9502(b) of the Internal Revenue Code of 1986 (26 U.S.C. 9502(b)) is amended by striking "January 1, 1991" each place it appears and inserting in lieu thereof "October 1, 1995".

(C) Section 9502(d) of the Internal Revenue Code of 1986 (26 U.S.C. 9502(d)) is amended—

(1) in paragraph (2) by inserting "and before October 1, 1995," immediately after "August 31, 1982,"; and

(2) in paragraph (3) by inserting "and before October 1, 1995" immediately after "August 31, 1982".

(D) Section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) is amended by adding at the end the following new subsection:

"(e) TERMINATION OF AIRPORT AND AIRWAY TRUST FUND.—The Airport and Airway Trust Fund shall terminate on October 1, 1996, and all amounts in such Trust Fund shall be transferred upon termination to the Aviation Trust Fund Account established by section 14 of the Federal Aviation Administration Independent Establishment Act of 1994.".

(b) Notwithstanding any other provision of law, the receipts and disbursements of the Aviation Trust Fund Account shall not, for any fiscal year—

(1) be counted in calculating the deficit under section 3(6) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(6)) for purposes of comparison with the maximum deficit amount under the Balanced Budget and Emergency Deficit Control Act of 1985;

(2) be counted in calculating the excess deficit for purposes of sections 251 and 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 and 902); or

(3) be subject to sequestration or reduction under such sections 251 and 252.

(c)(1) Each year the Administrator shall prepare a budget for the Administration, which shall contain estimates of the financial condition and operations of the Administration for the current and ensuing four fiscal years, and the actual condition and results of operations for the last completed fiscal year. Such budget shall be submitted to the Office of Management and Budget, under such rules and regulations as the President may establish as to the date of submission, the form and content, the classification of data, and the manner in which such reports shall be prepared and presented. The budget shall identify separately the programs, projects, and activities determined by the Administrator to be appropriate for obligation from the Trust Fund pursuant to the provisions of this section. The budget submission shall also include a statement of income and expenses, and analysis of surplus or deficit, and any other such supplementary information as is necessary or desirable to make known about the financial condition and operations of the Administration. The annual budget shall be included in the budget submitted by the President pursuant to chapter 11 of title 31, United States Code.

(2) For fiscal years beginning after September 30, 1995, the Director of the Office of Management and Budget, after consulting with the Director of the Congressional Budget Office and the Joint Committee on Taxation, shall prepare an estimate of revenues and receipts that will be appropriated or credited to the Aviation Trust Fund Account established by subsection (a) of this section. In no event shall expenditures authorized by the Administrator for any fiscal year exceed the amount of such revenues and receipts estimated for that year pursuant to this subsection.

(3) In the budget prepared pursuant to paragraph (1) of this subsection, the Administrator shall identify all expected expenditures from the Aviation Trust Fund Account by program, project, or activity.

(4) The Administrator shall report to the appropriate committees of the Senate and House of Representatives by April 15 of each year on any changes in planned expenditures from the Aviation Trust Fund Account for the upcoming fiscal year pursuant to paragraph (3) of this subsection. Consistent with the provisions of this section, the Administrator may thereafter modify the report and shall advise in writing the appropriate committees of the Senate and House of Representatives regarding any such modification.

(d)(1) In preparing the budget report pursuant to subsection (c) of this section and in approving for expenditures from the Aviation Trust Fund Account for programs, projects, and activities under this section, the Administrator shall—

(A) approve for obligation capital projects in amounts up to the limit of authorizations provided by law, and

(B) from available funds not obligated under subparagraph (A), approve for obligation non-capital activities authorized by law.

(2) The budgetary resources available for obligation for each fiscal year after September 30, 1995, from the Aviation Trust Fund Account shall be obligated in accordance with the most recent report of the Administrator pursuant to subsections (c) and (d) of this section.

(e) For fiscal years beginning after September 30, 1995, committees in the Senate and House of Representatives with jurisdiction to authorize and appropriate new budget authority for programs of the Administration shall authorize and appropriate such new budget authority for periods of two fiscal years.

SEC. 14. USE OF FACILITIES.

With their consent, the Administrator may, with or without reimbursement, use the services, equipment, personnel, and facilities of Federal agencies and other public and private agencies, and may cooperate with other public and private agencies and instrumentalities in the use of services, equipment, personnel, and facilities. The head of each Federal agency shall cooperate fully with the Administrator in making the services, equipment, personnel, and facilities of the Federal agency available to the Administrator. The head of a Federal agency is authorized, notwithstanding any other provision of law, to transfer to or to receive from the Administration, without reimbursement, supplies and equipment other than administrative supplies or equipment.

SEC. 15. ACQUISITION AND MAINTENANCE OF PROPERTY.

(a) The Administrator is authorized—

(1) to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain—

(A) air traffic control facilities and equipment;

(B) research and testing sites and facilities; and

(C) such other real and personal property (including office space and patents), or any interest therein within and outside the continental United States, as the Administrator considers necessary;

(2) to lease to others such real and personal property; and

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(3) to provide by contract or otherwise for eating facilities and other necessary facilities for the welfare of employees of the Administration at its installations and to purchase and maintain equipment for such facilities.

(b) Title to any property or interest therein acquired pursuant to this section shall be in the United States.

(c) The authority granted by subsection (a) shall be available only with respect to facilities of a special purpose nature which the Administrator determines cannot readily be reassigned from similar Federal activities and are not otherwise available for assignment to the Administration by the Administrator of General Services.

(d) The authority of the Administrator to enter into contracts and leases under this section shall be to such extent or in such amounts as are provided in appropriation Acts.

SEC. 16. FACILITIES AT REMOTE LOCATIONS.

(a) The Administrator is authorized to provide, construct, or maintain for employees and their dependents stationed at remote locations as necessary and when not otherwise available at such remote locations—

(1) emergency medical services and supplies;

(2) food and other subsistence supplies;

(3) meeting facilities;

(4) audiovisual equipment, accessories, and supplies for recreation and training;

(5) reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons;

(6) living and working quarters and facilities; and

(7) transportation for school-age dependents of employees to the nearest appropriate educational facilities.

(b) The furnishing of medical treatment under subsection (a)(1) and the furnishing of services and supplies under subsection (a)(2) shall be at prices reflecting reasonable value as determined by the Administrator.

(c) Proceeds derived from reimbursements under this section shall be deposited in the Treasury and may be withdrawn by the Administrator to pay directly the cost of work or services provided under this section, to repay or make advances to appropriations of funds which do or will bear all or a part of such cost, or to refund excess sums when necessary, except that such payments may be credited to a service or working capital fund otherwise established by law, and used under the law governing such funds if the fund is available for use by the Administrator for performing the work or services for which payment is received.

SEC. 17. ADVISORY COMMITTEE.

(a) There is established an advisory committee which shall be known as the Federal Aviation Advisory Committee (hereafter in this section referred to as the "Advisory Committee").

(b) The Advisory Committee shall consist of 5 members, who shall consist of—

(1) the Secretary of Transportation (who shall serve as Chairman);

(2) 2 members appointed by the Chairman and Ranking Minority Member of the Committee on Commerce, Science, and Transportation of the Senate; and (3) 2 members appointed by the Chairman and Ranking Minority Member of the Committee on Public Works and Transportation of the House of Representatives.

(c) Each individual appointed under subsection (b)(2) and (3) as a member of the Advisory Committee shall be knowledgeable about matters involving aviation.

(d) The Advisory Committee shall provide advice and counsel to the Administrator on issues which affect or are affected by the operations of the Administration.

(e) Members of the Advisory Committee, including replacement members appointed to fill a vacancy, shall be appointed to serve until the Advisory Committee is terminated pursuant to subsection (h).

(f) Each member of the Advisory Committee shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his or her usual place of residence, in accordance with section 5703 of title 5, United States Code.

(g) The Administrator shall make available to the Advisory Committee such staff, information, and administrative services and assistance as may reasonably be required to enable the Advisory Committee to carry out its responsibilities under this section.

(h) The Advisory Committee shall cease to be in effect on the date that is 2 years after the effective date of this section.

SEC. 18. TRANSFERS OF FUNDS FROM OTHER FEDERAL AGENCIES.

The Administrator is authorized to accept transfers from other Federal agencies to funds which are available to carry out functions transferred by this Act to the Administrator or functions assigned by law to the Administrator on or after the date of enactment of this Act.

SEC. 19. SEAL OF ADMINISTRATION.

The Administrator shall cause a seal of office to be made for the Administration of such design as the Administrator shall approve. Judicial notice shall be taken of such seal.

SEC. 20. STATUS OF ADMINISTRATION UNDER CERTAIN LAWS.

For purposes of section 551 of title 5, United States Code, the Administration is an agency. For purposes of chapter 9 of such title, the Administration is an independent regulatory agency.

SEC. 21. SAVINGS PROVISIONS.

(a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or by a court of competent jurisdiction, on or after the date of enactment of this Act, in regard to functions which are transferred under this Act to the Administration, and

(2) which are in effect at the time of the effective date set forth in section 28(a), shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Administrator or other authorized officials, a court of competent jurisdiction, or by operation of law.

(b) The provisions of this Act shall not affect any proceedings or any application for any license, permit, certificate, or financial assistance pending at the time of the effective date set forth in section 28(a); and such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceeding shall continue in effect until modified, terminated, suspended, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(c)(1) The provisions of this Act shall not affect suits commenced prior to the effective date set forth in section 28(a).

(2) In all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(d) In any case involving one or more officers required by this Act to be appointed by and with the advice and consent of the Senate who shall not have entered upon office on the effective date set forth in section 28(a), the President may designate any officer whose appointment was required to be made by and with the advice and consent of the Senate, and who was such an officer immediately prior to the effective date set forth in section 28(a), to act in such office until the office is filled as provided in this Act. While so acting, any such person shall receive compensation at the rates provided by this Act of the respective office in which he or she acts.

SEC. 22. LAWS AND REGULATIONS.

Except to the extent otherwise provided in this Act, all laws, rules, and regulations in effect and applicable to the Federal Aviation Administration of the Department of Transportation and to the Administrator of such Administration on the date immediately preceding the effective date set forth in section 28(a) shall, on and after such effective date, be applicable to the Federal Aviation Administration and the Administrator established by this Act, until such law, rule, or regulation is repealed or otherwise modified or amended.

SEC. 23. AMENDMENT TO INSPECTOR GENERAL ACT OF 1978.

Section 2 of the Inspector General Act of 1978, approved October 12, 1978 (5 App. U.S.C.) is amended by inserting "Federal Aviation Administration," immediately after "Veterans' Administration,".

SEC. 24. AMENDMENTS TO GENERAL SCHEDULE.

(A) Section 5312 of title 5, United States Code, is amended by adding at the end the following:

"Administrator, Federal Aviation Administration.".

(b) Section 5313 of title 5, United States Code, is amended by striking "Administrator, Federal Aviation Administration." and inserting in lieu thereof the following: "Deputy Administrator, Federal Aviation Administration.".

(c) Section 5315 of title 5, United States Code, is amended by striking "Deputy Administrator, Federal Aviation Administration." and inserting in lieu thereof the following: "Assistant Administrators, Federal Aviation Administration (8).

"Chief Counsel, Federal Aviation Administration.".

(d) Section 5316 of title 5, United States Code, is amended by adding at the end the following:

"Inspector General, Federal Aviation Administration.".

SEC. 25. EFFECTIVE DATES.

The provisions of this Act shall take effect upon the expiration of the 180-day period following the date of enactment of this Act.

By Mr. SIMON:

S. 2547. A bill to amend title I of the Employee Retirement Income Security Act of 1974, to improve enforcement of

such title by adding certain provisions with respect to the auditing of employee benefit plans, and for other purposes; to the Committee on Labor and Human Resources.

ERISA AUDIT IMPROVEMENT ACT OF 1994

• Mr. SIMON. Mr. President, I introduce the ERISA Audit Improvement Act of 1994. Congress passed ERISA in 1974 in order to protect the interest of participants and beneficiaries for the purposes of protecting the interests of participants and beneficiaries of employee benefit plans. This bill proposes to improve ERISA enforcement.

Over the last several years, both Congress and the inspector general's office at the Department of Labor have become increasingly concerned over the Department of Labor's oversight of ERISA. In response, this new legislation offers a common sense approach to ensuring its implementation. It calls for the law to be amended on three fronts: Limited-scope audits, peer review requirements, compliance audits, and the reporting of crimes and intentional misstatements. These proposals are offered without imposing unreasonable burdens on plan sponsors. As enunciated by D. George Bell, the former Assistant Secretary for Pension and Welfare Benefits at the Department of Labor under the Bush administration, "The goal is to strike a balance between the interests of plan sponsors on the one hand and participants and beneficiaries on the other."

I understand that those in the accounting profession have raised concerns regarding the proposed reporting requirements and potential liability. I intend to work with accountants and accounting firms to address those concerns, while still protecting the interests of beneficiaries and the public-at-large.

American workers who participate and benefit from pension plans deserve the protection that ERISA requires. This legislation helps to accomplish this goal. I ask for unanimous consent that a brief summary of the bill be included in the RECORD.

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

ERISA AUDIT IMPROVEMENT ACT OF 1994

SECTION 1: TITLE

SECTION 2: REPEAL OF LIMITED SCOPE AUDIT

Under current law, ERISA plan auditors are permitted to exclude plan assets when they are invested in regulated institutions such as banks, insurance companies or similar entities pursuant to the so-called "limited scope exemption". Section 2 amends ERISA to require the inclusion of plan assets which are held by these institutions within the accountant's audit of the plan. This requirement does not necessarily mean that the plan's accountant will duplicate the work of the bank or insurance company's accountant. It is expected that the ERISA plan accountant will rely on the reports of the financial institution which speak to the reliability of the audit.

SECTION 3: PEER REVIEW

There is no external quality control review requirement for public accountants who perform ERISA audits under current law. Section 3 amends ERISA to require that public accountants participate in an external quality control review of the accountant's practices relevant to employee benefit plans. This provision will be effective three years after enactment to provide the profession with sufficient time to prepare for this requirement.

SECTION 4: REPORTING OF CERTAIN EVENTS

Under current law, there is no duty for an ERISA plan administrator or an accountant to disclose to the Secretary information indicating that a crime or intentional misstatement may have occurred. Section 4 creates a reporting process whereby an accountant who learns of certain crimes is required to notify the plan administrator within 5 days. If the plan administrator does not notify the Secretary of Labor within that time frame, the accountant is required to provide notice to the Secretary.

If the accountant has reason to believe that the plan administrator may have been involved in the crime, then the accountant shall notify the Secretary directly.•

By Mr. DODD (for himself and Mr. D'AMATO):

S. 2548. A bill to amend the Federal Deposit Insurance Act to exclude certain bank products from the definition of a deposit; to the Committee on Banking, Housing, and Urban Affairs.

BANK INSURANCE FUND AND DEPOSITOR PROTECTION

• Mr. DODD. Mr. President, I introduce the Bank Insurance Fund and Depositor Protection Act of 1994. Sponsoring this legislation with me is my colleague, Senator ALFONSE D'AMATO, the ranking member of the Senate Banking Committee.

The Bank Insurance Fund and Depositor Protection Act of 1994 is simple and straightforward. It prohibits Federal deposit insurance coverage for a new financial product that recently emerged from a small corner of the retail banking world. This first of its kind product, called a retirement CD, has been been cleverly constructed to receive both the benefits of Federal deposit insurance and tax deferral.

Earlier this year, the Office of the Comptroller of the Currency [OCC] and the Federal Deposit Insurance Corporation [FDIC] sanctioned the sale of the retirement CD by Blackfeet National bank, a small national bank in Montana. In separate letters dated May 12, 1994, the FDIC and the OCC stated that they had no objection to the sale of the retirement CD by Blackfeet. I would note that the Internal Revenue Service has not issued a similar opinion on the tax status of the retirement CD.

At this time, Blackfeet is the only insured depository institution going forward with the sale of the retirement CD to consumers. However, it is my understanding that approximately eight other institutions have signed licensing agreements to sell the retirement CD and may begin offering the product within the next few weeks. Many others are carefully examining the retirement CD with an eye toward offering it at some time in the future.

Mr. President, as it is currently structured, the retirement CD is not an appropriate product to be covered by Federal deposit insurance. The retirement CD raises significant policy issues related to consumer protection, safety and soundness, regulatory control, and competitive equity. I believe that if it is allowed to proliferate as it is currently structured, the retirement CD could have a tremendously negative impact on consumer confidence in our financial institutions and on the stability of our deposit insurance system.

I have described in detail most of my concerns about the retirement CD in a June 20, 1994, letter that I and several of my Banking Committee colleagues sent to the OCC and the FDIC. I would like to include that letter along with the regulators' responses in the RECORD.

I will not reiterate all the concerns described in that letter, but will briefly mention a couple of the more troubling issues that arise in connection with the retirement CD.

First, there is enormous potential for customer confusion about the retirement CD's terms and conditions. This product is not a plain vanilla certificate of deposit; it is not a simple annuity. It is a complex newfangled hybrid that has both CD and annuity features.

The retirement CD pays a fixed rate of interest for up to 5 years, after which the rate is adjusted at the sole discretion of the bank. This rate is never supposed to fall below 3 percent. Interest ceases to be posted upon maturity. The customer may withdraw up to two-thirds of the balance at maturity, and the remainder will be disbursed in fixed periodic payments for life, incorporating the imputed interest rate.

Consumers must understand that the interest rate is set at the sole discretion of the bank. While there is a 3 percent floor during the period when interest accrues, there is no similar threshold during the payout phase. This raises the prospect that a customer may not know what the imputed rate is tied to, and that the bank could offer a fixed payout at an extremely unfavorable rate.

Second, a consumer must understand that this retirement CD, unlike traditional certificates of deposit, contains a component that is not FDIC insured. FDIC insurance only applies to the balance that is not withdrawn at maturity, less the full dollar amount of any payments received. If a bank that issues a retirement CD fails at a point when the customer had already received the full value of the account through lump-sum distribution and monthly payments, the FDIC would neither insure nor continue to pay the monthly payments for the rest of the

customer's life. This is the case despite the fact that the promotional material claims to guarantee payments for life.

Mr. President, the OCC and the FDIC share many of my concerns about the likelihood of customer confusion, the existence of misleading marketing information, and the impact of this product on bank safety and soundness. They outlined these concerns in their respective no objection letters I referred to earlier. However, the regulators chose not to prevent Blackfeet from going forward with the issuance of the retirement CD, as long as the bank complied with a lengthy list of conditions.

Mr. President, I think this was ill-advised. There is already strong evidence of substantial customer confusion regarding the insurance status of non-deposit investment products like mutual funds and annuity products being sold by banks and other insured depository institutions. These products are much less complex than the retirement CD. The regulators themselves have helped to collect compelling evidence about the ongoing problem of customer confusion. At a time when we are wrestling with how to eliminate this problem, I find it difficult to understand why the regulators gave their stamp of approval to the sale of this new complex product which can only make a bad situation worse.

Mr. President, for this and many other reasons, the retirement CD as it's currently structured should not be offered by banks to the public. The legislation I am introducing today will exclude the retirement CD from the definition of a deposit under the Federal Deposit Insurance Act. The retirement CD will therefore not be covered by Federal deposit insurance.

The legislation does not prohibit banks from offering the retirement CD. It simply denies the product deposit status under the Federal Deposit Insurance Act.

The legislation is not intended to eliminate existing levels of deposit insurance coverage to deposit accounts established in connection with certain individual retirement accounts, Keogh plans, eligible deferred compensation plans, pension plans, or similar employee benefit plans which may be maintained at an insured depository institution. This legislation eliminates Federal deposit insurance coverage for products which expose the issuing insured depository institution, and ultimately the deposit insurance funds, to liabilities that are annuity contracts and are tax deferred under section 72 of the Internal Revenue Code of 1986.

The provisions of this act do not apply to any liability which is not an annuity contract, whether or not tax deferred under section 72 of the Internal Revenue Code. For example, a liability other than an annuity contract which is part of an individual retirement account would not be affected by the provisions of this act even though the tax liability is deferred under section 72 of the Internal Revenue Code of 1986 because section 408(d) of the code incorporates section 72 only by reference.

Mr. President, the retirement CD may be cleverly packaged. It may be a tempting new business opportunity for the banking industry. But because it raises serious public policy concerns that have not been fully explored, it must not be provided the protection of the Federal safety net—at least until it is more closely examined by Congress, the banking regulators, and the Internal Revenue Service. I hope that the Banking Committee will hold hearings on this matter early next year.

I ask unanimous consent that the Bank Insurance Fund and Consumer Protection Act of 1994 be printed in the RECORD along with the three letters.

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

S. 2548

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 "Bank Insurance Fund and Depositor Protection Act of 1994".

SEC. 2. DEFINITION OF DEPOSIT.

Section 3(*l*)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1813(*l*)(5)) is amended—

(1) in subparagraph (A), by striking "and" at the end;

(2) in subparagraph (B), by striking the period at the end and inserting "; and "; and

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

"(C) any liability of an insured depository institution that arises under an annuity contract, the income on which is tax deferred under section 72 of the Internal Revenue Code of 1986.".

SEC. 3. EFFECTIVE DATE.

The amendments made by section 2 shall apply to any liability of an insured depository institution that arises under an annuity contract issued on or after October 6, 1994.

U.S. SENATE, COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,

Washington, DC, June 20, 1994.

Hon. EUGENE LUDWIG,
Comptroller of the Currency,
Washington, DC.

Hon. ANDREW C. HOVE,
Acting Chairman, Federal Deposit Insurance Corporation, Washington, DC.

DEAR MR. LUDWIG AND CHAIRMAN HOVE: We are following with great interest and concern the efforts of the Blackfeet National Bank ("Blackfeet") of Browning, Montana to offer to the general public a new "Retirement CD." We are disappointed that the OCC and the FDIC, by separate correspondence dated May 12, 1994, have in effect sanctioned, with certain conditions, plans to market and offer this Retirement CD investment product.

We are very troubled that the OCC and FDIC would react favorably to a product with such enormous ramifications for the banking system, the Bank Insurance Fund, the insurance industry—and, most importantly, for the consumers of financial products—without consultation with Congress and without requesting more specific commitments and information from American Deposit Corp. or Blackfeet.

The Retirement CD product raises a number of significant concerns which we have detailed below. We strongly believe these matters need to be thoroughly addressed by the regulators and Congress before this investment product is offered to the public.

1. CONSUMER PROTECTION ISSUES

The OCC and FDIC letters clearly indicate that both regulators have rather significant reservations about the consumer-protection implications of the Retirement CD. Both letters contain suggestions or conditions aimed at ensuring customer understanding and adequate disclosure. This insured deposit product combines features of both certificates of deposit and annuities, and it is enormously complex. Consumers may not fully comprehend how it works, the interest rate structure or the extent of FDIC insurance coverage.

The Retirement CD will pay a fixed rate of interest for up to five years, after which the rate becomes adjustable until the agreed-upon maturity date. The only assurance given to the consumers with respect to this variable interest rate is that it will be at least 3 percent. Upon maturity, the customer may withdraw up to two-thirds of the account balance, and the remainder of the account will be dispersed for life in fixed payments. These periodic payments incorporate an imputed interest rate. The consumer must understand that the interest rate, during much of the accumulation period (prior to the agreed-upon maturity date) and all of the payout phase, will be determined at the sole discretion of the bank. Furthermore, as we understand this product during the payout phase, there will be no minimum imputed interest rate, similar to the three percent floor in the accumulation phase. This raises an ominous prospect: that a customer will not know exactly what the "imputed" rate is keyed to and that the bank could offer a fixed payout at an extremely unfavorable rate.

As we understand the product, FDIC insurance would only apply to the balance (principal plus accrued interest) that was not withdrawn on the date of maturity, less the full dollar amount of any payments received during the pay-out period. Therefore, a customer would have to understand that if the bank were to fail at a point when the customer had already received the full value of the account through lump-sum distribution and monthly payments, the FDIC would neither insure, nor continue to pay, the monthly payments for the rest of the customer's life.

The OCC and the FDIC have expressed consumer protection concerns with respect to depository institution sales of uninsured non-deposit investment products, such as mutual fund shares. There is evidence that banking consumers do not always understand the simple fact that some of the products that banks offer are not FDIC-insured. With respect to the Retirement CD, we are concerned that consumers will not be able to fully-understand that a product that is called a "certificate of deposit"—a traditional insured deposit product—contains a component that is not FDIC-insured (although we understand that the promotional materials misleadingly "guarantee" payments for life).

Even the regulators seem somewhat uncertain about how the Retirement CD works.

The respective letters from the OCC and the FDIC differ in their descriptions of one of the most important basic terms of the product—mainly, at what point the payout is agreed to. The OCC letter states, "[o]n the maturity date the customer will select from various options for repayment" (p. 2, emphasis added). The FDIC letter states, "[u]pon opening the account, the customer also chooses his/her payout options" (p. 1-2, emphasis added). If the regulators are confused, certainly the potential for consumer confusion is enormous.

We must ask this question: Do the regulators honestly believe that this product—that contains variable interest rates, certain tax benefits, and partial FDIC-insured deposit status—will not create substantially greater confusion that non-deposit investment products?

2. REGULATORY ISSUES

Annuities are currently subject to state regulations enforced by state insurance officials. It is unclear if state insurance regulatory requirements will apply to the Retirement CD. Both customers and the bank should know this. If state regulations do not apply, it should be determined whether banks and bank regulators currently have the ability or resources to safeguard these accounts, and what policies and procedures are necessary to train bank personnel about annuities and about appropriate sales practices.

3. SAFETY AND SOUNDNESS ISSUES

Blackfeet and other banks that may offer the Retirement CD clearly will be acting as an underwriter of what is essentially an annuity. Although clever lawyering has gained this annuity product designation as a "deposit", it poses much greater risk to the bank than a traditional deposit. National banks will be assuming an unprecedented and inappropriate risk as a result of having to make a fixed payout for the life of a customer. Ultimately, these payments could exceed the consumer's balance on deposit at maturity. While the OCC suggests that Blackfeet's business plan should indicate how it will manage the risk associated with the annuity payment, the OCC requires no specific showing that the bank has the capability to quantify or manage this long-term liability of unknown proportions.

This "deposit" is structured so that at the date of maturity, the bank must determine the fixed lifetime payout for the customer using a complex and not entirely-discernible process to achieve a proper rate of return. The Congress has opted not to authorize banks to assume the type of risk Blackfeet would assume in offering the Retirement CD. The OCC and the FDIC seem willing to disregard this consistent record of Congressional reluctance to allow federally-insured depository institutions to engage in such high-risk activities. The OCC and FDIC also seem too willing to take it on faith that a small national bank (armed with a software program) will have the business acumen and operational know-how to handle the risk of underwriting this annuity product.

4. COMPETITIVE EQUALITY ISSUES

The proliferation of the Retirement CD will produce an unfair competitive advantage for banks. It is reasonable to expect that consumers will be drawn to a tax-deferred annuity that also offers federal deposit insurance. By allowing national banks to underwrite, market and sell a tax-deferred annuity that is FDIC-insured, the FDIC is granting a substantial competitive advantage over similar annuity products that do not come with a government guarantee.

In expanding future opportunities for all financial service providers and consumers, the Federal government's goal should be to encourage competition on a free and fair basis. Balance sheet strength, customer service and other market-determined characteristics, not market-distorting government guarantees, should determine success. Given the recent savings and loan crisis, and the regulators' concerns over the abuse of deposit insurance, it would seem ill-advised to extend the reach of the federal safety net to a product that raises so many regulatory, competitive and consumer protection concerns.

The OCC and the FDIC have made it very clear that when given the opportunity, they will usually take the most expansive and creative view of bank powers under current law. We strongly support the view that, to the maximum extent possible, an explicit statutory mandate must exist before the regulators authorize expanded powers for banks, or any other financial intermediaries. For this reason, we continue to support comprehensive modernization of our entire financial system. Until this can be accomplished by Congress, we urge the OCC and FDIC to balance the proclivity to expand bank powers through regulatory channels against the legitimate public policy concerns of consumer protection, safety and soundness, and competitive equality. Products that raise serious public policy concerns deserve great scrutiny, regardless of how cleverly they are packaged or how attractive they may be to the banking industry. The Retirement CD is clearly one such product.

We do not share your view that this product, as it is currently structured, is an appropriate product for national banks to offer to retail customers. Therefore, we are developing, and will soon introduce, legislation to prohibit the sale of this investment product. Pending consideration of this legislation by Congress, we urge the OCC and the FDIC to reconsider their respective positions on the Retirement CD.

Sincerely,

CHRISTOPHER J. DODD.
RICHARD H. BRYAN.
ALFONSE M. D'AMATO.
LAUCH FAIRCLOTH.

COMPTROLLER OF THE CURRENCY,
ADMINISTRATOR OF NATIONAL BANKS,
Washington, DC, August 18, 1994.

Hon. CHRISTOPHER J. DODD,
Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR DODD: I am responding to your June 20, 1994, letter addressed jointly to me and Andrew C. Hove, Acting Chairman, Federal Deposit Insurance Corporation ("FDIC"), concerning our recent letters to the Blackfeet National Bank (the "Bank") regarding its new Retirement CD. I appreciate this opportunity to address the concerns expressed in your letter relating to this bank product. Since your letter was also signed by them, we have sent identical responses to Senators Bryan, D'Amato and Faircloth.

Your letter states you are troubled that the OCC "would react favorably to a product with such enormous ramifications for the banking system, the Bank Insurance Fund, the insurance industry—and, most importantly, for the consumers of financial products—without consultation with Congress and without requesting more specific commitments and information from American Deposit Corp. or Blackfeet."

Please be assured that during the OCC's review of the Bank's November 8, 1993, letter in which the Bank informed us of its intention to market the Retirement CD, our staff had numerous telephone conversations with blackfeet and its legal counsel, and did request a substantial amount of additional information. On the basis of that information and our own research, we found no reason in law or supervisory policy to prohibit the offering of this product. Accordingly, we issued our no-objection letter to the Bank. Our administrative process does not routinely involve consultation with Congress. However, we are available to discuss the Blackfeet matter with you and the members of your staff at your convenience.

1. CONSUMER PROTECTION ISSUES

The consumer protection issues generally arise from the mix of features that comprise the Retirement CD, and the ability of the Bank to explain and of consumers adequately to understand this combination of features. You are concerned that the product's structure may prevent consumers from fully comprehending how the product works, its interest rate structure and the extent to which the product is covered by FDIC insurance. In addition, your letter indicates that consumers may not be able to understand a product that is called a certificate of deposit but contains a non-FDIC insured component. Moreover, you ask whether we believe that the Retirement CD, which contains variable interest rates, tax benefits, and partial FDIC-insured deposit status, will create substantially greater confusion than nondeposit investment products.

The OCC is concerned about any bank product that potentially may confuse customers. I understand your concern that the combination of certain attributes of the Retirement CD, including variable interest rates, tax benefits, partial FDIC-insured deposit status presents complications and could create customer confusion. We fully agree that it is important customers not misunderstand the nature of financial products offered to them. This is a problem to which we and the other federal banking agencies have been sensitive in our evaluation of bank sales of all types of nondeposit investments products. While the Retirement CD's complexities do not present a legal basis for preventing its offer and sale by the Bank, they do raise supervisory concerns. In response to those concerns we imposed conditions on the operation of Bank sales programs to address the potential problem of customer confusion.

Our legal review of the Retirement CD rested upon an analysis of the powers of national banks to engage in the business of banking. We concluded that offering the product represents the exercise by the Bank of its express authorizations to receive deposits and enter into contracts, coupled with its powers to incur liabilities and fund its operations. By offering the Retirement CD, the Bank is engaging in the business of banking, an activity federal law authorizes it to undertake.

The Bank did not seek and the OCC did not issue a formal approval of the product. Because offering the Retirement CD lies within the business of banking, the Bank does not need specific OCC approval to offer the product. Even so, the Bank may not ignore safety and soundness and customer protection concerns when it actually sells the product. We therefore advised the Bank that the OCC would not object to the offering of the Retirement CD only if the Bank met certain supervisory and consumer protection related conditions.

To address consumer-related concerns, our letter cautioned the Bank that the OCC expects it accurately to represent the "product's risks and economics, deposit insurance status and tax treatment in dealing with actual and prospective customers." We also stipulated twelve conditions that concern adequate disclosure and customer protection. Among these conditions are requirements that the Bank—(1) take steps to assure that its representations to customers regarding the FDIC insured status of the product are fair and accurate (condition #6); (2) make specific disclosures concerning the tax aspects of the product (conditions #9–10); (3) adequately explain the product's mechanics and economics (condition #12); (4) properly explain the calculation of the applicable interest rate (condition #13); and (5) implement an appropriate training program for personnel who will be involved in marketing the product, OCC examiners will periodically evaluate the Bank's compliance with these conditions.

In addition to the conditions detailed to our letter concerning disclosures, we informed the Bank that the Interagency Statement on Retail Sales of Nondeposit Investments Products, NR 94–21 (February 17, 1994) is applicable to the non-FDIC insured portion of the product. We have also advised the Bank of the applicability of 12 U.S.C. §4301 et seq. and 12 C.F.R. §230 et seq. (Truth in Savings).

You also set forth your understanding that during the payout phase of the Retirement CD there will be no minimum imputed interest rate, similar to the three percent floor in the accumulation phase. This is not our understanding. The Bank has represented to us that at the end of the accumulation phase, a monthly payment amount is calculated for the depositor based primarily on three elements—(1) the balance left in the account after the depositor has made any withdrawals; (2) an imputed interest rate that cannot be below three percent; and (3) the depositor's life expectancy. Once the payment amount is determined, it remains fixed for life of the depositor. Thus, there is a minimum imputed interest rate of three percent used in calculating the monthly payments.

Another concern expressed in your letter relates to the fact that FDIC insurance only applies to the balance (principal plus accrued interest) that is left in the account at the end of the accumulation phase. Your concern is that depositors may not understand that if the Bank fails after the depositor has received payments equal to this balance, the FDIC would neither insure, nor continue to pay, the monthly payments for the rest of the customer's life. We addressed this specific concern in condition #6 of our letter where we directed the Bank to take steps to assure that representations to customers concerning the FDIC insured status of the product are fair and accurate, and that any limitations on FDIC insurance are conspicuously indicated.

You also expressed concern that the Bank's promotional materials contained the phrase "guaranteed payments for life." This language was contained in an early draft of the Bank's materials, and we strongly objected to it. (See condition #8 in our letter.) The phrase has been deleted from the current draft promotional materials and the term "guaranteed" now is used only with respect to the three percent guaranteed minimum interest rate. We are discussing use of the term in this context with the Bank's counsel to make sure its use is not confusing to investors.

Finally as to consumer issues, you point out an apparent discrepancy between our letter and the FDIC's with respect to the time at which consumers may select from various options for repayment. The FDIC's letter states the selection is made "upon opening the account" whereas our letter states the selection is made "on the maturity date." The depositor is actually allowed to select the terms for repayment on either date. We viewed the maturity date as the most effective time for this selection, and that is why we used that date in our letter. However, the FDIC is correct in stating that depositors may make their selections upon opening the account.

2. REGULATORY ISSUES

You state that annuities are currently subject to State regulations enforced by state insurance officials, and note that it is unclear if State insurance regulatory requirements will apply to the Retirement CD. In addition, you believe that customers should know whether State regulations apply to the product. If they do not, you suggest we consider whether banks and bank regulators currently have the ability or resources to safeguard these accounts, and what policies and procedures are necessary to train Bank personnel about annuities and appropriate sales practices.

Our legal analysis and conclusions to date have been limited to a determination of the Bank's authority to conduct the business of banking under the National Bank Act. State regulatory officials may conclude that State insurance laws also apply to the Retirement CD or any other activity which we interpret as being authorized by the National Bank Act. Such a conclusion, however, does not affect our interpretation of that Act. The applicability of any particular State law to the Retirement CD will have to be reviewed on a case by case basis.

We believe the OCC has the expertise fully to examine and evaluate Bank practices to mitigate the risks associated with the Retirement CD. The most significant concerns associated with the Retirement CD, in our view, relate to liquidity and funding. Written procedures and formal training presently available to, and extensively used by, OCC examiners address a variety of issues relevant to the supervision of bank obligations, including the evaluation of bank liquidity and funding issues. In the event additional guidance of training is necessary, it will be provided to examiners.

Condition #15 of our no-objection letter specifically requires the Bank to implement a program for training personnel who will be involved in marketing the Retirement CD. The training program must ensure a thorough understanding of the product so that customer questions are answered properly, and investment risks are adequately conveyed. The OCC has focused, and will continue to focus, on the Bank's training efforts in this regard, as well as its other efforts to mitigate the risks associated with the product.

3. SAFETY AND SOUNDNESS ISSUES

You state that offering the Retirement ED is tantamount to acting as an underwriter of an annuity. The risks associated with the product you believe are much greater to the Bank than a traditional deposit. This risk you state comes from the "unprecedented and inappropriate risk" a bank assumes by agreeing to make a fixed payout for the life of a customer. You are also troubled that the OCC "requires no showing that the bank has the capability to quantify or manage this long-term liability of unknown proportions."

Our letter to the Blackfeet National Bank prescribed conditions for the Bank, including the need for Bank expertise in designing and implementing product controls and systems to mitigate the risks associated with the product. We directed the Bank to pay particular attention to adequate planning for the use of funds generated from the product, accurate estimation of product payouts, and proper design of internal controls. Additionally, we required that the Bank adequately manage its funding sources for the payout obligations that will arise from the Retirement CD, considering the financial risks associated with the product.

We directed the Bank to take appropriate steps to deal with the risks it will assume by offering the Retirement CD and required the Bank to furnish us with a detailed business plan. The OCC will review the business plan and will evaluate the manner in which the Bank utilizes funds received from the Retirement CD and funds these obligations.

We believe these steps adequately and responsibly address the supervisory concerns you have expressed with the payment risks associated with the Retirement CD. As with any bank product, we will continue to review the Bank's implementation of these procedures and evaluate the Bank's effectiveness in dealing with the risks associated with the product. Should we determine at any point that the Bank is materially not in compliance with these requirements, we would direct it to cease offering the product until it took appropriate corrective actions.

4. COMPETITIVE EQUALITY ISSUES

You state your belief that the proliferation of the Retirement CD will result in an unfair competitive advantage for banks over annuity products offered by insurance companies. Given the wide and growing range of products that could be viewed as competitive in this area, and uncertainties as to the popularity of the product, it is hard to tell whether any competitive advantage will actually be present. But the potential for competitive implications does not affect the Bank's legal authority to offer the product.

I hope this letter addresses the questions and concerns you expressed in your letter concerning the Blackfeet Retirement CD. Should you have any questions or need any additional information, please let me know.

Sincerely,

EUGENE A. LUDWIG,
Comptroller of the Currency.

FEDERAL DEPOSIT
INSURANCE CORPORATION,
Washington, DC, July 8, 1994.

Hon. CHRISTOPHER J. DODD,
Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR DODD: Thank you for your letter concerning the Retirement CD, a produce developed by American Deposit Corporation which is being offered by Blackfeet National Bank, Browning, Montana. Your letter expresses reservations regarding the Federal Deposit Insurance Corporation's position, as expressed in our Legal Division's May 12, 1994 advisory opinion. We appreciate the opportunity to address your concerns. Similar letters will be sent to Senators D'Amato, Bryan and Faircloth.

Your primary concern is the "consumer protection implications of the Retirement CD." The FDIC shares your concern that potential customers not be misled with regard to the workings of and the federal deposit insurance coverage afforded to the Retirement CD. That is precisely why the advisory opinion discusses these issues in such detail. The

advisory opinion expressly states that the "FDIC therefore strongly believes that all promotional materials, advertisements, agreements and other customer materials concerning the Retirement CD should clearly and conspicuously state that the lifetime monthly annuity payments are not guaranteed by the FDIC." The opinion then goes on to discuss, in great detail, the Legal Division's concerns regarding the customer promotional materials which it reviewed, including explicit suggestions to revise certain portions of the text which were found to be inaccurate and possibly misleading. The advisory opinion also states that the offering bank should follow the applicable provisions of the "Interagency Statement on Retail Sales of Nondeposit Investment Products."

Your letter questions whether (i) State insurance laws and regulations apply to the Retirement CD and (ii) a national bank may offer this type of product. Our advisory opinion makes it quite clear that since the FDIC was addressing these questions as insurer, not as the primary Federal regulator of Blackfeet National Bank, the only questions considered by the Legal Division were whether the Retirement CD is a "deposit" as that term is defined in section 3(*l*) of the FDI Act and, if so, the extent to which it is insured by the FDIC. Thus, the FDIC did not consider and has taken no position on these other issues. Your letter also asserts that the FDIC has "sanctioned" and "reacted favorably" to the Retirement CD. While the FDIC has determined that the Retirement CD is a "deposit" as that term is defined in the FDI Act and, therefore, is entitled to a certain level of deposit insurance coverage, the advisory opinion explicitly provides that it "should in no way be represented or construed as an endorsement or approval by the FDIC of this product."

You suggest in your letter that the regulators seem uncertain about how the Retirement CD works since the FDIC's and OCC's descriptions of the choice of payout options differ slightly. While our advisory opinion does state that the customer chooses his/her payout option when the account is opened, it goes on to explain that this election may be changed at any time up until thirty days prior to the maturity date. Thus, the FDIC and OCC share a common understanding of the product's parameters.

Section 11(a)(1)(A) of the FDI Act requires the FDIC to insure the deposits of all insured depository institutions. Since our staff determined that the Retirement CD qualifies as a deposit—to the extent described in the advisory opinion—we are required by law to insure it. In making its determination, the Legal Division considered all applicable statutory factors. The FDI Act does not require, or even permit, the FDIC to consider the "ramifications for the . . . insurance industry."

If you have any further questions or need any additional information, please let us know.

Sincerely,

ANDREW C. HOVE, Jr.,
Acting Chairman.●

● Mr. D'AMATO. Mr. President, I am pleased to cosponsor the Bank Insurance Fund and Depositor Protection Act of 1994 with my distinguished colleague from Connecticut, Senator DODD. This bill makes a necessary and important refinement to our banking laws. This bill would clarify the definition of a deposit in the Federal Deposit Insurance Act to make clear that certain annuity products are not FDIC-insured deposits. This legislation would provide necessary guidance to the banking regulators, make the law more precise, and protect the bank insurance fund from potential unquantifiable losses.

Mr. President, recently there has been a lot of marketing hype about a new investment product—the retirement CD. This product will operate much like a traditional annuity, but will be underwritten by a bank under the rubric of certificate of deposit. In short, a federally-insured hybrid investment vehicle—and a potential roll-of-the-dice with Uncle Sam's implicit backing. The Comptroller of the Currency and the FDIC will permit this so-called CD to be offered to depositors, with FDIC protection, under current law. Senator DODD and I, along with several of our colleagues on the Senate Banking Committee, wrote to the OCC and the FDIC to express our concern about this product, a product that would be marketed with the market-enhancing lure of FDIC insurance.

This bill has been refined in an attempt to avoid any undesired effect on standard deposit products that banks commonly offer today. For instance, qualified plans and individual retirement accounts are not intended to be covered by this legislation, to the extent that they do not generate depository institution liabilities that constitute annuity contracts. This is so even if the depository institution liability has tax-deferred status under section 72 of the Internal Revenue Code.

Again, I support this bill with the hope that it will protect consumers of financial products, safeguard FDIC funds, and promote safe-and-sound banking practices.●

By Mr. LEVIN (for himself, Mr. DURENBERGER, Mr. GRAHAM, Mr. BINGAMAN, Mr. KOHL, and Mr. FEINGOLD):

S. 2549. A bill to amend the National Trails System Act to expand Federal authority relating to land acquisition for the majority of the trails, and for other purposes; to the Committee on Energy and Natural Resources.

NATIONAL TRAILS SYSTEM ACT AMENDMENTS

● Mr. LEVIN. Mr. President, today I am introducing a bill to correct a problem with the National Trails System Act. I am pleased to be joined by Senators DURENBERGER, GRAHAM, BINGAMAN, KOHL, and FEINGOLD, in sponsoring this bill.

The bill removes the current statutory prohibition on the Federal Government's ability to acquire lands or interest in lands from willing sellers for seven national trails. This puts these trails on equal footing with the Appalachian Trail, and nine other national trails, where acquisition is allowed. But, this bill explicitly states that any acquisition would require the consent of the owner of the land. The affected trails are the Continental Divide National Scenic Trail, the North Country National Scenic Trail, the Ice Age National Scenic Trail, the Oregon National Historic Trail, the Mormon Pioneer National Historic Trail, the Lewis and Clark National Historic Trail, or the Iditarod National Historic Trail.

Providing the Federal Government with acquisition authority to purchase land from willing sellers for these trails will help address increasing development pressures that threaten the long-range continuity of the National System in many areas. With voluntary acquisition as an additional tool, the Federal Government can more efficiently participate in the trail building process, and direct resources toward protecting vulnerable trail segments.

The bill does not mandate or provide funds for acquisition. It simply authorizes acquisition from willing sellers, subject to appropriations.

Mr. President, this country's scenic beauty and precious natural resources deserve protection. I am committed to that effort, and believe that a strong and extensive National Trails System is an important component of it. This bill will help bring us closer to achieving that goal.●

By Mr. ROTH:

S. 2552. A bill to amend the Internal Revenue Code for 1986 to deny the earned income credit to illegal aliens and to prevent fraudulent claims for the earned income credit; to the Committee on Finance.

THE ILLEGAL ALIEN CREDIT DENIAL ACT

● Mr. ROTH. Mr. president, I am introducing a bill today that is part of what will be a bigger plan to overhaul problems in the earned income tax credit, as well as problems with our immigration laws.

As many now know, President Clinton's 1993 tax increase also included a plan that will approximately double primarily an outlay program of the Federal Government—earned income tax credit, or EITC. Under prior law, the program cost about $10 billion annually, but under the new legislation passed last year, we will soon be spending about $20 billion annually.

Earlier this year, in response to an inquiry from Delaware, I asked the Internal Revenue Service what their estimate of noncompliance in the EITC was, and what kind of resources they were committing to resolving problems. They responded that noncompliance, including outright fraud, was "between 30 percent and 40 percent nationally". In other words, about $8 billion annually is being lost to fraud and other noncompliance in the EITC Program—this is about $40 billion over a 5-year period—a massive problem.

I immediately called for a full scale investigation of the EITC Program by

the General Accounting Office. They have been working on my request for several months, and I expect to have a great many possible reforms as a result of their work with my staff and me on this issue. Already, I have a legislative proposal that surely every American can agree on.

Under current law, there is no requirement that EITC claimants must be legal residents of this country. When we are spending $20 billion annually on a program, and we have a large Federal deficit, I cannot understand how we can afford to spend scarce resources on people that should not even be in this country. My proposal is very simple. I would simply deny the EITC for any illegal alien. In addition, it would provide procedures so that the Treasury Secretary would no longer supply temporary social security numbers.

As a result of the Secretary temporarily assigning social security numbers, I believe that a significant number of illegal aliens and ineligible recipients do receive a large amount of EITC money. Currently, a claimant often files for the EITC and either leaves the social security number (taxpayer identification number—TIN) blank, or writes in §205(c). I asked why any one would write in §205(c), and I learned that many tax preparers do this because it is the section of the Social Security law that states that you do not qualify for a social security number. Often, it is believed, these claimants cannot get a TIN because they are illegal. This must be stopped.

Only the Social Security Administration should be allowed to issue social security numbers, and under my bill, that is what will happen. When the EITC is claimed in the future, without a social security number, then the Treasury Secretary will refer those taxpayers to Social Security to first get a number assigned. My bill provides for an expedited process so that those who are legally allowed to claim the credit are not burdened by these new rules.

It seems only to be good government for us to set out procedures so that we can cut waste and abuse in this program. It is clear that undeserving individuals often try to game the tax system so that they can claim a new cash benefit from the Government. On the House side, hearings have been held showing that the electronic refund system is being gamed by using the EITC to cheat the Government out of millions and millions of dollars. I have no doubt that some of this is being done by illegal aliens.

We know there is a significant amount of revenue to be raised by my legislation. I hope we will move early next year to enact this bill, and move forward with more EITC reforms to improve the program and make it more efficient. I hope my colleagues will join me in this effort.

I would ask that a copy of my bill be included in the RECORD.

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

S. 2552

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 "Illegal Alien Credit Denial Act."

SEC. 2. DENIAL OF EARNED INCOME CREDIT TO ILLEGAL ALIENS.

(a) IN GENERAL.—Paragraph (1) of section 32(c) of the Internal Revenue Code of 1986 (defining eligible indi vidual) is amended by adding at the end the following new subparagraph:

"(E) EXCEPTION FOR ILLEGAL ALIENS.—The term 'eligible individual' does not include any individual who is an illegal alien as of the close of the taxable year."

(b) ILLEGAL ALIEN DEFINED.—Section 32(c) of the Internal Revenue Code of 1986 (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

"(4) ILLEGAL ALIEN.—

"(A) IN GENERAL.—The term 'illegal alien' means an individual who is not—

"(i) a citizen or national of the United States, or

"(ii) an alien permanently residing in the United States under color of law.

"(B) ALIEN PERMANENTLY RESIDING IN THE UNITED STATES UNDER COLOR OF LAW.—For purposes of subparagraph (A), the term 'alien permanently residing in the United States under color of law' means an alien lawfully admitted for permanent residence (within the meaning of section 101(a)(20) of the Immigration and Nationality Act), and includes any of the following:

"(i) An alien who is admitted as a refugee under section 207 of the Immigration and Nationality Act.

"(ii) An alien who is granted asylum under section 208 of such Act.

"(iii) An alien whose deportation is withheld under section 243(h) of such Act.

"(iv) An alien who is admitted for temporary residence under section 210, 210A, or 245A of such Act.

"(v) An alien who has been paroled into the United States under section 212(d)(5) of such Act for an indefinite period or who has been granted extended voluntary departure as a member of a nationality group.

"(vi) An alien who is the spouse or unmarried child under 21 years of age of a citizen of the United States, or the parent of such a citizen if the citizen is over 21 years of age, and with respect to whom an application for adjustment to lawful permanent residence is pending."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 3. VERIFICATION OF IDENTITY OF INDIVIDUALS CLAIMING EARNED INCOME CREDIT.

(a) IN GENERAL.—Section 32 of the Internal Revenue Code of 1986 (relating to earned income credit) is amended by adding at the end the following new subsection:

"(k) VERIFICATION OF TAXPAYER IDENTIFICATION NUMBERS.—No credit shall be allowed under subsection (a) to any taxpayer unless the Secretary has verified that the taxpayer identification numbers of the taxpayer and any qualifying children set forth on the return claiming the credit are valid."

(b) EXPEDITED PROCEDURES.—The Secretary of the Treasury and the Secretary of Health and Human Services shall establish procedures under which—

(1) the taxpayer identification numbers of individuals claiming the earned income credit under section 32 of the Internal Revenue Code of 1986 are verified, and

(2) the issuance of taxpayer identification numbers to individuals claiming such credit and entitled to such numbers is expedited.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1994.●

By Mrs. BOXER:

S. 2553. A bill to amend the Endangered Species Act of 1973 to authorize the Secretary of the Interior to enter into cooperative agreements with States and political subdivisions of States to provide assistance for habitat acquisition to carry out conservation plans, and for other purposes; to the Committee on Environment and Public Works.

THE FEDERAL-STATE COOPERATION ACQUISITION ASSISTANCE ACT OF 1994

● Mrs. BOXER. Mr. President, I am pleased today to introduce the Cooperative Planning Assistance Act of 1994.

This legislation will help local governments in California, and throughout the country, meet the goals of the Endangered Species Act by supporting their habitat conservation efforts. Moreover, by supporting these efforts, this bill will reinforce the partnership between local, State, and Federal governments that is so crucial to the future success of the Endangered Species Act.

I strongly believe in the goals of the Endangered Species Act. I also believe that the act must be made to work for people as well as the plants and animals it is designed to protect. Unfortunately, the act's species-by-species focus has often led to redundant, inefficient, and onerous preservation measures.

Several southern Californian counties, including Riverside, San Diego, and Orange, have taken the lead in developing a way out of this species-by-species trap. They have taken the practical step of developing habitat conservation plans to map the most important habitat for a group of species. They then use these plans to balance development and conservation by preserving some habitat while clearing the way for development on other land.

It is disappointing however, that these counties, and other local governments across the country, have had to go it alone. The Federal Government has provided very little direct support for these innovative efforts. The legislation I am introducing today will give these local planning efforts a significant shot of Federal support and encourage their use elsewhere.

The Cooperative Planning Assistance Act of 1994 would amend the Endangered Species Act to allow the Secretary of the Interior to pay the interest on certain local government land

acquisition debt. Under this legislation, local governments who take on debt to purchase habitat under a conservation plan can ask the Secretary of the Interior to enter into an agreement. Under the terms of such an agreement, the local government would retain responsibility for payment of that debt's principal, while the Federal Government would take on the associated interest payments. The bill would leave the decision on whether to enter into such an agreement largely within the discretion of the Interior Secretary.

This legislation ensures that debt serviced under its authority only be used for habitat conservation under a federally approved habitat conservation plan. It also provides that if a local government defaults on a loan, it must pay the Federal Government back for any interest payments made on its behalf. Finally, the bill would give the Federal Government the opportunity to assume ownership of the land for conservation purposes once the habitat acquisition debt had been paid off.

I strongly believe that both California's and the Nation's biological diversity are tied to our long-term economic future. It is crucial that we develop long-range strategies for preserving natural diversity. These strategies must focus on habitat, rather than species, and prevent species from reaching threatened status. Since local governments have taken the lead in implementing such an approach on the ground, I feel that the Federal Government has the obligation to support that leadership. It is time for the Federal Government to begin to meet this obligation. I urge my colleagues' support for this legislation.

Mr. President, I ask unanimous consent that a copy of this legislation be printed in the RECORD.

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

S. 2553

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 "Cooperative Planning Assistance Act of 1994".

SEC. 2. ASSISTANCE FOR HABITAT ACQUISITION.

Section 10 of the Endangered Species Act of 1973 (16 U.S.C. 1539) is amended by adding at the end the following new subsection:

"(k) ASSISTANCE FOR HABITAT ACQUISITION.—

"(1) IN GENERAL.—In accordance with this subsection, the Secretary may enter into a cooperative agreement with a State, political subdivision of a State, or group of States or political subdivisions of a State (referred to in this subsection as an 'entity') to provide assistance for the acquisition of habitat required to carry out a conservation plan approved pursuant to subsection (a)(2), including assisting the entity with meeting the requirement of subsection (a)(2)(B)(iii).

"(2) COOPERATIVE AGREEMENTS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary may pay to an entity that is a party to a cooperative agreement under paragraph (1), the full amount of interest on—

"(i) a loan obtained by the entity;

"(ii) a bond issued by the entity; or

"(iii) any other debt instrument that the Secretary determines to be appropriate;

that is approved by the Secretary before entering into the cooperative agreement.

"(B) CONDITIONS FOR ENTERING INTO COOPERATIVE AGREEMENTS.—

"(i) IN GENERAL.—Subparagraph (A) shall apply only in the case of a loan, bond, or other debt instrument that is used solely to cover the cost of acquisition of habitat identified in a conservation plan approved by the Secretary pursuant to subsection (a)(2).

"(ii) DEMONSTRATION OF ABILITY TO REPAY.—Before entering into a cooperative agreement with the Secretary under this subsection, the entity that is a party to the cooperative agreement shall demonstrate, to the satisfaction of the Secretary, the ability of the entity to repay the amount of principal of the debt incurred through the debt instrument—

"(I) in a timely manner; and

"(II) from a source, other than the general tax revenue of the entity, that is dedicated to the repayment of the amount of principal of the debt.

"(C) FACTORS.—In making a determination whether to enter into a cooperative agreement under this subsection, the Secretary may take into consideration—

"(i) the number of species for which the approved conservation plan under subsection (a)(2) was developed;

"(ii) the quantity of habitat that will be preserved under the conservation plan;

"(iii) the history of the commitment of the entity that intends to enter into a cooperative agreement to conserve habitat;

"(iv) the participation of diverse interests, including government, business, environmental and landowner interests, in the planning process that produced the approved conservation plan;

"(v) the amount of funds other than the funds obtained through the debt instrument under the cooperative agreement that the entity has expended or will expend to set aside and preserve habitat;

"(vi) the likelihood of success of the conservation plan; and

"(vii) such other factors as the Secretary considers to be appropriate.

"(3) CONDITIONS DURING COOPERATIVE AGREEMENTS.—

"(A) IN GENERAL.—The conditions described in this paragraph shall apply to a cooperative agreement entered into under this subsection.

"(B) PAYMENT OF INTEREST.—The sole obligation to be paid by the Secretary pursuant to the cooperative agreement shall be the interest on the debt described in paragraph (2). The Secretary shall pay the interest at the time the interest becomes due.

"(C) PAYMENT OF PRINCIPAL.—The entity that is a party to the cooperative agreement shall pay the amount of principal of the debt described in paragraph (2) in the manner described in paragraph (2)(B)(ii).

"(D) EFFECT OF DEFAULT ON PAYMENT OF PRINCIPAL.—If the entity that is a party to the cooperative agreement defaults on the payment of an amount of principal of the debt described in paragraph (2) and the default continues for a period of 2 years or more—

"(i) the obligation of the Secretary to pay interest shall terminate; and

"(ii) the defaulting entity shall be required to repay the Secretary all interest payments made pursuant to the terms of the cooperative agreement.

"(E) CONVEYANCE TO THE UNITED STATES.—On full payment of the debt described in paragraph (2), and at the request of the Secretary, the habitat purchased by the entity with funds obtained through the debt instrument pursuant to the cooperative agreement shall be conveyed to the United States pursuant to paragraph (4).

"(4) CONVEYANCE TO THE SECRETARY.—

"(A) RIGHT OF SECRETARY.—The Secretary shall have the right to assume ownership of the real property purchased as habitat as described in paragraph (3)(E) at such time as—

"(i) the purchase of habitat financed through a debt instrument that is the subject of a cooperative agreement under this subsection has been carried out; and

"(ii) the debt incurred for the purchase of the habitat has been paid in full.

"(B) TRANSFER.—If the Secretary exercises the authority described in subparagraph (A)—

"(i) the entity shall transfer title to the property to the Secretary; and

"(ii) the use of the property shall be dedicated to the protection of species and the preservation of any wilderness areas of the property.".●

By Mr. PELL:

S. 2554. A bill to establish the position of United States Special Envoy for Tibet, and for other purposes; to the Committee on Foreign Relations.

THE TIBET SPECIAL ENVOY ACT OF 1994

Mr. PELL. Mr. President, I send to the floor for consideration a bill that would establish the position of United States Special Envoy for Tibet within the Department of State.

President Clinton, at the time of his decision in May to delink trade and human rights, acknowledged that among the areas he had sought improvement by the Chinese Government with regard to its human rights record, Tibet stood out as the one area where China had made no progress.

I believe the President and his emissaries made a strong effort to promote negotiations between the Dalai Lama and his representatives and senior representatives of the Chinese Government on the future of Tibet. I recognize the emphasis they put on this important issue, and I commend their commitment to continue to seek new ways, in consultation with the Congress, to pursue this issue with the Chinese. It is in this spirit of working together, that I introduce legislation that would establish the position of United States Special Envoy for Tibet.

In spite of President Clinton's commitment to the issue of Tibet, I recall how difficult it was to engage previous administrations in serious, knowledgeable discussions on Tibet and how the Congress and the administration were unable to pursue a foreign policy that reflected mutual concerns about China's policies in Tibet, the Dalai Lama, or the survival of Tibetan culture.

A Special Envoy for Tibet would ensure that this important element of United States-China relations was continually reflected in policy discussions on a senior level. Moreover, it would assure that the same administration official would be available to the Congress for consultation on a thorough and consistent basis. As it stands now, the Tibet brief is juggled around with the effect that no single official has command of the intricate and strategic understandings of this issue.

Mr. President, I am aware that the creation of a new position at the State Department is a matter for careful consideration, and I look forward to discussing this posting with my colleagues. However, if the administration is indeed committed to having the Chinese end human rights abuses in Tibet and engage in good faith negotiations with the Dalai Lama, a Special envoy could be one very useful and effective tool.

By Mr. DECONCINI:

S. 2555. A bill to establish Cooperative Units of Research in Infectious Disease [CURID] to evaluate the potential etiology of chronic inflammatory diseases with emphasis upon arthritis and chronic lung disease; to the Committee on Labor and Human Resources.

THE COOPERATIVE UNITS OF RESEARCH IN INFECTIOUS DISEASES ACT

• Mr. DECONCINI. Mr. President, I introduce the cooperative units of research in infectious diseases bill. This proposed legislation addresses the need for a new approach to research in chronic diseases of possible infectious etiology.

I believe that one of the Federal Government's best investments is the commitment of funds to biomedical research. The National Institutes of Health is rightfully a source of great national pride.

In the past decade, tremendous strides have been made in the biomedical research field. While we still have not been able to unlock the mystery of Acquired Immune Disease Syndrome [AIDS], the intensive research into the cause of this terrible disease has produced powerful new technology for detection of infectious agents and increased our understanding of the potential role they may play in chronic diseases like rheumatoid arthritis and chronic lung disease.

For example, we have advanced our understanding of how the body's defense mechanisms function as well as learned that the final outcome of an infection is influenced by both the genetic background of the patient and genetic composition of the infecting agent. This new knowledge is quickly changing the traditional way in which chronic diseases have been viewed. Researcher are beginning to believe that numerous chronic diseases of humans for which the causes are now unknown may be triggered by an infectious agent.

Recent animal model research data suggest that some cases of rheumatoid arthritis, juvenile arthritis, and reactive arthritis may have infectious origins. I understand that results from antibiotic treatment trials in humans also indicate this may be true but we need not only more research but coordinated research to determine if chronic illnesses like arthritis, chronic lung disease and certain forms of coronary artery disease are caused by infectious agents. In the event that the research establishes infectious agents as the cause of these diseases, more successful therapy protocols can be designed.

The bill I am proposing would provide authority to the National institutes of Health and the Centers for Disease Control and Prevention to support collaborative research groups using intramural and extramural scientists. These research groups would be composed of researchers who are highly skilled in clinical and epidemiological investigation. This approach will ensure a coordinated investigative effort by the research groups into single chronic disease entities.

A need for an indepth long-term approach to exploring the role of infectious agents is crucial to ensure that all potential causes of these debilitating diseases, which rob millions of people of the most productive periods of their lives, are investigated. We need to take all steps possible to prevent the 1994 National Centers for Disease Control and Prevention forecasts, that by the year 2020, 54.9 million people will suffer from arthritis, from becoming a reality. We need to take steps which may help us to slow today's alarming rate of increase of asthma in all age groups and eliminate chronic lung disease from the top 10 leading causes of death for adults.

I urge my colleagues to consider the new approach to chronic disease research proposed by this bill.•

ADDITIONAL COSPONSORS

S. 1379

At the request of Mr. WOFFORD, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 1379, a bill to limit the continued availability of foreign assistance funds for obligation and expenditure.

S. 1976

At the request of Mr. DODD, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 1976, a bill to amend the Securities Exchange Act of 1934 to establish a filing deadline and to provide certain safeguards to ensure that the interests of investors are well protected under the implied private action provisions of the Act.

S. 2411

At the request of Mr. DOLE, the name of the Senator from Idaho [Mr. KEMPTHORNE] was added as a cosponsor of S. 2411, a bill to amend title 10, United States Code, to establish procedures for determining the status of certain missing members of the Armed Forces and certain civilians, and for other purposes.

S. 2441

At the request of Mr. HEFLIN, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 2441, a bill to provide for an independent review of the implementation of the National Implementation Plan for modernization of the National Weather Service at specific sites, and for other purposes.

S. 2511

At the request of Mr. LIEBERMAN, the names of the Senator from Louisiana [Mr. BREAUX], the Senator from New Mexico [Mr. DOMENICI], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Oregon [Mr. HATFIELD], and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of S. 2511, a bill to specifically exclude certain programs from provisions of the Electronic Funds Transfer Act.

SENATE JOINT RESOLUTION 181

At the request of Mr. SIMON, the names of the Senator from Maryland [Ms. MIKULSKI], the Senator from Virginia [Mr. WARNER], the Senator from Delaware [Mr. ROTH], the Senator from Pennsylvania [Mr. SPECTER], the Senator from South Dakota [Mr. DASCHLE], and the Senator from Ohio [Mr. METZENBAUM] were added as cosponsors of Senate Joint Resolution 181, a joint resolution to designate the week of May 8, 1994, through May 14, 1994, as "United Negro College Fund Week."

SENATE JOINT RESOLUTION 220

At the request of Mr. BIDEN, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of Senate Joint Resolution 220, a joint resolution to designate October 19, 1994, as "National Mammography Day."

SENATE JOINT RESOLUTION 222

At the request of Mr. LAUTENBERG, the names of the Senator from Oregon [Mr. PACKWOOD] and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of Senate Joint Resolution 222, a joint resolution to designate October 19, 1994, as "Mercy Otis Warren Day," and for other purposes.

SENATE JOINT RESOLUTION 224

At the request of Mr. SIMON, the names of the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from New York [Mr. MOYNIHAN], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Louisiana [Mr. BREAUX], the Senator from Hawaii [Mr. AKAKA], the Senator from Rhode Island [Mr. CHAFEE], the Senator from North Dakota [Mr. DORGAN], the Senator from Minnesota [Mr. DURENBERGER], the

Senator from Maine [Mr. COHEN], the Senator from Kentucky [Mr. FORD], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of Senate Joint Resolution 224, a joint resolution designating November 1, 1994, as "National Family Literacy Day."

SENATE CONCURRENT RESOLUTION 80

At the request of Mr. LEVIN, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of Senate Concurrent Resolution 80, a concurrent resolution to correct technical errors in the enrollment of the bill (S. 349), and for other purposes.

SENATE RESOLUTION 270

At the request of Mr. COATS, his name was added as a cosponsor of Senate Resolution 270, a resolution to express the sense of the Senate concerning U.S. relations with Taiwan.

SENATE RESOLUTION 277—RELATIVE TO THE SCHINDLER PROJECT

Mr. SPECTER (for himself, Mr. CHAFEE, Mr. COHEN, Mr. COVERDELL, Mr. DANFORTH, Mr. DECONCINI, Mr. GORTON, Mr. GRAMM, Mr. HARKIN, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. KOHL, Mr. LAUTENBERG, Mr. MATHEWS, Ms. MOSELEY-BRAUN, Mr. MURKOWSKI, Mr. PACKWOOD, Mr. PRESSLER, Mr. SHELBY, Mr. SIMON, Mr. STEVENS, Mr. WARNER, and Mr. WOFFORD) submitted the following resolution; which was referred to the Committee on Labor and Human Resources:

S. RES. 277

Whereas the Schindler Project is a nonprofit organization founded by Marian Ungar Davis under the auspices of the Holocaust Center of the United Jewish Federation of Greater Pittsburgh;

Whereas the Schindler Project has developed a national program to provide every high school senior in the United States with the opportunity to view the feature film, "Schindler's List" and then to discuss their views with Holocaust survivors;

Whereas education is the foundation on which we form a strong society;

Whereas teaching future generations about the Holocaust and its lessons for humanity serves as the best assurance that such atrocities will be prevented in the future;

Whereas the movie "Schindler's List" depicts the moral catharsis of its central figure Oskar Schindler, from an indifferent observer of the Holocaust to the savior of more than 1,200 Jews; and

Whereas the depiction of Oskar Schindler's actions show in a very compelling way, the profound impact one person's actions can have on the lives of others: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the feature film "Schindler's List" is an important tool in educating high school seniors about the Holocaust; and

(2) the Senate supports the efforts of the Schindler Project to provide students with the opportunity to view the film and discuss its historical implications and the application of those lessons to contemporary society.

Mr. SPECTER. Madam President, I turn to the submission of the Schindler Project to educate high school seniors about the horrors of Nazism and the holocaust against Jewry, and to enable our youth to bring those lessons to bear on contemporary society.

I offer this resolution on behalf of myself and 22 Senators: Senator CHAFEE, Senator COHEN, Senator COVERDELL, Senator DANFORTH, Senator DECONCINI, Senator GORTON, Senator GRAMM, Senator HARKIN, Senator HOLLINGS, Senator HUTCHISON, Senator KOHL, Senator LAUTENBERG, Senator MATHEWS, Senator MOSELY-BRAUN, Senator MURKOWSKI, Senator PACKWOOD, Senator PRESSLER, Senator SHELBY, Senator SIMON, Senator STEVENS, Senator WOFFORD and Senator WARNER.

Madam President, the Schindler Project is a nonprofit organization founded by a very distinguished Pennsylvanian, Mrs. Marion Ungar Davis, who is in the Senate gallery today along with her father, Mr. Ungar, who traveled from Pittsburgh to be present at the introduction of this resolution.

The Schindler Project has developed a national program to provide high school seniors with the opportunity to view the feature film "Schindler's List" and then to discuss their views with Holocaust survivors.

The regrettable fact of historical life, Madam President, is that although the Holocaust was an occurrence of recent origin during World War II, during my lifetime—I am not sure about the younger Presiding Officer, if it was during her lifetime as well—she nods in the affirmative—notwithstanding the horror of the mutilation and annihilation, murder of 6 million Jews by the Nazis, already there are historical revisionists who say it never happened.

Already we are seeing a revival of antisemitism in Germany. We see it in Italy today. We see it across Europe. And regrettably we continue to see it in the United States.

As a young man growing up, born in Wichita, KS, I saw it. I saw it in the small community of Russell, KS; 5,000 people. And I saw it even with greater intensity when I came to the University of Pennsylvania and became a Pennsylvanian, and lived in Philadelphia.

One of the efforts which I have made personally, earlier referring to Reverend Halverson and our Wednesday morning prayer group, in discussing the issue with my colleagues, very few of whom are Jewish, is to talk about the subject of the Old Testament and the impact on young Jewish children of the New Testament talking about Jews being responsible for killing Christ. It was a revelation to some of my colleagues to know that on certain religious holidays there would be that consequence. But it is a fact of life. The problems of intolerance, the problems of discrimination, the problems of bigotry are issues that we have to face and we have to fight every day of our lives.

When we look at prejudice we see it all around us, and I think it is indispensable that we confront prejudice. And when we find an event like the Holocaust, with the murder of 6 million Jews, an effort at genocide, it is something that we cannot forget. Steven Spielberg's movie, "Schindler's List," has the artistic and theatrical direction to be a powerful implement to acquaint young men and young women of America about the nature of the issue.

Madam President, I think my time has probably expired but I do not see my colleague, Senator GRAMM, who has the remainder of the time so I ask unanimous consent I may be permitted to proceed for up to 5 more minutes. If Senator GRAMM appears, I will abbreviate that time and yield the floor.

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

Mr. SPECTER. Madam President, this project on the display and showing of "Schindler's List" is one of enormous importance. There has already been an effort to show it to some 300,000 students in the United States, in some 23 States. Some more than $200,000 has been raised on its behalf. There is a distribution of a curriculum on how to teach the Holocaust. And the showing of the movie has been done in conjunction with having Holocaust survivors come to the school. So, I am pleased to offer this resolution on behalf of 22 U.S. Senators and myself. The resolution concludes with the resolved clause that;

It is the sense of the Senate that the feature film "Schindlers List" is an important tool in educating high school seniors about the Holocaust and the Senate supports the efforts of the Schindler Project to provide students with the opportunity to view the film and discuss its historical implications and the application of those lessons to contemporary society.

Mr. President, to reiterate, today I am submitting along with 22 of my colleagues a resolution acknowledging the efforts of the Schindler Project to educate high school seniors about the horrors of Nazism and the Holocaust against Jewry and to enable our youth to bring those lessons to bear upon contemporary society.

The Schindler Project is a nonprofit organization based in Pittsburgh, PA, that was founded by Mrs. Marion Ungar Davis under the auspices of the Holocaust Center of the United Jewish Federation of Greater Pittsburgh. This program offers high school seniors nationwide the opportunity to view the film "Schindler's List" and to discuss the film—the history it depicts and the lessons it teaches—with a Holocaust survivor.

The horrors of the Holocaust are incontestable, and Steven Spielberg's

award winning film "Schindler's List" has further etched those horrors upon our national conscience with great vividness and emotion. Now, thanks to the efforts of Marion Ungar Davis and the Schindler Project, out Nation's young people are being given the opportunity to learn more about a chapter of terror that preceded them, about the difference that one man, Oskar Schindler, was able to make in the midst of that terror, and about how we all might apply those lessons to our own lives today. If we are to avoid another Holocaust, we must educate our young people about the Holocaust of World War II, and the Schindler project is taking a significant step in that direction.

Marion Ungar Davis and the Schindler Project are surely worthy of our recognition, Mr. President, and I offer this resolution today as a means of doing so.

Mr. CHAFEE. Mr. President, I am pleased to be an original cosponsor of a resolution offered today by Senator SPECTER that acknowledges the enormous contribution of the Schindler project to educating our Nation's children about the effects of prejudice and intolerance. This project is intended to help American students to understand the unimaginable horror and brutality of the Holocaust.

The Schindler project was begun by Marian Ungar Davis who, after seeing Steven Spielberg's Academy Award winning film "Schindler's List," concluded that every teenager should have an opportunity to experience this extraordinary movie.

She began by raising funds from her friends and neighbors to purchase tickets for high school seniors in her community of Allegheny County, PA. She was so successful that she expanded her goal to include all students graduating from high school in the United States. She has received cooperation from Mr. Spielberg and the film distribution company, as well as from a number of theater chains. To date, 200,000 high school students from 23 States have participated in the project, and Ms. Ungar Davis has had inquiries from high schools in more than a dozen other States to express interest in participating in the Schindler project.

If just a handful of the students who view this film as a result of Ms. Ungar Davis' efforts realize that they have the ability, through courage and strength of character, to have a positive effect on the lives of others, the Schindler project will be an enormous success. Similarly, if these students—who have grown up during a time in which we have seen a rise in intolerance and an increase in so-called hate crimes—come to a better understanding of the principles of equality and tolerance, then the Schindler project will be of inestimable value.

Oskar Schindler saved 1,100 Jews from death. Ms. Ungar Davis hopes to save our Nation's children from ignorance and prejudice.

SENATE RESOLUTION 278—RELATING TO PAKISTAN

Mr. ROBB submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 278

Mr. ROBB. Mr. President, I rise this morning to introduce a resolution calling on the State Department to carefully assess recent allegations regarding Pakistan's nuclear weapons program and support for terrorism abroad. I have serious concerns on both fronts because information that has come to light, if accurate, suggests that Pakistan's actions are directly contrary to our official nonproliferation and antiterrorism policies.

Mr. President, on August 23, 1994, former Pakistan Prime Minister Nawaz Sharif stated that Pakistan had produced a nuclear weapon. That represents a sharp departure from statements made by Pakistan Government officials in the past that Islamabad has the technology to construct a nuclear device but did not maintain such a weapon in its arsenal.

I am not unaware of Prime Minister Benazir Bhutto's denial of her predecessor's charges, nor am I unmindful of the political rivalries extant between herself and the former Prime Minister. I do not, however, lightly dismiss his remarks. Mr. Sharif would have direct knowledge of the scope of Pakistan's nuclear weapons program as former leader of the country and I believe he is a credible figure.

Mr. Leonard Spector, a nonproliferation specialist at the Carnegie Endowment, observed in late August that Mr. Sharif's charge was "the first time a person of this rank has been as specific" about the exact status of Pakistan's nuclear weapons program. Accordingly, I would strongly urge the State Department to redouble its efforts to ensure that Pakistan is not proceeding to a more advanced stage with its nuclear program.

Equally troubling, Mr. President, are allegations that Pakistan played a role in terrorist bombings that occurred in Bombay in early 1993. According to the Indian Interior Minister, a leading suspect in the case captured by Indian authorities, Mr. Takub Menom, has implicated Pakistan's Inter Service Intelligence Agency (ISI) in the bombings that devastated central Bombay on March 12, 1993, killing over 300 people.

Mr. Menom accuses the ISI of providing him materiel support to carry out the bombing attacks in Bombay. Moreover, there are allegations that the ISI directly assisted Mr. Menom, his brother and their associates on where to locate the bombs within the city and provided transportation to and from Pakistan for group members.

Mr. President, I believe these alleged activities are troublesome and serious. In early 1993, Pakistan was subject to active continuing review for possible inclusion on the terrorist watch list compiled by the State Department. On July 14, 1993, Pakistan was removed from the watch list because Pakistan had implemented a policy of ending official support for terrorists in India.

Given these recent developments, I urge the State Department to reconsider Pakistan's status and whether it should be cited for sponsoring overseas terrorist activities. I believe a fair and impartial review of the Bombay bombings and any other Pakistani actions relevant to conducting terrorism abroad, specifically in India, is warranted at this time, and I look forward to following up with State Department officials to ensure this occurs.

I ask that the full text of the resolution appear in the RECORD following this statement.

The resolution follows:

Whereas the United States government has longstanding policies opposing the spread of terrorism and narcotics trafficking;

Whereas the United States government has committed massive amounts of funding through the years to combat both of these problems;

Whereas on January 7, 1993, the Islamic Republic of Pakistan was placed on the State Department's watch list of nations suspected of supporting terrorism;

Whereas on July 14, 1993, the State Department removed the Islamic Republic of Pakistan from the watch list;

Whereas former Pakistan Prime Minister Narwaz Sharif recently alleged that his Army Chief of Staff, General Aslam Beg, and General Asad Durrani, head of the Inter Service Intelligence agency, had informed him while in office that the Pakistani Army and ISI planned to conduct covert acts of terrorism in other countries and fund these activities through large scale narcotics sales;

Whereas 317 Indian citizens were killed in March 1993, in a series of bombings of the Bombay Stock Exchange and other sites in Bombay;

Whereas a leading suspect in the bombing has publicly implicated the Pakistan government in the bombings by alleging that the ISI provided weapons, money and explosives for the attacks in Bombay;

Whereas former Prime Minister Sharif recently stated that Pakistan has possessed nuclear weapons for several years;

Whereas in 1985 the United States Congress enacted legislation prohibiting foreign assistance to Pakistan unless the President certified that Pakistan does not possess a nuclear explosive device;

Whereas President Bush and President Clinton have been unable to certify that Pakistan does not possess a nuclear explosive device;

Therefore, it is the sense of the Senate that:

(1) The United States condemns the alleged involvement of Pakistan in acts of terrorism in other countries;

(2) The United States condemns any involvement by Pakistan in the illegal manufacture, sale, transportation or distribution of any narcotic substance;

(3) The Administration should review the 1993 State Department decision to remove

Pakistan from the Watch List of nations suspected of involvement in terrorism abroad;

(4) The United States reaffirms current law prohibiting foreign assistance to Pakistan in light of Prime Minister Sharif's claim that Pakistan has possessed a nuclear weapon for several years.

SENATE RESOLUTION 279—RELATIVE TO AMERICAN INSTITUTIONS OF HIGHER LEARNING IN JAPAN

Mr. ROTH. Mr. President, I rise today to support the efforts of American college and university branch campuses in Japan seeking to gain official status as American institutions of higher education from the Government of Japan. I strongly urge that Japan cease its discriminatory policy toward American branch campuses in Japan, and that the United States and Japanese Governments immediately commence negotiations toward a satisfactory resolution of this important issue.

Currently, Japan has approximately 45,000 students studying in the United States. The United States, however, only has 1,500 students studying in Japan. This gross imbalance is detrimental to the best interests of the United States as well as Japan.

The importance of educational and cultural exchange between our two countries cannot be overemphasized. Through such exchange, people from two very different countries learn to work and cooperate with one another. In current global economy, moreover, it is essential that the United States have citizens with the skills that permit our country to compete better with Japan.

For these reasons, Japan must eliminate the arbitrary and unreasonable restraints they have imposed on student exchange. Tokyo must make the policy changes necessary to enable greater numbers of American students to study in Japan.

Japanese Government officials at the highest level have repeatedly called for increased grassroots exchange between the United States and Japan. American colleges and universities, partly in response to these calls, established overseas branch campuses in Japan in order to facilitate such educational and cultural exchange. These programs provide a unique opportunity for American students to study Japanese social, political, and economic systems firsthand in Japan. They also provide a unique opportunity for Japanese students to pursue their own interests in America studies.

To study at Japanese universities, Americans must first possess advanced language skills. Branch campuses have no such prerequisite. Indeed, they provide opportunities for Americans to acquire Japanese language skills in the best place to gain them—Japan itself.

Unfortunately, Japan's current policies deny student visas to most American students wishing to attend American branch campuses. Mr. President, the greatest irony in this matter is that Japan has repeatedly promised to change its policies. Indeed, this Senator has received several written promises from appropriate officials that changes have actually been made. But the facts show otherwise. I urge my colleagues to support this resolution to send a message to Japan, and to assist American students encounter who wish to study there.

I ask that the full text of the resolution appear in the RECORD following the statement.

The resolution follows:

S. RES. 279

Whereas Japan sends approximately 45,000 students to study in the United States, but hosts only 1,500 American students study in Japan;

Whereas increased educational and cultural exchange between the United States and Japan is mutually beneficial to both countries;

Whereas Japanese government officials at the highest level have repeatedly called for cooperative ventures between the United States and Japan in educational and cultural exchange and stressed the need to foster the development of mutual understanding of each country's social, political and economic systems;

Whereas certain U.S. institutions of higher education established overseas branch campuses in Japan in order to facilitate such educational and cultural exchange;

Whereas the Association of American Colleges and Universities in Japan (AACUJ) was formed to ensure the academic quality of American branch campuses in Japan and to enhance the educational contributions by American branch campuses in Japan;

Whereas AACUJ-approved campuses in Japan have been fully accredited by appropriate accrediting agencies in the United States;

Whereas the Government of Japan has unreasonably refused to accord official status to AACUJ-approved branch campuses in Japan as accredited American institutions of higher education;

Whereas the Government of Japan, by its refusal to accord official status to AACUJ-approved campuses in Japan as American institutions of higher education, degrades the status of AACUJ-approved branch campuses of the rights and privileges available to students attending similar Japanese institutions of higher education, including transportation pass discounts, student visas and other rights and benefits accompanied by student visas;

Whereas foreign students wishing to attend AACUJ-approved branch campuses in Japan are not eligible for student visas and almost all American students must instead apply for "enhanced cultural activities visas" in order to study at these branch campuses in Japan;

Whereas the process for securing "enhanced cultural visas" has not been regularized and is unnecessarily burdensome, time-consuming, and subject to procedural surprises, irregularities, uncertainty and delay;

Whereas the policy of the Government of Japan constitutes unreasonable restrictions on the number of American students studying in Japan and contributes to the disproportionate disparity between the number of Japanese students studying in the United States and the number of American students studying in Japan;

Whereas Japanese university branch campuses in the United States receive appropriate recognition through accreditation by American accrediting agencies in the same way as American universities;

Whereas the Government of the United States grants foreign students attending Japanese branch campuses in the United States student visas with the same rights and privileges available to students attending similar American institutions of higher education: Now, therefore, be it

Resolved, That is the sense of the Senate that:

(1) the Government of Japan immediately cease its discriminatory policy toward AACUJ-approach branch campuses in Japan;

(2) the Government of Japan accord official status to AACUJ-approved branch campuses in Japan as American institutions of higher education and grant them all the rights and privileges enjoyed by similar Japanese educational institutions; and

(3) the Government of Japan grant student visas to students wishing to attend AACUJ-approved branch campuses in Japan and accord them all the rights and privileges available to students attending similar Japanese educational institutions.

SENATE RESOLUTION 280—RELATIVE TO THE SENATE ARMS CONTROL OBSERVER GROUP

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 280

Resolved, That subsection (a) of the first section of Senate Resolution 149, agreed to October 5, 1993 (103d Congress, 1st Session) is amended by striking "until December 31, 1994" and inserting "until December 31, 1996".

SENATE RESOLUTION 281—RELATIVE TO THE SENATE LEGAL COUNSEL

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 281

Whereas, the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs has been conducting an investigation into the management and operations of the Blue Cross and Blue Shield insurance network;

Whereas, a law enforcement entity has requested testimony from Alan Edelman, counsel to the Subcommittee, about the Subcommittee's investigation;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the

Senate may direct its counsel to represent employees of the Senate with respect to requests for testimony made to them in their official capacities: Now, therefore, be it *Resolved*, That Alan Edelman, and any other Subcommittee staff from whom testimony may be necessary, are authorized to provide testimony about the Subcommittee's investigation into the management and operations of the Blue Cross and Blue Shield insurance network, sought in conjunction with law enforcement investigations or related proceedings, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent employees of the Senate in connection with the testimony authorized by section 1 of this resolution.

SENATE RESOLUTION 282—TO DIRECT THE SENATE LEGAL COUNSEL

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 282

Whereas, in the case of *Rhonda Farmer* v. *Office of Senate Fair Employment Practices*, No. 94-6005, pending in the United States Court of Appeals for the Federal Circuit, the Office of Senate Fair Employment Practices is the respondent in a proceeding under section 309 of the Civil Rights Act of 1991, 2 U.S.C. §1209, to review a final decision concerning allegations of discrimination in Senate employment;

Whereas, section 303(f) of the Civil Rights Act of 1991, 2 U.S.C. §1203(f), provides that for the purpose of representation by the Senate Legal Counsel, the Office of Senate Fair Employment Practices shall be deemed a committee within the meaning of title VII of the Ethics in Government Act of 1978, 2 U.S.C. §288, et seq.;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1), the Senate may direct its Counsel to defend a committee of the Senate in any civil action in which there is placed in issue any action taken by such committee in its official capacity;

Whereas, in accordance with 28 U.S.C. §2348, as made applicable by section 309(b) of the Civil Rights Act of 1991, 2 U.S.C. §1209(b), the Office of the Sergeant at Arms of the United States Senate, as a party in interest in the underlying proceeding within the Senate, may intervene on judicial review of the final decision in that proceeding. Now, therefore, be it

Resolved, The Senate Legal Counsel is directed to represent the Office of Senate Fair Employment Practices in the case of *Rhoda Farmer* v. *Office of Senate Fair Employment Practices*.

SEC. 2. The Office of the Sergeant at Arms of the United States Senate may as a matter of statutory right intervene and be represented by its counsel of choice in the case of *Rhonda Farmer* v. *Office of the Senate Fair Employment Practices*.

SENATE RESOLUTION 283—RELATIVE TO THE U.S. CAPITOL PRESERVATION COMMISSION

Mr. BYRD submitted the following resolution; which was considered and agreed to:

S. RES. 283

Resolved, That the Senate Co-chairman of the Commission may appoint an executive secretary of the Senate Membership of the Commission from public or private life to serve without compensation and to advise and assist the Senate Members of the Commission at the direction of the Senate Co-chairman.

AMENDMENTS SUBMITTED

INTERNATIONAL NARCOTICS CONTROL CORRECTIONS ACT OF 1994

BROWN AND OTHERS AMENDMENT NO. 2639

Mr. SIMPSON (for Mr. BROWN for himself, Mr. SIMON, and Ms. MIKULSKI) proposed an amendment to the bill (H.R. 5030) to amend the Foreign Assistance Act of 1961 to make certain corrections relating to international narcotics control activities, and for other purposes; as follows:

At the end of the bill, add the following:

TITLE —NATO PARTICIPATION ACT OF 1994

SEC. 01. SHORT TITLE.

This title may be cited as the "NATO Participation Act of 1994".

SEC. 02. SENSE OF THE CONGRESS.

It is the sense of the Congress that—

(1) the leaders of the NATO member nations are to be commended for reaffirming that NATO membership remains open to Partnership for Peace countries emerging from communist domination and for welcoming eventual expansion of NATO to include such countries;

(2) full and active participants in the Partnership for Peace in a position to further the principles of the North Atlantic Treaty and to contribute to the security of the North Atlantic area should be invited to become full NATO members in accordance with Article 10 of such Treaty at an early date, if such participants—

(A) maintain their progress toward establishing democratic institutions, free market economies, civilian control of their armed forces, and the rule of law; and

(B) remain committed to protecting the rights of all their citizens and respecting the territorial integrity of their neighbors;

(3) the United States, other NATO member nations, and NATO itself should furnish appropriate assistance to facilitate the transition to full NATO membership at an early date of full and active participants in the Partnership for Peace; and

(4) in particular, Poland, Hungary, the Czech Republic, and Slovakia have made significant progress toward establishing democratic institutions, free market economies, civilian control of their armed forces, and the rule of law since the fall of their previous communist governments.

SEC. 03. AUTHORITY FOR PROGRAM TO FACILITATE TRANSITION TO NATO MEMBERSHIP.

(a) IN GENERAL.—The President may establish a program to assist the transition to full NATO membership of Poland, Hungary, the Czech Republic, Slovakia, and other Partnership for Peace countries emerging from communist domination designated pursuant to subsection (d).

(b) CONDUCT OF PROGRAM.—The program established under subsection (a) shall facilitate the transition to full NATO membership of the countries described in such subsection by supporting and encouraging, inter alia—

(1) joint planning, training, and military exercises with NATO forces;

(2) greater interoperability of military equipment, air defense systems, and command, control, and communications systems; and

(3) conformity of military doctrine.

(c) TYPE OF ASSISTANCE.—In carrying out the program established under subsection (a), the President may provide to the countries described in such subsection the following types of security assistance:

(1) The transfer of excess defense articles under section 516 of the Foreign Assistance Act of 1961, without regard to the restrictions in paragraphs (1) through (3) of subsection (a) of such section (relating to the eligibility of countries for such articles under such section).

(2) The transfer of nonlethal excess defense articles under section 519 of the Foreign Assistance Act of 1961, without regard to the restriction in subsection (a) of such section (relating to the justification of the foreign military financing program for the fiscal year in which a transfer is authorized).

(3) Assistance under chapter 5 of part II of the Foreign Assistance Act of 1961 (relating to international military education and training).

(4) Assistance under section 23 of the Arms Export Control Act (relating to the "Foreign Military Financing Program").

(d) DESIGNATION OF PARTNERSHIP FOR PEACE COUNTRIES EMERGING FROM COMMUNIST DOMINATION.—The President may designate countries emerging from communism and participating in the Partnership for Peace, especially Poland, Hungary, the Czech Republic, and Slovakia, to receive assistance under the program established under subsection (a) if the President determines and reports to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate that such countries—

(1) are full and active participants in the Partnership for Peace;

(2) have made significant progress toward establishing democratic institutions, a free market economy, civilian control of their armed forces, and the rule of law;

(3) are likely (in the near future) to be in a position to further the principles of the North Atlantic Treaty and to contribute to the security of the North Atlantic area; and

(4) are not selling or transferring defense articles to a state that has repeatedly provided support for acts of international terrorism, as determined by the Secretary of State under section 6(j) of the Export Administration Act of 1979.

(e) NOTIFICATION.—At least 15 days before designating any country pursuant to subsection (d), the President shall notify the appropriate congressional committees in accordance with the procedures applicable under section 634A of the Foreign Assistance Act of 1961.

(f) DETERMINATION.—It is hereby determined that Poland, Hungary, the Czech Republic, and Slovakia meet the criteria required in paragraphs (1), (2), and (3) of subsection (d).

SEC. 04. ADDITIONAL AUTHORITIES.

(a) ARMS EXPORT CONTROL ACT.—The President is authorized to exercise the authority of sections 63 and 65 of the Arms Export Control Act with respect to any country designated under section 03(d) of this title on the same basis authorized with respect to NATO countries.

(b) OTHER NATO AUTHORITIES.—The President should designate any country designated under section 03(d) of this title as eligible under sections 2350c and 2350f of title 10, United States Code.

(c) SENSE OF CONGRESS.—It is the sense of Congress that, in the interest of maintaining stability and promoting democracy in Poland, Hungary, the Czech Republic, Slovakia, and any other Partnership for Peace country designated under section 03(d) of this title, those countries should be included in all activities under section 2457 of title 10, United States Code, related to the increased standardization and enhanced interoperability of equipment and weapons systems, through coordinated training and procurement activities, as well as other means, undertaken by the North Atlantic Treaty Organization members and other allied countries.

SEC. 05. REPORTING REQUIREMENT.

The President shall include in the report required by section 514(a) of Public Law 103-236 (22 U.S.C. 1928 note) the following:

(1) A description of all assistance provided under the program established under section 03(a), or otherwise provided by the United States Government to facilitate the transition to full NATO membership of Poland, Hungary, the Czech Republic, Slovakia, and other Partnership for Peace countries emerging from communist domination designated pursuant to section 03(d).

(2) A description on the basis of information received from NATO, of all assistance provided by other NATO member nations or NATO itself to facilitate the transition to full NATO membership of Poland, Hungary, the Czech Republic, Slovakia, and other Partnership for Peace countries emerging from communist domination designated pursuant to section 03(d).

KERRY ADMENDMENT NO. 2640

Mr. BREAUX (for Mr. KERRY) proposed an amendment to the bill, H.R. 5030, supra; as follows:

On page 8, line 21, delete the period and insert in lieu thereof the following: "except for the title heading and section 4702 (a) through (f)."

THE OFFICE OF SPECIAL COUNSEL REAUTHORIZATION ACT OF 1994

LEVIN (AND OTHERS) AMENDMENT NO. 2641

Mr. BREAUX (for Mr. LEVIN for himself, Mr. PRYOR, and Mr. COHEN) proposed an amendment to the bill (H.R. 2970) to reauthorize the Office of Special Counsel, and for other purposes; as follows.

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

(a) MERIT SYSTEMS PROTECTION BOARD.—Section 8(a)(1) of the Whistleblower Protection Act of 1989 (5 U.S.C. 5509 note; Public Law 101-12; 103 Stat. 34) is amended by striking out "1989, 1990, 1991, 1992, 1993, and 1994" and inserting in lieu thereof "1993, 1994, 1995, 1996, and 1997".

(b) OFFICE OF SPECIAL COUNSEL.—Section 8(a)(2) of the Whistleblower Protection Act of 1989 (5 U.S.C. 5509 note; Public Law 101-12; 103 Stat. 34) is amended by striking out "1989, 1990, 1991, and 1992" and inserting in lieu thereof "1993, 1994, 1995, 1996, and 1997".

SEC. 2. REASONABLE ATTORNEY FEES IN CERTAIN CASES.

Section 1204 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(m)(1) Except as provided in paragraph (2) of this subsection, the Board, or an administrative law judge or other employee of the Board designated to hear a case arising under section 1215, may require payment by the agency involved of reasonable attorney fees incurred by an employee or applicant for employment if the employee or applicant is the prevailing party and the Board, administrative law judge, or other employee (as the case may be) determines that payment by the agency is warranted in the interest of justice, including any case in which a prohibited personnel practice was engaged in by the agency or any case in which the agency's action was clearly without merit.

"(2) If an employee or applicant for employment is the prevailing party of a case arising under section 1215 and the decision is based on a finding of discrimination prohibited under section 2302(b)(1) of this title, the payment of attorney fees shall be in accordance with the standards prescribed under section 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(k)).".

SEC. 3. OFFICE OF SPECIAL COUNSEL.

(a) SUCCESSION.—Section 1211(b) of title 5, United States Code, is amended by inserting after the first sentence: "The Special Counsel may continue to serve beyond the expiration of the term until a successor is appointed and has qualified, except that the Special Counsel may not continue to serve for more than one year after the date on which the term of the Special Counsel would otherwise expire under this subsection.".

(b) LIMITATIONS ON DISCLOSURES.—Section 1212(g) of title 5, United States Code, is amended—

(1) in paragraph (1), by striking out "provide information concerning" and inserting in lieu thereof "disclose any information from or about"; and

(2) in paragraph (2), by striking out "a matter described in subparagraph (A) or (B) of section 2302(b)(2) in connection with a" and inserting in lieu thereof "an evaluation of the work performance, ability, aptitude, general qualifications, character, loyalty, or suitability for any personnel action of any".

(c) STATUS REPORT BEFORE TERMINATION OF INVESTIGATION.—Section 1214(a) of title 5, United States Code, is amended—

(1) in paragraph (1) by adding at the end thereof the following new subparagraph:

"(D) No later than 10 days before the Special Counsel terminates any investigation of a prohibited personnel practice, the Special Counsel shall provide a written status report to the person who made the allegation of the proposed findings of fact and legal conclusions. The person may submit written comments about the report to the Special Counsel. The Special Counsel shall not be required to provide a subsequent written status report under this subparagraph after the submission of such written comments."; and

(2) in paragraph (2)(A)—

(A) in clause (ii) by striking out "and" after the semicolon;

(B) in clause (iii) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

(C) by adding at the end thereof the following new clause:

"(iv) a response to any comments submitted under paragraph (1)(D).".

(d) DETERMINATIONS.—Seciton 1214(b)(2) of title 5, United States Code, is amended—

(1) by redesignating subparagraphs (A), (B) and (C) as subparagraphs (B), (C) and (D), respectively;

(2) by inserting before subparagraph (B) (as redesignated by paragraph (1) of this subsection) the following:

"(A)(i) Except as provided under clause (ii), no later than 240 days after the date of receiving an allegation of a prohibited personnel practice under paragraph (1), the Special Counsel shall make a determination whether there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken.

"(ii) If the Special Counsel is unable to make the required determination within the 240-day period specified under clause (i) and the person submitting the allegation of a prohibited personnel practice agrees to an extension of time, the determination shall be made within such additional period of time as shall be agreed upon between the Special Counsel and the person submitting the allegation."; and

(3) by inserting after subparagraph (D) (as redesignated by paragraph (1) of this subsection) the following new subparagraph:

"(E) A determination by the Special Counsel under this paragraph shall not be cited or referred to in any proceeding under this paragraph or any other administrative or judicial proceeding for any purpose, without the consent of the person submitting the allegation of a prohibited personnel practice.".

(e) REPORTS.—Seciton 1218 of title 5, United States Code, is amended by inserting "cases in which it did not make a determination whether there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken within the 240-day period specified in section 1214(b)(2)(A)(i)," after "investigations conducted by it,".

SEC. 4. INDEPENDENT RIGHT OF ACTION.

(a) SUBPOENAS.—Section 1221(d) of title 5, United States Code is amended by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) At the request of an employee, former employee, or applicant for employment seeking corrective action under subsection (a), the Board shall issue a subpoena for the attendance and testimony of any person or the production of documentary or other evidence from any person if the Board finds that the testimony or production requested is not unduly burdensome and appears reasonably calculated to lead to the discovery of admissible evidence."

(b) CORRECTIVE ACTIONS.—Section 1221(e)(1) is amended by adding after the last sentence: "The employee may demonstrate that the disclosure was a contributing factor in the personnel action through circumstantial evidence, such as evidence that—

"(A) the official taking the personnel action knew of the disclosure; and

"(B) the personnel action occurred within a period of time such that a reasonable person could conclude that the disclosure was a contributing factor in the personnel action."

(c) REFERRALS.—Section 1221(f) of title 5, United States Code, is amended by adding after paragraph (2) the following new paragraph.

"(3) If, based on evidence presented to it under this section, the Merit Systems Protection Board determines that there is reason to believe that a current employee may have committed a prohibited personnel practice, the Board shall refer the matter to the Special Counsel to investigate and take appropriate action under section 1215.".

SEC. 5. PROHIBITED PERSONNEL PRACTICES.

(a) PERSONNEL ACTIONS.—Section 2302(a)(2)(A) of title 5, United States Code, is amended—

(1) in clause (ix) by striking out "and" after the semicolon;

(2) by striking out clause (x) and inserting in lieu thereof the following:

"(x) a decision to order psychiatric testing or examination; and

"(xi) any other significant change in duties, responsibilities, or working conditions;"; and

(3) in the matter following designated clause (xi) (as added by paragraph (2) of this subsection) by inserting before the semicolon the following: ", and in the case of an alleged prohibited personnel practice described in subsection (b)(8), an employee or applicant for employment in a Government corporation as defined in section 9101 of title 31".

(b) COVERED POSITIONS.—Section 2302(a)(2)(B) of title 5, United States Code, is amended to read as follows:

"(B) 'covered position' means, with respect to any personnel action, any position in the competitive service, a career appointee position in the Senior Executive Service, or a position in the excepted service, but does not include any position which is, prior to the personnel action—

"(i) excepted from the competitive service because of its confidential, policy-determining, policy-making, or policy-advocating character; or

"(ii) excluded from the coverage of this section by the President based on a determination by the President that it is necessary and warranted by conditions of good administration; and".

(c) AGENCIES.—Section 2303(a)(2)(C) of title 5, United States Code, is amended in clause (i) by inserting before the semicolon: ", except in the case of an alleged prohibited personnel practice described under subsection (b)(8)".

(d) INFORMATIONAL PROGRAM.—Section 2302(c) of title 5, United States Code, is amended in the first sentence by inserting before the period ", and for ensuring (in consultation with the Office of Special Counsel) that agency employees are informed of the rights and remedies available to them under this chapter and chapter 12 of this title".

SEC. 6. PERFORMANCE APPRAISALS.

Section 4313(5) of title 5, United States Code, is amended to read as follows:

"(5) meeting affirmative action goals, achievement of equal employment opportunity requirements, and compliance with the merit systems principles set forth under section 2301 of this title.".

SEC. 7. MERIT SYSTEMS APPLICATION TO CERTAIN VETERANS AFFAIRS PERSONNEL.

Section 2105 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) For purposes of sections 1212, 1213, 1214, 1215, 1216, 1221, 1222, 2302, and 7701, employees appointed under chapter 73 or 74 of title 38 shall be employees.".

SEC. 8. CORRECTIVE ACTIONS ORDERED BY THE MERIT SYSTEMS PROTECTION BOARD.

(a) IN GENERAL.—Section 1214 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) If the Board orders corrective action under this section, such corrective action may include—

"(1) that the individual be placed, as nearly as possible, in the position the individual would have been in had the prohibited personnel practice not occurred; and

"(2) reimbursement for attorney's fees, back pay and related benefits, medical costs incurred, travel expenses, and any other reasonable and foreseeable consequential damages.".

(b) CERTAIN REPRISAL CASES.—Section 1221(g) of title 5, United States Code (as amended by section 4(d) of this Act) is further amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively; and

(2) by inserting before paragraph (2) (as redesignated by paragraph (1) of this subsection) the following new paragraph:

"(1)(A) If the Board orders corrective action under this section, such corrective action may include—

"(i) that the individual be placed, as nearly as possible, in the position the individual would have been in had the prohibited personnel practice not occurred; and

"(ii) back pay and related benefits, medical costs incurred, travel expenses, and any other reasonable and foreseeable consequential changes.

"(B) Corrective action shall include attorney's fees and cost as provided for under paragraphs (2) and (3).".

SEC. 9. AUTHORITIES RELATING TO ARBITRATORS AND CHOICE OF REMEDIES NOT INVOLVING JUDICIAL REVIEW.

(a) AUTHORITIES WHICH MAY BE EXTENDED TO ARBITRATORS.—Section 7121(b) of title 5, United States Code, is amended—

(1) by redesignating subparagraphs (A) through (C) of paragraph (3) as clauses (i) through (iii), respectively;

(2) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively;

(3) by striking "(b)" and inserting "(b)(1)"; and

(4) by adding at the end the following:

"(2)(A) The provisions of a negotiated grievance procedure providing for binding arbitration in accordance with paragraph (1)(C)(iii) shall, if or to the extent that an alleged prohibited personnel practice is involved, allow the arbitrator to order—

"(i) a stay of any personnel action in a manner similar to the manner described in section 1221(c) with respect to the Merit Systems Protection Board; and

"(ii) the taking, by an agency, of any disciplinary action identified under section 1215(a)(3) that is otherwise within the authority of such agency to take.

"(B) Any employee who is the subject of any disciplinary action ordered under subparagraph (A)(ii) may appeal such action to the same extent and in the same manner as if the agency had taken the disciplinary action absent arbitration.".

(b) CHOICE OF REMEDIES PROVISION NOT INVOLVING JUDICIAL REVIEW—Section 7121 of title 5, United States Code, is amended by adding at the end the following:

"(g)(1) This subsection applies with respect to a prohibited personnel practice other than a prohibited personnel practice to which subsection (d) applies.

"(2) An aggrieved employee affected by a prohibited personnel practice described in paragraph (1) may elect not more than one of the remedies described in paragraph (3) with respect thereto. For purposes of the preceding sentence, a determination as to whether a particular remedy has been elected shall be made as set forth under paragraph (4).

"(3) The remedies described in this paragraph are as follows:

"(A) An appeal to the Merit Systems Protection Board under section 7701.

"(B) A negotiated grievance procedure under this section.

"(C) Procedures for seeking corrective action under subchapters II and III of chapter 12.

"(4) For the purpose of this subsection, a person shall be considered to have elected—

"(A) the remedy described in paragraph (3)(A) if such person has timely filed a notice of appeal under the applicable appellate procedures;

"(B) the remedy described in paragraph (3)(B) if such person has timely filed a grievance in writing, in accordance with the provisions of the parties' negotiated procedure; or

"(C) the remedy described in paragraph (3)(C) if such person has sought corrective action from the Office of Special Counsel by making an allegation under section 1214(a)(1).".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—Section 7121(a)(1) of title 5, United States Code, is amended—

(1) by striking "(d) and (e)" and inserting "(d), (e), and (g)"; and

(2) by inserting "administrative" after "exclusive".

SEC. 10. EXPENSES RELATED TO FEDERAL RETIREMENT APPEALS.

Section 8348(a) of title 5, United States Code, is amended—

(1) in paragraph (1)(B) by striking out "and" at the end thereof;

(2) in paragraph (2) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

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

"(3) is made available, subject to such annual limitation as the Congress may prescribe, for any expenses incurred by the Merit Systems Protection Board in the administration of appeals authorized under sections 8347(d) and 8461(e) of this title.".

SEC. 11. ELECTION OF APPLICATION OF LAWS BY EMPLOYEES OF THE RESOLUTION TRUST CORPORATION AND THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD.

(a) ELECTION OF PROVISIONS OF TITLE 5, UNITED STATES CODE.—If an individual who believes he has been discharged or discriminated against in violation of section 21a(q)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(q)(1)) seeks an administrative corrective action or judicial remedy for such violation under the provisions of chapters 12 and 23 of title 5, United States Code, the provisions of section 21a(q) of such Act shall not apply to such alleged violation.

(b) ELECTION OF PROVISIONS OF FEDERAL HOME LOAN BANK ACT.—If an individual files a civil action under section 21a(q)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(q)(2)), the provisions of chapters 12 and 23 of title 5, United States Code, shall not apply to any alleged violation of section 21a(q)(1) of such Act.

SEC. 12. IMPLEMENTATION.

(a) POLICY STATEMENT.—No later than 6 months after the date of enactment of this Act, the Special Counsel shall issue a policy statement regarding the implementation of the Whistleblower Protection Act of 1989. Such policy statement shall be made available to each person alleging a prohibited personnel practice described under section 2302(b)(8) of title 5, United States Code, and shall include detailed guidelines identifying specific categories of information they may (or may not) be communicated to agency officials for an investigative purpose, or for the purpose of obtaining corrective action

under section 1214 of title 5, United States Code, or disciplinary action under section 1215 of such title, the circumstances under which such information is likely to be disclosed, and whether or not the consent of any person is required in advance of any such communication.

(b) TERMINATION STATEMENT.—The Special Counsel shall include in any letter terminating an investigation under section 1214(a)(2) of title 5, United States Code, the name and telephone number of an employee of the Special Counsel who is available to respond to reasonable questions from the person regarding the investigation or review conducted by the Special Counsel, the relevant facts ascertained by the Special Counsel, and the law applicable to the person's allegations.

SEC. 13. ANNUAL SURVEY OF INDIVIDUALS SEEKING ASSISTANCE.

(a) IN GENERAL.—The Office of Special Counsel shall, after consulting with the Office of Policy and Evaluation of the Merit Systems Protection Board, conduct an annual survey of all individuals who contact the Office of Special Counsel for assistance. The survey shall—

(1) determine if the individual seeking assistance was fully apprised of their rights;

(2) determine whether the individual was successful either at the Office of Special Counsel or the Merit Systems Protection Board; and

(3) determine if the individual, whether successful or not, was satisfied with the treatment received from the Office of Special Counsel.

(b) REPORT.—The results of the survey conducted under subsection (a) shall be published in the annual report of the Office of Special Counsel.

SEC. 14. EFFECTIVE DATE.

The provisions of this Act and the amendments made by this Act shall be effective on and after the date of the enactment of this Act.

FEGLI LIVING BENEFITS ACT

PRYOR AMENDMENT NO. 2642

Mr. BREAUX (for Mr. PRYOR) proposed an amendment to the bill (H.R. 512) to amend chapter 87 of title 5, United States Code, to provide that group life insurance benefits under such chapter may, upon application, be paid out to an insured individual who is terminally ill, and for other purposes; as follows:

At the end of the bill, add the following new sections:

SEC. 5. CONTINUATION OF HEALTH BENEFITS COVERAGE FOR INDIVIDUALS ENROLLED IN A PLAN ADMINISTERED BY THE OFFICE OF THE COMPTROLLER OF THE CURRENCY OR THE OFFICE OF THRIFT SUPERVISION.

(a) ENROLLMENT IN CHAPTER 89 PLAN.—For purposes of the administration of chapter 89 of title 5, United States Code, any period of enrollment under a health benefits plan administered by the Office of the Comptroller of the Currency or the Office of Thrift Supervision before the termination of such plans on January 7, 1995, shall be deemed to be a period of enrollment in a health benefits plan under chapter 89 of such title.

(b) CONTINUED COVERAGE.—(1) Any individual who, on January 7, 1995, is covered by a health benefits plan administered by the Office of the Comptroller of the Currency or the Office of Thrift Supervision may enroll in an approved health benefits plan described under section 8903 or 8903a of title 5, United States Code—

(A) either as an individual or for self and family, if such individual is an employee, annuitant, or former spouse as defined under section 8901 of such title; and

(B) for coverage effective on and after January 8, 1995.

(2) An individual who, on January 7, 1995, is entitled to continued coverage under a health benefits plan administered by the Office of the Comptroller of the Currency or the Office of Thrift Supervision—

(A) shall be deemed to be entitled to continued coverage under section 8905a of title 5, United States Code, for the same period that would have been permitted under the plan administered by the Office of the Comptroller of the Currency or the Office of Thrift Supervision; and

(B) may enroll in an approved health benefits plan described under section 8903 or 8903a of such title in accordance with section 8905a of such title for coverage effective on and after January 8, 1995.

(3) An individual who, on January 7, 1995, is covered as an unmarried dependent child under a health benefits plan administered by the Office of the Comptroller of the Currency or the Office of Thrift Supervision and who is not a member of family as defined under section 8901(5) of title 5, United States Code—

(A) shall be deemed to be entitled to continued coverage under section 8905a of such title as though the individual had, on January 7, 1995, ceased to meet the requirements for being considered an unmarried dependent child under chapter 89 of such title; and

(B) may enroll in an approved health benefits plan described under section 8903 or 8903a of such title in accordance with section 8905a for continued coverage effective on and after January 8, 1995.

(c) TRANSFERS TO THE EMPLOYEES HEALTH BENEFITS FUND.—The Office of the Comptroller of the Currency and the Office of Thrift Supervision shall transfer to the Employees Health Benefits Fund established under section 8909 of title 5, United States Code, amounts determined by the Director of the Office of Personnel Management, after consultation with the Office of the Comptroller of the Currency and the Office of Thrift Supervision, to be necessary to reimburse the Fund for the cost of providing benefits under this section not otherwise paid for by the individuals covered by this section. The amounts so transferred shall be held in the Fund and used by the Office in addition to amounts available under section 8906(g)(1) of such title.

(d) ADMINISTRATION AND REGULATIONS.—The Office of Personnel Management—

(1) shall administer the provisions of this section to provide for—

(A) a period of notice and open enrollment for individuals affected by this section; and

(B) no lapse of health coverage for individuals who enroll in a health benefits plan under chapter 89 of title 5, United States Code, in accordance with this section; and

(2) may prescribe regulations to implement this section.

INTERNATIONAL ANTITRUST ENFORCEMENT ASSISTANCE ACT OF 1994

METZENBAUM AMENDMENT NO. 2643

Mr. BREAUX (for Mr. METZENBAUM, for himself and Mr. THURMOND) proposed an amendment to the bill (S. 2297) to facilitate obtaining foreign-located antitrust evidence by authorizing the Attorney General of the United States and the Federal Trade Commission to provide, in accordance with antitrust mutual assistance agreements, antitrust evidence to foreign antitrust authorities on a reciprocal basis; and for other purposes; as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "International Antitrust Enforcement Assistance Act of 1994".

SEC. 2. DISCLOSURE TO A FOREIGN ANTITRUST AUTHORITY OF ANTITRUST EVIDENCE.

In accordance with an antitrust mutual assistance agreement in effect under this Act, subject to section 8, and except as provided in section 5, the Attorney General of the United States and the Federal Trade Commission may provide to a foreign antitrust authority with respect to which such agreement is in effect under this Act, antitrust evidence to assist the foreign antitrust authority—

(1) in determining whether a person has violated or is about to violate any of the foreign antitrust laws administered or enforced by the foreign antitrust authority, or

(2) in enforcing any of such foreign laws.

SEC. 3. INVESTIGATIONS TO ASSIST A FOREIGN ANTITRUST AUTHORITY IN OBTAINING ANTITRUST EVIDENCE.

(a) REQUEST FOR INVESTIGATIVE ASSISTANCE.—A request by a foreign antitrust authority for investigative assistance under this section shall be made to the Attorney General, who may deny the request in whole or in part. No further action shall be taken under this section with respect to any part of a request that has been denied by the Attorney General.

(b) AUTHORITY TO INVESTIGATE.—In accordance with an antitrust mutual assistance agreement in effect under this Act, subject to section 8, and except as provided in section 5, the Attorney General and the Commission may, using their respective authority to investigate possible violations of the Federal antitrust laws, conduct investigations to obtain antitrust evidence relating to a possible violation of the foreign antitrust laws administered or enforced by the foreign antitrust authority with respect to which such agreement is in effect under this Act, and may provide such antitrust evidence to the foreign antitrust authority, to assist the foreign antitrust authority—

(1) in determining whether a person has violated or is about to violate any of such foreign antitrust laws, or

(2) in enforcing any of such foreign antitrust laws.

(c) SPECIAL SCOPE OF AUTHORITY.—An investigation may be conducted under subsection (b), and antitrust evidence obtained through such investigation may be provided, without regard to whether the conduct investigated violates any of the Federal antitrust laws.

(d) RIGHTS AND PRIVILEGES PRESERVED.—A person may not be compelled in connection with an investigation under this section to give testimony or a statement, or to produce a document

or other thing, in violation of any legally applicable right or privilege.

(e) CONFORMING AMENDMENTS.—

(1) ANTITRUST CIVIL PROCESS ACT.—The Antitrust Civil Process Act (15 U.S.C. 1311 et seq.) is amended—

(A) in section 2—

(i) in subsection (d)—

(I) by striking "or any" and inserting ", any", and

(II) by inserting before the semicolon "or, with respect to the International Antitrust Enforcement Assistance Act of 1994, any of the foreign antitrust laws", and

(ii) by adding at the end the following:

"(k) The term 'foreign antitrust laws' has the meaning given such term in section 12 of the International Antitrust Enforcement Assistance Act of 1994.", and

(B) in the first sentence of section 3(a)—

(i) by inserting "or, with respect to the International Antitrust Enforcement Assistance Act of 1994, an investigation authorized by section 3 of such Act" after "investigation", and

(ii) by inserting "by the United States" after "proceeding".

(2) FEDERAL TRADE COMMISSION ACT.—The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended—

(A) in section 6 by inserting after subsection (h) the following:

"(i) With respect to the International Antitrust Enforcement Assistance Act of 1994, to conduct investigations of possible violations of foreign antitrust laws (as defined in section 12 of such Act).";

(B) in section 20(a) by amending paragraph (8) to read as follows:

"(8) The term 'antitrust violation' means—

"(A) any unfair method of competition (within the meaning of section 5(a)(1));

"(B) any violation of the Clayton Act or of any other Federal statute that prohibits, or makes available to the Commission a civil remedy with respect to, any restraint upon or monopolization of interstate or foreign trade or commerce;

"(C) with respect to the International Antitrust Enforcement Assistance Act of 1994, any violation of any of the foreign antitrust laws (as defined in section 12 of such Act) with respect to which a request is made under section 3 of such Act; or

"(D) any activity in preparation for a merger, acquisition, joint venture, or similar transaction, which if consummated, may result in any such unfair method of competition or in any such violation.".

SEC. 4. JURISDICTION OF THE DISTRICT COURTS OF THE UNITED STATES.

(a) AUTHORITY OF THE DISTRICT COURTS.—On the application of the Attorney General made in accordance with an antitrust mutual assistance agreement in effect under this Act, the United States district court for the district in which a person resides, is found, or transacts business may order such person to give testimony or a statement, or to produce a document or other thing, to the Attorney General to assist a foreign antitrust authority with respect to which such agreement is in effect under this Act—

(1) in determining whether a person has violated or is about to violate any of the foreign antitrust laws administered or enforced by the foreign antitrust authority, or

(2) in enforcing any of such foreign antitrust laws.

(b) CONTENTS OF ORDER.—

(1) USE OF APPOINTEE TO RECEIVE EVIDENCE.—(A) An order issued under subsection (a) may direct that testimony or a statement be given, or a document or other thing be produced, to a person who shall be recommended by the Attorney General and appointed by the court.

(B) A person appointed under subparagraph (A) shall have power to administer any necessary oath and to take such testimony or such statement.

(2) PRACTICE AND PROCEDURE.—(A) An order issued under subsection (a) may prescribe the practice and procedure for taking testimony and statements and for producing documents and other things.

(B) Such practice and procedure may be in whole or in part the practice and procedure of the foreign state, or the regional economic integration organization, represented by the foreign antitrust authority with respect to which the Attorney General requests such order.

(C) To the extent such order does not prescribe otherwise, any testimony and statements required to be taken shall be taken, and any documents and other things required to be produced shall be produced, in accordance with the Federal Rules of Civil Procedure.

(c) RIGHTS AND PRIVILEGES PRESERVED.—A person may not be compelled under an order issued under subsection (a) to give testimony or a statement, or to produce a document or other thing, in violation of any legally applicable right or privilege.

(d) VOLUNTARY CONDUCT.—This section does not preclude a person in the United States from voluntarily giving testimony or a statement, or producing a document or other thing, in any manner acceptable to such person for use in an investigation by a foreign antitrust authority.

SEC. 5. LIMITATIONS ON AUTHORITY.

Sections 2, 3, and 4 shall not apply with respect to the following antitrust evidence:

(1) Antitrust evidence that is received by the Attorney General or the Commission under section 7A of the Clayton Act (15 U.S.C. 18a), as added by title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976. Nothing in this paragraph shall affect the ability of the Attorney General or the Commission to disclose to a foreign antitrust authority antitrust evidence that is obtained otherwise than under such section 7A.

(2) Antitrust evidence that is matter occurring before a grand jury and with respect to which disclosure is prevented by Federal law, except that for the purpose of applying Rule 6(e)(3)(C)(iv) of the Federal Rules of Criminal Procedure with respect to this section—

(A) a foreign antitrust authority with respect to which a particularized need for such antitrust evidence is shown shall be considered to be an appropriate official of any of the several States, and

(B) a foreign antitrust law administered or enforced by the foreign antitrust authority shall be considered to be a State criminal law.

(3) Antitrust evidence that is specifically authorized under criteria established by Executive Order 12356, or any successor to such order, to be kept secret in the interest of national defense or foreign policy, and—

(A) that is classified pursuant to such order or such successor, or

(B) with respect to which a determination of classification is pending under such order or such successor.

(4) Antitrust evidence that is classified under section 142 of the Atomic Energy Act of 1954 (42 U.S.C. 2162).

SEC. 6. EXCEPTION TO CERTAIN DISCLOSURE RESTRICTIONS.

Section 4 of the Antitrust Civil Process Act (15 U.S.C. 1313), and sections 6(f) and 21 of the Federal Trade Commission Act (15 U.S.C. 46, 57b–2), shall not apply to prevent the Attorney General or the Commission from providing to a foreign antitrust authority antitrust evidence in accordance with an antitrust mutual assistance agreement in effect under this Act and in accordance with the other requirements of this Act.

SEC. 7. PUBLICATION REQUIREMENTS APPLICABLE TO ANTITRUST MUTUAL ASSISTANCE AGREEMENTS.

(a) PUBLICATION OF PROPOSED ANTITRUST MUTUAL ASSISTANCE AGREEMENTS.—Not less than 45 days before an antitrust mutual assistance agreement is entered into, the Attorney General, with the concurrence of the Commission, shall publish in the Federal Register—

(1) the proposed text of such agreement and any modification to such proposed text, and

(2) a request for public comment with respect to such text or such modification, as the case may be.

(b) PUBLICATION OF PROPOSED AMENDMENTS TO ANTITRUST MUTUAL ASSISTANCE AGREEMENTS IN EFFECT.—Not less than 45 days before an agreement is entered into that makes an amendment to an antitrust mutual assistance agreement, the Attorney General, with the concurrence of the Commission, shall publish in the Federal Register—

(1) the proposed text of such amendment, and

(2) a request for public comment with respect to such amendment.

(c) PUBLICATION OF ANTITRUST MUTUAL ASSISTANCE AGREEMENTS, AMENDMENTS, AND TERMINATIONS.—Not later than 45 days after an antitrust mutual assistance agreement is entered into or terminated, or an agreement that makes an amendment to an antitrust mutual assistance agreement is entered into, the Attorney General, with the concurrence of the Commission, shall publish in the Federal Register—

(1) the text of the antitrust mutual assistance agreement or amendment, or the terms of the termination, as the case may be, and

(2) in the case of an agreement that makes an amendment to an antitrust mutual assistance agreement, a notice containing—

(A) citations to the locations in the Federal Register at which the text of the antitrust mutual assistance agreement that is so amended, and of any previous amendments to such agreement, are published, and

(B) a description of the manner in which a copy of the antitrust mutual assistance agreement, as so amended, may be obtained from the Attorney General and the Commission.

(d) CONDITION FOR VALIDITY.—An antitrust mutual assistance agreement, or an agreement that makes an amendment to an antitrust mutual assistance agreement, with respect to which publication does not occur in accordance with subsections (a), (b), and (c) shall not be considered to be in effect under this Act.

SEC. 8. CONDITIONS ON USE OF ANTITRUST MUTUAL ASSISTANCE AGREEMENTS.

(a) DETERMINATIONS.—Neither the Attorney General nor the Commission may conduct an investigation under section 3, apply for an order under section 4, or provide antitrust evidence to a foreign antitrust authority under an antitrust mutual assistance agreement, unless the Attorney General or the Commission, as the case may be, determines in the particular instance in which the investigation, application, or antitrust evidence is requested that—

(1) the foreign antitrust authority—

(A) will satisfy the assurances, terms, and conditions described in subparagraphs (A), (B), and (E) of section 12(2), and

(B) is capable of complying with and will comply with the confidentiality requirements applicable under such agreement to the requested antitrust evidence,

(2) providing the requested antitrust evidence will not violate section 5, and

(3) conducting such investigation, applying for such order, or providing the requested antitrust evidence, as the case may be, is consistent with the public interest of the United States, taking into consideration, among other factors, whether the foreign state or regional economic integration organization represented by the foreign antitrust authority holds any proprietary

interest that could benefit or otherwise be affected by such investigation, by the granting of such order, or by the provision of such antitrust evidence.

(b) LIMITATION ON DISCLOSURE OF CERTAIN ANTITRUST EVIDENCE.—Neither the Attorney General nor the Commission may disclose in violation of an antitrust mutual assistance agreement any antitrust evidence received under such agreement, except that such agreement may not prevent the disclosure of such antitrust evidence to a defendant in an action or proceeding brought by the Attorney General or the Commission for a violation of any of the Federal laws if such disclosure would otherwise be required by Federal law.

(c) REQUIRED DISCLOSURE OF NOTICE RECEIVED.—If the Attorney General or the Commission receives a notice described in section 12(2)(H), the Attorney General or the Commission, as the case may be, shall transmit such notice to the person that provided the evidence with respect to which such notice is received.

SEC. 9. LIMITATIONS ON JUDICIAL REVIEW.

(a) DETERMINATIONS.—Determinations made under paragraphs (1) and (3) of section 8(a) shall not be subject to judicial review.

(b) CITATIONS TO AND DESCRIPTIONS OF CONFIDENTIALITY LAWS.—Whether an antitrust mutual assistance agreement satisfies section 12(2)(C) shall not be subject to judicial review.

(c) RULES OF CONSTRUCTION.—

(1) ADMINISTRATIVE PROCEDURE ACT.—The requirements in section 7 with respect to publication and request for public comment shall not be construed to create any availability of judicial review under chapter 7 of title 5 of the United States Code.

(2) LAWS REFERENCED IN SECTION 5.—Nothing in this section shall be construed to affect the availability of judicial review under laws referred to in section 5.

SEC. 10. PRESERVATION OF EXISTING AUTHORITY.

(a) IN GENERAL.—The authority provided by this Act is in addition to, and not in lieu of, any other authority vested in the Attorney General, the Commission, or any other officer of the United States.

(b) ATTORNEY GENERAL AND COMMISSION.—This Act shall not be construed to modify or affect the allocation of responsibility between the Attorney General and the Commission for the enforcement of the Federal antitrust laws.

SEC. 11. REPORT TO THE CONGRESS.

In the 30-day period beginning 3 years after the date of the enactment of this Act and with the concurrence of the Commission, the Attorney General shall submit, to the Speaker of the House of Representatives and the President pro tempore of the Senate, a report—

(1) describing how the operation of this Act has affected the enforcement of the Federal antitrust laws,

(2) describing the extent to which foreign antitrust authorities have complied with the confidentiality requirements applicable under antitrust mutual assistance agreements in effect under this Act,

(3) specifying separately the identities of the foreign states, regional economic integration organizations, and foreign antitrust authorities that have entered into such agreements and the identities of the foreign antitrust authorities with respect to which such foreign states and such organizations have entered into such agreements,

(4) specifying the identity of each foreign state, and each regional economic integration organization, that has in effect a law similar to this Act,

(5) giving the approximate number of requests made by the Attorney General and the Commission under such agreements to foreign antitrust authorities for antitrust investigations and for antitrust evidence,

(6) giving the approximate number of requests made by foreign antitrust authorities under such agreements to the Attorney General and the Commission for investigations under section 3, for orders under section 4, and for antitrust evidence, and

(7) describing any significant problems or concerns of which the Attorney General is aware with respect to the operation of this Act.

SEC. 12. DEFINITIONS.

For purposes of this Act:

(1) The term "antitrust evidence" means information, testimony, statements, documents, or other things that are obtained in anticipation of, or during the course of, an investigation or proceeding under any of the Federal antitrust laws or any of the foreign antitrust laws.

(2) The term "antitrust mutual assistance agreement" means a written agreement, or written memorandum of understanding, that is entered into by the United States and a foreign state or regional economic integration organization (with respect to the foreign antitrust authorities of such foreign state or such organization, and such other governmental entities of such foreign state or such organization as the Attorney General and the Commission jointly determine may be necessary in order to provide the assistance described in subparagraph (A)), or jointly by the Attorney General and the Commission and a foreign antitrust authority, for the purpose of conducting investigations under section 3, applying for orders under section 4, or providing antitrust evidence, on a reciprocal basis and that includes the following:

(A) An assurance that the foreign antitrust authority will provide to the Attorney General and the Commission assistance that is comparable in scope to the assistance the Attorney General and the Commission provide under such agreement or such memorandum.

(B) An assurance that the foreign antitrust authority is subject to laws and procedures that are adequate to maintain securely the confidentiality of antitrust evidence that may be received under section 2, 3, or 4 and will give protection to antitrust evidence received under such section that is not less than the protection provided under the laws of the United States to such antitrust evidence.

(C) Citations to and brief descriptions of the laws of the United States, and the laws of the foreign state or regional economic integration organization represented by the foreign antitrust authority, that protect the confidentiality of antitrust evidence that may be provided under such agreement or such memorandum. Such citations and such descriptions shall include the enforcement mechanisms and penalties applicable under such laws and, with respect to a regional economic integration organization, the applicability of such laws, enforcement mechanisms, and penalties to the foreign states composing such organization.

(D) Citations to the Federal antitrust laws, and the foreign antitrust laws, with respect to which such agreement or such memorandum applies.

(E) Terms and conditions that specifically require using, disclosing, or permitting the use or disclosure of, antitrust evidence received under such agreement or such memorandum only—

(i) for the purpose of administering or enforcing the foreign antitrust laws involved, or

(ii) with respect to a specified disclosure or use requested by a foreign antitrust authority and essential to a significant law enforcement objective, in accordance with the prior written consent that the Attorney General or the Commission, as the case may be, gives after—

(I) determining that such antitrust evidence is not otherwise readily available with respect to such objective,

(II) making the determinations described in paragraphs (2) and (3) of section 8(a), with respect to such disclosure or use, and

(III) making the determinations applicable to a foreign antitrust authority under section 8(a)(1) (other than the determination regarding the assurance described in subparagraph (A) of this paragraph), with respect to each additional governmental entity, if any, to be provided such antitrust evidence in the course of such disclosure or use, after having received adequate written assurances applicable to each such governmental entity.

(F) An assurance that antitrust evidence received under section 2, 3, or 4 from the Attorney General or the Commission, and all copies of such evidence, in the possession or control of the foreign antitrust authority will be returned to the Attorney General or the Commission, respectively, at the conclusion of the foreign investigation or proceeding with respect to which such evidence was so received.

(G) Terms and conditions that specifically provide that such agreement or such memorandum will be terminated if—

(i) the confidentiality required under such agreement or such memorandum is violated with respect to antitrust evidence, and

(ii) adequate action is not taken both to minimize any harm resulting from the violation and to ensure that the confidentiality required under such agreement or such memorandum is not violated again.

(H) Terms and conditions that specifically provide that if the confidentiality required under such agreement or such memorandum is violated with respect to antitrust evidence, notice of the violation will be given—

(i) by the foreign antitrust authority promptly to the Attorney General or the Commission with respect to antitrust evidence provided by the Attorney General or the Commission, respectively, and

(ii) by the Attorney General or the Commission to the person (if any) that provided such evidence to the Attorney General or the Commission.

(3) The term "Attorney General" means the Attorney General of the United States.

(4) The term "Commission" means the Federal Trade Commission.

(5) The term "Federal antitrust laws" has the meaning given the term "antitrust laws" in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)) but also includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies to unfair methods of competition.

(6) The term "foreign antitrust authority" means a governmental entity of a foreign state or of a regional economic integration organization that is vested by such state or such organization with authority to enforce the foreign antitrust laws of such state or such organization.

(7) The term "foreign antitrust laws" means the laws of a foreign state, or of a regional economic integration organization, that are substantially similar to any of the Federal antitrust laws and that prohibit conduct similar to conduct prohibited under the Federal antitrust laws.

(8) The term "person" has the meaning given such term in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)).

(9) The term "regional economic integration organization" means an organization that is constituted by, and composed of, foreign states, and on which such foreign states have conferred sovereign authority to make decisions that are binding on such foreign states, and that are directly applicable to and binding on persons within such foreign states, including the decisions with respect to—

(A) administering or enforcing the foreign antitrust laws of such organization, and

(B) prohibiting and regulating disclosure of information that is obtained by such organization in the course of administering or enforcing such laws.

SEC. 13. AUTHORITY TO RECEIVE REIMBURSEMENT.

The Attorney General and the Commission are authorized to receive from a foreign antitrust authority, or from the foreign state or regional economic integration organization represented by such foreign antitrust authority, reimbursement for the costs incurred by the Attorney General or the Commission, respectively, in conducting an investigation under section 3 requested by such foreign antitrust authority, applying for an order under section 4 to assist such foreign antitrust authority, or providing antitrust evidence to such foreign antitrust authority under an antitrust mutual assistance agreement in effect under this Act with respect to such foreign antitrust authority.

FEDERAL EMPLOYEES FAMILY FRIENDLY LEAVE ACT

PRYOR AMENDMENT NO. 2644

Mr. BREAUX (for Mr. PRYOR) proposed an amendment to the bill (H.R. 4361) to amend title 5, United States Code, to provide that an employee of the Federal Government may use sick leave to attend to the medical needs of a family member; to modify the voluntary leave transfer program with respect to employees who are members of the same family; and for other purposes, as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Employees Family Friendly Leave Act".

SEC. 2. USE OF SICK LEAVE FOR PURPOSES RELATING TO A FAMILY MEMBER.

Section 6307 of title 5, United States Code, is amended by adding at the end the following:

"(d)(1) For the purpose of this subsection, the term 'family member' shall have such meaning as the Office of Personnel Management shall by regulation prescribe, except that such term shall include any individual who meets the definition given that term, for purposes of the leave transfer program under subchapter III, under regulations prescribed by the Office (as in effect on January 1, 1993).

"(2) Subject to paragraph (3) and in addition to any other allowable purpose, sick leave may be used by an employee—

"(A) to give care or otherwise attend to a family member having an illness, injury, or other condition which, if an employee had such condition, would justify the use of sick leave by such an employee; or

"(B) for purposes relating to the death of a family member, including to make arrangements for or attend the funeral of such family member.

"(3)(A) Sick leave may be used by an employee for the purposes provided under paragraph (2) only to the extent the amount used for such purposes does not exceed—

"(i) 40 hours in any year, plus

"(ii) up to an additional 64 hours in any year, but only to the extent the use of such additional hours does not cause the amount of sick leave to the employee's credit to fall below 80 hours.

"(B) In the case of a part-time employee or an employee on an uncommon tour of duty, the Office of Personnel Management shall establish limitations that are proportional to those prescribed under subparagraph (A).

"(4)(A) This subsection shall be effective during the 3-year period that begins upon the expiration of the 2-month period that begins on the date of the enactment of this subsection.

"(B) Not later than 6 months before the date on which this subsection is scheduled to cease to be effective, the Office shall submit a report to Congress in which it shall evaluate the operation of this subsection and make recommendations as to whether or not this subsection should be continued beyond such date.".

JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT TECHNICAL AMENDMENTS

SIMON AMENDMENT NO. 2645

Mr. BREAUX (for Mr. SIMON) proposed an amendment to the bill (H.R. 3160) to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to make technical corrections necessitated by the enactment of Public Law 102–586, and for other purposes; as follows:

On page 4 strike line 17 through the "(B)" on page 5 line 3.

On page 6, strike line 13 and insert the following:

SEC. 3. DRUG EDUCATION AND PREVENTION RELATING TO YOUTH GANGS.

Section 3505 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11805) is amended—

(1) by striking "$16,000,000 for fiscal year 1992 and"; and

(2) by striking "1993 and 1994" and inserting "1995".

SEC. 4. PROGRAMS FOR RUNAWAY AND HOMELESS YOUTH.

Section 3513 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11823) is amended—

(1) by striking "$16,000,000 for fiscal year 1992 and"; and

(2) by striking "1993 and 1994" and inserting "1995".

SEC. 5. EFFECTIVE DATES.

At the appropriate place insert the following:

SECTION 1. FINDING AND PURPOSE.

(a) FINDING.—The Congress finds that Benchmark Rail Group, Inc., of St. Louis, Missouri, satisfactorily performed emergency work after the Northridge earthquake, but has not been reimbursed as a result of a technicality under California State law.

(b) PURPOSE.—The purpose of this Act is to fairly compensate Benchmark Rail Group, Inc., for the work for which, except for the technicality under California State law, it would otherwise have been paid under the provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

SEC. 2. PAYMENT

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the director of the Federal Emergency Management Agency shall pay to Benchmark Rail Group, Inc., of St. Louis, Missouri, an amount equal to the total amount owed to Benchmark Rail Group, Inc., by the Federal Emergency Management Agency and the State of California to compensate Benchmark Rail Group, Inc., for the emergency work and services performed at the request of the Southern California Regional Rail Authority, to the extent that such work and services are otherwise eligible for reimbursement under the Robert T. Stafford Disaster and Emergency Assistance Act. The payment shall be made from funds appropriated to implement such Act.

(b) DEOBLIGATION OF FUNDS.—The Federal Emergency Management Agency shall deobligate an equal amount to that obligated previously for payment to the State of California to cover the costs of work performed for the Southern California Regional Rail Authority by Benchmark Rail Group, Inc., after the Northridge earthquake which would have been eligible for reimbursement under such Act.

SECTION 1. RELIEF OF WADE BOMAR.

The Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, $100,000 to Mr. Wade Bomar in full settlement of a claim for injuries sustained by Mr. Bomar in the line of duty on August 6, 1989, while fighting the Pryor Gap fire, permanently depriving him of the use of his limbs.

Amend the title so as to read: "A bill for the relief of Wade Bomar, and for other purposes".

PROHIBITING THE WITHDRAWAL OF RECOGNITION OF INDIAN TRIBES OF ALASKA NATIVE GROUPS

STEVENS AMENDMENT NO. 2646

Mr. BREAUX (for Mr. STEVENS) proposed an amendment to the bill (H.R. 4180) to prohibit the withdrawal of acknowledgement or recognition of an Indian tribe or Alaska Native group or of the leaders of an Indian tribe or Alaska Native group, absent an Act of Congress; as follows:

At the appropriate place in the bill, add the following new section:

SEC. . AUTHORIZATION FOR INTEREST ON TRUST FUNDS.

(a) IN GENERAL.—There are authorized to be appropriated funds necessary to pay interest or earnings on any trust fund administered by the Secretary of the Interior for the benefit of Alaska Indian, Aleut or Eskimo people.

(b) DEPOSIT IN TRUST FUND.—Upon appropriation, the Secretary shall deposit in the appropriate trust fund such interest or earnings that have or should have accumulated during the period since any such trust fund was established.

(c) INTEREST OR EARNINGS.—Interest or earnings for each such trust fund shall be determined in accordance with section 9702 of Title 31, United States Code.

(d) INTEREST ACCRUED.—Nothing in this Section shall diminish any interest or earnings that have otherwise accrued on any trust funds administered by the Secretary for the benefit of Alaska Indian, Aleut, or Eskimo people.

Amend the title so as to read: "A bill to clarify the status of the Tlingit and Haida, and for other purposes.".

AKAKA AMENDMENT NO. 2647

Mr. BREAUX (for Mr. AKAKA) proposed an amendment to the bill, H.R. 4180, supra; as follows:

At the appropriate place insert the following new title:

TITLE ___ HAWAIIAN HOME LANDS

SEC. ___01. SHORT TITLE.

This title may be cited as the "Hawaiian Home Lands Recovery Act".

SEC. ___02. DEFINITIONS.

As used in this title:

(1) AGENCY.—The term "agency" includes—

(A) any instrumentality of the United States;

(B) any element of an agency; and

(C) any wholly owned or mixed-owned corporation of the United States Government.

(2) BENEFICIARY.—The term "beneficiary" has the same meaning as is given the term "native Hawaiian" under section 201(7) of the Hawaiian Homes Commission Act.

(3) CHAIRMAN.—The term "Chairman" means the Chairman of the Hawaiian Homes Commission of the State of Hawaii.

(4) COMMISSION.—The term "Commission" means the Hawaiian Homes Commission established by section 202 of the Hawaiian Homes Commission Act.

(5) HAWAIIAN HOMES COMMISSION ACT.—The term "Hawaiian Homes Commission Act" means the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq., chapter 42).

(6) HAWAII STATE ADMISSION ACT.—The term "Hawaii State Admission Act" means the Act entitled "An Act to provide for the admission of the State of Hawaii into the Union", approved March 18, 1959 (73 Stat. 4, chapter 339; 48 U.S.C. note prec. 491).

(7) LOST USE.—The term "lost use" means the value of the use of the land during the period when beneficiaries or the Hawaiian Homes Commission have been unable to use lands as authorized by the Hawaiian Homes Commission Act because of the use of such lands by the Federal Government after August 21, 1959.

(8) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 03. SETTLEMENT OF FEDERAL CLAIMS.

(a) DETERMINATION.—

(1) The Secretary shall determine the value of the following:

(A) Lands under the control of the Federal Government that—

(i) were initially designated as available lands under section 203 of the Hawaiian Homes Commission Act (as in effect on the date of enactment of such Act); and

(ii) were nevertheless transferred to or otherwise acquired by the Federal Government.

(B) The lost use of lands described in subparagraph (A).

(2)(A) Except as provided in subparagraph (B), the determinations of value made under this subsection shall be made not later than 1 year after the date of enactment of this Act. In carrying out this subsection, the Secretary shall use a method of determining value that—

(i) is acceptable to the Chairman; and

(ii) is in the best interest of the beneficiaries.

(B) The Secretary and the Chairman may mutually agree to extend the deadline for making determinations under this subparagraph beyond the date specified in subparagraph (A).

(3) The Secretary and the Chairman may mutually agree, with respect to the determinations of value described in subparagraphs (A) and (B) of paragraph (1), to provide—

(A) for making any portion of the determinations of value pursuant to subparagraphs (A) and (B) of paragraph (1); and

(B) for making the remainder of the determinations with respect to which the Secretary and the Chairman do not exercise the option described in subparagraph (A), pursuant to an appraisal conducted under paragraph (4).

(4)(A) Except as provided in subparagraph (C), if the Secretary and the Chairman do not agree on the determinations of values made by the Secretary under subparagraphs (A) and (B) of paragraph (1), or, pursuant to paragraph (3), mutually agree to determine the value of certain lands pursuant to this subparagraph, such values shall be determined by an appraisal. An appraisal conducted under this subparagraph shall be conducted in accordance with appraisal standards that are mutually agreeable to the Secretary and the Chairman.

(B) If an appraisal is conducted pursuant to this subparagraph, during the appraisal process—

(i) the Chairman shall have the opportunity to present evidence of value to the Secretary;

(ii) the Secretary shall provide the Chairman a preliminary copy of the appraisal;

(iii) the Chairman shall have a reasonable and sufficient opportunity to comment on the preliminary copy of the appraisal; and

(iv) the Secretary shall give consideration to the comments and evidence of value submitted by the Chairman under this subparagraph.

(C) The Chairman shall have the right to dispute the determinations of values made by an appraisal conducted under this subparagraph. If the Chairman disputes the appraisal, the Secretary and the Chairman may mutually agree to employ a process of bargaining, mediation, or other means of dispute resolution to make the determinations of values described in subparagraphs (A) and (B) of paragraph (1).

(b) AUTHORIZATION.—

(1) EXCHANGE.—Subject to paragraphs (2) and (5), the Secretary may convey Federal lands described in paragraph (5) to the Department of Hawaiian Home Lands in exchange for the continued retention by the Federal Government of lands described in subsection (a)(1)(A).

(2) VALUE OF LANDS.—(A) The value of any lands conveyed to the Department of Hawaiian Home Lands by the Federal Government in accordance with an exchange made under paragraph (1) may not be less than the value of the lands retained by the Federal Government pursuant to such exchange.

(B) For the purposes of this subsection, the value of any lands exchanged pursuant to paragraph (1) shall be determined as of the date the exchange is carried out, or any other date determined by the Secretary, with the concurrence of the Chairman.

(3) LOST USE.—Subject to paragraphs (4) and (5), the Secretary may convey Federal lands described in paragraph (5) to the Department of Hawaiian Home Lands as compensation for the lost use of lands determined under subsection (a)(1)(B).

(4) VALUE OF LOST USE.—(A) The value of any lands conveyed to the Department of Hawaiian Home Lands by the Federal Government as compensation under paragraph (3) may not be less than the value of the lost use of lands determined under subsection (a)(1)(B).

(B) For the purposes of this subparagraph, the value of any lands conveyed pursuant to paragraph (3) shall be determined as of the date that the conveyance occurs, or any other date determined by the Secretary, with the concurrence of the Chairman.

(5) FEDERAL LANDS FOR EXCHANGE.—(A) Subject to subparagraphs (B) and (C), Federal lands located in Hawaii that are under the control of an agency (other than lands within the National Park System or the National Wildlife Refuge System) may be conveyed to the Department of Hawaiian Home Lands under paragraphs (1) and (3). To assist the Secretary in carrying out this Act, the head of an agency may transfer to the Department of the Interior, without reimbursement, jurisdiction and control over any lands and any structures that the Secretary determines to be suitable for conveyance to the Department of Hawaiian Home Lands pursuant to an exchange conducted under this section.

(B) No Federal lands that the Federal Government is required to convey to the State of Hawaii under section 5 of the Hawaii State Admission Act may be conveyed under paragraph (1) or (3).

(C) No Federal lands that generate income (or would be expected to generate income) for the Federal Government may be conveyed pursuant to an exchange made under this paragraph to the Department of Hawaiian Home Lands.

(c) AVAILABLE LANDS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Secretary shall require that lands conveyed to the Department of Hawaiian Home Lands under this Act shall have the status of available lands under the Hawaiian Home Commission Act.

(2) SUBSEQUENT EXCHANGE OF LANDS.—Notwithstanding any other provision of law, lands conveyed to the Department of Hawaiian Home Lands under this paragraph may subsequently be exchanged pursuant to section 204(3) of the Hawaiian Homes Commission Act.

(3) SALE OF CERTAIN LANDS.—Notwithstanding any other provision of law, the Chairman may, at the time that lands are conveyed to the Department of Hawaiian Home Lands as compensation for lost use under this Act, designate lands to be sold. The Chairman is authorized to sell such land under terms and conditions that are in the best interest of the beneficiaries. The proceeds of such a sale may only be used for the purposes described in section 207(a) of the Hawaiian Homes Commission Act.

(d) CONSULTATION.—In carrying out their respective responsibilities under this section, the Secretary and the Chairman shall—

(1) consult with the beneficiaries and organizations representing the beneficiaries; and

(2) report to such organizations on a regular basis concerning the progress made to meet the requirements of this section.

(e) HOLD HARMLESS.—Notwithstanding any other provision of law, the United States shall defend and hold harmless the Department of Hawaiian Home Lands, the employees of the Department, and the beneficiaries with respect to any claim arising from the ownership of any land or structure that is conveyed to the Department pursuant to an exchange made under this section prior to the conveyance to the Department of such land or structure.

(f) SCREENING.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Defense and the Administrator of General Services shall, at the same time as notice is provided to Federal agencies that excess real property is being screened pursuant to applicable Federal laws (including regulations) for possible transfer to such agencies, notify the Chairman of any such screening of real property that is located within the State of Hawaii.

(2) RESPONSE TO NOTIFICATION.—Notwithstanding any other provision of law, not

later than 90 days after receiving a notice under paragraph (1), the Chairman may select for appraisal real property, or at the election of the Chairman, portions of real property, that is the subject of a screening.

(3) SELECTION.—Notwithstanding any other provision of law, with respect to any real property located in the State of Hawaii that, as of the date of enactment of this Act, is being screened pursuant to applicable Federal laws for possible transfer (as described in paragraph (1)) or has been screened for such purpose, but has not been transferred or declared to be surplus real property, the Chairman may select all, or any portion of, such real property to be appraised pursuant to paragraph (4).

(4) APPRAISAL.—Notwithstanding any other provision of law, the Secretary of Defense or the Administrator of General Services shall appraise the real property or portions of real property selected by the Chairman using the Uniform Standards for Federal Land Acquisition developed by the Interagency Land Acquisition Conference, or such other standard as the Chairman agrees to.

(5) REQUEST FOR CONVEYANCE.—Notwithstanding any other provision of law, not later than 30 days after the date of completion of such appraisal, the Chairman may request the conveyance to the Department of Hawaiian Home Lands of—

(A) the appraised property; or

(B) a portion of the appraised property, to the Department of Hawaiian Home Lands.

(6) CONVEYANCE.—Notwithstanding any other provision of law, upon receipt of a request from the Chairman, the Secretary of Defense or the Administrator of the General Services Administration shall convey, without reimbursement, the real property that is the subject of the request to the Department of Hawaiian Home Lands as compensation for lands identified under subsection (a)(1)(A) or lost use identified under subsection (a)(1)(B).

(7) REAL PROPERTY NOT SUBJECT TO RECOUPMENT.—Notwithstanding any other provision of law, any real property conveyed pursuant to paragraph (6) shall not be subject to recoupment based upon the sale or lease of the land by the Chairman.

(8) VALUATION.—Notwithstanding any other provision of law, the Secretary shall reduce the value identified under subparagraph (A) or (B) of subsection (a)(1), as determined pursuant to such subsection, by an amount equal to the appraised value of any excess lands conveyed pursuant to paragraph (6).

(9) LIMITATION.—No Federal lands that generate income (or would be expected to generate income) for the Federal Government may be conveyed pursuant to this subsection to the Department of Hawaiian Home Lands.

SEC. ___04. PROCEDURE FOR APPROVAL OF AMENDMENTS TO HAWAIIAN HOMES COMMISSION ACT.

(a) NOTICE TO THE SECRETARY.—Not later than 120 days after a proposed amendment to the Hawaiian Homes Commission Act is approved in the manner provided in section 4 of the Hawaii State Admission Act, the Chairman shall submit to the Secretary—

(1) a copy of the proposed amendment;

(2) the nature of the change proposed to be made by the amendment; and

(3) an opinion regarding whether the proposed amendment requires the approval of Congress under section 4 of the Hawaii State Admission Act.

(b) DETERMINATION BY SECRETARY.—Not later than 60 days after receiving the materials required to be submitted by the Chairman pursuant to subsection (a), the Secretary shall determine whether the proposed amendment requires the approval of Congress under section 4 of the Hawaii State Admission Act, and shall notify the Chairman and Congress of the determination of the Secretary.

(c) CONGRESSIONAL APPROVAL REQUIRED.—If, pursuant to subsection (b), the Secretary determines that the proposed amendment requires the approval of Congress, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives—

(1) a draft joint resolution approving the amendment;

(2) a description of the change made by the proposed amendment and an explanation of how the amendment advances the interests of the beneficiaries;

(3) a comparison of the existing law (as of the date of submission of the proposed amendment) that is the subject of the amendment with the proposed amendment;

(4) a recommendation concerning the advisability of approving the proposed amendment; and

(5) any documentation concerning the amendments received from the Chairman.

SEC. 05. LAND EXCHANGES.

(a) NOTICE TO THE SECRETARY.—If the Chairman recommends for approval an exchange of Hawaiian home lands, the Chairman shall submit a report to the Secretary on the proposed exchange. The report shall contain—

(1) a description of the acreage and fair market value of the lands involved in the exchange;

(2) surveys and appraisals prepared by the Department of Hawaiian Home Lands, if any; and

(3) an identification of the benefits to the parties of the proposed exchange.

(b) APPROVAL OR DISAPPROVAL.—

(1) IN GENERAL.—Not later than 120 days after receiving the information required to be submitted by the Chairman pursuant to subsection (a), the Secretary shall approve or disapprove the proposed exchange.

(2) NOTIFICATION.—The Secretary shall notify the Chairman, the Committee on Energy and Natural Resources of the Senate, and the Committee on Natural Resources of the House of Representatives of the reasons for the approval or disapproval of the proposed exchange.

(c) EXCHANGES INITIATED BY SECRETARY.—

(1) IN GENERAL.—The Secretary may recommend to the Chairman an exchange of Hawaiian home lands for Federal lands described in section ___03(b)(5), other than lands described in subparagraphs (B) and (C) of such section. If the Secretary initiates a recommendation for such an exchange, the Secretary shall submit a report to the Chairman on the proposed exchange that meets the requirements of a report described in subsection (a).

(2) APPROVAL BY CHAIRMAN.—Not later than 120 days after receiving a recommendation for an exchange from the Secretary under paragraph (1), the Chairman shall provide written notification to the Secretary of the approval or disapproval of a proposed exchange. If the Chairman approves the proposed exchange, upon receipt of the written notification, the Secretary shall notify the Committee on Energy and Natural Resources of the Senate, and the Committee on Natural Resources of the House of Representatives of the approval of the Chairman of the proposed exchange.

(3) EXCHANGE.—Upon providing notification pursuant to paragraph (2) of a proposed exchange that has been approved by the Chairman pursuant to this section, the Secretary may carry out the exchange.

(d) SELECTION AND EXCHANGE.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may—

(A) select real property that is the subject of screening activities conducted by the Secretary of Defense or the Administrator of General Services pursuant to applicable Federal laws (including regulations) for possible transfer to Federal agencies; and

(B) make recommendations to the Chairman concerning making an exchange under subsection (b) that includes such real property.

(2) TRANSFER.—Notwithstanding any other provision of law, if the Chairman approves an exchange proposed by the Secretary under paragraph (1)—

(A) the Secretary of Defense or the Administrator of General Services shall transfer the real property described in paragraph (1)(A) that is the subject of the exchange to the Secretary without reimbursement; and

(B) the Secretary shall carry out the exchange.

(3) LIMITATION.—No Federal lands that generate income (or would be expected to generate income) for the Federal Government may be conveyed pursuant to this subsection to the Department of Hawaiian Home Lands.

(e) SURVEYS AND APPRAISALS.—

(1) REQUIREMENT.—The Secretary shall conduct a survey of all Hawaiian home lands based on the report entitled "Survey Needs for the Hawaiian Home Lands", issued by the Bureau of Land Management of the Department of the Interior, and dated July 1991.

(2) OTHER SURVEYS.—The Secretary is authorized to conduct such other surveys and appraisals as may be necessary to make an informed decision regarding approval or disapproval of a proposed exchange.

SEC. ___06. ADMINISTRATION OF ACTS BY UNITED STATES.

(a) DESIGNATION.—

(1) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the Secretary shall designate an individual from within the Department of the Interior to administer the responsibilities of the United States under this title and the Hawaiian Homes Commission Act.

(2) DEFAULT.—If the Secretary fails to make an appointment by the date specified in paragraph (1), or if the position is vacant at any time thereafter, the Assistant Secretary for Policy, Budget, and Administration of the Department of the Interior shall exercise the responsibilities for the Department in accordance with subsection (b).

(b) RESPONSIBILITIES.—The individual designated pursuant to subsection (a) shall, in administering the laws referred to in such subsection—

(1) advance the interests of the beneficiaries; and

(2) assist the beneficiaries and the Department of Hawaiian Home Lands in obtaining assistance from programs of the Department of the Interior and other Federal agencies that will promote homesteading opportunities, economic self-sufficiency, and social well-being of the beneficiaries.

SEC. ___07. ADJUSTMENT.

The Act of July 1, 1932 (47 Stat. 564, chapter 369; 25 U.S.C. 386a) is amended by striking the period at the end and adding the following: ": *Provided further*, That the Secretary shall adjust or eliminate charges, defer collection of construction costs, and make no

assessment on behalf of such charges for beneficiaries that hold leases on Hawaiian home lands, to the same extent as is permitted for individual Indians or tribes of Indians under this section.".

SEC. ___08. REPORT.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Chairman shall report to the Secretary concerning any claims that—

(1) involve the transfer of lands designated as available lands under section 203 of the Hawaiian Homes Commission Act (as in effect on the date of enactment of such Act); and

(2) are not otherwise covered under this title.

(b) REVIEW.—Not later than 180 days after receiving the report submitted under subsection (a), the Secretary shall make a determination with respect to each claim referred to in subsection (a), whether, on the basis of legal and equitable considerations, compensation should be granted to the Department of Hawaiian Home Lands.

(c) COMPENSATION.—If the Secretary makes a determination under subsection (b) that compensation should be granted to the Department of Hawaiian Home Lands, the Secretary shall determine the value of the lands and lost use in accordance with the process established under section ___03(a), and increase the determination of value made under subparagraphs (A) and (B) of section ___03(a)(1) by the value determined under this subsection.

SEC. ___09. AUTHORIZATION.

There are authorized to be appropriated such sums as may be necessary for compensation to the Department of Hawaiian Home Lands for the value of the lost use of lands determined under section ___03. Compensation received by the Department of Hawaiian Home Lands from funds made available pursuant to this section may only be used for the purposes described in section 207(a) of the Hawaiian Homes Commission Act. To the extent that amounts are made available by appropriations pursuant to this section for compensation paid to the Department of Hawaiian Home Lands for lost use, the Secretary shall reduce the determination of value established under section ___03(a)(1)(B) by such amount.

INOUYE AMENDMENT NO. 2648

Mr. BREAUX (for Mr. INOUYE) proposed an amendment to the bill, H.R. 4180, supra; as follows:

Strike title I, and redesignate titles II and III as titles I and II, respectively.

After title II, as so redesignated, insert the following new titles:

TITLE III—MISCELLANEOUS

SEC. 301. EDUCATIONAL ASSISTANCE.

Notwithstanding any deadline established under section 5(a)(2) of the Act of September 30, 1950 (64 Stat. 1100, chapter 1124), the Secretary of Education shall accept, as if timely received, applications from the Window Rock, Arizona, local educational agency for funding under section 3 of such Act for fiscal years 1994 and 1995.

SEC. 302. PUEBLO DE TAOS.

(a) TRANSFER.—The parcel of land described in subsection (b) is hereby transferred without consideration to the Secretary of the Interior to be held in trust for the Pueblo de Taos. Such parcel shall be a part of the Pueblo de Taos Reservation and shall be managed in accordance with section 4 of the Act of May 31, 1933 (48 Stat. 109, chapter 45) (as amended, including as amended by Public Law 91-550 (84 Stat. 1437)).

(b) LAND DESCRIPTION.—The parcel of land referred to in subsection (a) is the land that is generally depicted on the map entitled "Lands transferred to the Pueblo of Taos—proposed" and dated September 1994. Such land comprises 764.33 acres, and is situated within sections 25, 26, 35, and 36, Township 27 North, Range 14 East, New Mexico Principal Meridian, within the Wheeler Peak Wilderness, Carson National Forest, Taos County, New Mexico.

(c) CONFORMING BOUNDARY ADJUSTMENTS.—The boundaries of the Carson National Forest and the Wheeler Peak Wilderness are hereby adjusted to reflect the transfer made by subsection (a).

(d) COMPLETION OF TRANSFER.—The Congress finds and declares that the lands described in subsection (b), which the United States shall hold in trust as part of the Pueblo de Taos Reservation pursuant to this section, complete the transfer effected by section 4 of the Act of May 31, 1933 (48 Stat. 109, chapter 45) (as amended, including as amended by Public Law 91-550 (84 Stat. 1437)).

ENERGY POLICY AND CONSERVATION ACT AMENDMENTS

NUNN AMENDMENT NO. 2649

Mr. BREAUX (for Mr. NUNN) proposed an amendment to the bill (H.R. 2461) to amend the Energy Policy and Conservation Act to manage the Strategic Petroleum Reserve more effectively, and for other purposes; as follows:

At the end of the bill, add the following new title:

TITLE V—PAPERWORK REDUCTION

SEC. 501. SHORT TITLE.

This title may be cited as the "Paperwork Reduction Act of 1994".

SEC. 502. COORDINATION OF FEDERAL INFORMATION POLICY.

Chapter 35 of title 44, United States Code, is amended to read as follows:

"CHAPTER 35—COORDINATION OF FEDERAL INFORMATION POLICY

"Sec.
"3501. Purposes.
"3502. Definitions.
"3503. Office of Information and Regulatory Affairs.
"3504. Authority and functions of Director.
"3505. Assignment of tasks and deadlines.
"3506. Federal agency responsibilities.
"3507. Public information collection activities; submission to Director; approval and delegation.
"3508. Determination of necessity for information; hearing.
"3509. Designation of central collection agency.
"3510. Cooperation of agencies in making information available.
"3511. Establishment and operation of Government Information Locator Service.
"3512. Public protection.
"3513. Director review of agency activities; reporting; agency response.
"3514. Responsiveness to Congress.
"3515. Administrative powers.
"3516. Rules and regulations.
"3517. Consultation with other agencies and the public.
"3518. Effect on existing laws and regulations.
"3519. Access to information.
"3520. Authorization of appropriations.

"§ 3501. Purposes

"The purposes of this chapter are to—

"(1) minimize the paperwork burden for individuals, small businesses, educational and nonprofit institutions, Federal contractors, State, local and tribal governments, and other persons resulting from the collection of information by or for the Federal Government;

"(2) ensure the greatest possible public benefit from and maximize the utility of information created, collected, maintained, used, shared and disseminated by or for the Federal Government;

"(3) coordinate, integrate, and to the extent practicable and appropriate, make uniform Federal information resources management policies and practices as a means to improve the productivity, efficiency, and effectiveness of Government programs, including the reduction of information collection burdens on the public and the improvement of service delivery to the public;

"(4) improve the quality and use of Federal information to strengthen decisionmaking, accountability, and openness in Government and society;

"(5) minimize the cost to the Federal Government of the creation, collection, maintenance, use, dissemination, and disposition of information;

"(6) strengthen the partnership between the Federal Government and State, local, and tribal governments by minimizing the burden and maximizing the utility of information created, collected, maintained, used, disseminated, and retained by or for the Federal Government;

"(7) provide for the dissemination of public information on a timely basis, on equitable terms, and in a manner that promotes the utility of the information to the public and makes effective use of information technology;

"(8) ensure that the creation, collection, maintenance, use, dissemination, and disposition of information by or for the Federal Government is consistent with applicable laws, including laws relating to—

"(A) privacy and confidentiality, including section 552a of title 5;

"(B) security of information, including the Computer Security Act of 1987 (Public Law 100-235); and

"(C) access to information, including section 552 of title 5;

"(9) ensure the integrity, quality, and utility of the Federal statistical system;

"(10) ensure that information technology is acquired, used, and managed to improve performance of agency missions, including the reduction of information collection burdens on the public; and

"(11) improve the responsibility and accountability of the Office of Management and Budget and all other Federal agencies to Congress and to the public for implementing the information collection review process, information resources management, and related policies and guidelines established under this chapter.

"§ 3502. Definitions

"As used in this chapter—

"(1) the term 'agency' means any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the

executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency, but does not include—

"(A) the General Accounting Office;

"(B) Federal Election Commission;

"(C) the governments of the District of Columbia and of the territories and possessions of the United States, and their various subdivisions; or

"(D) Government-owned contractor-operated facilities, including laboratories engaged in national defense research and production activities;

"(2) the term 'burden' means time, effort, or financial resources expended by persons to generate, maintain, or provide information to or for a Federal agency, including the resources expended for—

"(A) reviewing instructions;

"(B) acquiring, installing, and utilizing technology and systems;

"(C) adjusting the existing ways to comply with any previously applicable instructions and requirements;

"(D) searching data sources;

"(E) completing and reviewing the collection of information; and

"(F) transmitting, or otherwise disclosing the information;

"(3) the term 'collection of information' means the obtaining, causing to be obtained, soliciting, or requiring the disclosure to third parties or the public, of facts or opinions by or for an agency, regardless of form or format, calling for either—

"(A) answers to identical questions posed to, or identical reporting or recordkeeping requirements imposed on, ten or more persons, other than agencies, instrumentalities, or employees of the United States; or

"(B) answers to questions posed to agencies, instrumentalities, or employees of the United States which are to be used for general statistical purposes;

"(4) the term 'Director' means the Director of the Office of Management and Budget;

"(5) the term 'independent regulatory agency' means the Board of Governors of the Federal Reserve System, the Commodity Futures Trading Commission, the Consumer Product Safety Commission, the Federal Communications Commission, the Federal Deposit Insurance Corporation, the Federal Energy Regulatory Commission, the Federal Housing Finance Board, the Federal Maritime Commission, the Federal Trade Commission, the Interstate Commerce Commission, the Mine Enforcement Safety and Health Review Commission, the National Labor Relations Board, the Nuclear Regulatory Commission, the Occupational Safety and Health Review Commission, the Postal Rate Commission, the Securities and Exchange Commission, and any other similar agency designated by statute as a Federal independent regulatory agency or commission;

"(6) the term 'information resources' means information and related resources, such as personnel, equipment, funds, and information technology;

"(7) the term 'information resources management' means the process of managing information resources to accomplish agency missions and to improve agency performance, including through the reduction of information collection burdens on the public;

"(8) the term 'information system' means a discrete set of information resources and processes, automated or manual, organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information;

"(9) the term 'information technology' has the same meaning as the term 'automatic data processing equipment' as defined by section 111(a)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(a)(2));

"(10) the term 'person' means an individual, partnership, association, corporation, business trust, or legal representative, an organized group of individuals, a State, territorial, or local government or branch thereof, or a political subdivision of a State, territory, or local government or a branch of a political subdivision;

"(11) the term 'practical utility' means the ability of an agency to use information, particularly the capability to process such information in a timely and useful fashion;

"(12) the term 'public information' means any information, regardless of form or format, that an agency discloses, disseminates, or makes available to the public; and

"(13) the term 'recordkeeping requirement' means a requirement imposed by or for an agency on persons to maintain specified records.

"§ 3503. Office of Information and Regulatory Affairs

"(a) There is established in the Office of Management and Budget an office to be known as the Office of Information and Regulatory Affairs.

"(b) There shall be at the head of the Office an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall delegate to the Administrator the authority to administer all functions under this chapter, except that any such delegation shall not relieve the Director of responsibility for the administration of such functions. The Administrator shall serve as principal adviser to the Director on Federal information resources management policy.

"(c) The Administrator and employees of the Office of Information and Regulatory Affairs shall be appointed with special attention to professional qualifications required to administer the functions of the Office described under this chapter. Such qualifications shall include relevant education, work experience, or related professional activities.

"§ 3504. Authority and functions of Director

"(a)(1) The Director shall oversee the use of information resources to improve the efficiency and effectiveness of governmental operations to serve agency missions, including service delivery to the public. In performing such oversight, the Director shall—

"(A) develop, coordinate and oversee the implementation of Federal information resources management policies, principles, standards, and guidelines; and

"(B) provide direction and oversee—

"(i) the review of the collection of information and the reduction of the information collection burden;

"(ii) agency dissemination of and public access to information;

"(iii) statistical activities;

"(iv) records management activities;

"(v) privacy, confidentiality, security, disclosure, and sharing of information; and

"(vi) the acquisition and use of information technology.

"(2) The authority of the Director under this chapter shall be exercised consistent with applicable law.

"(b) With respect to general information resources management policy, the Director shall—

"(1) develop and oversee the implementation of uniform information resources management policies, principles, standards, and guidelines;

"(2) foster greater sharing, dissemination, and access to public information, including through—

"(A) the use of the Government Information Locator Service; and

"(B) the development and utilization of common standards for information collection, storage, processing and communication, including standards for security, interconnectivity and interoperability;

"(3) initiate and review proposals for changes in legislation, regulations, and agency procedures to improve information resources management practices;

"(4) oversee the development and implementation of best practices in information resources management, including training; and

"(5) oversee agency integration of program and management functions with information resources management functions.

"(c) With respect to the collection of information and the control of paperwork, the Director shall—

"(1) review proposed agency collections of information, and in accordance with section 3508, determine whether the collection of information by or for an agency is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

"(2) coordinate the review of the collection of information associated with Federal procurement and acquisition by the Office of Information and Regulatory Affairs with the Office of Federal Procurement Policy, with particular emphasis on applying information technology to improve the efficiency and effectiveness of Federal procurement and acquisition and to reduce information collection burdens on the public;

"(3) minimize the Federal information collection burden, with particular emphasis on those individuals and entities most adversely affected;

"(4) maximize the practical utility of and public benefit from information collected by or for the Federal Government; and

"(5) establish and oversee standards and guidelines by which agencies are to estimate the burden to comply with a proposed collection of information.

"(d) With respect to information dissemination, the Director shall develop and oversee the implementation of policies, principles, standards, and guidelines to—

"(1) apply to Federal agency dissemination of public information, regardless of the form or format in which such information is disseminated; and

"(2) promote public access to public information and fulfill the purposes of this chapter, including through the effective use of information technology.

"(e) With respect to statistical policy and coordination, the Director shall—

"(1) coordinate the activities of the Federal statistical system to ensure—

"(A) the efficiency and effectiveness of the system; and

"(B) the integrity, objectivity, impartiality, utility, and confidentiality of information collected for statistical purposes;

"(2) ensure that budget proposals of agencies are consistent with system-wide priorities for maintaining and improving the quality of Federal statistics and prepare an annual report on statistical program funding;

"(3) develop and oversee the implementation of Governmentwide policies, principles, standards, and guidelines concerning—

"(A) statistical collection procedures and methods;

"(B) statistical data classification;

"(C) statistical information presentation and dissemination;

"(D) timely release of statistical data; and

"(E) such statistical data sources as may be required for the administration of Federal programs;

"(4) evaluate statistical program performance and agency compliance with Governmentwide policies, principles, standards and guidelines;

"(5) promote the sharing of information collected for statistical purposes consistent with privacy rights and confidentiality pledges;

"(6) coordinate the participation of the United States in international statistical activities, including the development of comparable statistics;

"(7) appoint a chief statistician who is a trained and experienced professional statistician to carry out the functions described under this subsection;

"(8) establish an Interagency Council on Statistical Policy to advise and assist the Director in carrying out the functions under this subsection that shall—

"(A) be headed by the chief statistician; and

"(B) consist of—

"(i) the heads of the major statistical programs; and

"(ii) representatives of other statistical agencies under rotating membership; and

"(9) provide opportunities for training in statistical policy functions to employees of the Federal Government under which—

"(A) each trainee shall be selected at the discretion of the Director based on agency requests and shall serve under the chief statistician for at least 6 months and not more than 1 year; and

"(B) all costs of the training shall be paid by the agency requesting training.

"(f) With respect to records management, the Director shall—

"(1) provide advice and assistance to the Archivist of the United States and the Administrator of General Services to promote coordination in the administration of chapters 29, 31, and 33 of this title with the information resources management policies, principles, standards, and guidelines established under this chapter;

"(2) review compliance by agencies with—

"(A) the requirements of chapters 29, 31, and 33 of this title; and

"(B) regulations promulgated by the Archivist of the United States and the Administrator of General Services; and

"(3) oversee the application of records management policies, principles, standards, and guidelines, including requirements for archiving information maintained in electronic format, in the planning and design of information systems.

"(g) With respect to privacy and security, the Director shall—

"(1) develop and oversee the implementation of policies, principles, standards, and guidelines on privacy, confidentiality, security, disclosure and sharing of information collected or maintained by or for agencies;

"(2) oversee and coordinate compliance with sections 552 and 552a of title 5, the Computer Security Act of 1987 (40 U.S.C. 759 note), and related information management laws; and

"(3) require Federal agencies, consistent with the Computer Security Act of 1987 (40 U.S.C. 759 note), to identify and afford security protections commensurate with the risk and magnitude of the harm resulting from the loss, misuse, or unauthorized access to or modification of information collected or maintained by or on behalf of an agency.

"(h) With respect to Federal information technology, the Director shall—

"(1) in consultation with the Director of the National Institute of Standards and Technology and the Administrator of General Services—

"(A) develop and oversee the implementation of policies, principles, standards, and guidelines for information technology functions and activities of the Federal Government, including periodic evaluations of major information systems; and

"(B) oversee the development and implementation of standards under section 111(d) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(d));

"(2) monitor the effectiveness of, and compliance with, directives issued under sections 110 and 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757 and 759) and review proposed determinations under section 111(e) of such Act;

"(3) coordinate the development and review by the Office of Information and Regulatory Affairs of policy associated with Federal procurement and acquisition of information technology with the Office of Federal Procurement Policy;

"(4) ensure, through the review of agency budget proposals, information resources management plans and other means—

"(A) agency integration of information resources management plans, program plans and budgets for acquisition and use of information technology; and

"(B) the efficiency and effectiveness of inter-agency information technology initiatives to improve agency performance and the accomplishment of agency missions; and

"(5) promote the use of information technology by the Federal Government to improve the productivity, efficiency, and effectiveness of Federal programs, including through dissemination of public information and the reduction of information collection burdens on the public.

"§ 3505. Assignment of tasks and deadlines

"In carrying out the functions under this chapter, the Director shall—

"(1) in consultation with agency heads, set an annual Governmentwide goal for the reduction of information collection burdens by at least five percent, and set annual agency goals to—

"(A) reduce information collection burdens imposed on the public that—

"(i) represent the maximum practicable opportunity in each agency; and

"(ii) are consistent with improving agency management of the process for the review of collections of information established under section 3506(c); and

"(B) improve information resources management in ways that increase the productivity, efficiency and effectiveness of Federal programs, including service delivery to the public;

"(2) with selected agencies and non-Federal entities on a voluntary basis, conduct pilot projects to test alternative policies, practices, regulations, and procedures to fulfill the purposes of this chapter, particularly with regard to minimizing the Federal information collection burden;

"(3) in consultation with the Administrator of General Services, the Director of the National Institute of Standards and Technology, the Archivist of the United States, and the Director of the Office of Personnel Management, develop and maintain a Governmentwide strategic plan for information resources management, that shall include—

"(A) a description of the objectives and the means by which the Federal Government shall apply information resources to improve agency and program performance;

"(B) plans for—

"(i) reducing information burdens on the public, including reducing such burdens through the elimination of duplication and meeting shared data needs with shared resources;

"(ii) enhancing public access to and dissemination of, information, using electronic and other formats; and

"(iii) meeting the information technology needs of the Federal Government in accordance with the requirements of sections 110 and 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757 and 759), and the purposes of this chapter; and

"(C) a description of progress in applying information resources management to improve agency performance and the accomplishment of missions; and

"(4) in cooperation with the Administrator of General Services, issue guidelines for the establishment and operation in each agency of a process, as required under section 3506(h)(5) of this chapter, to review major information systems initiatives, including acquisition and use of information technology.

"§ 3506. Federal agency responsibilities

"(a)(1) The head of each agency shall be responsible for—

"(A) carrying out the agency's information resources management activities to improve agency productivity, efficiency, and effectiveness; and

"(B) complying with the requirements of this chapter and related policies established by the Director.

"(2)(A) Except as provided under subparagraph (B), the head of each agency shall designate a senior official who shall report directly to such agency head to carry out the responsibilities of the agency under this chapter.

"(B) The Secretary of the Department of Defense and the Secretary of each military department may each designate a senior official who shall report directly to such Secretary to carry out the responsibilities of the department under this chapter. If more than one official is designated for the military departments, the respective duties of the officials shall be clearly delineated.

"(3) The senior official designated under paragraph (2) shall head an office responsible for ensuring agency compliance with and prompt, efficient, and effective implementation of the information policies and information resources management responsibilities established under this chapter, including the reduction of information collection burdens on the public. The senior official and employees of such office shall be selected with special attention to the professional qualifications required to administer the functions described under this chapter.

"(4) Each agency program official shall be responsible and accountable for information resources assigned to and supporting the programs under such official. In consultation with the senior official designated under paragraph (2) and the agency Chief Financial Officer (or comparable official), each agency program official shall define program information needs and develop strategies, systems, and capabilities to meet those needs.

"(5) The head of each agency shall establish a permanent information resources management steering committee, which shall be

chaired by the senior official designated under paragraph (2) and shall include senior program officials and the Chief Financial Officer (or comparable official). Each steering committee shall—

"(A) assist and advise the head of the agency in carrying out information resources management responsibilities of the agency;

"(B) assist and advise the senior official designated under paragraph (2) in the establishment of performance measures for information resources management that relate to program missions;

"(C) select, control, and evaluate all major information system initiatives (including acquisitions of information technology) in accordance with the requirements of subsection (h)(5); and

"(D) identify opportunities to redesign business practices and supporting information systems to improve agency performance.

"(b) With respect to general information resources management, each agency shall—

"(1) develop information systems, processes, and procedures to—

"(A) reduce information collection burdens on the public;

"(B) increase program efficiency and effectiveness; and

"(C) improve the integrity, quality, and utility of information to all users within and outside the agency, including capabilities for ensuring dissemination of public information, public access to government information, and protections for privacy and security;

"(2) in accordance with guidance by the Director, develop and maintain a strategic information resources management plan that shall describe how information resources management activities help accomplish agency missions;

"(3) develop and maintain an ongoing process to—

"(A) ensure that information resources management operations and decisions are integrated with organizational planning, budget, financial management, human resources management, and program decisions;

"(B) develop and maintain an integrated, comprehensive and controlled process of information systems selection, development, and evaluation;

"(C) in cooperation with the agency Chief Financial Officer (or comparable official), develop a full and accurate accounting of information technology expenditures, related expenses, and results; and

"(D) establish goals for improving information resources management's contribution to program productivity, efficiency, and effectiveness, methods for measuring progress towards those goals, and clear roles and responsibilities for achieving those goals;

"(4) in consultation with the Director, the Administrator of General Services, and the Archivist of the United States, maintain a current and complete inventory of the agency's information resources, including directories necessary to fulfill the requirements of section 3511 of this chapter; and

"(5) in consultation with the Director and the Director of the Office of Personnel Management, conduct formal training programs to educate agency program and management officials about information resources management.

"(c) With respect to the collection of information and the control of paperwork, each agency shall—

"(1) establish a process within the office headed by the official designated under subsection (a), that is sufficiently independent of program responsibility to evaluate fairly whether proposed collections of information should be approved under this chapter, to—

"(A) review each collection of information before submission to the Director for review under this chapter, including—

"(i) an evaluation of the need for the collection of information;

"(ii) a functional description of the information to be collected;

"(iii) a plan for the collection of the information;

"(iv) a specific, objectively supported estimate of burden;

"(v) a test of the collection of information through a pilot program, if appropriate; and

"(vi) a plan for the efficient and effective management and use of the information to be collected, including necessary resources;

"(B) ensure that each information collection—

"(i) is inventoried, displays a control number and, if appropriate, an expiration date;

"(ii) indicates the collection is in accordance with the clearance requirements of section 3507; and

"(iii) contains a statement to inform the person receiving the collection of information—

"(I) the reasons the information is being collected;

"(II) the way such information is to be used;

"(III) an estimate, to the extent practicable, of the burden of the collection; and

"(IV) whether responses to the collection of information are voluntary, required to obtain a benefit, or mandatory; and

"(C) assess the information collection burden of proposed legislation affecting the agency;

"(2)(A) except as provided under subparagraph (B), provide 60-day notice in the Federal Register, and otherwise consult with members of the public and affected agencies concerning each proposed collection of information, to solicit comment to—

"(i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

"(ii) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;

"(iii) enhance the quality, utility, and clarity of the information to be collected; and

"(iv) minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology; and

"(B) for any proposed collection of information contained in a proposed rule (to be reviewed by the Director under section 3507(d)), provide notice and comment through the notice of proposed rulemaking for the proposed rule and such notice shall have the same purposes specified under subparagraph (A) (i) through (iv); and

"(3) certify (and provide a record supporting such certification, including public comments received by the agency) that each collection of information submitted to the Director for review under section 3507—

"(A) is necessary for the proper performance of the functions of the agency, including that the information has practical utility;

"(B) is not unnecessarily duplicative of information otherwise reasonably accessible to the agency;

"(C) reduces to the extent practicable and appropriate the burden on persons who shall provide information to or for the agency, including with respect to small entities, as defined under section 601(6) of title 5, the use of such techniques as—

"(i) establishing differing compliance or reporting requirements or timetables that take into account the resources available to those who are to respond;

"(ii) the clarification, consolidation, or simplification of compliance and reporting requirements; or

"(iii) an exemption from coverage of the collection of information, or any part thereof;

"(D) is written using plain, coherent, and unambiguous terminology and is understandable to those who are to respond;

"(E) is to be implemented in ways consistent and compatible, to the maximum extent practicable, with the existing reporting and recordkeeping practices of those who are to respond;

"(F) contains the statement required under paragraph (1)(B)(iii);

"(G) has been developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected, including the processing of the information in a manner which shall enhance, where appropriate, the utility of the information to agencies and the public;

"(H) uses effective and efficient statistical survey methodology appropriate to the purpose for which the information is to be collected; and

"(I) to the maximum extent practicable, uses information technology to reduce burden and improve data quality, agency efficiency and responsiveness to the public.

"(d) With respect to information dissemination, each agency shall—

"(1) ensure that the public has timely and equitable access to the agency's public information, including ensuring such access through—

"(A) encouraging a diversity of public and private sources for information based on government public information, and

"(B) agency dissemination of public information in an efficient, effective, and economical manner;

"(2) regularly solicit and consider public input on the agency's information dissemination activities; and

"(3) not, except where specifically authorized by statute—

"(A) establish an exclusive, restricted, or other distribution arrangement that interferes with timely and equitable availability of public information to the public;

"(B) restrict or regulate the use, resale, or redissemination of public information by the public;

"(C) charge fees or royalties for resale or redissemination of public information; or

"(D) establish user fees for public information that exceed the cost of dissemination.

"(e) With respect to statistical policy and coordination, each agency shall—

"(1) ensure the relevance, accuracy, timeliness, integrity, and objectivity of information collected or created for statistical purposes;

"(2) inform respondents fully and accurately about the sponsors, purposes, and uses of statistical surveys and studies;

"(3) protect respondents' privacy and ensure that disclosure policies fully honor pledges of confidentiality;

"(4) observe Federal standards and practices for data collection, analysis, documentation, sharing, and dissemination of information;

"(5) ensure the timely publication of the results of statistical surveys and studies, including information about the quality and limitations of the surveys and studies; and

"(6) make data available to statistical agencies and readily accessible to the public.

"(f) With respect to records management, each agency shall implement and enforce applicable policies and procedures, including requirements for archiving information maintained in electronic format, particularly in the planning, design and operation of information systems.

"(g) With respect to privacy and security, each agency shall—

"(1) implement and enforce applicable policies, procedures, standards, and guidelines on privacy, confidentiality, security, disclosure and sharing of information collected or maintained by or for the agency;

"(2) assume responsibility and accountability for compliance with and coordinated management of sections 552 and 552a of title 5, the Computer Security Act of 1987 (40 U.S.C. 759 note), and related information management laws; and

"(3) consistent with the Computer Security Act of 1987 (40 U.S.C. 759 note), identify and afford security protections commensurate with the risk and magnitude of the harm resulting from the loss, misuse, or unauthorized access to or modification of information collected or maintained by or on behalf of an agency.

"(h) With respect to Federal information technology, each agency shall—

"(1) implement and enforce applicable Governmentwide and agency information technology management policies, principles, standards, and guidelines;

"(2) assume responsibility and accountability for any acquisitions made pursuant to a delegation of authority under section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759);

"(3) promote the use of information technology by the agency to improve the productivity, efficiency, and effectiveness of agency programs, including the reduction of information collection burdens on the public and improved dissemination of public information;

"(4) propose changes in legislation, regulations, and agency procedures to improve information technology practices, including changes that improve the ability of the agency to use technology to reduce burden; and

"(5) establish, and be responsible for, a major information system initiative review process, which shall be developed and implemented by the information resources management steering committee established under subsection (a)(5), consistent with guidelines issued under section 3505(4), and include—

"(A) the review of major information system initiative proposals and projects (including acquisitions of information technology), approval or disapproval of each such initiative, and periodic reviews of the development and implementation of such initiatives, including whether the projected benefits have been achieved;

"(B) the use by the committee of specified evaluative techniques and criteria to—

"(i) assess the economy, efficiency, effectiveness, risks, and priority of system initiatives in relation to mission needs and strategies;

"(ii) estimate and verify life-cycle system initiative costs; and

"(iii) assess system initiative privacy, security, records management, and dissemination and access capabilities;

"(C) the use, as appropriate, of independent cost evaluations of data developed under subparagraph (B); and

"(D) the inclusion of relevant information about approved initiatives in the agency's annual budget request.

"§3507. Public information collection activities; submission to Director; approval and delegation

"(a) An agency shall not conduct or sponsor the collection of information unless in advance of the adoption or revision of the collection of information—

"(1) the agency has—

"(A) conducted the review established under section 3506(c)(1);

"(B) evaluated the public comments received under section 3506(c)(2);

"(C) submitted to the Director the certification required under section 3506(c)(3), the proposed collection of information, copies of pertinent statutory authority, regulations, and other related materials as the Director may specify; and

"(D) published a notice in the Federal Register—

"(i) stating that the agency has made such submission; and

"(ii) setting forth—

"(I) a title for the collection of information;

"(II) a summary of the collection of information;

"(III) a brief description of the need for the information and the proposed use of the information;

"(IV) a description of the likely respondents and proposed frequency of response to the collection of information;

"(V) an estimate of the burden that shall result from the collection of information; and

"(VI) notice that comments may be submitted to the agency and Director;

"(2) the Director has approved the proposed collection of information or approval has been inferred, under the provisions of this section; and

"(3) the agency has obtained from the Director a control number to be displayed upon the collection of information.

"(b) The Director shall provide at least 30 days for public comment prior to making a decision under subsection (c), (d), or (h), except as provided under subsection (j).

"(c)(1) For any proposed collection of information not contained in a proposed rule, the Director shall notify the agency involved of the decision to approve or disapprove the proposed collection of information.

"(2) The Director shall provide the notification under paragraph (1), within 60 days after receipt or publication of the notice under subsection (a)(1)(D), whichever is later.

"(3) If the Director does not notify the agency of a denial or approval within the 60-day period described under paragraph (2)—

"(A) the approval may be inferred;

"(B) a control number shall be assigned without further delay; and

"(C) the agency may collect the information for not more than 2 years.

"(d)(1) For any proposed collection of information contained in a proposed rule—

"(A) as soon as practicable, but no later than the date of publication of a notice of proposed rulemaking in the Federal Register, each agency shall forward to the Director a copy of any proposed rule which contains a collection of information and any information requested by the Director necessary to make the determination required under this subsection; and

"(B) within 60 days after the notice of proposed rulemaking is published in the Federal Register, the Director may file public comments pursuant to the standards set forth in section 3508 on the collection of information contained in the proposed rule;

"(2) When a final rule is published in the Federal Register, the agency shall explain—

"(A) how any collection of information contained in the final rule responds to the comments, if any, filed by the Director or the public; or

"(B) the reasons such comments were rejected.

"(3) If the Director has received notice and failed to comment on an agency rule within 60 days after the notice of proposed rulemaking, the Director may not disapprove any collection of information specifically contained in an agency rule.

"(4) No provision in this section shall be construed to prevent the Director, in the Director's discretion—

"(A) from disapproving any collection of information which was not specifically required by an agency rule;

"(B) from disapproving any collection of information contained in an agency rule, if the agency failed to comply with the requirements of paragraph (1) of this subsection;

"(C) from disapproving any collection of information contained in a final agency rule, if the Director finds within 60 days after the publication of the final rule that the agency's response to the Director's comments filed under paragraph (2) of this subsection was unreasonable; or

"(D) from disapproving any collection of information contained in a final rule, if—

"(i) the Director determines that the agency has substantially modified in the final rule the collection of information contained in the proposed rule; and

"(ii) the agency has not given the Director the information required under paragraph (1) with respect to the modified collection of information, at least 60 days before the issuance of the final rule.

"(5) This subsection shall apply only when an agency publishes a notice of proposed rulemaking and requests public comments.

"(6) The decision by the Director to approve or not act upon a collection of information contained in an agency rule shall not be subject to judicial review.

"(e)(1) Any decision by the Director under subsection (c), (d), (h), or (j) to disapprove a collection of information, or to instruct the agency to make substantive or material change to a collection of information, shall be publicly available and include an explanation of the reasons for such decision.

"(2) Any written communication between the Office of the Director, the Administrator of the Office of Information and Regulatory Affairs, or any employee of the Office of Information and Regulatory Affairs and an agency or person not employed by the Federal Government concerning a proposed collection of information shall be made available to the public.

"(3) This subsection shall not require the disclosure of—

"(A) any information which is protected at all times by procedures established for information which has been specifically authorized under criteria established by an Executive order or an Act of Congress to be kept secret in the interest of national defense or foreign policy; or

"(B) any communication relating to a collection of information which has not been approved under this chapter, the disclosure of which could lead to retaliation or discrimination against the communicator.

"(f)(1) An independent regulatory agency which is administered by 2 or more members of a commission, board, or similar body, may by majority vote void—

"(A) any disapproval by the Director, in whole or in part, of a proposed collection of information of an independent regulatory agency; or

"(B) an exercise of authority under subsection (d) of section 3507 concerning such an agency.

"(2) The agency shall certify each vote to void such disapproval or exercise to the Director, and explain the reasons for such vote. The Director shall without further delay assign a control number to such collection of information, and such vote to void the disapproval or exercise shall be valid for a period of 3 years.

"(g) The Director may not approve a collection of information for a period in excess of 3 years.

"(h)(1) If an agency decides to seek extension of the Director's approval granted for a currently approved collection of information, the agency shall—

"(A) conduct the review established under section 3506(c), including the seeking of comment from the public on the continued need for, and burden imposed by the collection of information; and

"(B) after having made a reasonable effort to seek public comment, but no later than 60 days before the expiration date of the control number assigned by the Director for the currently approved collection of information, submit the collection of information for review and approval under this section, which shall include an explanation of how the agency has used the information that it has collected.

"(2) If under the provisions of this section, the Director disapproves a collection of information contained in an existing rule, or recommends or instructs the agency to make a substantive or material change to a collection of information contained in an existing rule, the Director shall—

"(A) publish an explanation thereof in the Federal Register; and

"(B) instruct the agency to undertake a rulemaking within a reasonable time limited to consideration of changes to the collection of information contained in the rule and thereafter to submit the collection of information for approval or disapproval under this chapter.

"(3) An agency may not make a substantive or material modification to a collection of information after such collection has been approved by the Director, unless the modification has been submitted to the Director for review and approval under this chapter.

"(i)(1) If the Director finds that a senior official of an agency designated under section 3506(a) is sufficiently independent of program responsibility to evaluate fairly whether proposed collections of information should be approved and has sufficient resources to carry out this responsibility effectively, the Director may, by rule in accordance with the notice and comment provisions of chapter 5 of title 5, United States Code, delegate to such official the authority to approve proposed collections of information in specific program areas, for specific purposes, or for all agency purposes.

"(2) A delegation by the Director under this section shall not preclude the Director from reviewing individual collections of information if the Director determines that circumstances warrant such a review. The Director shall retain authority to revoke such delegations, both in general and with regard to any specific matter. In acting for the Director, any official to whom approval authority has been delegated under this section shall comply fully with the rules and regulations promulgated by the Director.

"(j)(1) The agency head may request the Director to authorize collection of information prior to expiration of time periods established under this chapter, if an agency head determines that—

"(A) a collection of information—

"(i) is needed prior to the expiration of such time periods; and

"(ii) is essential to the mission of the agency; and

"(B) the agency cannot reasonably comply with the provisions of this chapter within such time periods because—

"(i) public harm is reasonably likely to result if normal clearance procedures are followed; or

"(ii) an unanticipated event has occurred and the use of normal clearance procedures is reasonably likely to prevent or disrupt the collection of information related to the event or is reasonably likely to cause a statutory or court-ordered deadline to be missed.

"(2) The Director shall approve or disapprove any such authorization request within the time requested by the agency head and, if approved, shall assign the collection of information a control number. Any collection of information conducted under this subsection may be conducted without compliance with the provisions of this chapter for a maximum of 90 days after the date on which the Director received the request to authorize such collection.

"§ 3508. Determination of necessity for information; hearing

"Before approving a proposed collection of information, the Director shall determine whether the collection of information by the agency is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility. Before making a determination the Director may give the agency and other interested persons an opportunity to be heard or to submit statements in writing. To the extent that the Director determines that the collection of information by an agency is unnecessary for the proper performance of the functions of the agency, for any reason, the agency may not engage in the collection of information.

"§ 3509. Designation of central collection agency

"The Director may designate a central collection agency to obtain information for two or more agencies if the Director determines that the needs of such agencies for information will be adequately served by a single collection agency, and such sharing of data is not inconsistent with applicable law. In such cases the Director shall prescribe (with reference to the collection of information) the duties and functions of the collection agency so designated and of the agencies for which it is to act as agent (including reimbursement for costs). While the designation is in effect, an agency covered by the designation may not obtain for itself information for the agency which is the duty of the collection agency to obtain. The Director may modify the designation from time to time as circumstances require. The authority to designate under this section is subject to the provisions of section 3507(f) of this chapter.

"§ 3510. Cooperation of agencies in making information available

"(a) The Director may direct an agency to make available to another agency, or an agency may make available to another agency, information obtained by a collection of information if the disclosure is not inconsistent with applicable law.

"(b)(1) If information obtained by an agency is released by that agency to another agency, all the provisions of law (including penalties which relate to the unlawful disclosure of information) apply to the officers and employees of the agency to which information is released to the same extent and in the same manner as the provisions apply to the officers and employees of the agency which originally obtained the information.

"(2) The officers and employees of the agency to which the information is released, in addition, shall be subject to the same provisions of law, including penalties, relating to the unlawful disclosure of information as if the information had been collected directly by that agency.

"§ 3511. Establishment and operation of Government Information Locator Service

"In order to assist agencies and the public in locating information and to promote information sharing and equitable access by the public, the Director shall—

"(1) cause to be established and maintained a distributed agency-based electronic Government Information Locator Service (hereafter in this section referred to as the 'Service'), which shall identify the major information systems, holdings, and dissemination products of each agency;

"(2) require each agency to establish and maintain an agency information locator service as a component of, and to support the establishment and operation of the Service;

"(3) in cooperation with the Archivist of the United States, the Administrator of General Services, the Public Printer, and the Librarian of Congress, establish an interagency committee to advise the Secretary of Commerce on the development of technical standards for the Service to ensure compatibility, promote information sharing, and uniform access by the public;

"(4) consider public access and other user needs in the establishment and operation of the Service;

"(5) ensure the security and integrity of the Service, including measures to ensure that only information which is intended to be disclosed to the public is disclosed through the Service; and

"(6) periodically review the development and effectiveness of the Service and make recommendations for improvement, including other mechanisms for improving public access to Federal agency public information.

"§ 3512. Public protection

"Notwithstanding any other provision of law, no person shall be subject to any penalty for failing to maintain, provide, or disclose information to or for any agency or person if the applicable collection of information—

"(1) was made after December 31, 1981; and

"(2)(A) does not display a valid control number assigned by the Director; or

"(B) fails to state that such collection is not subject to this chapter.

"§ 3513. Director review of agency activities; reporting; agency response

"(a) In consultation with the Administrator of General Services, the Archivist of

the United States, the Director of the National Institute of Standards and Technology, and the Director of the Office of Personnel Management, the Director shall periodically review selected agency information resources management activities to ascertain the efficiency and effectiveness of such activities to improve agency performance and the accomplishment of agency missions.

"(b) Each agency having an activity reviewed under subsection (a) shall, within 60 days after receipt of a report on the review, provide a written plan to the Director describing steps (including milestones) to—

"(1) be taken to address information resources management problems identified in the report; and

"(2) improve agency performance and the accomplishment of agency missions.

"§ 3514. Responsiveness to Congress

"(a)(1) The Director shall—

"(A) keep the Congress and congressional committees fully and currently informed of the major activities under this chapter; and

"(B) submit a report on such activities to the President of the Senate and the Speaker of the House of Representatives annually and at such other times as the Director determines necessary.

"(2) The Director shall include in any such report a description of the extent to which agencies have—

"(A) reduced information collection burdens on the public, including—

"(i) a summary of accomplishments and planned initiatives to reduce collection of information burdens;

"(ii) a list of all violations of this chapter and of any rules, guidelines, policies, and procedures issued pursuant to this chapter; and

"(iii) a list of any increase in the collection of information burden, including the authority for each such collection;

"(B) improved the quality and utility of statistical information;

"(C) improved public access to Government information; and

"(D) improved program performance and the accomplishment of agency missions through information resources management.

"(b) The preparation of any report required by this section shall be based on performance results reported by the agencies and shall not increase the collection of information burden on persons outside the Federal Government.

"§ 3515. Administrative powers

"Upon the request of the Director, each agency (other than an independent regulatory agency) shall, to the extent practicable, make its services, personnel, and facilities available to the Director for the performance of functions under this chapter.

"§ 3516. Rules and regulations

"The Director shall promulgate rules, regulations, or procedures necessary to exercise the authority provided by this chapter.

"§ 3517. Consultation with other agencies and the public

"(a) In developing information resources management policies, plans, rules, regulations, procedures, and guidelines and in reviewing collections of information, the Director shall provide interested agencies and persons early and meaningful opportunity to comment.

"(b) Any person may request the Director to review any collection of information conducted by or for an agency to determine, if, under this chapter, the person shall maintain, provide, or disclose the information to or for the agency. Unless the request is frivolous, the Director shall, in coordination with the agency responsible for the collection of information—

"(1) respond to the request within 60 days after receiving the request, unless such period is extended by the Director to a specified date and the person making the request is given notice of such extension; and

"(2) take appropriate remedial action, if necessary.

"§ 3518. Effect on existing laws and regulations

"(a) Except as otherwise provided in this chapter, the authority of an agency under any other law to prescribe policies, rules, regulations, and procedures for Federal information resources management activities is subject to the authority of the Director under this chapter.

"(b) Nothing in this chapter shall be deemed to affect or reduce the authority of the Secretary of Commerce or the Director of the Office of Management and Budget pursuant to Reorganization Plan No. 1 of 1977 (as amended) and Executive order, relating to telecommunications and information policy, procurement and management of telecommunications and information systems, spectrum use, and related matters.

"(c)(1) Except as provided in paragraph (2), this chapter shall not apply to the collection of information—

"(A) during the conduct of a Federal criminal investigation or prosecution, or during the disposition of a particular criminal matter;

"(B) during the conduct of—

"(i) a civil action to which the United States or any official or agency thereof is a party; or

"(ii) an administrative action or investigation involving an agency against specific individuals or entities;

"(C) by compulsory process pursuant to the Antitrust Civil Process Act and section 13 of the Federal Trade Commission Improvements Act of 1980; or

"(D) during the conduct of intelligence activities as defined in section 4-206 of Executive Order No. 12036, issued January 24, 1978, or successor orders, or during the conduct of cryptologic activities that are communications security activities.

"(2) This chapter applies to the collection of information during the conduct of general investigations (other than information collected in an antitrust investigation to the extent provided in subparagraph (C) of paragraph (1)) undertaken with reference to a category of individuals or entities such as a class of licensees or an entire industry.

DEPARTMENT OF DEFENSE OVERSEAS TEACHERS PAY AND PERSONNEL PRACTICES ACT AMENDMENTS

LEVIN AMENDMENT NO. 2650

Mr. BREAUX (for Mr. LEVIN) proposed an amendment to the bill (H.R. 3499) to amend the Defense Department Overseas Teachers Pay and Personnel Practices Act; as follows:

At the appropriate place insert the following:

SEC. ___. PROHIBITION ON CASH AWARDS TO CERTAIN FEDERAL OFFICERS.

(a) IN GENERAL.—Chapter 45 of title 5, United States Code, is amended by inserting after section 4507 the following new sections:

"§ 4508. Limitation of awards during a Presidential election year

"(a) For purposes of this section, the term—

"(1) 'Presidential election period' means any period beginning on June 1 in a calendar year in which the popular election of the President occurs, and ending on January 20 following the date of such election; and

"(2) 'senior politically appointed officer' means any officer who during a Presidential election period serves—

"(A) in a Senior Executive Service position and is not a career appointee as defined under section 3132(a)(4); or

"(B) in a position of a confidential or policy-determining character under schedule C of subpart C of part 213 of title 5 of the Code of Federal Regulations.

"(b) No senior politically appointed officer may receive an award under the provisions of this subchapter during a Presidential election period.

"§ 4509. Prohibition of cash award to Executive Schedule officers

"No officer may receive a cash award under the provisions of this subchapter, if such officer—

"(1) serves in—

"(A) an Executive Schedule position under subchapter II of chapter 53; or

"(B) a position for which the compensation is set in statute by reference to a section or level under subchapter II of chapter 53; and

"(2) was appointed to such position by the President, by and with the advice and consent of the Senate.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 45 of title 5, United States Code, is amended by inserting after the item relating to section 4507 the following:

"4508. Limitation of awards during a Presidential election year.

"4509. Prohibition of cash award to Executive Schedule officers.".

VETERANS' PERSIAN GULF WAR BENEFITS ACT

ROCKEFELLER AMENDMENT NO. 2651

Mr. BREAUX (for Mr. ROCKEFELLER) proposed an amendment to the bill (H.R. 4386) to amend title 38, United States Code, authorizing the Secretary of Veterans Affairs to provide compensation to veterans suffering from disabilities resulting from illnesses attributed to service in the Persian Gulf theater of operations during the Persian Gulf war, to provide for increased research into illnesses reported by Persian Gulf war veterans, and for other purposes; as follows:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Benefits Improvements Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States Code.

TITLE I—PERSIAN GULF WAR VETERANS

Sec. 101. Short title.
Sec. 102. Findings.
Sec. 103. Purposes.

Sec. 104. Development of medical evaluation protocol.
Sec. 105. Outreach to Persian Gulf veterans.
Sec. 106. Compensation benefits for disability resulting from illness attributed to service during the Persian Gulf War.
Sec. 107. Evaluation of health status of spouses and children of Persian Gulf War veterans.
Sec. 108. Clarification of scope of health examinations provided for veterans eligible for inclusion in health-related registries.
Sec. 109. Survey of Persian Gulf veterans.
Sec. 110. Authorization for epidemiological studies.
Sec. 111. Cost-savings provisions.

TITLE II—BOARD OF VETERANS' APPEALS ADMINISTRATION

Sec. 201. Appointment, pay comparability, and performance reviews for members of the Board of Veterans' Appeals.
Sec. 202. Deadline for establishment of performance evaluation criteria for Board members.
Sec. 203. Continuation in office of Chairman pending appointment of successor.

TITLE III—ADJUDICATION IMPROVEMENTS

Sec. 301. Acceptance of certain documentation for claims purposes.
Sec. 302. Expedited treatment of remanded claims.
Sec. 303. Screening of appeals.
Sec. 304. Report on feasibility of reorganization of adjudication divisions in VBA regional offices.

TITLE IV—VETERANS' CLAIMS ADJUDICATION COMMISSION

Sec. 401. Establishment of commission.
Sec. 402. Duties of the commission.
Sec. 403. Powers of the commission.
Sec. 404. Commission personnel matters.
Sec. 405. Termination of the commission.
Sec. 406. Definitions.
Sec. 407. Funding.

TITLE V—MISCELLANEOUS PROVISIONS

Sec. 501. Restatement of intent of Congress concerning coverage of Radiation-Exposed Veterans Compensation Act of 1988.
Sec. 502. Extension of authority to maintain regional office in the Philippines.
Sec. 503. Renouncement of benefit rights.
Sec. 504. Clarification of payment of attorney fees under contingent fee agreements.
Sec. 505. Codification of herbicide-exposure presumptions established administratively.
Sec. 506. Treatment of certain income of Alaska natives for purposes of needs-based benefits.
Sec. 507. Elimination of requirement for payment of certain benefits in Philippine pesos.
Sec. 508. Study of health consequences for family members of atomic veterans of exposure of atomic veterans to ionizing radiation.
Sec. 509. Center for Minority Veterans and Center for Women Veterans.
Sec. 510. Advisory Committee on Minority Veterans.
Sec. 511. Mailing of notices of appeal to the Court of Veterans Appeals.

TITLE VI—EDUCATION AND TRAINING PROGRAMS

Sec. 601. Flight training.
Sec. 602. Training and rehabilitation for veterans with service-connected disabilities.
Sec. 603. Alternative teacher certification programs.
Sec. 604. Education outside the United States.
Sec. 605. Correspondence courses.
Sec. 606. State approving agencies.
Sec. 607. Measurement of courses.
Sec. 608. Veterans' Advisory Committee on Education.
Sec. 609. Contract educational and vocational counseling.
Sec. 610. Service Members Occupational Conversion and Training Act of 1992.

TITLE VII—EMPLOYMENT PROGRAMS

Sec. 701. Job counseling, training, and placement.
Sec. 702. Employment and training of veterans.
Sec. 703. Conforming amendments to ERISA relating to the Uniformed Services Employment and Reemployment Rights Act of 1994.

TITLE VIII—CEMETERIES AND MEMORIAL AFFAIRS

Sec. 801. Eligibility for burial in national cemeteries of spouses who predecease veterans.
Sec. 802. Restoration of burial eligibility for unremarried spouses.
Sec. 803. Extension of authorization of appropriations for State cemetery grant program.
Sec. 804. Authority to use flat grave markers at the Willamette National Cemetery, Oregon.

TITLE IX—HOUSING PROGRAMS

Sec. 901. Eligibility.
Sec. 902. Revision in computation of aggregate guaranty.
Sec. 903. Public and community water and sewerage systems.
Sec. 904. Authority to guarantee home refinance loans for energy efficiency improvements.
Sec. 905. Authority to guarantee loans to refinance adjustable rate mortgages to fixed rate mortgages.
Sec. 906. Manufactured home loan inspections.
Sec. 907. Procedures on default.
Sec. 908. Minimum active-duty service requirement.

TITLE X—HOMELESS VETERANS PROGRAMS

Sec. 1001. Reports on activities of the Department of Veterans Affairs to assist homeless veterans.
Sec. 1002. Report on assessment and plans for response to needs of homeless veterans.
Sec. 1003. Increase in number of demonstration programs under Homeless Veterans Comprehensive Service Programs Act of 1992.
Sec. 1004. Removal of funding requirement of Homeless Veterans Comprehensive Service Programs Act of 1992.
Sec. 1005. Sense of Congress.

TITLE XI—REDUCTIONS IN DEPARTMENT OF VETERANS AFFAIRS PERSONNEL

Sec. 1101. Findings.
Sec. 1102. Requirement for minimum number of full-time equivalent positions.
Sec. 1103. Enhanced authority to contract for necessary services.
Sec. 1104. Study.

TITLE XII—TECHNICAL AND CLERICAL AMENDMENTS.

Sec. 1201. Amendments to title 38, United States Code.
Sec. 1202. Amendments to other laws administered by Secretary of Veterans Affairs.
Sec. 1203. Amendments to other laws.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—PERSIAN GULF WAR VETERANS

SEC. 101. SHORT TITLE.

This Act may be cited as the "Persian Gulf War Veterans' Benefits Act".

SEC. 102. FINDINGS.

The Congress makes the following findings:

(1) During the Persian Gulf War, members of the Armed Forces were exposed to numerous potentially toxic substances, including fumes and smoke from military operations, oil well fires, diesel exhaust, paints, pesticides, depleted uranium, infectious agents, investigational drugs and vaccines, and indigenous diseases, and were also given multiple immunizations. It is not known whether these servicemembers were exposed to chemical or biological warfare agents. However, threats of enemy use of chemical and biological warfare heightened the psychological stress associated with the military operation.

(2) Significant numbers of veterans of the Persian Gulf War are suffering from illnesses, or are exhibiting symptoms of illness, that cannot now be diagnosed or clearly defined. As a result, many of these conditions or illnesses are not considered to be service connected under current law for purposes of benefits administered by the Department of Veterans Affairs.

(3) The National Institutes of Health Technology Assessment Workshop on the Persian Gulf Experience and Health, held in April 1994, concluded that the complex biological, chemical, physical, and psychological environment of the Southwest Asia theater of operations produced complex adverse health effects in Persian Gulf War veterans and that no single disease entity or syndrome is apparent. Rather, it may be that the illnesses suffered by those veterans result from multiple illnesses with overlapping symptoms and causes that have yet to be defined.

(4) That workshop concluded that the information concerning the range and intensity of exposure to toxic substances by military personnel in the Southwest Asia theater of operations is very limited and that such information was collected only after a considerable delay.

(5) In response to concerns regarding the health-care needs of Persian Gulf War veterans, particularly those who suffer from illnesses or conditions for which no diagnosis has been made, the Congress, in Public Law 102-585, directed the establishment of a Persian Gulf War Veterans Health Registry, authorized health examinations for veterans of the Persian Gulf War, and provided for the National Academy of Sciences to conduct a comprehensive review and assessment of information regarding the health consequences of military service in the Persian Gulf theater of operations and to develop recommendations on avenues for research regarding such health consequences. In Public

Law 103-210, the Congress authorized the Department of Veterans Affairs to provide health care services on a priority basis to Persian Gulf War veterans. The Congress also provided in Public Law 103-160 (the National Defense Authorization Act for Fiscal Year 1994) for the establishment of a specialized environmental medical facility for the conduct of research into the possible health effects of exposure to low levels of hazardous chemicals, especially among Persian Gulf veterans, and for research into the possible health effects of battlefield exposure in such veterans to depleted uranium.

(6) In response to concerns about the lack of objective research on Gulf War illnesses, Congress included research provisions in the National Defense Authorization Act for Fiscal Year 1995, which was passed by the House and Senate in September 1994. This legislation requires the Secretary of Defense to provide research grants to non-Federal researchers to support three types of studies of the Gulf War syndrome. The first type of study will be an epidemiological study or studies of the incidence, prevalence, and nature of the illness and symptoms and the risk factors associated with symptoms or illnesses. This will include illnesses among spouses and birth defects and illnesses among offspring born before and after the Gulf War. The second group of studies shall be conducted to determine the health consequences of the use of pyridostigmine bromide as a pretreatment antidote enhancer during the Persian Gulf War, alone or in combination with exposure to pesticides, environmental toxins, and other hazardous substances. The final group of studies shall include clinical research and other studies on the causes, possible transmission, and treatment of Gulf War syndrome, and will include studies of veterans and their spouses and children.

(7) Further research and studies must be undertaken to determine the underlying causes of the illnesses suffered by Persian Gulf War veterans and, pending the outcome of such research, veterans who are seriously ill as the result of such illnesses should be given the benefit of the doubt and be provided compensation benefits to offset the impairment in earnings capacities they may be experiencing.

SEC. 103. PURPOSES.

The purposes of this title are—

(1) to provide compensation to Persian Gulf War veterans who suffer disabilities resulting from illnesses that cannot now be diagnosed or defined, and for which other causes cannot be identified;

(2) to require the Secretary of Veterans Affairs to develop at the earliest possible date case assessment strategies and definitions or diagnoses of such illnesses;

(3) to promote greater outreach to Persian Gulf War veterans and their families to inform them of ongoing research activities, as well as the services and benefits to which they are currently entitled; and

(4) to ensure that research activities and accompanying surveys of Persian Gulf War veterans are appropriately funded and undertaken by the Department of Veterans Affairs.

SEC. 104. DEVELOPMENT OF MEDICAL EVALUATION PROTOCOL.

(a) UNIFORM MEDICAL EVALUATION PROTOCOL.—(1) The Secretary of Veterans Affairs shall develop and implement a uniform and comprehensive medical evaluation protocol that will ensure appropriate medical assessment, diagnosis, and treatment of Persian Gulf War veterans who are suffering from illnesses the origins of which are (as of the date of the enactment of this Act) unknown and that may be attributable to service in the Southwest Asia theater of operations during the Persian Gulf War. The protocol shall include an evaluation of complaints relating to illnesses involving the reproductive system.

(2) If such a protocol is not implemented before the end of the 120-day period beginning on the date of the enactment of this Act, the Secretary shall, before the end of such period, submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report as to why such a protocol has not yet been developed.

(3)(A) The Secretary shall ensure that the evaluation under the protocol developed under this section is available at all Department medical centers that have the capability of providing the medical assessment, diagnosis, and treatment required under the protocol.

(B) The Secretary may enter into contracts with non-Department medical facilities for the provision of the evaluation under the protocol.

(C) In the case of a veteran whose residence is distant from a medical center described in subparagraph (A), the Secretary may provide the evaluation through a Department medical center described in that subparagraph and, in such a case, may provide the veteran the travel and incidental expenses therefor pursuant to the provisions of section 111 of title 38, United States Code.

(4)(A) If the Secretary is unable to diagnose the symptoms or illness of a veteran provided an evaluation, or if the symptoms or illness of a veteran do not respond to treatment provided by the Secretary, the Secretary may use the authority in section 1703 of title 38, United States Code, in order to provide for the veteran to receive diagnostic tests or treatment at a non-Department medical facility that may have the capability of diagnosing or treating the symptoms or illness of the veteran. The Secretary may provide the veteran the travel and incidental expenses therefor pursuant to the provisions of section 111 of title 38, United States Code.

(B) The Secretary shall request from each non-Department medical facility that examines or treats a veteran under this paragraph such information relating to the diagnosis or treatment as the Secretary considers appropriate.

(5) In each year after the implementation of the protocol, the Secretary shall enter into an agreement with the National Academy of Sciences under which agreement appropriate experts shall review the adequacy of the protocol and its implementation by the Department of Veterans Affairs.

(b) RELATIONSHIP TO OTHER COMPREHENSIVE CLINICAL EVALUATION PROTOCOLS.—The Secretary, in consultation with the Secretary of Defense, shall ensure that the information collected through the protocol described in this section is collected and maintained in a manner that permits the effective and efficient cross-reference of that information with information collected and maintained through the comprehensive clinical protocols of the Department of Defense for Persian Gulf War veterans.

(c) CASE DEFINITIONS AND DIAGNOSES.—The Secretary shall develop case definitions or diagnoses for illnesses associated with the service described in subsection (a)(1). The Secretary shall develop such definitions or diagnoses at the earliest possible date.

SEC. 105. OUTREACH TO PERSIAN GULF VETERANS.

(a) IN GENERAL.—The Secretary of Veterans Affairs shall implement a comprehensive outreach program to inform Persian Gulf War veterans and their families of the medical care and other benefits that may be provided by the Department of Veterans Affairs and the Department of Defense arising from service in the Persian Gulf War.

(b) NEWSLETTER.—(1) The outreach program shall include a newsletter which shall be updated and distributed at least semi-annually and shall be distributed to the veterans listed on the Persian Gulf War Veterans Health Registry. The newsletter shall include summaries of the status and findings of Government sponsored research on illnesses of Persian Gulf War veterans and their families, as well as on benefits available to such individuals through the Department of Veterans Affairs. The newsletter shall be prepared in consultation with veterans service organizations.

(2) The requirement under this subsection for the distribution of the newsletter shall terminate on December 31, 1999.

(c) TOLL-FREE NUMBER.—The outreach program shall include establishment of a toll-free telephone number to provide Persian Gulf War veterans and their families information on the Persian Gulf War Veterans Health Registry, health care and other benefits provided by the Department of Veterans Affairs, and such other information as the Secretary considers appropriate. Such toll-free telephone number shall be established not later than 90 days after the date of the enactment of this Act.

SEC. 106. COMPENSATION BENEFITS FOR DISABILITY RESULTING FROM ILLNESS ATTRIBUTED TO SERVICE DURING THE PERSIAN GULF WAR.

(a) IN GENERAL.—(1) Chapter 11 is amended by adding at the end of subchapter II the following new section:

"§ 1117. Compensation for disabilities occurring in Persian Gulf War veterans

"(a) The Secretary may pay compensation under this subchapter to any Persian Gulf veteran suffering from a chronic disability resulting from an undiagnosed illness (or combination of undiagnosed illnesses) that—

"(1) became manifest during service on active duty in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War; or

"(2) became manifest to a degree of 10 percent or more within the presumptive period prescribed under subsection (b).

"(b) The Secretary shall prescribe by regulation the period of time following service in the Southwest Asia theater of operations during the Persian Gulf War that the Secretary determines is appropriate for presumption of service connection for purposes of this section. The Secretary's determination of such period of time shall be made following a review of any available credible medical or scientific evidence and the historical treatment afforded disabilities for which manifestation periods have been established and shall take into account other pertinent circumstances regarding the experiences of veterans of the Persian Gulf War.

"(c)(1) The Secretary shall prescribe regulations to carry out this section.

"(2) Those regulations shall include the following:

"(A) A description of the period and geographical area or areas of military service in connection with which compensation under this section may be paid.

"(B) A description of the illnesses for which compensation under this section may be paid.

"(C) A description of any relevant medical characteristic (such as a latency period) associated with each such illness.

"(d) A disability for which compensation under this subchapter is payable shall be considered to be service connected for purposes of all other laws of the United States.

"(e) For purposes of this section, the term 'Persian Gulf veteran' means a veteran who served on active duty in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1116 the following new item:

"1117. Compensation for disabilities occurring in Persian Gulf War veterans.".

(b) CONFORMING AMENDMENTS.—Section 1113 is amended—

(1) by striking out "section 1112 or 1116" in the first and third place it appears and inserting in lieu thereof "section 1112, 1116, or 1117";

(2) by striking out "title" the second place it appears and inserting in lieu thereof "title, or payments of compensation pursuant to section 1117 of this title,"; and

(3) by inserting "or disabilities" after "diseases" both places it appears in subsection (a).

(c) REPORT.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report stating whether or not the Secretary intends to pay compensation as provided in section 1117 of title 38, United States Code, as added by subsection (a).

(d) REGULATIONS.—If the Secretary states in the report under subsection (c) that the Secretary intends to pay compensation as provided in section 1117 of title 38, United States Code, as added by subsection (a), the Secretary shall, not later than 30 days after the date on which such report is submitted, publish in the Federal Register proposed regulations under subsections (b) and (c) of that section.

SEC. 107. EVALUATION OF HEALTH STATUS OF SPOUSES AND CHILDREN OF PERSIAN GULF WAR VETERANS.

(a) EVALUATION PROGRAM.—Subject to subsection (c), the Secretary of the Veterans Affairs shall conduct a study to evaluate the health status of spouses and children of Persian Gulf War veterans. Under the study, the Secretary shall provide for the conduct of diagnostic testing and appropriate medical examinations of any individual—

(1) who is the spouse or child of a veteran who—

(A) is listed in the Persian Gulf War Veterans Registry established under section 702 of Public Law 102-585; and

(B) is suffering from an illness or disorder;

(2) who is apparently suffering from, or may have suffered from, an illness or disorder (including a birth defect, miscarriage, or stillbirth) which cannot be disassociated from the veteran's service in the Southwest Asia theater of operations; and

(3) who, in the case of a spouse, has granted the Secretary permission to include in the Registry relevant medical data (including a medical history and the results of diagnostic testing and medical examinations) and such other information as the Secretary considers relevant and appropriate with respect to such individual.

Such testing and examinations shall be carried out so as to gather such medical data as the Secretary considers relevant and appropriate in order to determine the nature and extent of the association, if any, between illness or disorder of the spouse or child and the illness of the veteran.

(b) DURATION OF PROGRAM.—The program shall be carried out during the period beginning on November 1, 1994, and ending on September 30, 1996.

(c) FUNDING LIMITATION.—The amount spent for the program under subsection (a) may not exceed $2,000,000.

(d) CONTRACTING.—The Secretary shall provide for the conduct of testing and examinations under subsection (a) through appropriate contract arrangements.

(e) STANDARD PROTOCOLS AND GUIDELINES.—The Secretary shall seek to ensure uniform development of medical data through the development of standard protocols and guidelines for such testing and examinations. If such protocols and guidelines have not been adopted before the end of the 120-day period beginning on the date of the enactment of this Act, the Secretary shall, before the end of such period, submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report as to why such protocols and guidelines have not yet been developed.

(f) ENTRY OF RESULTS IN REGISTRY.—The results of diagnostic tests, medical histories, and medical examinations conducted under subsection (a) shall be entered into the Persian Gulf War Veterans Health Registry.

(g) OUTREACH.—The Secretary shall conduct such outreach activities as the Secretary determines necessary to ensure that implementation of this section results in sufficient information to enable the Secretary—

(1) to analyze the health status of large numbers of spouses and children of Persian Gulf veterans; and

(2) to formulate research hypotheses regarding possible association between illnesses or disorders suffered by Persian Gulf veterans and illnesses or disorders (including birth defects, miscarriages, and stillbirths) suffered by their spouses and children.

(h) USE OUTSIDE DEPARTMENT OF STANDARD PROTOCOLS AND GUIDELINES.—The Secretary shall—

(1) make the standard protocols and guidelines developed under this section available to any entity which requests a copy of such protocols and guidelines; and

(2) enter into the registry the results of any examination of the spouse or child of a veteran who served in the Persian Gulf theater which a licensed physician certifies was conducted using those standard protocols and guidelines.

(i) REPORTS TO CONGRESS.—(1) The Secretary shall submit to Congress no later than October 31, 1995, a report on the Secretary's implementation of this section.

(2) The Secretary shall analyze the data entered into the registry under this section and shall submit to Congress, not later than March 1, 1997, a report on that analysis and on the Secretary's recommendation for any further legislation or studies regarding the health status of spouses and children of Persian Gulf War veterans.

(j) DEFINITIONS.—For purposes of this section, the terms "child" and "spouse" have the meanings given those terms in paragraphs (4) and (31), respectively, of section 101 of title 38, United States Code.

SEC. 108. CLARIFICATION OF SCOPE OF HEALTH EXAMINATIONS PROVIDED FOR VETERANS ELIGIBLE FOR INCLUSION IN HEALTH-RELATED REGISTRIES.

Section 703 of the Persian Gulf War Veterans' Health Status Act (title VII of Public Law 102-585; 38 U.S.C. 527 note) is amended—

(1) by inserting "(including diagnostic tests)" after "examination" each place it appears other than in subsection (a)(1)(A);

(2) in subsection (a)(1)(A)—

(A) by inserting "(including any appropriate diagnostic tests)" after "a health examination"; and

(B) by inserting "and the tests" after "the examination"; and

(3) in subsection (a)(2), by inserting "(including any diagnostic tests)" after "examinations".

SEC. 109. SURVEY OF PERSIAN GULF VETERANS.

(a) IN GENERAL.—The Secretary of Veterans Affairs may carry out a survey of Persian Gulf veterans to gather information on the incidence and nature of health problems occurring in Persian Gulf veterans and their families.

(b) COORDINATION WITH DEPARTMENT OF DEFENSE.—Any survey under subsection (a) shall be carried out in coordination with the Secretary of Defense.

(c) PERSIAN GULF VETERAN.—For purposes of this section, a Persian Gulf veteran is an individual who served on active duty in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War as defined in section 101(33) of title 38, United States Code.

SEC. 110. AUTHORIZATION FOR EPIDEMIOLOGICAL STUDIES.

(a) STUDY OF HEALTH CONSEQUENCES OF PERSIAN GULF SERVICE.—If the National Academy of Sciences includes in the report required by section 706(b) of the Veterans Health Care Act of 1992 (Public Law 102-585) a finding that there is a sound basis for an epidemiological study or studies on the health consequences of service in the Persian Gulf theater of operations during the Persian Gulf War and recommends the conduct of such a study or studies, the Secretary of Veterans Affairs is authorized to carry out such study.

(b) OVERSIGHT.—(1) The Secretary shall seek to enter into an agreement with the Medical Follow-Up Agency (MFUA) of the Institute of Medicine of the National Academy of Sciences for (A) the review of proposals to conduct the research referred to in subsection (a), (B) oversight of such research, and (C) review of the research findings.

(2) If the Secretary is unable to enter into an agreement under paragraph (1) with the entity specified in that paragraph, the Secretary shall enter into an agreement described in that paragraph with another appropriate scientific organization which does not have a connection to the Department of Veterans Affairs. In such a case, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives, at least 90 days before the date on which the agreement is entered into, notice in writing identifying the organization with which the Secretary intends to enter into the agreement.

(c) ACCESS TO DATA.—The Secretary shall enter into agreements with the Secretary of Defense and the Secretary of Health and Human Services to make available for the purposes of any study described in subsection (a) all data that the Secretary, in consultation with the National Academy of Sciences and the contractor for the study, considers relevant to the study.

(d) AUTHORIZATION.—There are authorized to be appropriated to the Department such sums as are necessary for the conduct of studies described in subsection (a).

SEC. 111. COST-SAVINGS PROVISIONS.

(a) ELECTION OF DEATH PENSION BY SURVIVING SPOUSE.—Section 1317 is amended—

(1) by striking out "No person" and inserting in lieu thereof "(a) Except as provided in subsection (b), no person"; and

(2) by adding at the end the following:

"(b) A surviving spouse who is eligible for dependency and indemnity compensation may elect to receive death pension instead of such compensation.".

(b) POLICY REGARDING COST-OF-LIVING ADJUSTMENT IN COMPENSATION RATES FOR FISCAL YEAR 1995.—The fiscal year 1995 cost-of-living adjustments in the rates of and limitations for compensation payable under chapter 11 of title 38, United States Code, and of dependency and indemnity compensation payable under chapter 13 of such title will be no more than a percentage equal to the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 1994, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)), with all increased monthly rates and limitations (other than increased rates or limitations equal to a whole dollar amount) rounded down to the next lower dollar.

TITLE II—BOARD OF VETERANS' APPEALS ADMINISTRATION

SEC. 201. APPOINTMENT, PAY COMPARABILITY, AND PERFORMANCE REVIEWS FOR MEMBERS OF THE BOARD OF VETERANS' APPEALS.

(a) MEMBERS OTHER THAN CHAIRMAN.—(1) Chapter 71 is amended by inserting after section 7101 the following new section:

"§ 7101A. Members of Board: appointment; pay; performance review

"(a) The members of the Board of Veterans' Appeals other than the Chairman (and including the Vice Chairman) shall be appointed by the Secretary, with the approval of the President, based upon recommendations of the Chairman.

"(b) Members of the Board (other than the Chairman and any member of the Board who is a member of the Senior Executive Service) shall, in accordance with regulations prescribed by the Secretary, be paid basic pay at rates equivalent to the rates payable under section 5372 of title 5.

"(c)(1)(A) The Chairman shall establish a panel to review the performance of members of the Board. The panel shall be comprised of the Chairman and two other members of the Board (other than the Vice Chairman). The Chairman shall periodically rotate membership on the panel so as to ensure that each member of the Board (other than the Vice Chairman) serves as a member of the panel for and within a reasonable period.

"(B) Not less than one year after the job performance standards under subsection (f) are initially established, and not less often than once every three years thereafter, the performance review panel shall determine, with respect to each member of the Board (other than the Chairman or a member who is a member of the Senior Executive Service), whether that member's job performance as a member of the Board meets the performance standards for a member of the Board established under subsection (f). Each such determination shall be in writing.

"(2) If the determination of the performance review panel in any case is that the member's job performance as a member of the Board meets the performance standards for a member of the Board established under subsection (f), the Chairman shall recertify the member's appointment as a member of the Board.

"(3) If the determination of the performance review panel in any case is that the member's job performance does not meet the performance standards for a member of the Board established under subsection (f), the Chairman shall, based upon the individual circumstances, either—

"(A) grant the member a conditional recertification; or

"(B) recommend to the Secretary that the member be noncertified.

"(4) In the case of a member of the Board who is granted a conditional recertification under paragraph (3)(A) or (5)(A), the performance review panel shall review the member's job performance record and make a further determination under paragraph (1) concerning that member not later than one year after the date of the conditional recertification. If the determination of the performance review panel at that time is that the member's job performance as a member of the Board still does not meet the performance standards for a member of the Board established under subsection (f), the Chairman shall recommend to the Secretary that the member be noncertified.

"(5) In a case in which the Chairman recommends to the Secretary under paragraph (3) or (4) that a member be noncertified, the Secretary, after considering the recommendation of the Chairman, may either—

"(A) grant the member a conditional recertification; or

"(B) determine that the member should be noncertified.

"(d)(1) If the Secretary, based upon the recommendation of the Chairman, determines that a member of the Board should be noncertified, that member's appointment as a member of the Board shall be terminated and that member shall be removed from the Board.

"(2) Upon removal from the Board under paragraph (1), a member of the Board (other than the Chairman) who was a career or career-conditional employee in the civil service before commencement of service as a member of the Board shall revert to the civil service grade and series held by the member immediately before the appointment of the member to the Board.

"(e)(1) A member of the Board (other than the Chairman or a member of the Senior Executive Service) may be removed as a member of the Board by reason of job performance only as provided in subsections (c) and (d). Such a member may be removed by the Secretary, upon the recommendation of the Chairman, for any other reason as determined by the Secretary.

"(2) In the case of a removal of a member under this section for a reason other than job performance that would be covered by section 7521 of title 5 in the case of an administrative law judge, the removal of the member of the Board shall be carried out subject to the same requirements as apply to removal of an administrative law judge under that section. Section 554(a)(2) of title 5 shall not apply to a removal action under this subsection. In such a removal action, a member shall have the rights set out in section 7513(b) of that title.

"(f) The Chairman, subject to the approval of the Secretary, shall establish standards for the performance of the job of a member of the Board (other than the Chairman or a member of the Senior Executive Service). Those standards shall establish objective and fair criteria for evaluation of the job performance of a member of the Board.

"(g) The Secretary shall prescribe procedures for the administration of this section, including deadlines and time schedules for different actions under this section.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7101 the following new item:

"7101A. Members of Board: appointment; pay; performance review.".

(b) SAVE PAY PROVISION.—The rate of basic pay payable to an individual who is a member of the Board of Veterans' Appeals on the date of the enactment of this Act may not be reduced by reason of the amendments made by this section to a rate below the rate payable to such individual on the day before such date.

(c) EFFECTIVE DATE.—Section 7101A(b) of title 38, United States Code, as added by subsection (a), shall take effect on the first day of the first pay period beginning after December 31, 1994.

(d) CONFORMING AMENDMENTS.—Section 7101(b) is amended—

(1) by striking out paragraph (2);

(2) by designating as paragraph (2) the text in paragraph (1) beginning "The Chairman may be removed"; and

(3) by striking out "Members (including the Chairman)" in paragraph (3) and inserting in lieu thereof "The Chairman".

SEC. 202. DEADLINE FOR ESTABLISHMENT OF PERFORMANCE EVALUATION CRITERIA FOR BOARD MEMBERS.

(a) DEADLINE.—The job performance standards required to be established by section 7101A(f) of title 38, United States Code, as added by section 201(a), shall be established not later than 90 days after the date of the enactment of this Act.

(b) SUBMISSION TO CONGRESSIONAL COMMITTEES.—Not later than the date on which the standards referred to in subsection (a) take effect, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report describing the standards established by the Chairman of the Board of Veterans' Appeals.

SEC. 203. CONTINUATION IN OFFICE OF CHAIRMAN PENDING APPOINTMENT OF SUCCESSOR.

Section 7101(b)(3) is amended by adding at the end the following new sentence: "If, upon the expiration of the term of office for which the Chairman was appointed, the position of Chairman would become vacant, the individual serving as Chairman may, with the approval of the Secretary, continue to serve as Chairman until either appointed to another term or a successor is appointed, but not beyond the end of the Congress during which the term of office expired.".

TITLE III—ADJUDICATION IMPROVEMENTS

SEC. 301. ACCEPTANCE OF CERTAIN DOCUMENTATION FOR CLAIMS PURPOSES.

(a) STATEMENTS OF CLAIMANT TO BE ACCEPTED AS PROOF OF RELATIONSHIPS.—Chapter 51 is amended by adding at the end the following new section:

"§ 5124. Acceptance of claimant's statement as proof of relationship

"(a) For purposes of benefits under laws administered by the Secretary, the Secretary may accept the written statement of a claimant as proof of the existence of any relationship specified in subsection (b) for the purpose of acting on such individual's claim for benefits.

"(b) Subsection (a) applies to proof of the existence of any of the following relationships between a claimant and another person:

"(1) Marriage.

"(2) Dissolution of a marriage.

"(3) Birth of a child.

"(4) Death of any family member.

"(c) The Secretary may require the submission of documentation in support of the claimant's statement if—

"(1) the claimant does not reside within a State;

"(2) the statement on its face raises a question as to its validity;

"(3) there is conflicting information of record; or

"(4) there is reasonable indication, in the statement or otherwise, of fraud or misrepresentation.".

(b) REPORTS OF EXAMINATIONS BY PRIVATE PHYSICIANS.—Such chapter, as amended by subsection (a), is further amended by adding at the end the following new section:

"§ 5125. Acceptance of reports of private physician examinations

"For purposes of establishing any claim for benefits under chapter 11 or 15 of this title, a report of a medical examination administered by a private physician that is provided by a claimant in support of a claim for benefits under that chapter may be accepted without a requirement for confirmation by an examination by a physician employed by the Veterans Health Administration if the report is sufficiently complete to be adequate for the purpose of adjudicating such claim.".

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new items:

"5124. Acceptance of claimant's statement as proof of relationship.

"5125. Acceptance of reports of private physician examinations.".

SEC. 302. EXPEDITED TREATMENT OF REMANDED CLAIMS.

The Secretary of Veterans Affairs shall take such actions as may be necessary to provide for the expeditious treatment, by the Board of Veterans' Appeals and by the regional offices of the Veterans Benefits Administration, of any claim that has been remanded by the Board of Veterans' Appeals or by the United States Court of Veterans Appeals for additional development or other appropriate action.

SEC. 303. SCREENING OF APPEALS.

Section 7107 is amended—

(1) in subsection (a)(1), by striking out "Each case" and inserting in lieu thereof "Except as provided in subsection (f), each case"; and

(2) by adding at the end the following new subsection:

"(f) Nothing in this section shall preclude the screening of cases for purposes of—

"(1) determining the adequacy of the record for decisional purposes; or

"(2) the development, or attempted development, of a record found to be inadequate for decisional purposes.".

SEC. 304. REPORT ON FEASIBILITY OF REORGANIZATION OF ADJUDICATION DIVISIONS IN VBA REGIONAL OFFICES.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report addressing the feasibility and impact of a reorganization of the adjudication divisions located within the regional offices of the Veterans Benefits Administration to a number of such divisions that would result in improved efficiency in the processing of claims filed by veterans, their survivors, or other eligible persons for benefits administered by the Secretary.

TITLE IV—VETERANS' CLAIMS ADJUDICATION COMMISSION

SEC. 401. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT OF COMMISSION.—There is hereby established a commission to be known as the Veterans' Claims Adjudication Commission (hereinafter in this title referred to as the "commission").

(b) MEMBERSHIP.—(1) The commission shall be composed of nine members, appointed by the Secretary of Veterans Affairs as follows:

(A) One member shall be appointed from among former officials of the Department of Veterans Affairs (or the Veterans' Administration).

(B) Two members shall be appointed from among individuals in the private sector who have expertise in the adjudication of claims relating to insurance or similar benefits.

(C) Two members shall be appointed from among individuals employed in the Federal Government (other than the Department of Veterans Affairs) who have expertise in the adjudication of claims for benefits under Federal law other than under laws administered by the Secretary of Veterans Affairs.

(D) Two members shall be appointed from among individuals recommended to the Secretary by representatives of veterans service organizations.

(E) One member shall be appointed based on a recommendation of the American Bar Association or a similar private organization from among individuals who have expertise in the field of administrative law.

(F) One member shall be appointed from among current officials of the Department of Veterans Affairs.

(2) The appointment of members of the commission under this subsection shall be made not later than February 1, 1995.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members of the commission shall be appointed for the life of the commission. A vacancy in the commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) INITIAL MEETING.—The commission shall hold its first meeting not later than 30 days after the date on which all members of the commission have been appointed.

(e) MEETINGS.—The commission shall meet at the call of the chairman.

(f) QUORUM.—A majority of the members of the commission shall constitute a quorum, but a lesser number may hold hearings.

(g) CHAIRMAN.—The Secretary shall designate a member of the commission (other than the commission member who is a current official of the Department of Veterans Affairs) to be chairman of the commission.

SEC. 402. DUTIES OF THE COMMISSION.

(a) IN GENERAL.—The commission shall carry out a study of the Department of Veterans Affairs system for the disposition of claims for veterans benefits.

(b) PURPOSE OF STUDY.—The purpose of the study is to evaluate the Department of Veterans Affairs system for the disposition of claims for veterans benefits in order to determine the following:

(1) The efficiency of current processes and procedures under the system for the adjudication, resolution, review, and final disposition of claims for veterans benefits, including the effect of judicial review on the system, and means of increasing the efficiency of the system.

(2) Means of reducing the number of claims under the system for which final disposition is pending.

(3) Means of enhancing the ability of the Department of Veterans Affairs to achieve final determination regarding claims under the system in a prompt and appropriate manner.

(c) CONTENTS OF STUDY.—The study to be carried out by the commission under this section is a comprehensive evaluation and assessment of the Department of Veterans Affairs system for the disposition of claims for veterans benefits (as defined in section 406) and of the system for the delivery of such benefits, together with any related issues that the commission determines are relevant to the study. The study shall include an evaluation and assessment of the following:

(1) The preparation and submission of claims by veterans under the system.

(2) The processes and procedures under the system for the disposition of claims, including—

(A) the scope and nature of the review undertaken with respect to a claim at each stage in the claims disposition process, including the role of hearings throughout the process;

(B) the number, Federal employment grade, and experience and qualifications required of the persons undertaking such review at each such stage;

(C) opportunities for the submittal of new evidence; and

(D) the availability of alternative means of completing claims.

(3) The effect on the system of the participation of attorneys, members of veterans service organizations, and other advocates on behalf of veterans.

(4) The effect on the system of actions taken by the Secretary to modernize the information management system of the Department, including the use of electronic data management systems.

(5) The effect on the system of any work performance standards used by the Secretary at regional offices of the Department and at the Board of Veterans' Appeals.

(6) The extent of the implementation in the system of the recommendations of the Blue Ribbon Panel on Claims Processing submitted to the Committees on Veterans' Affairs of the Senate and House of Representatives on December 2, 1993, and the effect of such implementation on the system.

(7) The effectiveness in improving the system of any pilot programs carried out by the Secretary at regional offices of the Department and of efforts by the Secretary to implement such programs throughout the system.

(8) The effectiveness of the quality control practices and quality assurance practices under the system in achieving the goals of such practices.

(d) COOPERATION OF SECRETARY.—Upon the request of the chairman of the commission, the Secretary shall, within 30 days of such request, submit to the commission, and to the Committees on Veterans' Affairs of the Senate and House of Representatives, such information as the chairman shall determine is necessary for the commission to carry out the study required under this section.

(e) REPORTS.—(1) Not later than one year after the date of the enactment of this Act, the commission shall submit to the Secretary and to the Committees on Veterans' Affairs of the Senate and House of Representatives a preliminary report on the study required under subsection (c). The report shall contain the preliminary findings

and conclusions of the commission with respect to the evaluation and assessment required under the study.

(2) Not later than 18 months after such date, the commission shall submit to the Secretary and to such committees a report on such study. The report shall include the following:

(A) The findings and conclusions of the commission, including its findings and conclusions with respect to the matters referred to in subsection (c).

(B) The recommendations of the commission for means of improving the Department of Veterans Affairs system for the disposition of claims for veterans benefits.

(C) Such other information and recommendations with respect to the system as the commission considers appropriate.

SEC. 403. POWERS OF THE COMMISSION.

(a) HEARINGS.—The commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the commission considers advisable to carry out the purposes of this title.

(b) INFORMATION FROM FEDERAL AGENCIES.—In addition to the information referred to in section 402(d), the commission may secure directly from any Federal department or agency such information as the commission considers necessary to carry out the provisions of this title. Upon request of the chairman of the commission, the head of such department or agency shall furnish such information to the commission.

(c) POSTAL SERVICES.—The commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—The commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 404. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the commission. All members of the commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the commission.

(c) STAFF.—(1) The chairman of the commission may, without regard to the civil service laws and regulations, appoint an executive director and such other personnel as may be necessary to enable the commission to perform its duties. The appointment of an executive director shall be subject to approval by the commission.

(2) The chairman of the commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the chairman of the commission, the head of any Federal department or agency may detail, on a nonreimbursable basis, any personnel of the department or agency to the commission to assist it in carrying out its duties.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The chairman of the commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 405. TERMINATION OF THE COMMISSION.

The commission shall terminate 90 days after the date on which the commission submits its report under section 402(e)(2).

SEC. 406. DEFINITIONS.

For the purposes of this title:

(1) The term "Department of Veterans Affairs system for the disposition of claims for veterans benefits" means the processes and procedures of the Department of Veterans Affairs for the adjudication, resolution, review, and final disposition of claims for benefits under the laws administered by the Secretary.

(2) The term "Secretary" means the Secretary of Veterans Affairs.

(3) The term "veterans service organizations" means any organization approved by the Secretary under section 5902(a) of title 38, United States Code.

SEC. 407. FUNDING.

(a) FISCAL YEAR 1995.—From amounts appropriated to the Department of Veterans Affairs for fiscal year 1995 for the payment of compensation and pension, the amount of $400,000 is hereby made available for the activities of the commission under this title.

(b) AVAILABILITY.—Any sums appropriated to the commission shall remain available until expended.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. RESTATEMENT OF INTENT OF CONGRESS CONCERNING COVERAGE OF RADIATION-EXPOSED VETERANS COMPENSATION ACT OF 1988.

(a) RESTATEMENT OF ABSENCE OF STATUTORY LIMITATION TO UNITED STATES TESTS.—Clause (i) of section 1112(c)(3)(B) is amended by inserting "(without regard to whether the nation conducting the test was the United States or another nation)" after "nuclear device".

(b) PROOF OF SERVICE CONNECTION OF DISABILITIES RELATING TO EXPOSURE TO IONIZING RADIATION.—(1) Section 1113(b) is amended—

(A) by striking out "title or" and inserting in lieu thereof "title,"; and

(B) by inserting ", or section 5 of Public Law 98-542 (38 U.S.C. 1154 note)" after "of this section".

(2) The amendments made by paragraph (1) shall apply with respect to applications for veterans benefits that are submitted to the Secretary of Veterans Affairs after the date of the enactment of this Act.

SEC. 502. EXTENSION OF AUTHORITY TO MAINTAIN REGIONAL OFFICE IN THE PHILIPPINES.

Section 315(b) is amended by striking out "December 31, 1994" and inserting in lieu thereof "December 31, 1999".

SEC. 503. RENOUNCEMENT OF BENEFIT RIGHTS.

Section 5306 is amended by adding at the end the following new subsection:

"(c) Notwithstanding subsection (b), if a new application for pension under chapter 15 of this title or for dependency and indemnity compensation for parents under section 1315 of this title is filed within one year after renouncement of that benefit, such application shall not be treated as an original application and benefits will be payable as if the renouncement had not occurred.".

SEC. 504. CLARIFICATION OF PAYMENT OF ATTORNEY FEES UNDER CONTINGENT FEE AGREEMENTS.

(a) CLARIFICATION.—Subparagraph (A) of section 5904(d)(2) is amended to read as follows:

"(A) A fee agreement referred to in paragraph (1) is one under which the total amount of the fee payable to the attorney—

"(i) is to be paid to the attorney by the Secretary directly from any past-due benefits awarded on the basis of the claim; and

"(ii) is contingent on whether or not the matter is resolved in a manner favorable to the claimant.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to fee agreements entered into on or after the date of the enactment of this Act.

SEC. 505. CODIFICATION OF HERBICIDE-EXPOSURE PRESUMPTIONS ESTABLISHED ADMINISTRATIVELY.

Section 1116(a)(2) is amended by adding at the end the following new subparagraphs:

"(D) Hodgkin's disease becoming manifest to a degree of disability of 10 percent or more.

"(E) Porphyria cutanea tarda becoming manifest to a degree of disability of 10 percent or more within a year after the last date on which the veteran performed active military, naval, or air service in the Republic of Vietnam during the Vietnam era.

"(F) Respiratory cancers (cancer of the lung, bronchus, larynx, or trachea) becoming manifest to a degree of 10 percent or more within 30 years after the last date on which the veteran performed active military, naval, or air service in the Republic of Vietnam during the Vietnam era.

"(G) Multiple myeloma becoming manifest to a degree of disability of 10 percent or more.".

SEC. 506. TREATMENT OF CERTAIN INCOME OF ALASKA NATIVES FOR PURPOSES OF NEEDS-BASED BENEFITS.

Any receipt by an individual from a Native Corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) of cash, stock, land, or other interests referred to in subparagraphs (A) through (E) of section 29(c) of that Act (43 U.S.C. 1626(c)) (whether such receipt is attributable to the disposition of real property, profits from the operation of real property, or otherwise) shall not be countable as income for purposes of any law administered by the Secretary of Veterans Affairs.

SEC. 507. ELIMINATION OF REQUIREMENT FOR PAYMENT OF CERTAIN BENEFITS IN PHILIPPINE PESOS.

(a) GENERAL RULE.—The second sentence of each of subsections (a) and (b) of section 107 is amended—

(1) by striking out "rate in pesos as is equivalent to" and inserting in lieu thereof "rate of"; and

(2) by striking out "rate in Philippine pesos as is equivalent to" and inserting in lieu thereof "rate of".

(b) SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE.—Sections 3532(d) and 3565(b)(1) are amended by striking out "a rate in Philippine pesos equivalent to" and inserting in lieu thereof "the rate of".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to payments made after December 31, 1994.

SEC. 508. STUDY OF HEALTH CONSEQUENCES FOR FAMILY MEMBERS OF ATOMIC VETERANS OF EXPOSURE OF ATOMIC VETERANS TO IONIZING RADIATION.

(a) INTERAGENCY AGREEMENT.—The Secretary of Veterans Affairs shall enter into an agreement with the Medical Follow-Up Agency of the Institute of the Medicine of the National Academy of Sciences under which that agency shall convene a panel of appropriate individuals to carry out the evaluation described in subsection (b).

(b) EVALUATION OF FEASIBILITY OF STUDY.—(1) The panel convened under subsection (a) shall evaluate the feasibility of carrying out a study as described in subsection (c).

(2) The panel shall submit the results of the evaluation under paragraph (1) to the Secretary not later than 180 days after the date of the enactment of this Act. The Secretary shall promptly notify the Committees on Veterans' Affairs of the Senate and the House of Representatives of such results.

(c) DESCRIPTION OF STUDY TO BE EVALUATED.—The study referred to in subsection (b) (the feasibility of which is to be evaluated under that subsection by the panel convened under subsection (a)) is one which would determine the nature and extent, if any, of the relationship between the exposure of veterans described in subsection (d) to ionizing radiation and the following:

(1) Genetic defects and illnesses in the children and grandchildren of such veterans.

(2) Untoward pregnancy outcomes experienced by the wives of such veterans, including premature births, stillbirths, miscarriages, neonatal illnesses and deaths.

(3) Periparturient diseases of the mother which are the direct result of such untoward pregnancy outcomes.

(d) COVERED VETERANS.—Subsection (c) applies to—

(1) any veteran who was exposed (as determined by the Secretary) to ionizing radiation as a result of—

(A) participation while on active duty in the Armed Forces in an atmospheric nuclear test that included the detonation of a nuclear device;

(B) service in the Armed Forces with the United States occupation force of Hiroshima or Nagasaki, Japan, before July 1, 1946; or

(C) internment or detention as a prisoner of war of Japan before that date in circumstances providing the opportunity for exposure to ionizing radiation comparable to the exposure of individuals who served with such occupation force before that date; and

(2) any other veteran who the Secretary designates for coverage under the study.

SEC. 509. CENTER FOR MINORITY VETERANS AND CENTER FOR WOMEN VETERANS.

(a) IN GENERAL.—Chapter 3 is amended by striking out section 317 and inserting in lieu thereof the following new sections:

"§ 317. Center for Minority Veterans

"(a) There is in the Department a Center for Minority Veterans. There is at the head of the Center a Director.

"(b) The Director shall be a noncareer appointee in the Senior Executive Service. The Director shall be appointed for a term of six years.

"(c) The Director reports directly to the Secretary or the Deputy Secretary concerning the activities of the Center.

"(d) The Director shall perform the following functions with respect to veterans who are minorities:

"(1) Serve as principal adviser to the Secretary on the adoption and implementation of policies and programs affecting veterans who are minorities.

"(2) Make recommendations to the Secretary, the Under Secretary for Health, the Under Secretary for Benefits, and other Department officials for the establishment or improvement of programs in the Department for which veterans who are minorities are eligible.

"(3) Promote the use of benefits authorized by this title by veterans who are minorities and the conduct of outreach activities to veterans who are minorities, in conjunction with outreach activities carried out under chapter 77 of this title.

"(4) Disseminate information and serve as a resource center for the exchange of information regarding innovative and successful programs which improve the services available to veterans who are minorities.

"(5) Conduct and sponsor appropriate social and demographic research on the needs of veterans who are minorities and the extent to which programs authorized under this title meet the needs of those veterans, without regard to any law concerning the collection of information from the public.

"(6) Analyze and evaluate complaints made by or on behalf of veterans who are minorities about the adequacy and timeliness of services provided by the Department and advise the appropriate official of the Department of the results of such analysis or evaluation.

"(7) Consult with, and provide assistance and information to, officials responsible for administering Federal, State, local, and private programs that assist veterans, to encourage those officials to adopt policies which promote the use of those programs by veterans who are minorities.

"(8) Advise the Secretary when laws or policies have the effect of discouraging the use of benefits by veterans who are minorities.

"(9) Publicize the results of medical research which are of particular significance to veterans who are minorities.

"(10) Perform such other duties consistent with this section as the Secretary shall prescribe.

"(e) The Secretary shall ensure that the Director is furnished sufficient resources to enable the Director to carry out the functions of the Center in a timely manner.

"(f) The Secretary shall include in documents submitted to Congress by the Secretary in support of the President's budget for each fiscal year—

"(1) detailed information on the budget for the Center;

"(2) the Secretary's opinion as to whether the resources (including the number of employees) proposed in the budget for that fiscal year are adequate to enable the Center to comply with its statutory and regulatory duties; and

"(3) a report on the activities and significant accomplishments of the Center during the preceding fiscal year.

"§ 318. Center for Women Veterans

"(a) There is in the Department a Center for Women Veterans. There is at the head of the Center a Director.

"(b) The Director shall be a noncareer appointee in the Senior Executive Service. The Director shall be appointed for a term of six years.

"(c) The Director reports directly to the Secretary or the Deputy Secretary concerning the activities of the Center.

"(d) The Director shall perform the following functions with respect to veterans who are women:

"(1) Serve as principal adviser to the Secretary on the adoption and implementation of policies and programs affecting veterans who are women.

"(2) Make recommendations to the Secretary, the Under Secretary for Health, the Under Secretary for Benefits, and other Department officials for the establishment or improvement of programs in the Department for which veterans who are women are eligible.

"(3) Promote the use of benefits authorized by this title by veterans who are women and the conduct of outreach activities to veterans who are women, in conjunction with outreach activities carried out under chapter 77 of this title.

"(4) Disseminate information and serve as a resource center for the exchange of information regarding innovative and successful programs which improve the services available to veterans who are women.

"(5) Conduct and sponsor appropriate social and demographic research on the needs of veterans who are women and the extent to which programs authorized under this title meet the needs of those veterans, without regard to any law concerning the collection of information from the public.

"(6) Analyze and evaluate complaints made by or on behalf of veterans who are women about the adequacy and timeliness of services provided by the Department and advise the appropriate official of the Department of the results of such analysis or evaluation.

"(7) Consult with, and provide assistance and information to, officials responsible for administering Federal, State, local, and private programs that assist veterans, to encourage those officials to adopt policies which promote the use of those programs by veterans who are women.

"(8) Advise the Secretary when laws or policies have the effect of discouraging the use of benefits by veterans who are women.

"(9) Publicize the results of medical research which are of particular significance to veterans who are women.

"(10) Advise the Secretary and other appropriate officials on the effectiveness of the Department's efforts to accomplish the goals of section 492B of the Public Health Service Act (relating to the inclusion of women and minorities in clinical research) and of particular health conditions affecting womens' health which should be studied as part of the Department's medical research program and promote cooperation between the Department and other sponsors of medical research of potential benefit to veterans who are women.

"(11) Provide support and administrative services to the Advisory Committee on Women Veterans established under section 542 of this title.

"(12) Perform such other duties consistent with this section as the Secretary shall prescribe.

"(e) The Secretary shall ensure that the Director is furnished sufficient resources to enable the Director to carry out the functions of the Center in a timely manner.

"(f) The Secretary shall include in documents submitted to Congress by the Secretary in support of the President's budget for each fiscal year—

"(1) detailed information on the budget for the Center;

"(2) the Secretary's opinion as to whether the resources (including the number of employees) proposed in the budget for that fiscal year are adequate to enable the Center to

comply with its statutory and regulatory duties; and

"(3) a report on the activities and significant accomplishments of the Center during the preceding fiscal year.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by striking out the item relating to section 317 and and inserting in lieu thereof the following new items:

"317. Center for Minority Veterans.
"318. Center for Women Veterans.".

SEC. 510. ADVISORY COMMITTEE ON MINORITY VETERANS.

(a) ESTABLISHMENT.—Subchapter III of chapter 5 is amended by adding at the end the following new section:

"§ 544. Advisory Committee on Minority Veterans

"(a)(1) The Secretary shall establish an advisory committee to be known as the Advisory Committee on Minority Veterans (hereinafter in this section referred to as 'the Committee').

"(2)(A) The Committee shall consist of members appointed by the Secretary from the general public, including—

"(i) representatives of veterans who are minority group members;

"(ii) individuals who are recognized authorities in fields pertinent to the needs of veterans who are minority group members;

"(iii) veterans who are minority group members and who have experience in a military theater of operations; and

"(iv) veterans who are minority group members and who do not have such experience.

"(B) The Committee shall include, as ex officio members, the following:

"(i) The Secretary of Labor (or a representative of the Secretary of Labor designated by the Secretary after consultation with the Assistant Secretary of Labor for Veterans' Employment).

"(ii) The Secretary of Defense (or a representative of the Secretary of Defense designated by the Secretary of Defense).

"(iii) The Secretary of the Interior (or a representative of the Secretary of the Interior designated by the Secretary of the Interior).

"(iv) The Secretary of Commerce (or a representative of the Secretary of Commerce designated by the Secretary of Commerce).

"(v) The Secretary of Health and Human Services (or a representative of the Secretary of Health and Human Services designated by the Secretary of Health and Human Services).

"(vi) The Under Secretary for Health and the Under Secretary for Benefits, or their designees.

"(C) The Secretary may invite representatives of other departments and agencies of the United States to participate in the meetings and other activities of the Committee.

"(3) The Secretary shall determine the number, terms of service, and pay and allowances of members of the Committee appointed by the Secretary, except that a term of service of any such member may not exceed three years. The Secretary may reappoint any such member for additional terms of service.

"(4) The Committee shall meet as often as the Secretary considers necessary or appropriate, but not less often than twice each fiscal year.

"(b) The Secretary shall, on a regular basis, consult with and seek the advice of the Committee with respect to the administration of benefits by the Department for veterans who are minority group members, reports and studies pertaining to such veterans and the needs of such veterans with respect to compensation, health care, rehabilitation, outreach, and other benefits and programs administered by the Department.

"(c)(1) Not later than July 1 of each year, the Committee shall submit to the Secretary a report on the programs and activities of the Department that pertain to veterans who are minority group members. Each such report shall include—

"(A) an assessment of the needs of veterans who are minority group members with respect to compensation, health care, rehabilitation, outreach, and other benefits and programs administered by the Department;

"(B) a review of the programs and activities of the Department designed to meet such needs; and

"(C) such recommendations (including recommendations for administrative and legislative action) as the Committee considers appropriate.

"(2) The Secretary shall, within 60 days after receiving each report under paragraph (1), submit to Congress a copy of the report, together with any comments concerning the report that the Secretary considers appropriate.

"(3) The Committee may also submit to the Secretary such other reports and recommendations as the Committee considers appropriate.

"(4) The Secretary shall submit with each annual report submitted to the Congress pursuant to section 529 of this title a summary of all reports and recommendations of the Committee submitted to the Secretary since the previous annual report of the Secretary submitted pursuant to such section.

"(d) In this section, the term 'minority group member' means an individual who is—

"(1) Asian American;

"(2) Black;

"(3) Hispanic;

"(4) Native American (including American Indian, Alaskan Native, and Native Hawaiian); or

"(5) Pacific-Islander American.

"(e) The Committee shall cease to exist December 31, 1997.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding after the item relating to section 543 the following new item:

"544. Advisory Committee on Minority Veterans.".

SEC. 511. MAILING OF NOTICES OF APPEAL TO THE COURT OF VETERANS APPEALS.

(a) IN GENERAL.—Section 7266(a) is amended to read as follows:

"(a)(1) In order to obtain review by the Court of Veterans Appeals of a final decision of the Board of Veterans' Appeals, a person adversely affected by such decision shall file a notice of appeal with the Court within 120 days after the date on which notice of the decision is mailed pursuant to section 7104(e) of this title.

"(2) An appellant shall file a notice of appeal under this section by delivering or mailing the notice to the Court.

"(3) A notice of appeal shall be deemed to be received by the Court as follows:

"(A) On the date of receipt by the Court, if the notice is delivered.

"(B) On the date of the United States Post Service postmark stamped on the cover in which the notice is posted, if the notice is properly addressed to the Court and is mailed.

"(4) For a notice of appeal mailed to the Court to be deemed to be received under paragraph (3)(B) on a particular date, the United States Postal Service postmark on the cover in which the notice is posted must be legible. The Court shall determine the legibility of any such postmark and the Court's determination as to legibility shall be final and not subject to review by any other Court.".

(b) APPLICATION.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to notices of appeal that are delivered or mailed to the United States Court of Veterans Appeals on or after that date.

TITLE VI—EDUCATION AND TRAINING PROGRAMS

SEC. 601. FLIGHT TRAINING.

(a) ACTIVE DUTY PROGRAM.—Section 3034(d) is amended—

(1) by striking out paragraph (2);

(2) by striking out "(1)" after "(d)"; and

(3) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively.

(b) POST-VIETNAM ERA.—Section 3241(b) is amended—

(1) by striking out paragraph (2);

(2) by striking out "(1)" after "(b)"; and

(3) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively.

(c) RESERVE PROGRAM.—Section 2136(c) of title 10, United States Code, is amended—

(1) by striking out paragraph (2);

(2) by striking out "(1)" after "(c)"; and

(3) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as of October 1, 1994.

SEC. 602. TRAINING AND REHABILITATION FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES.

(a) REHABILITATION RESOURCES.—Section 3115 is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking out "or" after "(including the Department of Veterans Affairs),"; and

(ii) by inserting "or of any federally recognized Indian tribe," after "financial assistance,"; and

(B) in paragraph (4), by inserting "any federally recognized Indian tribe," after "contributions,"; and

(2) by adding at the end the following:

"(c) For purposes of this section, the term 'federally recognized Indian tribe' means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native village or regional corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.".

(b) ALLOWANCES.—Section 3108(c)(2) is amended by inserting "or federally recognized Indian tribe" after "local government agency".

(c) TECHNICAL CORRECTION.—(1) Section 404(b) of the Veterans' Benefits Act of 1992 (106 Stat. 4338) is amended by striking out the period at the end and inserting in lieu thereof ", but shall not apply to veterans and other persons who originally applied for assistance under chapter 31 of title 38, United States Code, before November 1, 1990.".

(2) The amendment made by paragraph (1) shall take effect as of October 29, 1992.

SEC. 603. ALTERNATIVE TEACHER CERTIFICATION PROGRAMS.

(a) IN GENERAL.—Section 3452(c) is amended by adding at the end the following: "For

the period ending on September 30, 1996, such term includes any entity that provides training required for completion of any State-approved alternative teacher certification program (as determined by the Secretary).".

(b) CLARIFYING AMENDMENT.—Section 3002 is amended by adding at the end the following new paragraph:

"(8) The term 'educational institution' has the meaning given such term in section 3452(c) of this title.".

SEC. 604. EDUCATION OUTSIDE THE UNITED STATES.

(a) IN GENERAL.—The first sentence of section 3476 is amended to read as follows: "An eligible veteran may not enroll in any course offered by an educational institution not located in a State unless that educational institution is an approved institution of higher learning and the course is approved by the Secretary.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to courses approved on or after the date of the enactment of this Act.

SEC. 605. CORRESPONDENCE COURSES.

(a) APPROVAL OF PROGRAMS OF EDUCATION.—(1) Section 3672 is amended by adding at the end the following new subsection:

"(e) A program of education exclusively by correspondence, and the correspondence portion of a combination correspondence-residence course leading to a vocational objective, that is offered by an educational institution (as defined in section 3452(c) of this title) may be approved only if (1) the educational institution is accredited by an entity recognized by the Secretary of Education, and (2) at least 50 percent of those pursuing such a program or course require six months or more to complete the program or course.".

(2)(A) Section 3675(a)(2)(B) is amended by striking out "A State" and inserting in lieu thereof "Except as provided in section 3672(e) of this title, a State".

(B) Section 3680(a) is amended—

(i) by inserting "or" at the end of paragraph (2);

(ii) by striking out "; or" at the end of paragraph (3) and inserting in lieu thereof a period; and

(iii) by striking out paragraph (4).

(C) Section 3686(c) is amended by striking out "(other than one subject to the provisions of section 3676 of this title)".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to programs of education exclusively by correspondence and to correspondence-residence courses commencing more than 90 days after the date of the enactment of this Act.

SEC. 606. STATE APPROVING AGENCIES.

(a) REIMBURSEMENT.—(1) Section 3674(a)(4) is amended by striking out "$12,000,000" each place it appears and inserting in lieu thereof "$13,000,000".

(2) The amendments made by subsection (a) shall apply with respect to services provided under such section after September 30, 1994.

(b) ELIMINATION OF REQUIREMENT FOR QUARTERLY REPORT TO CONGRESS.—Section 3674(a)(3) is amended—

(1) by striking out subparagraph (B); and

(2) by striking out "(A)" after "(3)".

(c) EVALUATION OF AGENCY PERFORMANCE.—Section 3674A is amended—

(1) in subsection (a)—

(A) by striking out paragraph (3); and

(B) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively; and

(2) in subsection (b)—

(A) by striking out "subsection (a)(5) of this section" both places it appears and inserting in lieu thereof "subsection (a)(4)"; and

(B) by inserting "of this title" after "section 3674(a)" both places it appears.

SEC. 607. MEASUREMENT OF COURSES.

Section 3688(b) is amended—

(1) by striking out "this chapter or" and inserting in lieu thereof "this chapter,"; and

(2) by inserting before the period at the end thereof the following: ", or chapter 106 of title 10".

SEC. 608. VETERANS' ADVISORY COMMITTEE ON EDUCATION.

Section 3692 is amended—

(1) in the first sentence of subsection (a)—

(A) by striking out "34,"; and

(B) by inserting "and chapter 106 of title 10" before the period at the end;

(2) in the first sentence of subsection (b), by striking out "this chapter" and all that follows through "of this title" and inserting in lieu thereof "this chapter, chapters 30, 32, and 35 of this title, and chapter 106 of title 10"; and

(3) in subsection (c), by striking out "December 31, 1994" and inserting in lieu thereof "December 31, 2003".

SEC. 609. CONTRACT EDUCATIONAL AND VOCATIONAL COUNSELING.

(a) PAYMENT LIMITATION.—Section 3697(b) is amended by striking out "$5,000,000" and inserting in lieu thereof "$6,000,000".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1994.

SEC. 610. SERVICE MEMBERS OCCUPATIONAL CONVERSION AND TRAINING ACT OF 1992.

(a) PERIOD OF TRAINING.—(1) Section 4485(d) of the Service Members Occupational Conversion and Training Act of 1992 (106 Stat. 2759; 10 U.S.C. 1143 note) is amended by striking out "or more than 18 months".

(2)(A) Section 4486(d)(2) of such Act (102 Stat. 2760; 10 U.S.C. 1143 note) is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "in the community for the entire period of training of the eligible person.".

(B) The amendment made by subparagraph (A) shall apply with respect to programs of training under the Service Members Occupational Conversion and Training Act of 1992 beginning after the date of the enactment of this Act.

(b) PAYMENTS.—Section 4487 of such Act (106 Stat. 2762; 10 U.S.C. 1143 note) is amended—

(1) in subsection (a)(1)—

(A) by striking out "subparagraph (B)" in subparagraph (A) and inserting in lieu thereof "subparagraphs (B) and (C)";

(B) by inserting before the period at the end of subparagraph (A) the following: "but in no event to exceed hours equivalent to 18 months of training"; and

(C) by adding at the end the following new subparagraph:

"(C) Assistance may be paid under this subtitle on behalf of an eligible person to that person's employer for training under two or more programs of job training under this subtitle if such employer has not received (or is not due) on that person's behalf assistance in an amount aggregating the applicable amount set forth in subparagraph (B).''; and

(2) in subsection (b)(3), by inserting before the period at the end thereof ", or upon the completion of the 18th month of training under the last training program approved for the person's pursuit with that employer under this subtitle, whichever is earlier".

(c) ENTRY INTO PROGRAM OF JOB TRAINING.—Section 4488(a) of such Act (106 Stat. 2764; 10 U.S.C. 1143 note) is amended by striking out the third sentence thereof and inserting in lieu thereof "The eligible person may begin such program of job training with the employer on the day that notice is transmitted to such official by means prescribed by such official. However, assistance under this subtitle may not be provided to the employer if such official, within two weeks after the date on which such notice is transmitted, disapproves the eligible person's entry into that program of job training in accordance with this section.".

TITLE VII—EMPLOYMENT PROGRAMS

SEC. 701. JOB COUNSELING, TRAINING, AND PLACEMENT.

(a) DEPUTY ASSISTANT SECRETARY OF LABOR FOR VETERANS' EMPLOYMENT AND TRAINING.—Section 4102A(a) is amended—

(1) by striking out "(1)" and "(2)" and inserting in lieu thereof "(A)" and "(B)", respectively;

(2) by inserting "(1)" after "(a)"; and

(3) by adding at the end the following:

"(2) There shall be within the Department of Labor a Deputy Assistant Secretary of Labor for Veterans' Employment and Training. The Deputy Assistant Secretary shall perform such functions as the Assistant Secretary of Labor for Veterans' Employment and Training prescribes. The Deputy Assistant Secretary shall be a veteran.".

(b) DVOP SPECIALISTS COMPENSATION RATES.—Section 4103A(a)(1) is amended by striking out "a rate not less than the rate prescribed for an entry level professional" and inserting in lieu thereof "rates comparable to those paid other professionals performing essentially similar duties".

(c) SPECIAL UNEMPLOYMENT STUDY.—Subsection (a) of section 4110A is amended to read as follows:

"(a)(1) The Secretary, through the Bureau of Labor Statistics, shall conduct a study every two years of unemployment among each of the following categories of veterans:

"(A) Special disabled veterans.

"(B) Veterans of the Vietnam era who served in the Vietnam theater of operations during the Vietnam era.

"(C) Veterans who served on active duty during the Vietnam era who did not serve in the Vietnam theater of operations.

"(D) Veterans who served on active duty after the Vietnam era.

"(E) Veterans discharged or released from active duty within four years of the applicable study.

"(2) Within each of the categories of veterans specified in paragraph (1), the Secretary shall include a separate category for women who are veterans.

"(3) The Secretary shall promptly submit to Congress a report on the results of each study under paragraph (1).".

SEC. 702. EMPLOYMENT AND TRAINING OF VETERANS.

(a) FEDERAL CONTRACTS.—Section 4212(a) is amended by striking out "all of its suitable employment openings," in clause (1) of the third sentence and inserting in lieu thereof "all of its employment openings except that the contractor may exclude openings for executive and top management positions, positions which are to be filled from within the contractor's organization, and positions lasting three days or less,".

(b) ELIGIBILITY REQUIREMENTS FOR VETERANS UNDER FEDERAL EMPLOYMENT AND TRAINING PROGRAMS.—Section 4213 is amended—

(1) by striking out "chapters 11, 13, 31, 34, 35, and 36 of this title by an eligible veteran

and" and inserting in lieu thereof "chapters 11, 13, 30, 31, 35, and 36 of this title by an eligible veteran,";

(2) by inserting "and any amounts received by an eligible person under chapter 106 of title 10," after "chapters 13 and 35 of such title, and"; and

(3) by striking out "the needs or qualifications of participants in" and inserting in lieu thereof "eligibility under".

SEC. 703. CONFORMING AMENDMENTS TO ERISA RELATING TO THE UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT OF 1994.

(a) PERIOD OF CONTINUATION COVERAGE.—Section 602(2)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)(A)) is amended by adding at the end the following new clause:

"(vi) SPECIAL RULE FOR ABSENCE FROM EMPLOYMENT BY REASON OF SERVICE IN THE UNIFORMED SERVICES.—In the case of a qualifying event described in section 603(2), resulting in an absence from employment by reason of service in the uniformed services to which section 4317 of title 38, United States Code, applies, if the covered employee makes an election under such section 4317, the date which is the earlier of—

"(I) 18 months after the date of the qualifying event, or

"(II) the day after the date on which the covered employee fails to apply for or return to a position of employment, as determined under section 4312(e) of such title 38.".

(b) PREMIUM REQUIREMENTS.—Section 602(3) of such Act (29 U.S.C. 1162(3)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(2) by striking "The plan may require" and inserting the following:

"(A) IN GENERAL.—The plan may require";

(3) by adjusting the left-hand margination of subparagraph (A) and clauses (i) and (ii) thereof (as redesignated by paragraphs (1) and (2)) accordingly;

(4) in the last sentence of subparagraph (A) (as redesignated), by striking "subparagraph (A) of this paragraph" and inserting "clause (i) of this subparagraph"; and

(5) by adding at the end the following new subparagraph:

"(B) SPECIAL RULE FOR ABSENCE FROM EMPLOYMENT BY REASON OF SERVICE IN THE UNIFORMED SERVICES.—

"(i) LIMITATION ON EMPLOYEE PREMIUM.—In the case of a qualifying event described in section 603(2), resulting in an absence from employment by reason of service in the uniformed services to which section 4317 of title 38, United States Code, applies, if the covered employee makes an election under such section 4317 and the covered employee performed such service for less than 31 days, the portion of the premium which the covered employee is required to pay may not exceed the portion (if any) of the premium which the covered employee would have been required to pay but for the qualifying event.

"(ii) TREATMENT OF MULTIEMPLOYER PLANS.—In the case of a group health plan that is a multiemployer plan, any liability under the plan for the portion of the premium payable by the employer shall be allocated by the plan in such manner as the plan sponsor shall provide, except that, if the plan sponsor does not so provide, such liability shall be allocated by the plan—

"(I) to the last employer employing the covered employee before the period served by the covered employee in the uniformed services, or

"(II) if such last employer is no longer functional, to the plan.".

(c) ENFORCEMENT OF CONTINUATION COVERAGE REQUIREMENTS.—Section 607 of such Act (29 U.S.C. 1167) is amended by adding at the end the following new paragraph:

"(6) ENFORCEMENT OF PROVISIONS RELATING TO ABSENCE FROM EMPLOYMENT BY REASON OF SERVICE IN THE UNIFORMED SERVICES.—For purposes of part 5, the provisions of section 4317 of title 38, United States Code (as in effect on the effective date of this paragraph) shall be treated as provisions of this title to the extent such provisions relate to group health plans covered under this title. The remedies provided pursuant to this paragraph shall be in addition to remedies otherwise available under such title 38. An action or proceeding commenced under part 5 shall not preclude further recourse to remedies otherwise available under such title 38. The Secretary shall ensure that covered employees and other qualified beneficiaries commencing actions or proceedings under part 5 are informed of remedies also available under such title 38.".

(d) ENFORCEMENT OF RULES RELATING TO PENSION PLAN COVERAGE.—Section 204 of such Act (29 U.S.C. 1054) is amended—

(1) by redesignating subsection (i) as subsection (j); and

(2) by inserting after subsection (h) the following new subsection:

"(i) ENFORCEMENT OF PROVISIONS RELATING TO ABSENCE FROM EMPLOYMENT BY REASON OF SERVICE IN THE UNIFORMED SERVICES.—For purposes of part 5, the provisions of section 4318 of title 38, United States Code (as in effect on the effective date of this subsection) shall be treated as provisions of this title to the extent such provisions relate to pension plans covered under this title. The remedies provided pursuant to this subsection shall be in addition to remedies otherwise available under such title 38. An action or proceeding commenced under part 5 shall not preclude further recourse to remedies otherwise available under such title 38. The Secretary shall ensure that participants and beneficiaries commencing actions or proceedings under part 5 are informed of remedies also available under such title 38.".

(e) EFFECTIVE DATE AND TRANSITION RULES.—

(1) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of section 2 of the Uniformed Services Employment and Reemployment Rights Act of 1994.

(2) TRANSITION RULES.—Section 8 of the Uniformed Services Employment and Reemployment Rights Act of 1994 shall apply with respect to the amendments made by this section in the same manner and to the same extent as such section applies with respect to sections 4317 and 4318 of title 38, United States Code (as amended by such Act).

TITLE VIII—CEMETERIES AND MEMORIAL AFFAIRS

SEC. 801. ELIGIBILITY FOR BURIAL IN NATIONAL CEMETERIES OF SPOUSES WHO PREDECEASE VETERANS.

Section 2402(5) is amended by inserting "spouse," after "The".

SEC. 802. RESTORATION OF BURIAL ELIGIBILITY FOR UNREMARRIED SPOUSES.

Section 2402(5), as amended by section 801, is further amended by inserting after "surviving spouse" the following: "(which for purposes of this chapter includes an unremarried surviving spouse who had a subsequent remarriage which was terminated by death or divorce)".

SEC. 803. EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR STATE CEMETERY GRANT PROGRAM.

Paragraph (2) of section 2408(a) is amended by striking out "nine" and inserting in lieu thereof "fourteen".

SEC. 804. AUTHORITY TO USE FLAT GRAVE MARKERS AT THE WILLAMETTE NATIONAL CEMETERY, OREGON.

Notwithstanding section 2404(c)(2) of title 38, United States Code, the Secretary of Veterans Affairs may provide for flat grave markers at the Willamette National Cemetery, Oregon.

TITLE IX—HOUSING PROGRAMS

SEC. 901. ELIGIBILITY.

(a) RESERVISTS DISCHARGED BECAUSE OF A SERVICE-CONNECTED DISABILITY.—Section 3701(b)(5)(A) is amended—

(1) by inserting "(i)" before "who has"; and

(2) by striking out the period at the end and inserting in lieu thereof ", or (ii) who was discharged or released from the Selected Reserve before completing 6 years of service because of a service-connected disability.".

(b) SURVIVING SPOUSES OF RESERVISTS WHO DIED WHILE IN ACTIVE MILITARY, NAVAL, OR AIR SERVICE.—The second sentence of section 3701(b)(2) is amended—

(1) by inserting "or service in the Selected Reserve" after "duty" each place it appears; and

(2) by striking out "spouse shall" and inserting in lieu thereof "deceased spouse shall".

SEC. 902. REVISION IN COMPUTATION OF AGGREGATE GUARANTY.

Section 3702(b) is amended—

(1) in the matter preceding paragraph (1), by striking out "loan, if—" and inserting in lieu thereof "loan under the following circumstances:";

(2) in paragraph (1)—

(A) by striking out "the property" at the beginning of subparagraph (A) and inserting in lieu thereof "The property";

(B) by striking out the semicolon at the end and inserting in lieu thereof a period;

(3) in paragraph (2)—

(A) by striking out "a veteran-transferee" at the beginning and inserting in lieu thereof "A veteran-transferee";

(B) by striking out "; or" at the end and inserting in lieu thereof a period;

(4) in paragraph (3), by striking out "the loan" at the beginning of subparagraph (A) and inserting in lieu thereof "The loan";

(5) by inserting after paragraph (3) the following new paragraph:

"(4) In a case not covered by paragraph (1) or (2)—

"(A) the loan has been repaid in full and, if the Secretary has suffered a loss on the loan, the loss has been paid in full; or

"(B) the Secretary has been released from liability as to the loan and, if the Secretary has suffered a loss on the loan, the loss has been paid in full.";

(6) in the last sentence, by striking out "clause (1) of the preceding sentence" and inserting in lieu thereof "paragraph (1)"; and

(7) by adding at the end the following new sentence: "The authority of the Secretary under this subsection to exclude an amount of guaranty or insurance housing loan entitlement previously used by a veteran may be exercised only once for that veteran under the authority of paragraph (4).".

SEC. 903. PUBLIC AND COMMUNITY WATER AND SEWERAGE SYSTEMS.

Section 3704 is amended—

(1) by striking out subsection (e); and

(2) by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

SEC. 904. AUTHORITY TO GUARANTEE HOME REFINANCE LOANS FOR ENERGY EFFICIENCY IMPROVEMENTS.

(a) LOANS.—Section 3710(a) is amended by inserting after paragraph (10) the following new paragraph:

"(11) To refinance in accordance with subsection (e) an existing loan guaranteed, insured, or made under this chapter, and to improve the dwelling securing such loan through energy efficiency improvements, as provided in subsection (d).".

(b) AMOUNT OF GUARANTY.—Section 3710(e)(1) is amended—

(1) in the matter preceding subparagraph (A), by inserting "or for the purpose specified in subsection (a)(11)" after "subsection (a)(8)"; and

(2) in subparagraph (C), by striking out "may not exceed" and all that follows in such subparagraph and inserting in lieu thereof "may not exceed—

"(i) an amount equal to the sum of the balance of the loan being refinanced and such closing costs (including any discount permitted pursuant to section 3703(c)(3)(A) of this title) as may be authorized by the Secretary (under regulations which the Secretary shall prescribe) to be included in the loan; or

"(ii) in the case of a loan for the purpose specified in subsection (a)(11), an amount equal to the sum of the amount referred to with respect to the loan under clause (i) and the amount specified under subsection (d)(2);".

(c) FEE.—Section 3729(a)(2)(E) is amended by inserting "3710(a)(11)," after "3710(a)(9)(B)(i),".

SEC. 905. AUTHORITY TO GUARANTEE LOANS TO REFINANCE ADJUSTABLE RATE MORTGAGES TO FIXED RATE MORTGAGES.

Section 3710(e)(1)(A) is amended by inserting before the semicolon at the end the following: "or, in a case in which the loan is a fixed rate loan and the loan being refinanced is an adjustable rate loan, the loan bears interest at a rate that is agreed upon by the veteran and the mortgagee".

SEC. 906. MANUFACTURED HOME LOAN INSPECTIONS.

(a) CERTIFICATION OF CONFORMITY WITH STANDARDS.—Paragraph (2) of subsection (h) of section 3712 is amended to read as follows:

"(2) Any manufactured housing unit properly displaying a certification of conformity to all applicable Federal manufactured home construction and safety standards pursuant to section 616 of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5415) shall be deemed to meet the standards required by paragraph (1).".

(b) REPEAL OF INSPECTION REQUIREMENTS.—Subsection (j) of such section is amended by striking out "in the case of" the first place it appears and all that follows and inserting in lieu thereof "in the case of—

"(1) manufactured homes constructed by a manufacturer who fails or is unable to discharge the manufacturer's obligations under the warranty;

"(2) manufactured homes which are determined by the Secretary not to conform to the standards provided for in subsection (h); or

"(3) a manufacturer of manufactured homes who has engaged in procedures or practices determined by the Secretary to be unfair or prejudicial to veterans or the Government.".

(c) ELIMINATION OF REPORTING REQUIREMENT.—Subsection (l) of such section is amended—

(1) by striking out "the results of inspections required by subsection (h) of this section,"; and

(2) by striking out "of this section,".

SEC. 907. PROCEDURES ON DEFAULT.

(a) IN GENERAL.—Paragraph (7) of section 3732(c) is amended—

(1) in the matter preceding subparagraph (A), by striking out "that was the minimum amount for which, under applicable State law, the property was permitted to be sold at the liquidation sale";

(2) in subparagraph (A)—

(A) by striking out "the Secretary may accept conveyance of the property to the United States for a price not exceeding" and inserting in lieu thereof "(i) the amount was the minimum amount for which, under applicable State law, the property was permitted to be sold at the liquidation sale, the holder shall have the option to convey the property to the United States in return for payment by the Secretary of an amount equal to"; and

(B) by striking out "and" after "loan;" and inserting in lieu thereof "or";

(C) by adding at the end the following:

"(ii) there was no minimum amount for which the property had to be sold at the liquidation sale under applicable State law, the holder shall have the option to convey the property to the United States in return for payment by the Secretary of an amount equal to the lesser of such net value or total indebtedness; and"; and

(3) in subparagraph (B), by striking out "paragraph (6)(B)" and inserting in lieu thereof "paragraph (6)".

(b) CONFORMING AMENDMENT.—Paragraph (6) of such section is amended—

(1) by striking out "either";

(2) by striking out "sale or acquires" and all that follows through "(B) the" and inserting in lieu thereof "sale, the"; and

(3) by redesignating clauses (i) and (ii) as clauses (A) and (B), respectively.

SEC. 908. MINIMUM ACTIVE-DUTY SERVICE REQUIREMENT.

Subparagraph (F) of section 5303A(b)(3) is amended by inserting "or chapter 37" after "chapter 30" in the matter preceding clause (i).

TITLE X—HOMELESS VETERANS PROGRAMS

SEC. 1001. REPORTS ON ACTIVITIES OF THE DEPARTMENT OF VETERANS AFFAIRS TO ASSIST HOMELESS VETERANS.

(a) ANNUAL REPORT.—(1) Not later than April 15 of each year, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the activities of the Department of Veterans Affairs during the year preceding the report under programs of the Department for the provision of assistance to homeless veterans.

(2) The report shall—

(A) set forth the number of homeless veterans provided assistance under those programs;

(B) describe the cost to the Department of providing such assistance under those programs; and

(C) provide any other information on those programs and on the provision of such assistance that the Secretary considers appropriate.

(b) BI-ANNUAL REQUIREMENT.—The Secretary shall include in the report submitted under subsection (a)(1) in 1995, and every two years thereafter, an evaluation of the effectiveness of the programs of the Department in providing assistance to homeless veterans.

(c) CONFORMING REPEAL.—Section 10 of Public Law 102-590 (106 Stat. 5141; 37 U.S.C. 7721 note) is repealed.

SEC. 1002. REPORT ON ASSESSMENT AND PLANS FOR RESPONSE TO NEEDS OF HOMELESS VETERANS.

(a) UPDATE OF ASSESSMENT.—Subsection (b) of section 107 of the Veterans' Medical Programs Amendments of 1992 (Public Law 102-405; 106 Stat. 1977; 38 U.S.C. 527 note) is amended by adding at the end the following new paragraph:

"(6) The Secretary shall require that the directors referred to in paragraph (1) update the assessment required under that paragraph during each of 1995, 1996, and 1997.".

(b) REPORTS ON ASSESSMENTS AND PLAN.—Subsection (i) of such section (106 Stat. 1978) is amended—

(1) by striking out "REPORT.—" and inserting in lieu thereof "REPORTS.—(1)"; and

(2) by adding at the end the following:

"(2) Not later than December 31, 1994, the Secretary shall submit to such committees a report that—

"(A) describes the results of the assessment carried out under subsection (b);

"(B) sets forth the lists developed under paragraph (1) of subsection (c); and

"(C) describes the progress, if any, made by the directors of the medical centers and the directors of the benefits offices referred to in such subsection (c) in developing the plan referred to in paragraph (2) of such subsection (c).

"(3) Not later than December 31 of each of 1995, 1996, and 1997, the Secretary shall submit to such committees a report that describes the update to the assessment that is carried out under subsection (b)(6) in the year preceding the report.".

SEC. 1003. INCREASE IN NUMBER OF DEMONSTRATION PROGRAMS UNDER HOMELESS VETERANS COMPREHENSIVE SERVICE PROGRAMS ACT OF 1992.

Section 2(b) of the Homeless Veterans Comprehensive Service Programs Act of 1992 (38 U.S.C. 7721 note) is amended in the first sentence by striking out "four" and inserting in lieu thereof "eight".

SEC. 1004. REMOVAL OF FUNDING REQUIREMENT OF HOMELESS VETERANS COMPREHENSIVE SERVICE PROGRAMS ACT OF 1992.

Section 12 of the Homeless Veterans Comprehensive Service Programs Act of 1992 (38 U.S.C. 7721 note) is amended by striking out the second sentence.

SEC. 1005. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) of the funds appropriated for any fiscal year to support Federal programs which are designed to assist homeless individuals, a share more closely approximating the proportion of the population of homeless individuals who are veterans should be appropriated to the Secretary of Veterans Affairs for programs to assist homeless veterans that are administered by that Secretary;

(2) of the Federal grants made available to assist community organizations that assist homeless individuals, a share of such grants more closely approximating the proportion of the population of homeless individuals who are veterans should be provided to community organizations that provide assistance primarily to homeless veterans; and

(3) the Secretary of Veterans Affairs should take such actions as are necessary to ensure that Federal agencies that provide assistance, either directly or indirectly, to homeless individuals, including homeless veterans, are aware of and encouraged to make appropriate referrals to facilities of

the Department of Veterans Affairs for benefits and services, such as health care, substance abuse treatment, counseling, and income assistance.

TITLE XI—REDUCTIONS IN DEPARTMENT OF VETERANS AFFAIRS PERSONNEL

SEC. 1101. FINDINGS.

Congress makes the following findings:

(1) Under proposals for national health care reform, the Department of Veterans Affairs will be required to provide health care services to veterans on a competitive basis with other health care providers.

(2) The elimination of positions from the Department that the Office of Management and Budget has scheduled to occur in fiscal years 1995 through 1999 would prevent the Department from meeting the responsibilities of the Department to provide health care to veterans under law and from maintaining the quality of health care that is currently provided to veterans.

SEC. 1102. REQUIREMENT FOR MINIMUM NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

(a) IN GENERAL.—Chapter 7 is amended by adding at the end the following new section:

"§ 712. Full-time equivalent positions: limitation on reduction

"(a) Notwithstanding any other provision of law, the number of full-time equivalent positions in the Department of Veterans Affairs during the period beginning on the date of the enactment of this section and ending on September 30, 1999, may not (except as provided in subsection (c)) be less than 224,377.

"(b) In determining the number of full-time equivalent positions in the Department of Veterans Affairs during a fiscal year for purposes of ensuring under section 5(b) of the Federal Workforce Restructuring Act of 1994 (Public Law 103-226; 108 Stat. 115; 5 U.S.C. 3101 note) that the total number of full-time equivalent positions in all agencies of the Federal Government during a fiscal year covered by that section does not exceed the limit prescribed for that fiscal year under that section, the total number of full-time equivalent positions in the Department of Veterans Affairs during that fiscal year shall be the number equal to—

"(1) the number of such positions in the Department during that fiscal year, reduced by

"(2) the sum of—

"(A) the number of such positions in the Department during that fiscal year that are filled by employees whose salaries and benefits are paid primarily from funds other than appropriated funds; and

"(B) the number of such positions held during that fiscal year by persons involved in medical care cost recovery activities under section 1729 of this title.

"(c) The Secretary shall not be required to make a reduction in the number of full-time equivalent positions in the Department unless such reduction—

"(1) is necessary due to a reduction in funds available to the Department; or

"(2) is required under a law that is enacted after the date of the enactment of this section and that refers specifically to this section.

"(d) The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives an annual report, through the year 2000, on the number and type of full-time equivalent positions in the Department that are reduced under this section. The report shall include a justification for the reductions and shall be submitted with the materials provided in support of the budget for the Department contained in the President's budget submitted to Congress for a fiscal year pursuant to section 1105 of title 31.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"712. Full-time equivalent positions: limitation on reduction.".

SEC. 1103. ENHANCED AUTHORITY TO CONTRACT FOR NECESSARY SERVICES.

Section 8110(c) is amended by striking out paragraph (7) and inserting in lieu thereof the following:

"(7) Paragraphs (1) through (6) shall not be in effect during fiscal years 1995 through 1999.

"(8) During the period covered by paragraph (7), whenever an activity at a Department health-care facility is converted from performance by Federal employees to performance by employees of a contractor of the Government, the Secretary shall—

"(A) require in the contract for the performance of such activity that the contractor, in hiring employees for the performance of the contract, give priority to former employees of the Department who have been displaced by the award of the contract; and

"(B) provide to such former employees of the Department all possible assistance in obtaining other Federal employment or entrance into job training and retraining programs.

"(9) The Secretary shall include in the Secretary's annual report to Congress under section 529 of this title, for each fiscal year covered by paragraph (7), a report on the use during the year covered by the report of contracting-out authority made available by reason of paragraph (7). The Secretary shall include in each such report a description of each use of such authority, together with the rationale for the use of such authority and the effect of the use of such authority on patient care and on employees of the Department.".

SEC. 1104. STUDY.

(a) REQUIREMENT.—The Secretary of Veterans Affairs shall enter into an agreement with an appropriate non-Federal entity under which the entity shall carry out a study of the feasibility and advisability of alternative organizational structures, such as the establishment of a wholly-owned Government corporation or a Government-sponsored enterprise, for the effective provision of health care services to veterans.

(b) SUBMISSION OF REPORT.—The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the study required under subsection (a). The report shall be submitted not later than one year after the date of the enactment of this Act.

(c) AUTHORIZATION OF FUNDS.—There is hereby authorized to be appropriated for the Department of Veterans Affairs the sum of $1,000,000 for the purposes of carrying out the study required under subsection (a).

TITLE XII—TECHNICAL AND CLERICAL AMENDMENTS

SEC. 1201. AMENDMENTS TO TITLE 38, UNITED STATES CODE.

(a) REFERENCES TO "SECRETARY" AND "DEPARTMENT".—Title 38, United States Code, is amended as follows:

(1) Paragraph (1) of section 101 is amended to read as follows:

"(1) The terms 'Secretary' and 'Department' mean the Secretary of Veterans Affairs and the Department of Veterans Affairs, respectively.".

(2) Section 1532(c) is amended by striking out "Secretary" and inserting in lieu thereof "Veterans' Administration".

(3) Section 3745(a) is amended by striking out "Secretary" after "consult with the" and inserting in lieu thereof "Administrator".

(4) Section 4102A(e) is amended by striking out "Regional Secretary" both places it appears and inserting in lieu thereof "Regional Administrator".

(5) Section 4110(d)(9) is amended by striking out "Secretary of the Small Business Administration" and inserting in lieu thereof "Administrator of the Small Business Administration".

(b) REFERENCES TO DEPARTMENT OF MEDICINE AND SURGERY.—

(1) The following sections of title 38, United States Code, are amended by striking out "Department of Medicine and Surgery" each place it appears and inserting in lieu thereof "Veterans Health Administration": sections 3120(a), 3120(f), 3121(a)(3), 7603(a), 7603(c)(1)(B), 7604(1)(B), 7604(2)(D), 7612(c)(1)(B), 7615, 7616(b)(2), 7616(c), 7622(b)(1), 7622(c)(2)(A), 7623(b), 7635(a)(1), 7635(a)(2), and 8110(a).

(2) Section 7622(c)(2)(B) of such title is amended by striking out "such Department" and inserting in lieu thereof "the Veterans Health Administration".

(c) CONFORMING AMENDMENTS RELATING TO CONVERSION OF POSITIONS OF CHIEF MEDICAL DIRECTOR AND CHIEF BENEFITS DIRECTOR TO UNDER SECRETARY POSITIONS.—Title 38, United States Code, is amended as follows:

(1) Section 305 is amended—

(A) in subsection (a)(1), by striking out "a Under Secretary" and inserting in lieu thereof "an Under Secretary"; and

(B) in subsection (d)(2)(F), by striking out "Under Secretary" the second place it appears and all that follows through the closing parenthesis and inserting in lieu thereof "Chief Medical Director of the Veterans' Administration)".

(2) Section 306 is amended—

(A) in subsection (a), by striking out "a Under Secretary" and inserting in lieu thereof "an Under Secretary"; and

(B) in subsection (d)(2)(F), by striking out "Under Secretary" the second place it appears and all that follows through the closing parenthesis and inserting in lieu thereof "Chief Benefits Director of the Veterans' Administration)".

(3) Section 7306 is amended—

(A) in subsection (a)—

(i) in paragraph (3), by striking out "Assistant Chief Medical Directors" and inserting in lieu thereof "Assistant Under Secretaries for Health";

(ii) by redesignating the last three paragraphs as paragraphs (8), (7), and (9) respectively;

(iii) by reversing the order in which the penultimate and antepenultimate paragraphs appear; and

(iv) in paragraph (8), as so redesignated, by striking out "Chief Medical Director" and inserting in lieu thereof "Under Secretary for Health";

(B) in subsection (b), by striking out "Assistant Chief Medical Directors" in the matter preceding paragraph (1) and inserting in lieu thereof "Assistant Under Secretaries for Health"; and

(C) in subsection (c), by striking out "and (7)" and inserting in lieu thereof "and (8)".

(4) Section 7314(d) is amended—

(A) in paragraph (1)—

(i) by striking out "the Chief Medical Director and the Secretary to carry out" and inserting in lieu thereof "the Secretary and

the Under Secretary for Health in carrying out"; and

(ii) by striking out "the Assistant Chief Medical Director described in section 7306(b)(3)" and inserting in lieu thereof "the Assistant Under Secretary for Health described in section 7306(b)(3)"; and

(B) in paragraph (3), by striking out "Assistant Chief Medical Director" both places it appears and inserting in lieu thereof "Assistant Under Secretary".

(5) Section 7318 is amended by striking out "Chief Medical Director" each place it appears and inserting in lieu thereof "Under Secretary for Health".

(6) Section 7440(1) is amended by striking out "Chief Medical Director's" and inserting in lieu thereof "Under Secretary for Health's".

(7) Section 7451(g)(1) is amended by striking out "Chief Medical Director's" and inserting in lieu thereof "Under Secretary for Health's".

(d) CROSS REFERENCE AMENDMENTS TO PROVISIONS OF TITLE 38.—Title 38, United States Code, is amended as follows:

(1) Section 115 is amended by striking out "sections 230" and inserting in lieu thereof "sections 314, 315, 316,".

(2) Section 1710(f)(3)(E) is amended by striking out "section 1712(f)" and "section 1712(f)(4)" inserting in lieu thereof "section 1712(a)" and "section 1712(f)", respectively.

(3) Section 1712 is amended—

(A) in subsection (i)(5), by striking out "section 1722(a)(1)(C)" and inserting in lieu thereof "section 1722(a)(3)"; and

(B) in subsection (j), by striking out "Section 4116" and inserting in lieu thereof "Section 7316".

(4) Section 3018A(d)(3) is amended by striking out "section 3015(e)" and inserting in lieu thereof "section 3015(f)".

(5) Section 3018B(d)(3) is amended by striking out "section 3015(e)" and inserting in lieu thereof "section 3015(f)".

(6) Section 3032(f)(3) is amended by striking out "(c), or (d)(1)" and inserting in lieu thereof "(d), or (e)(1)".

(7) Section 3035(b) is amended—

(A) in paragraph (2), by striking out "section 3015(c)" and inserting in lieu thereof "section 3015(d)"; and

(B) in paragraph (3)(C), by striking out "section 3015(e)" and inserting in lieu thereof "section 3015(f)".

(8) Section 3103(b)(3) is amended by striking out "section 3102(1)(A)" and inserting in lieu thereof "section 3102(1)(A)(i)".

(9) Section 3106(a) is amended by striking out "section 3102(1)(A) or (B)" and inserting in lieu thereof "clause (i) or (ii) of section 3102(1)(A)".

(10) Section 3113(a) is amended by striking out "section 3102(1)(B) and (2)" and inserting in lieu thereof "subparagraphs (A)(ii) and (B) of section 3102(1)".

(11) Section 3120(b) is amended by striking out "section 3012(1)(A)" and inserting in lieu thereof "section 3102(1)(A)(i)".

(12) Section 3241(c) is amended by striking out "1663,".

(13) Section 3735(a)(1)(A) is amended by striking out "section 3402" and inserting in lieu thereof "section 5902".

(14) Section 4103(c)(2) is amended by striking out "subchapter IV of chapter 3" and inserting in lieu thereof "subchapter II of chapter 77".

(15) Section 5104(a) is amended by striking out "section 211(a)" and inserting in lieu thereof "section 511".

(16) Section 8103(d)(6)(A) is amended by striking out "section 230(c)" and inserting in lieu thereof "section 316".

(17) Section 8110(c)(3)(B) is amended by striking out "section 213 or 4117" and inserting in lieu thereof "section 513 or 7409".

(18) Section 8135(a)(3) is amended by striking out "section 8134(2)" and inserting in lieu thereof "section 8134(a)(2)".

(19) Section 8155(a) is amended by striking out "section 4112" and inserting in lieu thereof "section 7312".

(20) Section 8201(c) is amended by striking out "section 4112(a)" and inserting in lieu thereof "section 7312(a)".

(e) PUNCTUATION, CAPITALIZATION, SPELLING, ETC.—Title 38, United States Code, is amended as follows:

(1) Section 111(b)(3)(B) is amended by striking out "the Department facility" and inserting in lieu thereof "a Department facility".

(2) Sections 305(d)(2)(F) and 306(d)(2)(F) are amended by striking out "Commission" and inserting in lieu thereof "commission".

(3) Section 312(a) is amended by striking out "(5 U.S.C. App. 3)" and inserting in lieu thereof "(5 U.S.C. App.)".

(4) Section 317(b)(2) is amended by striking out "provided, by the" and inserting in lieu thereof "provided by, the".

(5) Section 711(d) is amended by striking out "Committees" and inserting in lieu thereof "committees".

(6) Section 1116(a)(1)(B) is amended by striking out "(1)" and "(2)" and inserting in lieu thereof "(i)" and "(ii)", respectively.

(7) Section 1722A(a)(1) is amended by striking out the closing parenthesis after "veteran" in the first sentence.

(8) Section 1969(e) is amended—

(A) by striking out "sections 1971 (a) and (c)" and inserting in lieu thereof "subsections (a) and (c) of section 1971"; and

(B) by striking out "sections 1971 (d) and (e)" and inserting in lieu thereof "subsections (d) and (e) of section 1971".

(9) Section 1977(f) is amended by striking out "sections 1971 (d) and (e)" and inserting in lieu thereof "subsections (d) and (e) of section 1971".

(10) Section 3011(f)(1) is amended by striking out "whose length" and inserting in lieu thereof "the length of which".

(11) Section 3018B(d) is amended—

(A) in paragraph (1), by striking out "(a)(2)(D) of this subsection" and inserting in lieu thereof "(a)(2)(D) of this section"; and

(B) in paragraph (3)—

(i) by striking out "such Account" and inserting in lieu thereof "such account"; and

(ii) by striking out "this chapter" and inserting in lieu thereof "this title".

(12) Section 3688(a)(6) is amended by inserting a comma after "3241(a)(2)".

(13) Section 3706 is amended by striking out "of this chapter" the second and third places it appears and inserting in lieu thereof "of this title".

(14) Section 3712 is amended—

(A) in subsection (c)(3)—

(i) by inserting "of" in subparagraph (D) after "subparagraph (B)"; and

(ii) by striking out "of this subsection" in subparagraph (E) and inserting in lieu thereof "of this paragraph"; and

(B) in subsection (m), by striking out "section 3704(d) and section 3721 of this chapter" and inserting in lieu thereof "sections 3704(d) and 3721 of this title".

(15) Section 3713(b) is amended in the last sentence by striking out "subsection 5302(b) of this title, if eligible thereunder" and inserting in lieu thereof "section 5302(b) of this title, if the veteran is eligible for relief under that section".

(16) Section 5702 is amended—

(A) by inserting "(a)" before "Any person desiring";

(B) by striking out "custody of" and all that follows through "stating" and inserting in lieu thereof "custody of the Secretary that may be disclosed under section 5701 of this title must submit to the Secretary an application in writing for such copy. The application shall state"; and

(C) in subsection (c), by striking out "is authorized to fix" and inserting in lieu thereof "may establish".

(17) Section 6101(a) is amended by inserting a comma after "title 18".

(18) Section 6103(d)(1) is amended in the second sentence—

(A) by striking out "(a)" and "(b)" and inserting in lieu thereof "(A)" and "(B)", respectively; and

(B) by striking out "prior to" and inserting in lieu thereof "before".

(19) Section 6105(c) is amended—

(A) in the first sentence, by striking out "clauses (2), (3), or (4) of subsection (b) of this section" and inserting in lieu thereof "paragraph (2), (3), or (4) of subsection (b)";

(B) in the second sentence, by striking out "clause (1) of that subsection" and inserting in lieu thereof "paragraph (1) of subsection (b)"; and

(C) by transposing the two sentences of that subsection (as so amended).

(20) Section 7312(d) is amended by striking out "the advisory groups activities" and inserting in lieu thereof "the activities of the advisory group".

(21) Section 7408(a) is amended by striking out "civil-service" and inserting in lieu thereof "civil service".

(22) Sections 7433(b)(3)(A) and 7435(b)(3)(A) are amended by striking out "nation-wide" and inserting in lieu thereof "nationwide".

(23) Section 7451(d)(3)(C)(i)(I) is amended by striking out "labor market area" and inserting in lieu thereof "labor-market area".

(24) Section 7453 is amended by striking out "subsections" in subsections (f) and (g) and inserting in lieu thereof "subsection".

(25) Section 7601(a) is amended by striking out the comma at the end of paragraph (1) and inserting in lieu thereof a semicolon.

(26) Section 7604 is amended by striking out "subchapters" in paragraphs (1)(A), (2)(D), and (5) and inserting in lieu thereof "subchapter".

(27) Section 8126 is amended—

(A) in subsection (e)(1)(A), by striking out "1-year" and inserting in lieu thereof "one-year"; and

(B) in subsection (f)(2), by striking out ", and" and inserting in lieu thereof a period.

(f) DATE OF ENACTMENT REFERENCES.—Title 38, United States Code, is amended as follows:

(1) Section 1922A(b) is amended by striking out "insurance not later than" and all that follows through "that the Department" and inserting in lieu thereof "insurance. Such application must be filed not later than (1) October 31, 1993, or (2) the end of the one-year period beginning on the date on which the Secretary".

(2) Sections 3011(e) and 3012(f) are amended by striking out "the end of the 24-month period beginning on the date of the enactment of this subsection" and inserting in lieu thereof "October 28, 1994,".

(3) Section 3018B(a)(2)(A) is amended by striking out "the date of enactment of this section" and inserting in lieu thereof "October 23, 1992,".

(4) Section 3702(a)(2)(E) is amended by striking out "For the 7-year period beginning on the date of enactment of this subparagraph," and inserting in lieu thereof

"For the period beginning on October 28, 1992, and ending on October 27, 1999,".

(5) Section 6103(d)(2) is amended by striking out "the date of enactment of this amendatory Act" and inserting in lieu thereof "June 30, 1972".

(6) Section 8126 is amended—

(A) in subsection (e)(1)(A), by striking out "30 days after the date of the enactment of this section" and inserting in lieu thereof "December 4, 1992"; and

(B) in subsection (g), by striking out "the date of the enactment of this section" in paragraphs (1) and (2) and inserting in lieu thereof "November 4, 1992".

(g) OBSOLETE OR EXECUTED PROVISIONS.—Title 38, United States Code, is amended as follows:

(1) Section 312(b) is amended by striking out paragraph (3).

(2) Section 1524(a)(2) is amended by striking out "Subject to paragraph (3) of this subsection, if" and inserting in lieu thereof "If".

(3) Section 4110(c)(1) is amended by striking out "shall, within 90 days after the date of the enactment of this section, appoint" and inserting in lieu thereof "shall appoint".

(4)(A) Section 5505 is repealed.

(B) The table of sections at the beginning of chapter 55 is amended by striking out the item relating to section 5505.

(5) Section 7311 is amended by striking out subsections (f) and (g).

(6) Section 7453(i)(3) is amended by striking out "of title 5".

(7) Section 8110(c) is amended by striking out paragraph (7).

(8) Section 8111(b) is amended—

(A) in paragraph (2)—

(i) by striking out "During fiscal years 1982 and 1983" in the second sentence and inserting in lieu thereof "During odd-numbered fiscal years";

(ii) by striking out "During fiscal year 1984" in the third sentence and inserting in lieu thereof "During even-numbered fiscal years"; and

(iii) by striking out the fourth sentence; and

(B) in paragraph (4), by striking out "Within nine months of the date of the enactment of this subsection and at such times thereafter as" and inserting in lieu thereof "At such times as".

(h) AMENDMENTS TO HEADINGS AND TABLES OF CONTENTS.—Title 38, United States Code, is amended as follows:

(1) The table of chapters before part I and the table of chapters at the beginning of part III are amended by striking out the item relating to chapter 42 and inserting in lieu thereof the following:

"42. Employment and Training of Veterans ..... 4211".

(2) The heading of section 2106 is amended by revising each word after the first word so that the initial letter of each such word is lower case.

(3) The item relating to subchapter III in the table of sections at the beginning of chapter 73 is amended to read as follows:

"SUBCHAPTER III—PROTECTION OF PATIENT RIGHTS".

(4) The heading of section 7458 is amended to read as follows:

"§ 7458. Recruitment and retention bonus pay".

(5) The heading of chapter 81 is amended by inserting "enhanced-use" before "leases of real".

(6) The item relating to section 8126 in the table of sections at the beginning of chapter 81 is amended to read as follows:

"8126. Limitation on prices of drugs procured by Department and certain other Federal agencies.".

(i) OTHER MISCELLANEOUS CORRECTIONS.—Title 38, United States Code, is amended as follows:

(1) Section 1718(c)(1) is amended by inserting "of Veterans Affairs" after "Department" in the first sentence.

(2) Section 1922(b)(4) is amended by striking out "Notwithstanding" and all that follows through "title," and inserting in lieu thereof "Notwithstanding section 1917 of this title,".

(3) Section 1969(d)(3) is amended by striking out "'General Operating Expenses, Department'" and inserting in lieu thereof "'General Operating Expenses, Department of Veterans Affairs'".

(4) Section 3018A(a)(1) is amended by striking "after December 31, 1990," and all that follows through "whichever is later," and inserting in lieu thereof "after February 2, 1991,".

(5) Section 3121(a)(3) is amended by striking out "Department of Veterans' Benefits" and inserting in lieu thereof "Veterans Benefits Administration".

(6) Section 3680(a)(C) is amended by striking out "1 full" and inserting in lieu thereof "one full".

(7) Section 4110(e)(3)(B) is amended—

(A) by striking out ", United States Code,"; and

(B) by striking out "the Board" and inserting in lieu thereof "the advisory committee".

(8) Section 5110 is amended by striking out subsection (m).

(9) Section 7315(b)(2) is amended by striking out "Department" and inserting in lieu thereof "Veterans' Administration".

(10) Section 8111(f)(6) is amended by inserting "of Defense" after "the Secretary" the second place it appears.

(11) Section 8502(d) is amended by striking out "General Post Fund, National Homes, Department," and inserting in lieu thereof "General Post Fund, National Homes, Department of Veterans Affairs,".

SEC. 1202. AMENDMENTS TO OTHER LAWS ADMINISTERED BY SECRETARY OF VETERANS AFFAIRS.

(a) PUBLIC LAW 102-54.—Effective as of June 13, 1991, and as if included in the enactment of Public Law 102-54, Public Law 102-54 is amended as follows:

(1) Section 13(e) (105 Stat. 275) is amended by striking out "subsection (b)(10)" and inserting in lieu thereof "subsection (c)(10)".

(2) Section 15(a)(1)(A) (105 Stat. 289) is amended by inserting "the first place it appears" before "in the first sentence".

(b) PUBLIC LAW 102-83.—Effective as of August 6, 1991, and as if included in the enactment of Public Law 102-83, section 4(a) of Public Law 102-83 (105 Stat. 403) is amended as follows:

(1) Paragraph (2)(E) is amended by striking out "Section 601(4)" and inserting in lieu thereof "Section 601(3)".

(2) Paragraph (4) is amended by adding at the end the following:

"(E) Sections 7314(b)(1) and 7315(b)(2).".

(c) PUBLIC LAW 102-86.—Section 403(b)(4) of the Veterans' Benefits Programs Improvement Act of 1991 (Public Law 102-86; 105 Stat. 423; 36 U.S.C. 493(b)(4)) is amended by striking out "section 235" and inserting in lieu thereof "section 707".

(d) PUBLIC LAW 102-547.—Section 10(b)(2) of the Veterans Home Loan Program Amendments of 1992 (106 Stat. 3643; 38 U.S.C. 3703 note) is amended by striking out "paragraph 4" and inserting in lieu thereof "paragraph (4)".

(e) PUBLIC LAW 102-585.—The Veterans Health Care Act of 1992 (Public Law 102-585) is amended as follows:

(1) Section 202 (38 U.S.C. 8111 note) is amended by striking out "the Chief Medical Director" and inserting in lieu thereof "the Under Secretary for Health of the Department of Veterans Affairs".

(2) Section 511(c) (38 U.S.C. 7318 note) is amended by striking out "Chief Medical Director" each place it appears and inserting in lieu thereof "Under Secretary for Health".

SEC. 1203. AMENDMENTS TO OTHER LAWS.

(a) PUBLIC HEALTH SERVICE ACT.—The Public Health Service Act is amended as follows:

(1) Section 502(b)(2)(D) (42 U.S.C. 290aa-1(b)(2)(D)) is amended to read as follows:

"(D) the Under Secretary for Health of the Department of Veterans Affairs;".

(2) Section 542(b)(2) (42 U.S.C. 290dd-1(b)(2)) is amended by striking out "Chief Medical Director" and inserting in lieu thereof "Under Secretary for Health".

(3) Section 2604(b)(2)(A) (42 U.S.C. 300ff-14(b)(2)(A)) is amended by striking out "Veterans Administration facilities" and inserting in lieu thereof "Department of Veterans Affairs facilities".

(b) MISCELLANEOUS DEPARTMENT AND SECRETARY REFERENCES.—Section 5102(c)(3) of title 5, United States Code, is amended by striking out the comma after "Department of Veterans Affairs".

(c) MISCELLANEOUS CROSS-REFERENCE CORRECTIONS.—

(1) Section 1204(a)(1) of title 5, United States Code, is amended by striking out "section 4323" and inserting in lieu thereof "section 4303".

(2) Section 441(b)(2)(B) of the Job Training Partnership Act (29 U.S.C. 1721(b)(2)(B)) is amended—

(A) by striking out "subchapter IV of chapter 3" and inserting in lieu thereof "subchapter II of chapter 77"; and

(B) by striking out "sections 612A, 620A, 1787, and 2003A" and inserting in lieu thereof "sections 1712A, 1720A, 3687, and 4103A".

(3) Section 107 of the Local Public Works Capital Development and Investment Act of 1976 (42 U.S.C. 6706) is amended by striking out "section 4211(2)(A)" and "section 2011(1)" inserting in lieu thereof "section 4211(2)" and "section 4211(1)", respectively.

(4) Section 4(g)(2) of the Employment Act of 1946 (15 U.S.C. 1022a(g)(2)) is amended—

(A) by striking out "this subsection" and inserting in lieu thereof "this section"; and

(B) by striking out "section 2011(1) or (2)(A)" and inserting in lieu thereof "section 4211(1) or (2)".

MENTAL HEALTH AND SUBSTANCE ABUSE PROGRAMS REAUTHORIZATION ACT OF 1994

KENNEDY (AND KASSEBAUM) AMENDMENT NO. 2652

Mr. BREAUX (for Mr. KENNEDY, for himself and Mrs. KASSEBAUM) proposed an amendment to the bill (S. 2352) to amend the Public Health Service Act to reauthorize certain programs relating to the Substance Abuse and Mental Health Services Administration, and for other purposes; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. FAILURE TO COMPLY WITH MAINTENANCE OF EFFORT PROVISIONS.

(a) MENTAL HEALTH.—Section 1915(b)(3)(A) of the Public Health Service Act (42 U.S.C. 300x-4(b)(3)(A)) is amended—

(1) by striking "material"; and

(2) by inserting before the period at the end thereof the following: ", except that the Secretary may defer the reduction for a reasonable period of time, but in no event to exceed 1 year, to afford the State an opportunity to correct or mitigate the violation of the agreement that the State made for the preceding year under paragraph (1), and the Secretary shall recalculate the reduction accordingly".

(b) SUBSTANCE ABUSE.—Section 1930(c)(1) of the Public Health Service Act (42 U.S.C. 300x-30(c)(1)) is amended—

(1) by striking "material"; and

(2) by inserting before the period at the end thereof the following: ", except that the Secretary may defer the reduction for a reasonable period of time, but in no event to exceed 1 year, to afford the State an opportunity to correct or mitigate the violation of the agreement that the State made for the preceding year under subsection (a), and the Secretary shall recalculate the reduction accordingly".

SEC. 2. BLOCK GRANTS TO STATES REGARDING MENTAL HEALTH AND SUBSTANCE ABUSE.

Section 205(b) of the ADAMHA Reorganization Act (42 U.S.C. 300x(b) note) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

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

"(3) FISCAL YEAR 1995.—With respect to an allotment for fiscal year 1995 under section 1911 or 1921, the Secretary shall, upon the request of the chief executive officer of a State, make a transfer as described under paragraph (1) or (2) in the case of any State for which such an allotment for fiscal year 1995 is—

"(A) in the case of an allotment under section 1911, at least 20 percent less than the amount of the allotment for such State under such section for fiscal year 1994; or

"(B) in the case of an allotment under section 1921, at least 20 percent less than the amount of the allotment for such State under such section for fiscal year 1994.".

HATCH AMENDMENT NO. 2653

Mr. SIMPSON (for Mr. HATCH) proposed an amendment to the bill (S. 2352) to amend the Public Health Service Act to reauthorize certain programs relating to the Substance Abuse and Mental Health Services Administration, and for other purposes; as follows:

At the end of the amendment add the following new sections:

SEC. 3. PREVENTION AND TREATMENT GRANTS.

Section 1924(b)(2) of the Public Health Service Act (42 U.S.C. 300x-24(b)(2)) is amended by striking "10 or more" and inserting "15 or more".

SEC. 4. EFFECTIVE DATE.

This Act shall take effect as if enacted on September 30, 1994.

TRAUMATIC BRAIN INJURY ACT OF 1994

KENNEDY (AND HATCH) AMENDMENT NO. 2654

Mr. FEINGOLD (for himself, Mr. KENNEDY, and Mr. HATCH) proposed an amendment to the bill (S. 725) to amend the Public Health Service Act to provide for the conduct of expanded studies and the establishment of innovative programs with respect to traumatic brain injury, and for other purposes, as follows.

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. PROGRAMS OF CENTERS FOR DISEASE CONTROL AND PREVENTION.

(a) IN GENERAL.—Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.), as amended by section 209 of the Minority Health Improvement Act of 1994, is amended by inserting after section 317G the following section:

"PREVENTION OF TRAUMATIC BRAIN INJURY

"SEC. 317H. (a) The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may carry out projects to reduce the incidence of traumatic brain injury. Such projects may be carried out by the Secretary directly or through awards of grants or contracts to public or nonprofit private entities. The Secretary may directly or through such awards provide technical assistance with respect to the planning, development, and operation of such projects.

"(b) CERTAIN ACTIVITIES.—Activities under subsection (a) may include—

"(1) the conduct of research into identifying effective strategies for the prevention of traumatic brain injury; and

"(2) the implementation of public information and education programs for the prevention of such injury and for broadening the awareness of the public concerning the public health consequences of such injury.

"(c) COORDINATION OF ACTIVITIES.—The Secretary shall ensure that activities under this section are coordinated as appropriate with other agencies of the Public Health Service that carry out activities regarding traumatic brain injury.

"(d) DEFINITION.—For purposes of this section, the term 'traumatic brain injury' means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning.".

SEC. 2. PROGRAMS OF NATIONAL INSTITUTES OF HEALTH.

Section 1261 of the Public Health Service Act (42 U.S.C. 300d-61) is amended—

(1) in subsection (d)—

(A) in paragraph (2), by striking "and" after the semicolon at the end;

(B) in paragraph (3), by striking the period and inserting "; and"; and

(C) by adding at the end the following paragraph:

"(4) the authority to make awards of grants or contracts to public or nonprofit private entities for the conduct of basic and applied research regarding traumatic brain injury, which research may include—

"(A) the development of new methods and modalities for the more effective diagnosis, measurement of degree of injury, post-injury monitoring and prognostic assessment of head injury for acute, subacute and later phases of care;

"(B) the development, modification and evaluation of therapies that retard, prevent or reverse brain damage after acute head injury, that arrest further deterioration following injury and that provide the restitution of function for individuals with long-term injuries;

"(C) the development of research on a continuum of care from acute care through rehabilitation, designed, to the extent practicable, to integrate rehabilitation and long-term outcome evaluation with acute care research; and

"(D) the development of programs that increase the participation of academic centers of excellence in head injury treatment and rehabilitation research and training."; and

(2) in subsection (h), by adding at the end the following paragraph:

"(4) The term 'traumatic brain injury' means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning.".

SEC. 3. PROGRAMS OF HEALTH RESOURCES AND SERVICES ADMINISTRATION.

Part E of title XII of the Public Health Service Act (42 U.S.C. 300d-51 et seq.) is amended by adding at the end the following section:

"SEC. 1252. STATE GRANTS FOR DEMONSTRATION PROJECTS REGARDING TRAUMATIC BRAIN INJURY.

"(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants to States for the purpose of carrying out demonstration projects to improve the availability of health services regarding traumatic brain injury.

"(b) STATE ADVISORY BOARD.—

"(1) IN GENERAL.—The Secretary may make a grant under subsection (a) only if the State involved agrees to establish an advisory board within the appropriate health department of the State or within another department as designated by the chief executive officer of the State.

"(2) FUNCTIONS.—An advisory board established under paragraph (1) shall be cognizant of findings and concerns of Federal, State and local agencies, citizens groups, and private industry (such as insurance, health care, automobile, and other industry entities). Such advisory boards shall encourage citizen participation through the establishment of public hearings and other types of community outreach programs.

"(3) COMPOSITION.—An advisory board established under paragraph (1) shall be composed of—

"(A) representatives of—

"(i) the corresponding State agencies involved;

"(ii) public and nonprofit private health related organizations;

"(iii) other disability advisory or planning groups within the State;

"(iv) members of an organization or foundation representing traumatic brain injury survivors in that State; and

"(v) injury control programs at the State or local level if such programs exist; and

"(B) a substantial number of individuals who are survivors of traumatic brain injury, or the family members of such individuals.

"(c) MATCHING FUNDS.—

"(1) IN GENERAL.—With respect to the costs to be incurred by a State in carrying out the

purpose described in subsection (a), the Secretary may make a grant under such subsection only if the State agrees to make available, in cash, non-Federal contributions toward such costs in an amount that is not less than $1 for each $2 of Federal funds provided under the grant.

"(2) DETERMINATION OF AMOUNT CONTRIBUTED.—In determining the amount of non-Federal contributions in cash that a State has provided pursuant to paragraph (1), the Secretary may not include any amounts provided to the State by the Federal Government.

"(d) APPLICATION FOR GRANT.—The Secretary may make a grant under subsection (a) only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(e) COORDINATION OF ACTIVITIES.—The Secretary shall ensure that activities under this section are coordinated as appropriate with other agencies of the Public Health Service that carry out activities regarding traumatic brain injury.

"(f) REPORT.—Not later than 2 years after the effective date under section 901 of the Minority Health Improvement Act of 1994, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings and results of the programs established under this section, including measures of outcomes and consumer and surrogate satisfaction.

"(g) DEFINITION.—For purposes of this section, the term 'traumatic brain injury' means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 and 1997.".

SEC. 4. STUDY; CONSENSUS CONFERENCE.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary"), acting through the appropriate agencies of the Public Health Service, shall conduct a study for the purpose of carrying out the following with respect to traumatic brain injury:

(A) In collaboration with appropriate State and local health-related agencies—

(i) determine the incidence and prevalence of traumatic brain injury; and

(ii) develop a uniform reporting system under which States report incidence of traumatic brain injury, if the Secretary determines that such a system is appropriate.

(B) Identify common therapeutic interventions which are used for the rehabilitation of individuals with such injuries, and shall, subject to the availability of information, include an analysis of—

(i) the effectiveness of each such intervention in improving the functioning of individuals with brain injuries;

(ii) the comparative effectiveness of interventions employed in the course of rehabilitation of individuals with brain injuries to achieve the same or similar clinical outcome; and

(iii) the adequacy of existing measures of outcomes and knowledge of factors influencing differential outcomes.

(C) Develop practice guidelines for the rehabilitation of traumatic brain injury at such time as appropriate scientific research becomes available.

(2) DATES CERTAIN FOR REPORTS.—

(A) Not later than 18 months after the effective date under section 901, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings made as a result of carrying out paragraph (1)(A).

(B) Not later than 3 years after the effective date under section 901, the Secretary shall submit to the Committees specified in subparagraph (A) a report describing the findings made as a result of carrying out subparagraphs (B) and (C) of paragraph (1).

(b) CONSENSUS CONFERENCE.—The Secretary, acting through the Director of the National Center for Medical Rehabilitation Research within the National Institute for Child Health and Human Development, shall conduct a national consensus conference on managing traumatic brain injury and related rehabilitation concerns.

(c) DEFINITION.—For purposes of this section, the term "traumatic brain injury" means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. BREAUX. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, October 7, 1994, at 10 a.m., to hold a hearing entitled "Review of U.S. Policy Toward Cuba."

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

SUBCOMMITTEE ON EDUCATION, ARTS, AND HUMANITIES

Mr. BREAUX. Mr. President, I ask unanimous consent that the Subcommittee on Education, Arts, and Humanities be authorized to meet for a hearing on education and parental involvement, during the session of the Senate on October 7, 1994, at 9:30 a.m.

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

ADDITIONAL STATEMENTS

IMPROVING AMERICA'S SCHOOLS ACT

• Mr. REID. During Senate consideration of S. 1513, the Senate accepted an amendment to specify that an eligible local education agency under the infrastructure title is one in which the United States owns Federal property of 90 percent or more. This amendment was also accepted by the conference committee. The intent of this provision, as established in the RECORD during its consideration, was to meet the needs of the Mineral County School District in Nevada which consists of 94 percent Federal land and is in dire need of new elementary school construction on the Walker River Indian Reservation at Schurz. The situation faced by the students at Schurz was also recognized by the Senate Appropriations Committee in its report on Labor, Health and Human Services, and Education fiscal year 1995 appropriations. A drafting inaccuracy in the definition, however, may construe a different meaning and should be interpreted to mean 90 percent Federal land by acre. Is this the understanding and intent of the committee?

Mr. PELL. The Senator is correct. The definition should be interpreted to authorize a local education agency as eligible under the infrastructure title if the district consists of at least 90 percent Federal land as is the case for the Mineral County School District in Nevada.

Mr. REID. Also included in title XII, section 12004(a)(2), is a special rule stating that the Secretary of Education may reserve up to 1 percent of the amount appropriated under section 12013 to provide assistance to Indian schools in accordance with this title. I would like to clarify with the chairman whether this provision, as intended by the committees of both the House and Senate, would include former Bureau of Indian Affairs schools that were transferred to a public school district before 1960, but still serves its intended population: high concentrations of Indian students.

Mr. PELL. The Senator is correct. Schools such as those he mentioned would qualify under the section that the Senator specifically cited, section 12004(a)(2).

Mr. REID. Finally, I would like to clarify for the record that the Secretary shall award grants made available under title XII, section 12005(a)(6), on the basis of six criteria with the sixth category being any such other criteria as the Secretary may prescribe.

Mr. PELL. The Senator is correct. I foresee this sixth category as essential in allowing the Secretary to award grants to districts like Mineral County. In fact, I urge the Secretary in implementing this legislation to utilize criteria within this category to fund a school infrastructure project in the Mineral County School District in your State of Nevada and remedy the critical need for a new school there at Schurz.

Mr. REID. I thank the chairman for clarifying these provisions of the bill and for his support of our Nation's educational infrastructure. The Senator from Rhode Island has worked diligently and admirably to improve the standards for education and educational opportunities for students across the Nation.

Mr. PELL. I thank the Senator from Nevada for his kind remarks.•

HI-LO-L

• Mr. JEFFORDS. Mr. President, there is, in my home State of Vermont, a long tradition of patriotism and of caring for the land that many feel makes Vermont unique. This has just been well exemplified through the selfless act of a Vermont family living on a hill farm at the very center of our State.

Gary and Alice Lake and Dorothy Wathley have sold the development rights on their dairy farm to the State of Vermont. This will Insure that this handsome acreage, high in the Green Mountain foothills, will remain forever in farming.

This is well and good. But in addition, the land happens to lie in full view of the Vermont Veterans Cemetery, dedicated just a year ago. Vermont's is a military history stretching from the capture of Fort Ticonderoga, through the War of 1812, Gettysburg and Cedar Creek, to Manila Bay, Belleau Wood, Guadalcanal and Normandy, to the present day.

The new veterans cemetery commands one of Vermont's fine views, southward from its hillside location over the ancient hills and valleys. The farm, known as Hi-Lo-L, is the centerpiece of that view. By the generosity of these wonderful people, this farm will ever be a farm. And the final resting place of those men and women who have given so much to their State and Nation will ever hold a view of the best of Vermont.•

JAPANESE FINANCIAL MARKETS

• Mr. DASCHLE. Mr. President, as we evaluate the results of the recent negotiations with Japan and take up the Uruguay round implementing legislation, our focus will understandably be drawn to more traditional trade concerns. Nevertheless, international financial issues can have as significant, if not more significant, an impact upon our economy as these trade agreements and should not be overlooked.

Over the course of the 1980's, Japan quietly had become a leading creditor nation, a major player in United States domestic public and private debt markets, and a significant factor in American commercial real estate. Thus, when reports of financial scandals, collapsing stock and real estate markets, and a banking crisis in Japan raised legitimate concerns within United States financial circles several years ago, I introduced legislation that directed the Treasury Department to report to Congress the results of a study of Japanese financial markets and their implications for the United States. Given that financial dislocations in Japan could not help but have an impact on the United States, it seemed to me that the findings of this study would help the administration and Congress base policy in this area on a solid foundation of knowledge and understanding.

Events since the introduction of that bill have affirmed the importance of these issues. Japanese banks remain mired in problems comparable to the American savings and loan debacle. The Japanese real estate market has not recovered from its collapse. The Japanese stock market index hovers around one-half of its 1989 peak. And reform initiatives falter under political upheaval.

Meanwhile, American investment in Japanese securities has increased markedly over the past year. Among the leading investors are American pension funds and mutual funds.

Continuing Japanese financial difficulties and the importance of the economic relationship between Japan and the United States serve to reinforce the need for a comprehensive study of Japan's financial markets. Although the Senate likely will not be in session when the Treasury report is issued later this year, I would ask my colleagues—as well as the relevant officials in the White House, the Treasury Department, the United States Trade Representative's office, the Securities and Exchange Commission, and other executive branch agencies—to do some homework on Japan's financial problems while Congress is in recess.

First, I would encourage my colleagues and administration officials to take a moment to review Treasury's conclusions when they receive this important study. Second, I raise for consideration alongside the Treasury report five proposals for reform of the Japanese financial martets offered by a leading critic of Japanese financial practices. Ideas such as these, as well as the results of Treasury's study, could guide us in formulating United States objectives in future negotiations with Japan.

If adopted, these proposal reforms could help ensure that American investors enjoy adequate rights and protections for their investments in Japan. Three of the proposals would encourage Japanese stock market reform that would make that market more responsive to the forces of supply and demand. Specifically, they seek to: First, foster more competition in the Japanese brokerage industry; second, improve Japanese enforcement of existing securities and consumer laws in the securities industry; and third, encourage greater liquidity standards for continued listing of a stock on the exchange.

The reform proposals also would address the rights of American shareholders in Japanese corporations. With the increase in American investment in Japanese stocks, the proposals seek to ensure that American shareholders will enjoy adequate rights to participate in the management of Japanese corporations.

Finally, the proposals suggest reforms to the Japanese legal system to ensure that foreign investors can obtain fair and impartial arbitration of disputes with Japanese institutions.

These proposals attempt to address concerns about Japanese financial practices raised by events of the past few years. But, if adopted, their impact could reach beyond financial practices and help break down structural barriers that the United States has been attempting to address in other ways.

For example, United States manufacturers have complained about close intercorporate relationships in Japan as barriers to penetrating the Japanese market. It is my understanding that these kinds of relationships are often premised, at least in part, upon cross-shareholding relationships. One way to loosen those bonds, and the commercial linkages they foster, is through reform of the Japanese stock market,

I look forward to the opportunity to review the Treasury Department's report and hope that the next Congress will take a serious and timely look at the issues it raises. In the meantime, I would encourage my colleagues and our trade negotiators to consider the Treasury study and these reform proposals. I believe that they contribute to our efforts to strengthen policymaking on these vital issues.•

ISSUES CRITICAL TO FARMERS

• Mr. GRASSLEY. Mr. President, in anticipation of the 1995 farm bill, I would like my colleagues to have the benefit of a series which appeared earlier this year in the Cedar Rapids Gazette from Cedar Rapids, IA.

These thoughtful reports represent the work of three Gazette reporters: Marlene Lucas, rural affairs writer; Dale Kueter, staff writer; and David Lynch, Washington reporter. I am proud to submit them for the CONGRESSIONAL RECORD as they address issues critical to farmers, rural communities, and the economy generally in the upper Midwest.

[From the Cedar Rapids Gazette, May 1, 1994]

CASH CROP

(By Phyllis Fleming)

Federal farm subsidies are under attack. Critics hit them hard on several fronts: They cost billions in tax dollars each year, appear to help only one segment of the population and some programs "pay people to do nothing." They are incredibly complicated and not well understood—even by many farmers.

One thing that's clear, however, is that subsidies and price supports don't affect only farmers. They ripple through the entire economy—rural and urban.

That's especially true in Iowa, the second biggest recipient of farm subsidies in the country. Only Texas receives more.

Indeed, farm subsidies have been a significant cash crop in Iowa for over a half century. Last year, subsidies and farm disaster payments brought $1.2 billion to the state; in 1992, Iowa received $662 million in subsidies.

Although subsidies come in for most of the criticism, at $18 billion they are not the main part of the current $72 billion federal agriculture budget. More than half of that—$40 billion—goes for food stamps and other food assistance programs.

The current system of farm subsidies was born 61 years ago during the Depression. World Was II helped lock them into the system as a way of guaranteeing a stable and cheap food supply.

There has been general public support for the paternal politics that fostered their growth. Americans have long had a romantic notion about rural life and family farms.

Some of these notions are fading as farming becomes a bigger and bigger business.

And as farms get bigger the number of farmers shrinks.

Shrinking, too, is support in Congress and urban America for farm subsidies.

The subsidy system is being overwhelmed by the forces of international trade agreements and the pressures to cut the federal budget. Some experts, like Stanley Johnson of Iowa State University, predict the end of subsidies by 2000.

If payments to farmers survive at all, some say, it will be only in "green" money—rewards for protecting the environment.

"The idea of paying farmers to do nothing," says Coggon farmer Doran Zumbach, 44, "no longer has much support."

So what will it mean if, as expected, farm subsidies eventually end?

Will food and other prices climb?

Will more farmers be forced off the land?

Will more small towns wither along with implement dealers, sales barns and other farm-related businesses?

The 1995 farm bill, now being developed, may help provide some answers.

The Gazette will be taking a weeklong look at all these issues starting today.

TIMELINE

From the administration of George Washington to that of Bill Clinton, farmers have dealt with federal bureaucrats and agriculture policies. What shape will farm programs take in years to come? A look back suggests a wide range of possibilities.

1776: Declaration of Independence encourages development of agriculture by allowing settlers to move west. Exports freed from taxation by the British Empire.

1796: A National Board of Agriculture is created at the recommendation of President Washington.

1837: Patent office begins distribution of improved seeds and plants, the first federal effort to support improved farming methods.

1839: Congress provides $1,000 for collecting agricultural statistics.

1855: Pennsylvania and Michigan become home to the nation's first agricultural colleges.

1861: Civil War begins. Food demand—and farm prices—rise sharply. Producers push for more output and expand use of new horse-drawn machinery.

1862: The U.S. Department of Agriculture is established by President Lincoln. The Land Grant College Act provides sites for state agricultural colleges. The Homestead Act gives 160 acres to anyone who will live on it for five years.

1887: Legislation provides for federal funding of state experiment stations.

1889: USDA gains cabinet status.

1896: Rural Free Delivery of mail starts.

1910–14: Period of prosperity, which is later used as a base to set parity price supports from 1938 to 1954.

1914: World War I begins in Europe. Smith-Lever Act establishes the Cooperative Extension Service to bring the results of agricultural research to farmers.

1916: Federal Farm Loan Act provides for a system of 12 Federal Land Banks to be regulated by a Federal Farm Loan Board.

1917: The U.S. enters World War I. Concerned about food for the war effort, President Wilson sets minimum prices on wheat and provides price supports for hogs. New legislation funds a nationwide program of vocational education.

1918: World War I ends and so do wartime food production incentives, minimum hog prices and food distribution controls.

1920: Wheat price guarantees end. Farm prices drop sharply.

1933: As the U.S. slips into economic depression, President Franklin Roosevelt's New Deal moves to attack farm problems. The Commodity Credit Corp. (CCC) is created to handle "non-recourse" loans. That is, grain used as equity for government loans can, for the first time, be forfeited without penalty or payment of interest. Farmers who agree to maintain planting within newly created acreage allotments qualify for loan programs. The Farm Credit Administration forms to provide subsidized credit.

1934: First great dust storm begins in "Dust Bowl" of Great Plains.

1935: Declaring soil erosion a national menace, Congress establishes the Soil Conservation Service.

1936: The Supreme Court invalidates farm production controls established by 1933 legislation.

1938: Legislation is revised to comply with Supreme Court ruling. A new "parity price" formula is added to set price support levels. The objective is to bring back the good times farmers enjoyed in 1910–14 when there was a greater parity of income between farmers and non-farmers. Congress also establishes Federal Crop Insurance Corp.

1939: World War II breaks out in Europe.

1940: Roosevelt orders USDA to begin post-war planning to prevent another farm depression like the one that occurred after World War I.

1941: Lend-Lease Act approved, giving aid to Allies. USDA establishes price support program for hogs, dairy products, chickens and eggs at rates above market prices. Hogs were to be supported at not less than $9 per hundredweight. Japan bombs Pearl Harbor. Congress raises loan rates on basic farm commodities to encourage production.

1942: Price controls are put in place. Food rationing begins with sugar and is later extended to a long list of foods, including meat, fats, oils, processed fruits and vegetables and processed dairy products. Selective Service Act amended to provide deferment of farm labor.

1945: Surrender of Germany and Japan. U.S. food rationing ends on all products but sugar.

1946: Post-war period begins. Price controls end on all food products except sugar and rice.

1948: Parity formula revised to use most recent 10 years as a base. Price supports on non-basic commodities, including soybeans, turkeys, beans, dry peas and flax seed, are lowered from 90 percent of parity to 60 percent.

1950: Price supports on hogs, chickens, turkeys, long-staple cotton, peas and sweet potatoes discontinued. Korean War breaks out.

1951: Wartime economy returns. President Truman given authority to control prices. Acreage controls removed from 1951 and 1952 crops.

1953: War winds down, price controls removed, surplus concerns return. Secretary of Agriculture applies mandatory quotas on wheat.

1954: New farm program established to provide flexible price supports tied to stocks level.

1956: Soil bank established to idle land in an effort to reduce surplus production and cut erosion.

1958: Corn farmers vote in referendum against maintaining acreage allotments and having prices supported between 75 percent and 90 percent of parity. They vote instead for no allotments, with prices supported at 90 percent of the past three years or 65 percent of parity whichever is highest.

1959: Food stamp program authorized.

1961: Feed Grain Act approved, idles land from production in return for payments for conservation efforts. Farmers set aside 25 million feed grain acres and receive payment-in-kind (PIK) certificates.

1963: Wheat growers vote down mandatory quotas in referendum. They're given the option to divert a percentage of their acreage allotment in return for a direct payment.

1965: Cropland Adjustment Program introduced with five- to 10-year land retirement contracts.

1970: New agricultural act introduces acreage set-aside requirements to qualify for program benefits. Set-asides to be maintained in soil conserving cover crops.

1973: First use of target prices based upon cost of production rather than a parity formula.

1974–76: Period of expanding exports. Market prices remain above program targets.

1977: Establishment of Farmer-Owned Reserve, which provides for three- to five-year grain storage loans. Acreage allotments replaced with set-asides and Normal Crop Acreage (NCA) concept created. Set-aside for each crop must maintain soil conserving cover crop. Total plantings and diversions must not exceed NCA.

1980: President Carter embargoes grain sales to Soviet Union. Target prices set at $3.63 a bushel for wheat and $2.35 a bushel for corn.

1983: Farmers receive PIK certificates to reduce acreage. Serious drought hits and production drops sharply.

1985: New five-year farm legislation scales back target prices over five years. Loan rates lowered and export bonuses provided to expand markets. In-kind certificate payments used to move surpluses—CCC stocks and crops held under loan by farmers) into market channels. Ten-year Conservation Reserve Program established.

1988 and 1989: Disaster relief provided over and above crop insurance payments.

1990: New farm bill authorized wetland reserve program.

1991: Reduced payment on corn acres by 15 percent.

1993: Start of major disaster payments for flood losses.

BOTTOM LINE NOT ROMANTIC

(By Dale Kueter)

WASHINGTON, IOWA.—Ezra and Wanda Smith bought a house in town eight years ago. "It's a nice house," say Ezra. But they never moved into it, instead retiring on their farm along Highway 1 on the road to Kalona.

It's hard to get off the soil," say Ezra, 77, fully admitting he's the one who doesn't want to move.

There has long been a romantic notice about farming, about rural life and family farms. Mostly these are urban sentiments, void of sweat and hard times. But most farmers, too, hold a kinship with the soil, a love of seeing things grow.

Some of these images of farming are fading fast as fewer farmers work bigger farms. Somewhere between those who envision farming as a Norman Rockwell painting and those who size it up with bottom-line Wall Street savvy lies the present state of agriculture.

Nowhere does this changing picture of agriculture come more into focus than on the issue of farm subsidies, a staple on American farms for six decades. Fewer farmers translates into less political clout, which has led to declining subsidies and now the possibility of no subsidies at all.

Yet farm subsidies are important to Iowa's economy. Aside from Social Security and Medicare, subsidies have been the main pipeline for federal dollars coming back to the state—$1.2 billion in subsidies and disaster payments in 1993; $662 million in 1992.

Farm subsidies were born out of economic crisis 61 years ago as part of President Franklin Roosevelt's New Deal. Critics called it economic tinkering. There were 7 million farms then. Today, with fewer than 400,000 farms, those opposed to dumping the farm subsidy machinery are being overwhelmed by the forces of international trade agreements and pressures to cut the budget.

Congress has already acted to eliminate subsidies on honey, wool and mohair. However, eliminating subsidies is easier said than done. The honey subsidy, because of confusing congressional procedures, will buzz to new life in fiscal 1995.

Says one U.S. Department of Agriculture official: "Congress didn't know what it was doing."

SUBSIDIES TO BE LEFT ALONE?

Not all agree that farm subsidies are about to be plowed under. Wayne Rasmussen, retired U.S. Department of Agriculture (USDA) historian, says subsidies have been shrinking during the last decade, "and Congress may just leave them alone. They will see the ag budget contains a lot of money for food stamps and comparatively little for subsidies, and say, 'Let them go.' "

The scope of farm subsidies has long been exaggerated. The fiscal 1994 USDA budget is $72 billion, or 4.8 percent of a $1.5 trillion federal budget. Of that $72 billion, $40 billion goes for food stamps and other food assistance programs.

This year's USDA budget has $18 billion for the Commodity Credit Corp., which, minus administration, constitutes the primary source for farm subsidies. Another $1.7 billion goes toward the Conservation Reserve program, a plan that idles hilly cropland. Some 1.2 billion more goes toward other conservation programs.

There are older farmers—and sons and daughters of older farmers—who sing the praises of farm supports. They remember corn prices so low that they burned corn instead of wood. They remember spending summer without shoes. "I have a warms pot in my heart for FDR's programs," says Ezra. "It allowed my dad to sell corn (government loan) at 45 cents a bushel, gave him some cash flow and allowed him to keep on farming."

Today, farm income has improved dramatically along with farm productivity. In 1985, the average income of farm households—even though nearly half is from off-farm sources—surpassed the average income of urban households.

"It's hard to convince non-farm people anymore that they should be taxed (for subsidies) if farm household income is higher," says Stanley Johnson, an Iowa State University economist and adviser on congressional farm policy. "They may be convinced to help the low-end farmer, but that requires more targeting of assistance. Most government payments are going to large farmers, those with annual gross sales of over $250,000."

Coggon farmer Doran Zumbach says about one-third of farmers are "doing well," while another one-third are "getting by" and a bottom third are "doing poorly."

While greater productivity boosts income, ISU's William Edwards says most farmers maintain income levels through expansion. "They are running their equipment over more acres. Larger and larger farms make the difference.

American farmers have always fed the nation and then some. Surpluses have been the offspring of farmer productivity. While some policy-makers want to put the brakes on production, even removing marginal lands permanently from crop growing, others see American land as an asset to supply the world.

ISU's Johnson says the old farm subsidy pillars—food security, price stability and maintenance of farm income—are gone. Price protection, he says, can be achieved through the futures market. An adequate food supply is ensured by international markets, he claims.

Urban consumers, says Rodney Leonard, executive director of the Community Nutrition Institute in Washington, DC, have less interest in continuing farm subsidies "because 90 percent of it goes to big farmers." They have more interest in healthy foods "and they are willing to pay a premium price."

NEED FOR A SAFETY NET?

Many, like Iowa Secretary of Agriculture Dale Cochran, argue that the nature of farming, with its peculiar reliance on fickle weather, requires some sort of publicly financed safety net. There is even stronger support for the idea that the costs of conservation—terraces, grassways or idling of land—should be shared by all.

"I got a subsidy check in the mail today," says Ezra, whose 120 acres are rented on a 50–50 share basis. "Sure, I'm glad to get it. Some think it's all a big giveaway, but it's helped stabilize things, and it's good for younger farmers.

Ezra began farming in 1938. "For a good many years we'd be just as poor at the first of the year as the year before, but we built up net worth. If I had to do it all over, I definitely would farm. I liked all of it. We never put in just eight-hour days. But it's an enjoyable lifestyle. I just wish I could still be out there doing it."

SUBSIDIES

Top receivers of subsidies in 1992:

1. Texas—$1,158,606,607, much of it from cotton and rice.
2. Iowa—$662 million including $449,566,621 in corn deficiency payments, the highest of any state.
3. Kansas—$591 million including $250 million in wheat deficiency payments and $124 million in corn deficiency payments.
4. Illinois—$481 million.
5. Nebraska—$477 million.
6. North Dakota—$443 million.
7. California—$430 million.
8. Minnesota—$422 million.
9. Arkansas—$410 million.
10. Montana—$298 million.

Source: USDA.

INCOME

Farm income has not come close to keeping pace with inflation.

In 1940, according to Iowa State University economists, Iowa farms averaged $27 an acre in net income.

In 1992, an acre had net income of $70. In that period, inflation rose 886 percent, making that $27 worth $239 today.

WITHOUT SUBSIDIES, IOWA'S ECONOMY WILL SUFFER: COCHRAN

Dale Cochran, Iowa secretary of agriculture, believes if farm subsidies end, "and they are not replaced by new programs to stimulate the farm economy, there will be a major impact on Iowa's economy."

Cochran says more than half of Iowans gain income directly or indirectly from agriculture.

"So when ag falters, it's quite an effect on the state. That's the thing people need to understand."

He says the 1980s farm recession was proof of that. Farm receipts account for about 8 percent of Iowa's economy.

A Democrat, Cochran acknowledges that farm subsidies are likely to be eliminated.

Farmers, he says, will have to change with the times.

"Farmers have been an independent lot," says Cochran, who owns a 400-acre farm near Fort Dodge and has participated in subsidy programs.

"I know. We used to get together for threshing and similar chores. Then as we all got our own machinery we became very independent."

"Just as we worked together in production, now we have to work together in marketing. Farmers have become master producers. Now they must become master marketers."

FARM FACTS

Iowa farms numbered 96,543 in 1992, dropping from 105,180 in 1987.

Average size of an Iowa farm was 325 acres in 1992, an increase of 24 acres since 1987.

Farms of 1,000 acres or more grew in number from 3,742 in 1987 to 4,733 in 1992.

Farms with 180 to 4599 acres decreased from 39,071 in 1987 to 33,988 in 1992.

Farming was the principal occupation of 66,900 Iowans in 1992. That's 8,394 fewer than in 1987.

43,610 Iowa farms raised cattle and calves in 1992, down from 49,469 in 1987.

31,790 Iowa farms raised hogs and pigs, down from 36,670 in 1987.

BIG CASH CROP

Farmers are about to weather the end of an era. Sixty years of farm subsidies are about to be shifted to another form, if not reduced or ended entirely. These changes will affect the rest of us, not just because we all eat, but because we live in Iowa. Only one other state, Texas, receives more farm subsidy dollars than this one.

The public has long had romantic notions about farming and rural life and family farms, as pointed out in a week-long series beginning in The Gazette today. The images are fading as fewer farmers work bigger farms. One of many results is declining clout, in Congress and in competition with urban America: When subsidies began in the 1930s, 10.6 percent of the gross national product came from the country's 7 million farms; farmers represented 25 percent of the population. Today, farm crops and livestock account for 2.8 percent of the gross national product, which is generated by 400,000 farms; farmers comprise less than 2 percent of the nation's population. Consequently, as a means of reducing federal spending and the national debt, farm programs make an easy target.

As Coggon farmer Doran Zumbach laments, "There are about 2 percent producers

in this country and 100 percent eaters. That tells the political clout tale."

But don't expect the end of subsidies to either erase your tax burden or to leave Iowa unmarked.

As an overview story in today's Gazette points out, the scope of farm subsidies has long been exaggerated. Subsidies account for $18 billion of the current $72 billion agriculture budget. More than half the ag budget—$40 billion—goes to food stamps and other assistance programs. Still, on the receiving end, farm subsidies have been a significant Iowa cash crop for a half century: Subsidies and farm disaster payments brought $1.2 billion here last year; Iowa received $662 million in subsidies in 1992. Some economists say most government payments go to farmers whose gross annual sales exceed $250,000—another blemish on the romantic image of farming. Even so, the economies of many small towns across Iowa will likely be hurt first if dollars in circulation are reduced.

And even if crop subsidies are modified or reduced, society will likely retain, if not expand, its participation in conservation costs. That's only fair: Taking land out of production costs owners money. Expect the Conservation Reserve Program ($1.7 billion), wetlands reserve ($1.2 billion) and other programs to continue.

What else lies ahead? A coalition of Iowa farm groups has developed a plan that would assure farmers some support in years of bad prices or poor weather. The fact that those groups could work together is heartening. If the plan is adopted, farmers would have more freedom to decide for themselves what crops to plant and how many acres. Similar results were seen in New Zealand, where farm subsidies were dropped nine years ago and where both land and crops are now priced more realistically.

Whatever happens, you should know something about it. It's a part of your world. And The Gazette will bring that part of your world a little closer between now and next Sunday.

FARM PROGRAMS, SUBSIDIES CONFUSE E. IOWANS

(By Dale Kueter)

Add to the list of federal issues that baffle Iowans—things such as health care reform and the actions of the Federal Reserve Board—the complicated machinery of farm subsidies.

In conjunction with preparing this series of stories, The Gazette's research department sought opinions on farm subsidies from farmers, and small-town and urban people throughout Eastern Iowa. One-third of those contacted decline participation because of a lack of knowledge on the subject.

"This is much higher than normal," says Jeff Wolff, research director. "Most surveys we conduct have a refusal rate of between 5 percent and 10 percent."

Lack of understanding about farm subsidies is pervasive. During interviews for the series, it became clear that farmers and bureaucrats alike were befuddled about parts—even significant portions—of federal programs.

The 308 people who participate in the survey were asked to assess on a 1 to 5 scale, with 1 meaning "nothing" and 5 meaning "a lot," their knowledge of farm subsidy programs. Farmers rated themselves at 2.7 on average; urban residents, 1.9; and small-town residents, 2.

In general, respondents believe farm subsidies are important to Iowa. However, if eliminating them would reduce the federal budget, a majority would favor it. That includes 54 percent of urban residents, 54 percent of small town residents and 51.7 percent of farmers.

When asked to estimate 1993 subsidies coming into Iowa, 40 percent said they didn't have any idea. Given a range of choice, 31 percent pegged the amount at about $60 million. In reality, Iowa farmers received more than 10 times that amount.

The $60 million guess was the main choice by farmers as well as small-town and urban residents.

However, when asked where most farm subsidies go, about two-thirds in each group said "big farmers," the correct answer.

See accompanying charts for details. The survey, which has a 5.8 percent margin of error, was taken in mid-April. All respondents were over age 21.

SMALLEST CUT OF ALL

(By Marlene Lucas)

It's no wonder consumers have a hard time understanding why they should care whether farmers get subsidies.

Looking at the food on grocery store shelves, they see little change in the prices they pay even though farmers are watching commodity prices rise and fall.

"Prices in the grocery stores are cushioned from the prices farmers get by all the processors in between," says Dennis Dunham, an economic researcher for the U.S. Department of Agriculture (USDA) in Washington, D.C.

"The price of grains is a small portion of the final selling price of bread. Farm prices can be quite volatile and not affect the price of the final product," he says. "A 3 to 4 percent change in the price of a bushel of wheat is nothing. It's a 3 to 4 percent change in price at the retail level that we think is significant."

And as has been pointed out many times, those providing the box get more money than the farmer who grows the grain used in the cereal in the box. That $1.46 box of corn flakes sends only 9 cents to farmers, says the USDA in 1990 figures.

Additionally, government officials may seem to talk out of both sides of their mouths when they discuss farm subsidies. In one breath, they say subsidies benefit consumers by keeping food cheap. In the next, they say subsidies support farmers.

They say farm programs are needed to control the overall supply of food. And yet, it's clear that if U.S. farmers reduce their corn crop to raise their prices, foreign corn growers will supply the markets with cheaper corn.

They say subsidies are needed to stabilize the rural economy, but on the other hand, fiscal responsibilities must be met by reducing subsidies.

Two of the largest subsidy and/or price support programs with the most potential to affect consumer prices are also the two that Iowa farmers benefit from the most—feed grains and dairy.

We'll look at feed grains today; dairy tomorrow.

Grains grown in Iowa that are part of the program include corn, sorghum, barley, oats and rye. Soybeans are not a subsidized crop.

The earliest form of the feed grains program was initiated in 1933 during the Depression. Prices were low and farmers had a crop surplus, says Phil Sronce, an analyst for the USDA.

[From the Cedar Rapids Gazette, May 3, 1994]

SENDING COWS TO SLAUGHTER

(By Dale Kueter)

EARLVILLE.—On July 6, 1986, it took Vern and Margaret Bockenstedt a couple of hours to milk 38 Holsteins and do other farm chores. The next day, chores took only 10 minutes.

In between they had gotten out of the dairy business and had been paid $52,000 by the federal government to do it. As part of the agreement, Vern put "X" marks on jaws of the cows, a sign that they were destined for slaughter.

Under the program, entire herds had to be sent to slaughter or exported to another country. Like most, the Bockenstedts sold their herd to a packinghouse.

"Did you ever wake up in the morning with a headache and not feel so good?" asks Vern. "That's the way I felt the first morning. You do something all your life, and it bothers you. I went out and bought some beef cows."

In Iowa alone, the dairy termination program, as it was called in the 1985 farm bill, sent 51,000 dairy cows, heifers and calves to slaughter over a two-year period. It cost the government nearly $53 million.

Nationwide, more than a million cows—9 percent of the total—and 590,000 heifers and calves were sent to slaughter. The Federal government paid $1.8 billion for the dairy termination program; however, 30 percent of the cost was assessed to dairy farmers still in business. The goal, of course, was to reduce milk production so that the government would not be forced, under the dairy price support program, to buy more surplus cheese, butter and dry milk.

Did it work? According to the Government Accounting Office (GAO), the government will save an estimated $8.5 billion by 2001 and consumers will save $3.3 billion in that time.

The GAO report, issued a year ago, actually underestimated the decline in government surplus purchases. In the early 1980s, surplus purchases were in the 11-billion-pound range annually. Now purchases are about half that.

The Bockenstedts and 14,000 others who sold their herds agreed to keep themselves and their facilities out of dairy production for five years. Bockenstedt felt bad when a neighbor, after his dairy barn burned down, asked to use theirs. He had to tell him no.

"I didn't want to be mean, but I wasn't allowed to do it," says Vern.

Bockenstedt, 58, could have returned to dairying in 1991. Like most who sold their cows, he didn't. He has since retired from farming and does construction work.

The GAO in 1991 surveyed 1,145 farmers who disposed of milk cows. Fifty-five percent said they definitely would not return to dairying, and another 28 percent said it was unlikely.

DAIRY TERMINATION

The Dairy Termination Program in the 1985 farm bill allowed female dairy cows, heifers and calves to be slaughtered over a two-year period. The goal was to reduce milk production.

County	Farmers' bids to sell herds	Bids accepted by ASCS	Amount paid to farmers
Allamakee	119	34	$2,605,500
Benton	15	4	213,710
Black Hawk	22	15	1,096,111
Buchanan	44	8	356,300
Cedar	13	12	739,760
Clayton	176	50	3,777,450
Clinton	32	16	1,406,580
Delaware	92	36	2,639,280
Dubuque	158	62	6,032,820

County	Farmers' bids to sell herds	Bids accepted by ASCS	Amount paid to farmers
Fayette	103	32	2,065,160
Iowa	14	8	304,660
Jackson	85	36	2,117,000
Johnson	13	4	276,280
Jones	37	19	1,036,740
Keokuk	5	5	264,540
Linn	35	15	898,060
Marshall	8	4	211,750
Muscatine	13	7	413,130
Poweshiek	4	2	200,160
Tama	13	2	50,570
Washington	4	4	416,080
Winneshiek	204	57	3,819,740
Iowa	1,951	803	52,776,000

Source: U.S. Department of Agriculture.

DAIRY PRODUCERS GROUP DESIGNS NEW PLAN TO EXPORT SURPLUS MILK

(By Dale Kueter)

Last month officials of the National Milk Producers Federation walked into the office of Secretary of Agriculture Mike Espy. They were hoping to make some political hay with an idea they claim would yield both higher dairy income and government savings.

So far, it appears Espy and his U.S. Department of Agriculture colleagues have been skeptical.

The federation, the umbrella group for dairy cooperatives, is hoping to get dairy's foot in the legislative door this year—before Congress settles on the 1995 farm program.

Its plan is known as "self-help." The idea would be to open more foreign markets for U.S. dairymen through a program financed by producers themselves.

"Self-help would give us a bridge to compete in world markets," says Gary Hanman, chief executive officer of Mid-America Dairymen, a cooperative based in Springfield, Mo.

"All it says is let dairy farmers step forward, and through a national board like they have in New Zealand buy surplus products we don't use domestically. The board would then be able to sell the surpluses anywhere."

The board's export marketing efforts would be financed with a 10-cent-per-hundredweight assessment on dairy farmers. Even though proceeds from the assessment would in part be used to lower prices on the international market, Hanman and other self-help boosters believe such a plan would be legal under new GATT subsidy restrictions.

Steve Eure, federation director for legislative affairs, says the plan would buy up to 2 billion pounds of dairy products that the government would have to buy currently.

By lowering the government's surplus-buying obligation, Eure says "we can save (the federal treasury) $150 million a year and make more money for farmers."

The USDA thinks those estimates are optimistic. One top agency official also believes that over time GATT will not only prohibit the present dairy export enhancement program but rule out the self-help concept.

Marjorie Foust, assistant professor and Extension dairy specialist at Iowa State University, says there is a danger the present milk support program could evaporate if "self-help" is adopted.

She says there are great uncertainties about what will happen with any replacement policy. "The devil we do know may be better than the one we don't know."

But Hanman doesn't foresee any change in the dairy price support program—at least in the upcoming farm bill. "We would like to see the support price increased, but the flip side is a federal ag policy not driven by need but by budget.

"Even though we have lowered (federal) costs of the dairy program from $2 billion to $200 million, we still have exposure. To be a safety net, the support price should be raised beyond (the present) $10.10. People tell us it takes $12 to $12.50 to stay in business."

COMPLEX MACHINERY OF MILK PRICES

(By Dale Kueter)

Years ago it was simple. The dairy farmer hauled his milk to a nearby town where he bartered with the customer over the price.

Today, milk from cows just outside Cedar Rapids may end up in St. Louis, and milk in Cedar Rapids stores may come from cows hundreds of miles away. The price farmers get—which affects what consumers pay—filters through government machinery so complicated that few understand it.

Dairy policy and regulations are distinct and far more complex than those affecting grain and other commodities. Milk, unlike corn, cannot be put into storage until prices improve. Price stability for a product that pours into the marketplace every day has long been the goal of dairy interests.

Supply and demand has a role in what consumers pay for milk, but price also is influenced by three government programs:

Federal price supports: The 1990 farm bill sets the milk support price at $10.10 per hundred pounds. Government, through the Commodity Credit Corp. (CCC), is willing to buy what the free market doesn't consume in an effort to keep the price paid to farmers above $10.10. The market price today is high enough—above $13—that the government is purchasing little surplus.

Milk orders: The average price farmers receive for milk in any given locality is established by a system known as federal milk orders. Two-thirds of the nation, including Iowa, are covered by the orders.

Dairy export subsidy: The government, through subsidies to brokers, allows U.S. dairy products to cost less in the export marketplace. This practice will end with new international trade agreements.

SUPPORTS' UP-AND-DOWN HISTORY

Federal milk price supports were begun during World War II under wartime legislation to stimulate production. They became a permanent part of agriculture policy in 1949.

That year the milk support price was $3.14. Over the years it was increased several times until it peaked at $13.10 in 1980, a price that spurred production and created major surpluses the government had to buy.

The USDA during the Reagan-Bush era sought to lower government supports and production. It paid farmers to sell their entire herds. Then during the cost-cutting clamor of the 1990 Budget Reconciliation Act, Congress and President bush decided dairy farmers should pay back 1 percent of costs for dairy supports. While a drop in the bucket toward balancing the budget, dairy farmers must return $700 million over five years ending in 1995.

However, that same year the dairy lobby convinced Congress that farmers who do not increase milk production from one year to the next should get that money back.

So for fiscal 1993, the CCC collected $202 million in assessments and refunded $51 million. The assessments lowered the net cost of the dairy support program to $253 million.

The CCC collects the money with assessments on farmers' checks ranging from 11.25 cents to 16 cents or higher per hundred pounds. The size of the assessment depends on how many farmers seek refunds.

The CCC continues to buy surplus milk products for two reasons—to keep raw milk at or above the $10.10 support level and to provide food for various federal programs. Currently, it pays 65 cents a pound for surplus butter, $1.03 for dry milk and $1.12 for cheese—figures all below today's market price.

The surplus products are used for school lunch programs and as assistance for needy families. The government at times has also returned some of its purchases to the market, which has a depressing impact on prices. In the mid-1980s it bought so much surplus cheese it had to give it away.

The 1990 farm bill also established trigger levels for adjusting the milk price support. Twice a year—Aug. 1 and Nov. 1—the USDA estimates how much dairy surplus it expects to buy in the next year.

If estimates are less than 3.5 billion pounds, the support price is increased, sending a signal to farmers to produce more milk.

If the estimate is between 3.5 billion and 5 billion pounds, the situation is considered stable and the price is not changed.

If the amount is above 5 billion pounds, the price support is lowered, signaling farmers to cut production. However, the price support cannot be cut below the $10.10 base.

For that reason last November, even though the 1994 dairy surplus was estimated to reach 6.5 billion pounds, the support price didn't change.

The law also provides that if surpluses exceed 7 billion pounds, dairy farmers would be assessed to cover the costs. However, that has never occurred.

ORDERS DICTATE PAYMENTS

In 1937, Congress approved laws establishing the federal milk marketing system. This process is separate from price supports.

Cooperatives and other milk handlers are told through monthly federal milk marketing orders what they must pay farmers. Farmers in a certain area are paid the same minimum price based on a formula.

The system, which some call antiquated, is based on Minnesota-Wisconsin market prices, called the M-W, for Class B milk—milk destined to become cheese. Historically, those two states have been the major producers of milk. Eau Claire, Wis. is designated as the center for M-W prices.

The M-W market price for Class B milk plus $1.04 a hundredweight differential price for Class I drinking milk are combined to produce the base price and that's the price paid Eau Claire area farmers. The differential price increases in proportion to distance from Eau Claire to reflect hauling costs.

For instance, at Dubuque the differential is $1.36; in Iowa City, $1.48. Hence, if a Monticello farmer sells his milk to a Dubuque plant, the minimum he gets is 12 cents a hundredweight less than at Iowa City.

Butterfat and protein content boost the total price received.

The system was established initially to stabilize prices received by farmers and encourage dairy production in places far from Minnesota and Wisconsin. The southeast United States has long been a milk-deficient area.

With no pricing order system, it is argued, some surplus Wisconsin and Minnesota milk would be hauled to Iowa City or Florida and put the squeeze on local farmers.

In reality, say experts, hauling costs are slightly higher than the differential allows. Hence, a Wisconsin tanker taking milk to Florida for the fluid market usually cannot compete with Florida prices. The only reason Florida buys milk from Wisconsin is because of shortages in local production.

INFLUENCING GLOBAL MARKET

Export subsidies are also part of the federal government's effort to boost U.S. dairy

prices. World prices right now are roughly 5 to 10 percent lower than U.S. markets. Brokers seek bids for surplus U.S. dairy products from foreign buyers, then present the offer and subsidy needed to the USDA's Foreign Agriculture Service. If approved, the deal goes forward.

In 1992, the Dairy Export Incentive Program amounted to $24.2 million. Last year the subsidy swelled to $134 million.

One USDA official said the 1993 export allocation was set during the 1992 presidential campaign. However, the 1994 allocation announced last month is about the same.

Early each year the government sets export allocations for countries. For example, 25,000 metric tons of powdered milk is allocated to Mexico this year under the subsidy program.

Both the North America Free Trade Agreement and General Agreement on Trades and Tariffs mandate substantial reductions in government subsidies in coming years.

MISUNDERSTOOD MILK

(By Dale Kueter)

DELHI.—The Holsteins file into the milking barn as methodically as kindergarteners coming in from recess. There's Molly followed by her offspring, Mol and Molla. There's Crunch and Carmel. They all know where to go.

Every morning, every night, 365 days a year, Nancy and Larry Shover milk nearly 70 cows. They have one of the top-producing herds in northeast Iowa, averaging 22,000 pounds of milk per head annually.

Every day they send about 600 gallons of milk to the Mid-America Dairymen cooperative transfer plant in Marion. From there, the milk is trucked to Roberts Home Town Dairies in Iowa City where it is processed, bottled and sent to area stores.

"We get up about 5:30 every day," says Nancy. She and their herdsman usually handle the milking. Setup, milking and cleanup is a 6 to 9 routine. Larry mixes the silage and grain.

Dairy farming is a demanding business. Not only must cows be milked twice a day, but the product cannot be held until market prices get better. The Shovers, as members of the co-op, have an ongoing contract with Mid-America.

The Shovers usually get top price for their grade A milk, currently $13.26 a hundred pounds for 3.5 percent butterfat content.

Like most farm programs, dairy price supports began more than a half a century ago and are complex. Contrary to what many believe, there is no direct federal subsidy payment.

Instead, the government sets a support price—currently $10.10 per hundred pounds. To maintain prices paid to farmers at or above that point, the Commodity Credit Corp. (CCC) buys cheese, butter and non-fat dry milk—ideally in quantities that will stimulate the market, but not lead to vast surpluses.

The CCC also acts as a consumer, using the surplus dairy products for government programs such as school lunches.

MISUNDERSTOOD MACHINERY

How such government economic machinery works is widely misunderstood (see dairy regulations story). And the whole picture is complicated by international trade considerations.

"Farm support programs provide a price floor," says Larry, 46, a 1969 graduate of Iowa State University, "but they also serve as a ceiling. While the government buys excess dairy products, these surplus commodities always hang over the market."

Is it time to dump the federal dairy program and put farmers and milk drinkers at the mercy of the free market?

"If we could be assured of fair competition internationally," replies Larry, "I'd say let's go with a free market system."

"The objective of the dairy price support program has been to provide support at a level that will assure adequate supplies," says Charlie Shaw, a dairy economist in the U.S. Department of Agriculture. "We believe the program has done that, although sometimes we've had too large a surplus.

"Assuring an adequate supply is really all the support program ought to do. When the program has been used in that manner historically, we've had a reasonable supply-demand balance. It's been mainly in those periods," he says, "when the program was used for income enhancement instead of price stability where we saw more farmers come into dairy, with resulting surpluses."

POLITICS PLAYS ROLE

Translate Shaw's statement about "income enhancement" to mean politics—manipulating the support base for political rather than economic reasons. And both political parties have done it.

"Right now we've got a market price that is well above the support price. We're not buying much surplus." Economically, says Shaw, the dairy industry today may not be too far off from what it would be under a free market system, "assuming all other countries did the same.

Last year the government's net cost for the dairy price support program was $253 million. In 1992 it was $232 million. For 1983, the cost peaked at $2.5 billion (see chart).

The Carter Administration boosted milk supports, adjusting them twice annually for inflation. The price floor hit a maximum of $13.10 per hundred pounds in 1980, spurring unprecedented milk production. By 1984, the government's cost just for handling and storing surpluses zoomed to $79 million.

To bring down surpluses and government costs, the Reagan administration launched cheese give-aways and paid farmers to get out of the dairy business (see accompanying story).

PRODUCTION ON DECLINE

Milk production has taken a downward splash—declining 1 percent just in the last year. The number of cows on farms is nearing 8 million, some 125,000 below September of 1992.

The government does not purchase fluid milk but rather what is called manufactured products. It pays 65 cents a pound for butter, $1.12 cents for American cheese and $1.03 for dry milk. Right now, it is buying no cheese and little dry milk. Butter in storage—about 216 million pounds—is half the amount of a year ago.

While it's hard work, dairying has its positives. There's a regular paycheck. Most Iowa dairy farmers are able to grow their own forage and grain.

BUILDING NET WORTH

Like many dairy farmers, Nancy and Larry Shover have accumulated a sizeable net worth. They are not poor. Neither do they live in a $200,000 house nor drive a Cadillac.

With nearly 70 cows, their dairy paychecks may look like milk and honey. But there are plenty of expenses. And the $13.26 price is lowered by 11 to 16 cents in a federal assessment (see government machinery story), 15 cents to promote dairy products and hauling costs.

Earlier this year, the Shovers paid 48 cents per hundredweight for hauling. That has dropped to 7 cents to match offers by a Wisconsin dairy plant looking for new customers in northeast Iowa. "Farmers must build net worth," Larry emphasizes. "if you don't grow in net worth you have no reservoir to withstand the rough years. Basically, net worth is your ticket for a bank loan and your retirement plan."

"It's a stable way of life," says Nancy. "There is never any problem about being fully employed," she jokes. "It is labor demanding, but that's a good way to raise a family. There are chores for youngsters."

The Shover's son, Todd, is a senior at Iowa State University. He is majoring in dairy science.

"We would like him to come back and be part of the farm," says his mother. "But he needs to make that decision. If you don't have farming in your heart, there is not much fun in getting up at the crack of dawn and working late hours.

"At Christmas, he said he would like to become a doctor, a pediatrician. He will take some courses at Drake this summer and take medical school entrance exams (at the University of Iowa) in August."

Whatever Todd decides is fine with Larry and Nancy. They plan to stick with dairy farming. They like cows. "They are docile animals," says Larry. "Each has a distinct personality."

FARMERS NOW IN BUSINESS AS EDUCATED ENVIRONMENTALISTS

(By Marlene Lucas)

Farmers are no longer farmers. Now they are in business—and their business is farming.

"The old adage of the farmyard with chickens, sheep and cows is gone," says Stan Herr, regional manager for the Iowa Farm Bureau Federation, based in Marion. "Those days are long gone. It's a great tradition, but the use of technology has changed the farmer as well as anyone else."

The typical farmer is "extremely (well) educated," he says. Many have college degrees, and most have attended college.

Farmers must know the Environmental Protection Agency regulations regarding their use of chemicals. They must keep detailed records of the amount they use, the way the wind was blowing and the equipment used during application.

"They're environmentalists. No one is more concerned about the environment than farmers nowadays. Water quality is their main concern, and they get picked on over water quality and the chemicals they use. Farmers in the country are drinking water, too," Herr says.

City people driving down country roads see a farmer driving a big new tractor and assume he's wealthy, he says. They don't consider the farmer's debt, and "its a major debt."

Farmers are taxpayers, too. They pay an average of $18 per acre and could easily face a $9,000 tax bill every six months, he says.

The lifestyle of the farmer is often envied by others as the ideal way to have lots of free time. Herr points out that Rockwell employees get 11 paid holidays a year, have two weeks off at Christmas and get several weeks of vacation.

"A farmer's work doesn't stop on the Fourth of July. He's got to fee the livestock and milk the cows every day," he says. During busy times, farmers will work 18-hour days.

As for those city cousins objecting to paying farm subsidies, "we are trying to work

with them. We are not the bad guys. We're getting low prices for our products, and the profit is low," he says.

"Most farmers would like to do without a farm program. The reason we have cheap food is the government subsidizes food production. If it was market driven, we could get rid of the program and get a fair market price for our products," he says.

EASTERN IOWA FARMS

[Eastern Iowa counties in 1993: number of farms, land in farms and average size of farms]

Counties	Number of farms	Land in farms acres	Average size acres
Allamakee	1,020	369,300	362
Benton	1,370	429,700	314
Black Hawk	1,220	305,200	250
Buchanan	1,270	344,500	271
Cedar	1,120	349,800	312
Clayton	1,590	463,300	291
Delaware	1,360	346,000	254
Dubuique	1,570	345,700	220
Fayette	1,440	440,500	306
Iowa	1,010	357,500	354
Jackson	1,290	375,500	291
Johnson	1,300	232,000	248
Jones	1,110	346,600	312
Keokuk	980	353,000	360
Linn	1,600	381,200	238
Louisa	600	230,300	384
Powershiek	990	355,200	359
Tama	1,330	428,800	322
Washington	1,100	340,500	310
Winneshiek	1,550	416,800	269

Source: Iowa Agricultural Statistics.

BENEFITS OF BEES—HONEY SUBSIDY HELPS KEEP PRICES OF OTHER PRODUCTS LOW

(By Marlene Lucas)

MONONA.—Many consumers can take honey or leave it.

In fact, they probably would be quick to say that ending the annual subsidy of $22 million would be a good way to save money.

But they are likely to pay more at the grocery store, not necessarily for honey but for other food products, if that happens and beekeepers go out of business.

"Bees are pollinators, and you need bees to have seeds," says Dave Fassbinder, a full-time honey producer in Clayton County. "If there were no bees to pollinate alfalfa, which is already expensive, it would be even more expensive."

Costly alfalfa would drive up the cost of feeding cows, which could drive up the price of hamburgers and ice cream. Bees also are invaluable as pollinators of the California almond and Florida citrus crops.

"If the honey (subsidy) goes, beekeepers will have to raise fees for pollination and make things more expensive. It will be a whole different way of beekeeping," he says.

POLLINATION SERVICE

By maintaining bee colonies on area farmland, Fassbinder provides free pollination services for a Waukon farmer who grows strawberries and melons and a Postville farmer who grows crown vetch. Other colonies are spread out from north of Waukon and north of Garnavillo to Postville.

His payment is the honey he collects.

"I don't think the melon farmer and crown vetch farmer could afford to pay me for pollination services. I don't feel it's ethical (to ask for payment) as long as I'm getting good crops of honey, especially with the support price. So why should I charge them extra?" he asks.

But without the government subsidy and the income from the nursing career of his wife, Barb, Fassbinder doubts he could afford to stay in beekeeping. The market price for honey is too low.

One reason is cheap honey coming from China.

Fassbinder needs to sell his honey at 60 cents a pound to cover his costs and earn a living. But that never happens, so the subsidy helps make up the difference. He sells honey to smaller companies, when he can, for 56 cents a pound. Commercial buyers pay 51 or 52 cents a pound.

Honey production is much affected by weather. Last year, Fassbinder's bees produced 18,900 pounds of honey, the smallest amount since he began keeping bees 17 years ago. The best was 81,900 pounds.

His expenses last year were $21,500, without including his labor.

SUPPORT UP AND DOWN

Although Fassbinder needs the subsidy, he sees problems in the way it is tied to production. Beekeepers receive the most support during high production years and less support in low production years, when they most need it.

"I wish they could regulate it so you get support only in bad years," he says.

He calls himself a midsize producer. This year he will increase his 600-colony operation to 1,000 colonies, the limit of hives he can handle by himself.

"In the last few years, costs have gone up in just keeping bees. Two mites have come into the United States and are causing havoc in the bee industry. It costs $5 per hive a year to treat for mites," he says.

Wild honey bees are being decimated by the mites, he says, eradicating the chances of crops being pollinated without the help of bees from treated hives.

In 1993, the government program allowed producers to use their honey as collateral for a government loan at 54 cents a pound. They could repay the loan at 47 cents, creating a 7-cent subsidy. Producers also could claim the 7-cent subsidy without getting a loan. However, the government assesses 1 cent a pound to fund the National Honey Board, which promotes honey consumption.

SUSPENSION ENDING

For fiscal year 1994, the Congressional Appropriations Committee suspended the honey support subsidy but maintained the loan program. Honey producers may borrow against their honey stocks at 50 cents a pound and repay the loan at that rate plus interest.

The suspension of the subsidy expires Sept. 30. On Oct. 1, the program reverts to its former system unless Congress acts again, says Jane Phillips, a government honey analyst.

"The main reason for a honey program is to ensure pollination. We can't support pollination directly, so we support honey production. According to recent Cornell University study, pollination by bees adds about $9 billion in value to crops," Phillips says.

In fiscal 1993, the honey program cost taxpayers $22.1 million. However, some of that reflects loans made that weren't due at the close of the year. In 1992, the program cost $16.6 million; in 1991 $18.6 million and in 1990 $46.7 million. After 1990, the loan rate went down and the market got stronger, so subsidies were reduced, Phillips says.

The number of producers who participate varies from 4,000 to 7,000, she says. In 1991, the latest available statistics, Iowa had 160 producers in the program.

Iowa participants received $2.6 million in 1993; $2.6 million in 1992; $2.2 million in 1991; and $2.1 million in 1990.

The honey subsidy began in 1949 and has been as high as $100 million in 1988 and as low as less than $1 million during several years in the '60s and early '70s. In 1979, the program showed a credit of $2 million when more loans were paid back than loans were granted.

FYI

1993 Honey production in Iowa:

Beekeepers maintained 60,000 colonies.

Bees produced 3 million pounds of honey.

Each colony produced an average of 49 pounds of honey.

Value of the 1993 honey crop was $1.6 million.

Source: USDA.

PENNIES A POUND—WOOL PRODUCERS FACE LOSS OF GOV'T SUPPORT

(By Marlene Lucas)

OXFORD.—Nick Greiner, holding a squirming sheep with one hand, motions to a pile of wool with the other and says, "That's worth about a dollar.

"That 5 pounds of wool is worth about 20 cents a pound to the farmer as it is. When it's washed and cleaned, it'll weight about 2.5 pounds and will make about four or five sweaters. So you have about $150 worth of sweaters from something that's worth $1 to a farmer."

And if Greiner hadn't owned the sheep, he would have collected $2.25, at least, for his work.

So why, at those prices, don't producers just leave the wool on sheep raised for meat?

Greiner, who shears sheep for area producers and raises 2,000 sheep a year on 20 acres near Oxford, says sheared sheep gain weight better than non-sheared sheep. Sheared sheep also are worth more per pound when sold to packers.

With wool being a money-loser, it's easy to see why Iowa producers favor continuation of the federal wool subsidy, scheduled to be phased out by 1995 to trim federal expenditures.

About 5,600 of Iowa's 8,000 sheep producers participated in the wool subsidy program and received $2,033,984 in 1992. Nationally, the U.S. sheep industry supports 100,000 families and 350,000 rural jobs.

The Wool Act was initiated in 1954 after domestic producers experienced hardships when the government lowered wool import tariffs from 25 cents to 10 cents a pound. Producers asked that imports be limited, but instead the government created the current subsidy system.

SUBSIDY TIED TO PRICE

The subsidy is a percentage tied to the wool's selling price.

For instance, Midwest farmers, whose sheep produce medium-quality wool, sold their wool for 10 cents a pound in 1993. Because the program pays wool producers 300 percent of the price they received, Midwest producers actually received 40 cents for each pound sold—10 cents plus a 30-cent subsidy. In the West, where the wool is considered higher quality and sells for $1 a pound, producers get a subsidy of $3 per pound.

The 1993 subsidy of 300 percent was calculated to pay producers the difference between the year's national average wool market price of 51 cents and the government's price level of $2.04. The price level is set each year based on the amount producers spend raising wool.

Another factor is a national checkoff supporting the American Sheep Industry, a promotional organization. Growers are assessed 8.5 cents a pound.

PROGRAM ENDS IN '95

Iowa sheep producers, who raise sheep mainly for meat, will be little affected by the 1995 ending of the subsidy, Greiner said,

but those in Western states stand to lose a lot.

Of the total $103.4 million paid in wool subsidies in 1993, Texas producers received $24.9 million, Wyoming producers received $11.7 million and Montana producers received $9.5 million.

While rural communities will likely feel the loss of subsidy income, urban consumers will see little difference in the supply of wool products.

"Australia has such a supply of wool that the best guestimates say it will take until 1997 to reduce the stockpile. We can't expect better prices until that glut is finished," Greiner says.

TERMINATION CALLED POLITICAL

Voting to end the wool subsidy was "a big political move. It was an easy target. It didn't have too many people that would bitch, and there's not a lot of votes to be lost, but they get a lot of publicity for cutting programs," Greiner says.

Supporters of the subsidy claim that no money will be saved by ending the program because the program is funded by tariffs on imported wool. However, Sharon Diel at the Agricultural Stabilization and Conservation Service in Washington says that's not so.

"The tariff revenues go directly into the treasury and are not earmarked for the subsidy. That's always been a confusing area. The money for the wool and mohair subsidy is appropriated by Congress," she says.

"The only thing the act specifically says is that our program shall not cost more than 70 percent of the amount the tariff collects," she says.

In 1991, the tariff collected more than $401 million, and $172 million was paid out in subsidies.

CROPLAND BACK TO WETLAND—GOVERNMENT AND FARMER SHARE COST OF RESTORATION

(By Marlene Lucas)

BRIGHTON.—In a horseshoe bend of the Skunk River north of Brighton, 102 acres of cropland are becoming a home for ducks and frogs.

Burnett Smith, who has owned the land for 32 years, recently tore up 40 feet of tile that drained the cropland and is watching the low area slowly fill with water. During the floods last year, it was awash 13 times.

"I've always thought that's what should be down there. I've never been real thrilled with river bottoms as croplands," says Smith, 67, who runs a cow-calf operation on 1,000 acres. "You can fight the river or decide to live with it. We decided to live with it. When you look at the power of water and the power of man, water will win. I think a lot of people found that out last year."

Smith has placed the land in the Wetlands Reserve Program (WRP), a federal program that purchases a permanent easement to croplands converted from wetlands. The land is restored to wetland conditions by the owner with cost-sharing by the government.

Smith is among the first group to enroll. He signed up in 1992, and the easement purchase was completed this year.

"I don't want to say how much we got for it. We found out we were about half of what others bid. But I thought it was a fair value when I put in my bid," he says.

Pre-acre prices paid to date in Washington County have ranged from $650 to $1,500.

PROGRAM GROWING

At a time when most government farm programs are shrinking, WRP is growing.

"The proposal for the 1995 budget includes" $241 million for WRP, says Lois Hubbard, Agriculture Stabilization and Conservation Service program specialist in Washington, D.C. "The proposed goal is to have 330,000 acres in the program by the end of '95. Everything depends on appropriations."

The federal government accepted 49,888 acres in six states, at a cost of $46.1 million, in the 1992 WRP enrollment. For the second enrollment, held this year, $66.7 million has been allotted for 75,000 acres. Landowners have offered 508,735 acres.

Hubbard says program officials initially thought farmers would be turned off by the program's permanent easement clause, but "we've been pleasantly surprised. There has been a lot more intentions to participate than we could accept."

"They're more interested in . . . protecting the land," she says.

Wendell Jones, district conservationist for the Soil Conservation Service in Washington, Iowa, says, "Burnett had an appreciation for the program for what it could do for the land.

"For other farmers, their first objective can be to unload the land." They see the program as a way to make money on cropland that floods or produces less-than-average crops.

Farmers struggle with marginal croplands because "the farming economy is such that some farmers feel they have to use every acre to make a living," Jones says. "There are different answers for different farmers."

5,000 ACRES IN IOWA

A total of 587 acres in Washington County, where Smith lives, was accepted in the 1992 enrollment. Across Iowa, 5,096 acres are in the program. In the 1994 enrollment, 1,058 Iowa farmers offered a total of 57,702 acres. Offers will be evaluated by the end of May.

Land is accepted into WRP according to the amount of money the farmer requests for the permanent easement and on the expected cost of restoration to wetland. The government will pay up to 75 percent of the restoration costs.

Smith retains ownership of the land and will continue to pay taxes. But the taxes will be reduced as the value of the land decreases now that it is no longer producing crops. He is permitted to grow hay and graze the land, he retains access for hunting and recreation, and he may sell the land. But, the land would remain in WRP under the new owner's care.

"The WRP benefits the public in several ways," Jones says. "It creates a wildlife habitat very quickly and you see the return of water fowl, plants and vegetation. A major benefit is improved water quality, and it's a floodwater storage area.

"This little bit of land may not make a tremendous amount of change, but it's a start. This is a reversal piece by piece."

GREEN FARMING—MARKET PRICES AND ENVIRONMENT BENEFIT FROM IDLED LAND

(By Dale Kueter)

SCOTCH GROVE.—The fields that surround the farm buildings at Barb and Glenn Tobiason's place are out of an Iowa picture book—fertile loam on gentle Jones County slopes.

You can smell the soil's richness as it is reopened to once again accept the seeds that produce the crops that make Iowa famous as America's breadbasket. It's the essence of Iowa.

Three miles to the south the Tobiasons own 250 acres of clayish loam, less productive soil that lies on hills and is highly susceptible to erosion. In 1986, a farm crisis time when the Tobiasons were looking for some steady income, they placed these acres in the Conservation Reserve Program (CRP).

Again this spring, the CRP land is sprouting alfalfa, brome and other grasses the Tobiasons seeded eight years ago as required by the program. CRP yields are measured in erosion protection, nesting places for wildlife and idling corn production that would otherwise depress prices.

CRP, begun in 1985, is a major component of the U.S. farm program. Conservationists like it. Urban politicians prefer it to crop subsidies. Farmers have mixed feelings.

Nationwide, 36.5 million acres are idled in CRP—8 percent of all U.S. cropland. Farmers are paid an average of $50 per CRP acre per year by the government. The CRP contracts are for 10 years, and no one knows what will happen when the first acres come out of CRP in 1995.

"They have not come up with any follow-up to CRP," says Glenn Tobiason. "I don't think it will be extended because of budget problems." The Tobiasons' CRP contract expires in 1996. "We could put ours back into crops or use it for grazing, but we'd have to do a lot of fencing for grazing, so now it looks like we'll go back to cropping it."

Tobiason, 48, lifts his Pioneer seed corn hat and scratches his head in one motion.

"If you want to analyze farm programs," he cautions, "you can't. Remember, it took a lot of lawyers to do this."

Yet, Tobiason is uncertain about throwing out farm subsidies altogether. He's interested in something simpler, perhaps the so-called Iowa Plan—revenue assurance—that would guarantee farmers 70 percent of some base-period income.

"The principle of a free market is great," says Tobiason, "if all countries are playing the same game. Without a farm program, I think you'd see more volatility in grocery prices. And programs—price supports and subsidy—help get young people into farming.

"CRP is not that costly compared to other things," he adds, "and I help pay for it, too, through my taxes. Still, I don't know if the government can afford to keep it. It's a society program, really. How important is it?"

COST OF CONSERVATION

CRP will cost $1.8 billion this fiscal year. Meanwhile, the government will shell out $18 billion for commodity subsidy programs, including corn deficiency payments.

Agriculture budget number-crunching has already begun. The trick is to cut the budget but keep farm production down and conservation practices up.

Doing all that is a little like slopping the hogs in your best suit and coming out smelling like a rose.

Bob Wisner, grain marketing economist at Iowa State University, tends to agree with Tobiason's CRP predictions.

"I expect that much of the CRP land will go back into production," says Wisner. "There may be federal payments for filter strips along creeks but not much more."

One floor up from Wisner's office, Professor Stan Johnson, director of ISU's Center for Agriculture and Rural Development (CARD), envisions a different future. CARD and a team at the University of Missouri are advising Congress on options for the 1995 farm program.

"CRP or something like it will be renewed" he predicts. "It may not survive as a line item in the agriculture budget, but conservationists want it. And if necessary, they will push to take money from deficiency (subsidy) payments to pay for it."

One of Johnson's ideas would pay farmers a reduced amount to keep CRP land out of

corn and soybean production but allow them to harvest the hay. Farmers could cut CRP hay last year only because wet weather produced emergency conditions and a poor hay crop.

Some critics say the government made a mistake in 1985 when CRP was created. Instead of paying an annual rent, they say the government should simply have purchased the marginal acres. As it is, they say, the government is spending an average of $500 an acre over 10 years and farmers still own the land.

But explains one agriculture observer, "that's the price of politics." Congress, he says, wasn't about to buy up a lot of farmland and accelerate the depopulation of rural America and hasten the demise of rural towns.

FARMERS BID FOR PROGRAM

The Tobiasons receive $85 an acre for their CRP land, considerably above average. Farmers who applied for CRP had to submit a "bid" that did not exceed prevailing local rent for comparable land. Payments are limited to $50,000 per farm operator per year.

Tobiason, once he figures his costs—equipment, fuel, seed, fertilizer, chemicals, land, taxes and labor—and assuming an average yield of 125 bushels per acre at a price of $2.80 a bushel, expects corn land will yield $70 more an acre than CRP.

"But there is no risk with CRP," he quickly adds. Last year, because wet weather drastically reduced yields, CRP produced the most income. Many farmers lost money on corn.

The Soil and Water Conservation Society, an ardent booster of CRP, estimates the program will cost upwards to $20 billion over the life of current contracts, not including administration. The estimate also does not reflect savings of price and income support programs resulting from idling acres.

Environmental benefits of CRP are difficult to quantify. USDA officials have made broad estimates for environmental benefits of $6 billion to $13 billion.

Clearly, says the Soil and Water Conservation Society, CRP has reduced top soil erosion and resulting sediment damage, provided an emergency source of forage, reduced federal commodity program costs and stabilized land prices. But, it added, dollar estimates of these benefits have not been made.

With environmentalists overtaking farmers in political clout, agriculture policy experts expect CRP legislation or something "similarly green" will be planted in the 1995 farm fill.

FYI

A look at the farm operation of Glen and Barb Tobiason, Scotch Grove:

Own 450 acres of cropland.

250 acres in Conservation Reserve Program (CRP).

Rent 150 acres more for crops.

Finish 400 head of feeder cattle.

Farrow and finish 1,500 hogs a year.

STUDENTS PEN NARRATIVE OF REVENUE ASSURANCE PLAN

(By Marlene Lucas)

A group of high school English students took on a project last fall that could make them part of farming history.

They wrote the narrative of a revolutionary proposal that would replace the federal feed grains program with a Revenue Assurance program. Instead of the complex provisions of crop insurance, disaster programs, set-asides and deficiency payments, farmers would be guaranteed 70 percent of their income in a bad crop year.

Doran Zumbach, a Coggon farmer who headed the Iowa Farm Bill Study Team, contacted Jim Oberbroeckling, North Linn High School English teacher, with the idea of having his students write the narrative of the proposal.

"We wanted a group without preconceived prejudices. We wanted someone that would mirror our feelings. Adults have preconceived ideas. We saw this in this age of youth," Zumbach says.

"We needed a group with writing skills. And everyone talks about involving youth in agriculture, but no one does anything about it," he says.

LEARNING ABOUT FARMING

The students agreed to take on the project. Several of them are from farming families and have a rudimentary understanding of farm programs. Others have always lived in a city and were ignorant of the programs. The students were surprised by what they learned from the project.

"It was worse than we actually realized. I didn't realize how the farmers were hit. I didn't pay attention," says student Deidra Blin.

"The target price and the set yields aren't up to date. They were set 15 years ago. They relied on ARPs (acreage reduction program), and they haven't done what they set out to do (which was to reduce supply and raise prices). There's a lot more behind the scenes that go on than we thought before," says Kristin Michael.

Krista Moenk and Nicole Price were surprised that some farmers didn't buy crop insurance and that they could receive as much or more from disaster programs than those who bought insurance.

Nichole Zumbach, Doran's daughter, became more aware of the politics that formulated the farm program and about the practice of piggybacking special interest bills onto other bills.

"I learned about dirty politics and how everyone has to get something for themselves. The Brady bill and flood disaster aid bill both had something tacked on. Why do (politicians) act that way? Why do they have to have something for themselves?" she asks.

Other students who participated are Nikki Aden, Chris Chrystal, Jamie Meier, Mark Neighbor, Stephania Sauer, Alan Schaul and Tami Webster.

Oberbroeckling regularly assigns a research paper to his senior, college-bound English class and writing this narrative took the place of that assignment for the students who chose to participate.

"I was quite skeptical at first," he says. "Many of these students are not farm-reared. They are living in town. I didn't know if they would get involved and understand what they were doing.

"I'm really pleased and happy and proud of the accomplishment on the part of the students. They did a good job, all of them."

PROPOSAL PRESENT

The 18-page document titled "The Findings of the 1994 Farm Bill Study Team" discusses the impact of current policies and their shortcomings and describes the benefits of Revenue Assurance.

Doran Zumback presented the proposal at the Iowa Farm Bureau Federation annual meeting in December, and the members adopted it. He continues to promote the plan at meetings of other farm organizations.

He's happy with the reaction so far. "I'm not naive enough to think it's a done deal, but Congress is ready for a change. We have been successful at setting the early debate. We're hopeful it will become law," Zumbach says.

LEANER HARVEST—1995 FARM BILL SEEN AS LESS GENEROUS

(By David Lynch)

WASHINGTON, DC.—Rep. E (Kika) de la Garza, D-Texas, is famous for his "Submarine Story."

The submarine is a modern masterpiece of machinery, he says, able to go on and on, but ultimately it is forced to come to the surface.

Why?

The chairman of the House Agriculture Committee, with great glee and a flourish, then delivers the punch line: "Because they have no food left."

Food production, he explains, is what has made this country great and why the federal government has to help the people who grow the food. Since we eat cheaply compared to other nations, he continues, we should feel indebted to the federal farm program.

There are many, and their number is growing, who no longer fully share the chairman's convictions for assisting agriculture. Reps. Dick Armey, a conservative Republican from Texas, and Rep. Charles Schumer, a liberal Brooklyn Democrat, are among them.

Four years ago they waged a sophisticated attack against the 1990 farm bill, offering a series of amendments aimed at capping federal farm payments, eliminating the honey and wool and mohair programs as well as cutting the price supports on sugar.

They landed some body blows to the farm bloc, still felt today. It allowed President Clinton to win congressional approval of his proposals to suspend the honey price support program and to phase out the wool and mohair price support program in 1996.

Armey and Schumer are back, as are the environmental lobbies that scored major successes in the 1985 farm bill with soil and wetlands preservation provisions that are tied to participation in the federal farm program. In other words, farmers who apply for federal price supports must comply with federal soil and wetlands provisions.

"Conventional wisdom says the 1995 farm bill will look a lot like the 1990 bill—only less generous," says John Campbell, a former undersecretary of agriculture to Clayton Yeutter.

"Conventional wisdom says that commodity loans, target prices and set-asides will stay. Conventional wisdom says that the Conservation Reserve Program (CRP) will hang around in midget form and a larger triple base will be offered up for the budget cutters.

"Unfortunately, conventional wisdom is usually right," adds Campbell.

"I really don't know what to expect," admits Susan Keith, an official with the National Corn Growers Association. She says the future is clouded with questions about the General Agreement on Tariffs and Trade (GATT), "green boxes," the Iowa Plan and, of course, money.

"We really won't know what the bill's going to look like until January when the president makes his budget request to Congress. But when it comes to the farm bill, I'll always bet with the status quo."

Campbell, now a top executive with AGP, an Omaha-based agribusiness, warns that if the status guo and conventional wisdom hold, "agriculture has nothing but less of the same to look forward to." He says American agriculture "will continue its post-1970s state of splendid decline."

PROGRAM BEGAN IN 1933

What is the farm bill, anyway?

Technically, it's the reauthorization of permanent federal law that dictates long-term farm legislation.

The first farm bill was the Agricultural Adjustment Act of 1933. The purpose then was the same as the purpose today—to protect farmers from the unknowns of weather and market fluctuations so they may stay in business through bumper crops and disasters and so the American people can reap the fruits of a cheap food policy.

The farm bill was reauthorized every four years, but in 1985 lawmakers realized it would be less job threatening if they did the farm bill every five years. Not only did it give them more political breathing room, but it took the issue out of cycle with presidential elections.

The CRP that Campbell referred to provides federal rent checks for highly erodible land that is kept out of production. The first parcels under 10-year CRP contracts with the government are coming due. Keith, the former agriculture adviser to former Rep. Dave Nagle, D-Iowa, says there is no funding to renew these contracts. She says farm bill formulators will have the unenviable task of having to find the money or drop the mostly successful CRP.

The environmental lobby has grown in stature and clout since 1985, and that is not being lost on any of the players in the coming farm bill debate.

Dean Kleckner, president of the American Farm Bureau Federation, warned in 1990 that to give in to the environmental extremists would be to give up control of federal farm policy. His rhetoric is toned down a bit, but he continues to warn farm audiences that the Nature Conservancy has an annual budget of $173 million; the National Wildlife Federation, $87 million; the Sierra Club, $50 million plus; and "the 10 wealthiest environmental organizations have a total budget approaching a half a billion dollars."

LITTLE FROM ESPY

Agriculture Secretary Mike Espy has not had much to say about the farm bill yet. However, he has made a number of references to Revenue Assurance. The concept would assure farmers a certain percentage of past crop revenue. The most common figure used has been 70 percent, but it could be adjusted.

The plan would combine crop insurance, price support and conservation practices, and ideally would allow the farmer to make the basic choices on what to plant in reaction to market prices.

No one expects Espy and Congress to buy the proposal lock, stock and barrel. Keith thinks that if it is made a part of the farm bill, it will be a voluntary pilot program.

Given budget constraints, pressure from non-farm elements in Congress and the environmentalists, change can no longer be held back.

Campbell urges farmers to resist conventional wisdom. He urges them to form a new farm bloc that includes environmentalists, who he says "offer a natural political partnership with progressive and market-oriented agricultural interests."

"The average person is much more worried about how food is produced than the adequacy of farm income or the need to pay farmers for not working," says Campbell.

"A positive political and economic strategy for agriculture would be to trade in the worn-out supply/management, command and control income support programs for new environmental enhancement programs."

He recommends government lock in all future projected budget outlays for price and income support payments and earmark them for producers who need only to live up to current sodbuster, swampbuster and conservation compliance measures. Farmers would therefore have full flexibility to plant for the market, not the farm program.

The program would bring farmers and environmentalists together on greener, more productive ground.

NEW SAFETY NET—IOWA'S REVENUE ASSURANCE PROPOSAL TOUTED AS IMPROVEMENT OVER SUBSIDIES

(By Dale Kueter)

COGGON.—A year ago 11 Iowa agriculture groups, motivated by changing times, developed the seeds for a new federal farm program—a hybrid that would end traditional subsidies yet protect farmers from disaster.

Getting diverse farm organizations to sit down together was amazing enough. That they produced a new concept for farm economic security was regarded by some as a miracle.

The proposal has become known as Revenue Assurance. Some call it the Iowa Plan. In its simplest form, it would assure farmers—in years of bad prices or poor weather—a certain percentage of past crop revenue. Seventy percent of gross revenue is commonly used, but it could be some other figure.

Conservaton practices would be tied to the plan, but farmers would decide for themselves—reacting to market prices—what crop and how many acres to plant.

Federal price supports have been used for 60 years. But there is a realization, says Doran Zumbach, 44, that less money will be available in the 1995 farm bill. Many believe the subsidy concept will be plowed under by the turn of the century.

Zumbach, who farms north of Coggon in Delaware County, is vice president of the Iowa Corn Growers Association and was chairman of the Iowa Farm Bill Study Team that created Revenue Assurance. He calls the concept a "safety net."

"Revenue Assurance is like auto insurance," says Zumbach. "You hope you never have to collect. In 1977, central Iowa farmers had a poor crop because of a localized drought. Prices didn't respond upward because yields elsewhere were good. So they had both a poor crop and low prices. That's what the producer fears."

The study team projects the program would pay farmers once every five years instead of nearly every year as under the current system. Savings to the government is estimated in excess of $2 billion annually.

Zumbach says farmers "can holler all they want, but there will be more cuts in the agriculture budget." He says President Clinton has promised to cut the deficit, "a pledge he must keep to be re-elected."

"There are 2 percent producers in this country and 100 percent eaters. That tells the political clout tale."

ISU ANALYZING PROJECT

Stan Johnson, Iowa State University professor who is among those advising the U.S. House and Senate agriculture committees on the 1995 farm bill, praised the Iowa agriculture organizations for working together. He says, "It's a sign that farm groups are . . . realizing it will be difficult to hold traditional deficiency payments."

ISU is doing an analysis of Revenue Assurance with results due in June. "We need to translate what is a loose concept," says Johnson. "How will you calculate the 70 percent? Will it be on basis of county average yields or farm average yields? There are lots of mechanical questions."

If incorporated into federal farm policy, Johnson believes Revenue Assurance would come down to "less price protection and more weather protection." Price protection, he says, can be purchased through the futures market. Johnson says the trigger for Revenue Assurance should be on the basis of county yield averages.

"So if you are a bad farmer, an inefficient farmer and all others in the county do a good job, you don't get any payments," he explains. Once a county would be declared eligible for Revenue Assurance payments, then individual farm records would be used to determine amounts, he says.

Revenue Assurance would be the farmer's reward, says Zumbach, for conservation compliance. There has long been a belief among agriculture policy-makers that all society should share in conservation costs. "It costs farmers real dollars to build terraces or buy no-till drills," he adds.

PLENTY OF CRITICISM

The plan has plenty of critics. Farmers are not famous for building consensus. Negative response has already come from some rice and cotton farmers in the South and wheat interests in the Midwest. Iowa Plan proponents argue that most opposition is based on fear of change.

Sen. Tom Harkin, D-Iowa, initially charged the plan would lead to expanded corn production. Zumbach believes the opposite.

"Now the farmer is locked in by the program," says Zumbach, referring to corn-base acres that provide the starting point for figuring subsidies. "Ask farmers if they plant corn on corn, and two-thirds will say yes. Ask them if they would grow less corn if it weren't for maintaining a base or receiving a subsidy, and 80 percent will say yes."

Zumbach and other proponents say there would be more crop rotation under a system that didn't subsidize corn.

Zumbach says Canada is revising its farm program along the lines of Revenue Assurance. No all of the 11 organizations that helped draft the plan have formally endorsed it yet. However, Zumbach says he would be surprised if any didn't.

WHAT SENATORS SAY

Sen. Charles Grassley, R-Iowa: "We've got to get away from the traditional commodity programs because of the reduced (federal) budget." Grassley said he likes the Revenue Assurance plan. "On my farm we would be better off if we could rotate between corn and soybeans, but the (present) farm program requires that we maintain a corn base." Grassley said he is struck by the fact that disparate farm organizations have endorsed Revenue Assurance.

Sen. Tom Harkin, D-Iowa: The Revenue Assurance proposal is a good starting point for the farm bill debate, but it has to be studied to see how it would really work, he said. "It's a serious effort that should be put through the hoops." While it is an interesting idea, he said it's too soon to say if it should be part of the farm bill.

A FUTURE WITHOUT SUBSIDIES

(By Dale Kueter)

In 1984, New Zealand was a nation of 3 million people and 60 million sheep. The large sheep population was in part attributed to the country's generous farm subsidy program, which was based on livestock numbers.

Then in 1984, after bitter debate, New Zealand's Parliament abolished its subsidy system. In protest, farmers slit the throats of

sheep. Some political opponents predicted half the farmers would go out of business.

"In the end only 3 percent of farmers went under," said Denis McLean, New Zealand's ambassador to the United States. "There's barely a farmer today who wants to go back to the old system," he added during a telephone interview.

After a 60-year run, farm subsidies in the United States, too, are getting close review. Some even predict their elimination by the end of the century. Subsidies are caught up in changing times, the drive to cut the federal deficit and new international trade agreements that restrict such programs.

Stanley Johnson, farm policy expert at Iowa State University, says paying farmers a subsidy to make up for low prices has declining support. If direct payments survive at all, he says, they will be targeted to smaller farmers who need them. "Most government payments now to the largest farmers."

What would the future be like without farm subsidies?

There is an array of opinion. Some say farm prices would initially go down, forcing many marginal farmers out of business. Then prices would rise. Many see a period of volatile consumer prices. Others predict a hastening of corporate involvement in farming.

It's clear that more than just farmers would feel the impact. Coggan farmer Doran Zumbach puts it this way: Even though farmers make up less than 2 percent of the U.S. population, "100 percent of Americans eat." Food prices affect everyone.

The ripple would go beyond farmers and consumers. Rural towns that grew up on providing services to farmers would be hurt by fewer farmers. Rural schools, churches and hospitals would be affected.

"And what do we do with displaced farmers?" asks Bob Wisner, ISU grain marketing economist. "That's something we need to be aware of. They will be competing with urban people for city jobs."

The subsidy issue has been debated for years. Farming is a business like any other, some have argued, and should stand on its own. Subsidies have not only benefited farmers, others counter, but have maintained a cheap food policy in the nation.

The subsidy debate has been joined by new forces and new attitudes.

Environmentalists, who gained a foothold in farm policy with the 1985 farm bill, are poised to assert greater influence. So called "green" programs, incentives to farmers for environmental protection, will likely expand.

Federal farm programs have been tied to conservation compliance. Even though farmers generally are good stewards of the soil, it is feared conservation practices would decline if subsidies were eliminated. Some believe environmentalists would then seek mandatory conservation steps without reimbursing farmers.

"Our programs traditionally have required farmers to idle cropland, to take conservation steps in return for payments to help stabilize prices," says Wisner. "In Europe, farmers have produced all they wanted and were paid for the excess."

ATTITUDES CHANGE

ISU's Johnson says urban attitudes toward the family farm have changed dramatically. He says city people, generally, "are more interested in preserving the rural landscape than farm families. The traditional idea of the family farm is dead.

"Not that there won't be family farms," he says. Instead of mom and dad and the kids, "family farms will be family partnerships or proprietorships and family corporations." He says several family entities will operate bigger and bigger farms.

In six decades of existence, farm support programs have taken on the layered look. Responding to various interests, they have been patched together in a complex pattern that itself is a basis for criticism. Many farmers don't understand them.

A 1991 survey of dairy farmers by the Government Accounting Office showed that half were not familiar with the 1990 farm bill.

"I don't know which way the future will take farm subsidies," says Wayne Rasmussen, who served as USDA historian for a half century. "I believe they will survive in some form, but most certainly be tied to environmental concerns."

If subsidies are eliminated, Rasmussen says farm markets are stable enough "that we wouldn't drop into any 1920s kind of collapse." The farm economy then constituted 40 percent of the country's economy, he said. "If subsidies are dropped, I think some farmers will be driven out of business. But somebody will be out there to produce the food."

AFFORDABLE FOOD

"I don't think our food will ever get expensive under any scenario because of our inherent ability to produce," says Gary Hanman, chief executive officer of Mid-America Dairymen. "Right now we have agriculture production throttled back to 60 percent.

"Our farmers are the most productive anywhere. They are the first to adopt new technology. We ought to be producing the food because we are more efficient than farmers in Europe. They ought to be doing something else."

But with the General Agreement on Tariffs and Trade (GATT), farm products are likely to be moving in all directions. Most experts say GATT is good for U.S. farmers. While more foreign food products will be coming into the United States, American farmers expect to be sending more out.

GATT has yet to be ratified by Congress. Some farm groups and farm state senators have threatened to oppose GATT if farm subsidies are cut to make up for income lost because of reduced tariffs.

ISU's Johnson says the old pillars for farm programs—an adequate and cheap supply of food, stability in agriculture and maintenance of farm income—are being replaced. Global trade has changed the food supply issue. Market tools like futures trading can protect farmers from price changes, he says.

In the future, he predicts, agriculture policy and expenditures will be shifted further to environmental issues, control of food quality, research, and development of rural infrastructure.

Next year's farm bill, however, will retain some price protection for farmers, many believe. That will either come through the present deficiency payments system or adoption of some new program like the Iowa Plan. The latter, developed by a coalition of Iowa farm groups, would put a price "safety net" under farm revenue.

There is also a move to revise the 1937 federal milk marketing order system, a complex formula regarded by many as antiquated. A federal judge has ordered Agriculture Secretary Mike Espy to restudy the system, which helps determine the price of liquid milk.

In New Zealand, farm subsidies were the first to go in reforming government involvement in the economy. In the United States, too, other subsidies may be in for examination.

"We all receive some subsidies," says USDA spokesman Ray Wagner. "Newspapers get favorable postal rates. When I deduct mortgage interest from my income tax, that's a form of subsidy."

But farmers' political clout has withered. And the cash crop that subsidies have provided for 60 years is withering with it.

FYI

One scenario if subsidies end:

Prices of some goods will go up, while prices of other goods will go down. The resulting changes in prices will affect farm markets and consumer prices.

Marginal farmers will probably go out of business.

The number of large, family corporation farms likely will grow.

Fewer farmers will mean less business for small-town merchants. Many communities in rural America would suffer unless jobs were created.

Jobless farmers will compete with urban residents for city jobs.

Trade agreements will steer food policy and markets in new directions.

USDA REFUSES TO DIVULGE NAMES OF SUBSIDY RECIPIENTS

(By Dale Kueter)

Legal counsel for the U.S. Department of Agriculture says privacy rights of individual farmers prohibit the agency from releasing names of top recipients of agriculture subsidies.

The Gazette sought the names in preparing this series of stories on federal farm programs. The USDA spokesman said a 1989 Supreme Court ruling elevates privacy rights to new standards. The media must show that the public interest clearly surpasses privacy interests, he says.

Prior to the 1989 ruling names of subsidy recipients could be published.

The newspaper had sought the information in an effort to help both rural and urban readers decide if dwindling federal subsidies were being used in a fashion they agree with. The newspaper argued that such information was vital for any debate on the future direction of farm policy and subsidies.

USDA officials said they can release information about subsidies given to farm corporations, unless they represent family operations. Nearly all Iowa farm corporations are those involving family farmers.

Federal law restricts deficiency payments on commodities such as corn to $50,000 a year. There is also a $50,000 limit on payments for land idled under the Conservation Reserve Program.

The number of Eastern Iowa farmers who received the maximum payment in 1992 ranged from none in Clayton and Winneshiek counties to 27 in Buchanan and 19 in Fayette. However, officials at Iowa State University say many farmers reach payment levels of $30,000, $40,000 and amounts just short of $50,000.

Some, including economists at ISU, believe that over the years many farmers have managed, legally, to work around the $50,000 limit. Souses, parents or siblings would form separate corporations to establish ownership in part of a farm to qualify for separate subsidy payments. A prominent Eastern Iowa grain producer says "any farmer with a halfway decent lawyer" could work around the $50,000 limit.

USDA officials in Des Moines questioned claims that such legal maneuvering was widespread. Most Iowa farmers, they say, aren't big enough to reach the payment limit.

However, after a mid-1980s scandal in Mississippi, in which a group of individuals formed 21 corporations to reap federal subsidies, Congress passed legislation limiting each individual to forming three such entities.

With the 1990 farm bill, Congress said a husband and wife can be treated as separate persons for purposes of subsidy qualification without each forming a corporation.

In such a 50-50 joint operation, each, in theory, could qualify for up to $50,000 in payments. However, stresses Steve Phillips, an Iowa USDA official, a spouse must make a labor and management contribution to be eligible.

If, for example, the wife holds an off-farm job, the USDA could decide it is a 55-45 partnership. In such a case, the husband could receive the full $50,000 in payments, but the wife could not receive more than 45 percent of that.

For 1994, Phillips says, based on the proposed deficiency payment schedule, a farmer would have to have some 1,250 acres of corn base before nearing subsidy payment limits. For a spouse to also qualify for payments, the acreage would have to be even more.

The Gazette has requested congressional agriculture leaders to include language in the upcoming farm bill that would inform farmers who receive subsidy payments that their names would be published. A USDA official says that would be similar to a law regarding publishing of salaries received by federal employees.●

"ISLAM ENGAGES THE WORLD"

● Mr. SIMON. Mr. President, we live in a world where Islam is an important cultural, religious and political phenomenon.

Even in the United States, we now have more Moslems than Presbyterians.

And, unquestionably, there is prejudice against Moslems because frequently there is a tie-in in the public mind with fanaticism.

The Christian Century, obviously, not a Moslem publication, recently had an article titled "Islam engages the world." No author is given for the item, but it is an insight into the Moslem world that is divided just as the Christian world, the Jewish world, the Buddhist world, and the Hindu world are divided.

Because we need to have more understanding and because every avenue for pursuing that understanding should be followed, I ask to insert the Christian Century article into the RECORD at this point.

The article follows:

[From the Christian Century, Sep. 21, 1994]

ISLAM ENGAGES THE WORLD

So much attention was focused on Vatican opposition to abortion at the UN International Conference on Population and Development that it was easy to overlook a far more significant religious milestone. After Cairo, Muslims and non-Muslims have even fewer reasons to speak about a monolithic Islamic world. Such a world, of course, has never existed: Islam has always been a rich mixture of different theological and political traditions. But the Cairo conference marked the first time that Muslims from countries throughout the world met and debated under the glare of such an intense international spotlight.

It also was the first time that such a major international conference had been held—Egypt—a fact that afforded many non-Muslim delegates and journalists their first significant exposure to a predominantly Muslim country. The resulting encounters, said Riffat Hassan, a Muslim scholar who teaches at the University of Louisville, may prove to be one of those rare moments in history when understanding wins out over intolerance and misunderstanding.

When it convened September 5, the conference was threatened with violence by Muslim extremists, who said discussion of such issues as birth control, family planning and abortion demeaned Islamic belief. By the end it was clear that the conference "broke a lot of stereotypes," Hassan said, and in doing so it became apparent that there is not one Muslim world, but many. "We are much more diverse than people think we are," said Hassan, a Pakistani who participated in the conference as both an observer and frequent lecturer on problems facing Muslim women. In Hassan's view, Cairo represented a kind of breakthrough for Muslim women. "We are on the threshold of what women in the United States were experiencing in the '60s—a kind of opening up, a chance to become more vocal."

The women had some important allies, particularly on what many consider the most obvious example of repression against Muslim women: female circumcision, the removal of a woman's clitoris. At a public forum on the issue, several of Egypt's most respected scholars and clerics condemned the practice. "Mecca does not know about female circumcision," said Sheikh Mansour Abdel Gaffar. "The Prophet Muhammad did not circumcise his own daughters." At moments like these the Islamic faith put itself through what Hassan called "something necessary for all religions self-critique."

In Cairo the public face of Islam was not limited to strictly theological concerns. Abdallah Schleifer, an American-born Muslim journalist and a professor at Cairo's American University, said the fact that a number of Islamic nations—including Iran—ignored a call by other Muslim countries to boycott the conference affirmed a long Islamic tradition of "being ready to engage intellectually" with the rest of the world. "by participating, they [the Iranians] ceased to be 'The Other,'" Schleifer said.

The Cairo conference generated vocal criticism from a number of Islamic and non-Islamic observers. Saudi Arabia, the Sudan and Lebanon boycotted the conference, saying it was a Western, secular-oriented gathering that would weaken the family and undercut sexual ethics. Many Muslim leaders, citing Islamic law and tradition, joined with the Vatican to condemn what they perceived as the conference's support for abortion as a means of birth control. Participants in an early September meeting of the Islamic Society of North America in Chicago maintained that the Cairo conference's action plan for population control is essentially a Western conspiracy to ruin the Muslim world.

Still other critics objected that the conference glossed over consumption and development issues—issues expected to be addressed at the UN's Social Development Summit next year. A coalition that included the World YWCA and various Third World organizations declared that "we find the Program of Action to be nothing but an insult to women, men and children of the South who will receive an ever-growing dose of population assistance, while their issues of life and death will await" the 1995 summit. Charges were also made that the conference's emphasis on reproductive issues ignored more pressing social and economic problems in developing nations, such as the servicing of foreign debt and continued widespread poverty.

"For us, coming from the South, [reproductive issues] don't form the crux of the central issue that affects the lives of millions of women in our countries," noted Evelyn Hong, a member of the activist group Third World Network. "The burning issues are social and economic problems." As the conference neared its end September 12, a dozen protesters representing a coalition of several hundred Third World women ringed the gates of the conference site terming the event an attempt by richer nations to impose order on the developing world. International conferences, argued Cairo University professor Awatef Abdel-Rahman, have become a way for the North to impose its "new world order" on the South.

Despite such harsh, unbending criticism, some Western delegates nevertheless expressed appreciation for what they characterized as the pointed but reasoned stance that the participating Islamic nations took against abortion. One senior U.S. delegate, quoted by the *Egyptian Gazette*, said Muslim countries "were among those that contributed most to this process." One reason for the Iranians' popularity among some Western delegations was that in their view the Islamic position on abortion proved more nuanced than the Vatican's.

Egypt's chief Islamic cleric, Grand Mufti Mohamed Said Tantawy, stressed that while Islamic scholars and jurists have declared abortion wrong, they have also said it is permissible when a mother's life is in danger. In an interview Tantawy said he believes that abortion is neither fully permissible nor fully forbidden in Islam, but that each case should be decided "one by one, each on its own merits."

Tantawy went on to say that the Cairo conference exemplified Islamic traditions of tolerance, diversity of opinions, and intellectualism—traditions he said Muslim extremists have ignored by embracing a political fanaticism that "is not real Islam."●

TRIBUTE TO GRAND LODGE OF VERMONT

● Mr. JEFFORDS. Mr. President, I rise today to commend my fellow Vermonters, the Freemason Grand Lodge of Vermont, for their contributions to the rich history of the State of Vermont in celebration of the bicentennial of Freemasonry in Vermont on October 14, 1994.

Freemasonry made its entry into Vermont during the period of the French and Indian wars as English military forces moved through the region. The surrender of Quebec to the British took place on September 18, 1759; 2 months later, on November 28, 1759, a meeting of Masons belonging to the several military lodges in the vicinity was held there—including lodges which had traversed Vermont and had introduced the craft to the Green Mountain State.

In 1791, in Vergennes, the first civilian Masonic Lodge was chartered in Vermont. Thereafter, town after town received their charters and the fraternity became firmly entrenched into the fabric of the State.

On October 14, 1794, the Grand Lodge of Vermont was formed at Rutland at the site of the present Lindholm Block at the corners of Main and West Streets, to govern the several lodges within the State.

Freemasons were prominent in the struggle for Vermont independence. Among them were Thomas Chittenden, Seth Warner, Remember Baker, Robert Cochran, Joseph Wait, Ira Allen and, it is believed, Ethan Allen.

Freemasons have continued to be prominent in the affairs of the State, including Governors Thomas Chittenden, George D. Aiken, Harold A. Arthur, Joseph B. Johnson, Robert T. Stafford, F. Ray Keyser, Jr., Dean C. Davis, and Richard A. Snelling. Other well-know Vermont Masons include Warren R. Austin, who was the first U.S. Ambassador to the United Nations, and noted artist, Norman Rockwell.

For all the foregoing reasons, it is right and proper to join together and wish Freemasonry continued success as it celebrates its bicentennial in Vermont on October 14, 1994.●

ANNOUNCING THE 25TH ANNIVERSARY OF THE MICHIGAN STATE UNIVERSITY COLLEGE OF OSTEOPATHIC MEDICINE

● Mr. LEVIN. Mr. President, this year the Michigan State University College of Osteopathic Medicine celebrates its 25th anniversary. I would like to congratulate the school on its exceptional academic work and service to communities in Michigan.

The College of Osteopathic Medicine serves as an educational model for other medical schools as its many achievements prove.

The school produces more primary-care physicians than any other college in the State and ranks near the top in this category nationwide. Approximately 65 percent of all graduates of the college practice family medicine, internal medicine or pediatrics—more than double the national average.

The College of Osteopathic Medicine is the first medical school to implement a community integration program. This program brings students, alumni and the community together to volunteer time where it is needed most.

The school was also the first osteopathic school in the Nation to award joint D.O.-Ph.D. degrees for physician scientists, establishing itself as a leader in osteopathic manual medicine.

I would like to congratulate Michigan State University's College of Osteopathic Medicine for its many achievements and wish the school continued success on its 25th anniversary.●

IN HONOR OF 94TH AMERICAN INFANTRY DIVISION

● Mr. WARNER. Mr. President, I rise today to honor a group of distinguished Americans, the men of the 94th American Infantry Division who served during World War II. These men demonstrated their devotion to the infallible principle of democracy and made the supreme sacrifice for freedom.

I call attention to these men and their families because today, in Paris, France, they are participating in the relighting ceremony of the Eternal Flame at the Tomb of the Unknown Soldier at the Arch de Triomphe. This great honor is only the beginning of an anniversary tour that marks the great victories of the 94th Infantry Division, and culminates in the dedication ceremony of the "Peace Monument" on October 16.

On October 16, a memorial will be dedicated to recognize the heroic men who broke through the heavily defended German line at Siegfried almost 50 years ago today. This memorial is aptly named the "Peace Monument," and it will be dedicated at Potsdamer Platz on the former Siegfried Line near Nennig, Germany.

This memorial has special significance. The original monument was established in 1945, and it was one of the first memorials built after V-J Day. The idea to construct a permanent memorial was jointly conceived by World War II veterans of both nations, namely the 94th Infantry Division and Germany's 11th Panzer Division.

The "Peace Memorial" is constructed on land generously donated by the Federated Republic of Germany. The focal point of the monument will be two bronze tablets inscribed with a message written in English and German from former President George Bush. The design and setting are truly worthy of the name "Park of Peace."

The sole purpose of this shrine is to demonstrate the goodwill of both Germany and the United States of America in its hopes of lasting peace.

I would like to note that this memorial is the only World War II monument of its kind which the United States of America constructed on a historic battlefield on former enemy soil. In the words of those responsible for this monument, "it is the only monument/memorial of its kind on the entire planet, on a former battlefield, dedicated to peace between former enemies who have been at war twice this century, twice in a single generation."

Accordingly, I would like this body to hereby recognize that this commemoration should be remembered and cherished. Henceforth, the monument should be regarded as an emblem of peace the world so desires, and for which World War II was fought for so honorably.●

STATUS OF MEDICARE PHYSICIAN PAYMENT REFORM

● Mr. ROCKEFELLER. Mr. President, it is my strong belief that the defeat of comprehensive health care reform legislation in this session of Congress affects not only the health security of virtually every single American, but our Nation's long term economic security as well.

Beyond the human tragedy of the failure to extend universal health care coverage to every American, Congress' inaction on health care legislation will have a great many specific programmatic effects which we will have to deal with next year.

As the chairman of the Medicare and Long Term Care Subcommittee on the Senate Finance Committee, I want my colleagues to be award what since we were unable to make some important technical corrections and improvements in the Medicare program, we missed an opportunity to do some general housekeeping regarding certain parts of the program that is truly regrettable.

Today, I would like to discuss one particular section of the Medicare program that we will have to turn our attention to next year—Medicare's physician payment system. The absence of congressional action on health care legislation this year will mean that physicians who participate in the Medicare program will receive payment updates that are specified by a statutory default formula written in the legislation I authored in 1989. For fiscal year 1995, this amounts to, on average, an update of almost 8 percent for all physicians and over 12 percent for surgeons.

I am concerned that in 3 of the 5 years that an update has been established under the Medicare volume performance standard [MVPS] system—enacted as part of physician have both been set by the default formula in the statute and not according to policy adopted by the Congress. When we passed this reform, Congress did not intend that we would regularly resort to the default. The legislative history will certainly testify to that. A default was put into place as a safeguard.

The default formula for the MVP standard produces a high standard, and a high standard leads to a high update. For example, the 1995 update is based on the 1993 MVP standard which was established by the default formula. This is the second year in a row that the update and standard have been established by the default formulas which partly explains why they are high. The 1995 default standard will similarly lead to a high 1997 update.

To review, Medicare physician payment reform consisted of three separate but interrelated provisions. The first part consisted of developing a resource-based relative value scale which properly valued surgical and other procedures in relationship to primary care

procedures. This helped to end the payment imbalance in Medicare which contributed to the underpayment of primary care services.

The second part consisted of the Medicare volume performance standard [MVPS] which was designed to slow the growth in the volume and intensity of Medicare part B services. Medicare part B expenditures had an annual average growth approaching 15 percent during the 1980s. The MVPS system was designed to reward physicians for controlling volume and intensity of Medicare services by allowing for higher updates if they did so. Prior to 1989, the default update was the amount estimated that physician input prices would increase. This usually averages three to four percent a year. Congress sometimes enacted a lower amount. It rarely established a higher amount.

Thirdly, Medicare physician payment reform put in place beneficiary protections that limited the amounts physicians could extra-bill beneficiaries.

The first MVP standard was set in 1990 which governed the 1992 physician update. The relative value scale is currently being phased-in over 4 years. Although the transition will not be completed for another year, Medicare payments for overpriced procedures have been dramatically reduced. Balance billing limits were phased in and were fully effective in 1992 resulting in millions of dollars of beneficiary liability being removed from the system.

Part B growth has slowed dramatically in recent years. However, it is still unclear whether the national system of updates gives an individual physician an incentive to control his or her volume and intensity of services. It is also unclear whether the recent lower growth in Medicare part B physician outlays is attributable to lower inflation in general and national trends in utilization that go beyond Medicare.

I believe that we ought to examine the Medicare volume performance system in the next Congress to see whether fundamental changes are warranted. On the one hand, we need to avoid the further erosion of Medicare fees in relationship to private sector fees to protect beneficiary access. On the other hand, Medicare physician fees should not increase more rapidly than Medicare payments to hospitals, home health agencies, nurses, and other providers or general medical inflation absent unique justification for such increases.

I believe we should explore a variety of options which could include returning to an update based on the rise in input prices, shortening the time between measurement of performance, or testing a system base on withholds. I am sure there are other options which should be reviewed as well.

I also strongly believe we ought to explore several refinements to the existing system if it is concluded that more fundamental changes are not desirable at this time. These include decentralizing the reward system to the State or speciality level, redressing the growing imbalance in the relative value system between services engendered by the system of differential updates for surgeons, primary care and other physicians, and reexamining the default formulas to determine if a more objective baseline for growth should be used, such as per capita GDP.

Finally, we should also explore other ways, outside of the MVPS system to redress the balance between payment for primary and specialty care. These include reforming the methodology for paying practice expenses and the system of bonuses paid to physicians practicing in underserved areas. Many of these ideas were promoted as parts of health care reform measures which a large number of my colleagues supported.

Mr. President, I believe, that after five Congressional sessions since the enactment of physician payment reform, it is time to evaluate and reexamine the systems we put in place. Improvements and refinements are needed and I intend to make that a high priority in the next Congress.●

IS IMMIGRATION A THREAT TO NATIONAL SECURITY?

● Mr. SHELBY. Mr. President, I ask that the following statement by Mr. Dan Stein, executive director of the Federation for American Immigration Reform before the National War College, entitled, "Population, Migration and America: Is Immigration a Threat to National Security?" be entered into the RECORD.

Mr. Stein's comments before the War College's class of 1995 raises critical security issues that this country will face in the future if we do not act soon to control our national borders, slow our exploding population, and ensure political and societal stability.

His call for a better understanding of immigration in this country and a pressing need for immigration reform is well-taken. There is no doubt that immigration reform will a top priority in the 104th Congress.

The speech follows.

POPULATION, MIGRATION AND AMERICA: IS IMMIGRATION A THREAT TO NATIONAL SECURITY?

(By Dan Stein)

If the grass is always greener on the other side, then a quick glance at our daily papers tells us that for an awful lot of people worldwide, the grass they covet grows in the United States. Never before in the history of this nation have so many people wanted to move here. Never before have we faced so many difficult choices in deciding who, out of hundreds of millions of basically nice folks, we will allow to enter. And never before have we faced a greater challenge in trying to regulate the force of millions pressing at our national borders.

A storm is brewing. The differential pressure inside and outside our borders has left the nation vulnerable to unregulated storm surges of people seeking our shores. Never has a well meaning group of public-spirited Americans been so perfectly positioned to be blind-sided by the thrall of outdated notion.

We are truly at a watershed today. Americans are beginning to wake up to this fact. The out-migrations from Cuba, Haiti, the Dominican Republic and Mexico reveal that we are at the headstreams of what could be a chronic state of unmanaged immigration for the next forty years. Before us lie stark choices that are now within our power to decide. Soon they may not be. The international demographic forces at work are strong and powerful. They are perhaps the strongest external forces this nation has ever faced. If we hope to control them, we must choose soon, or it will be too late.

The patterns of regional population growth—and the dynamics of that growth—will generate the most unregulated flow of migrants in the history of the human race. This has profound national security implications for the United States today and tomorrow. Are we prepared?

THE LARGER PICTURE: POPULATION DYNAMICS AND MIGRATION PRESSURE

This metronome in my hand illustrates the rate of world population growth: 171 more people a minute—that's births minus deaths. The United Nations estimates that 90 million people are now added to the population of the planet each year. In just the next ten years, more people will be added to the population than there were in the entire world in the year 1800. Just two generations ago, total world population was 2.5 billion. And that was considered a remarkable number. In 1992, we reached the 5.5 billion mark, and the UN estimates that we will exceed 10 billion in the next century before population growth levels off.

This demographic force will generate an unprecedented wave of human migration in the 21st Century as ten of millions seek economic opportunity, escape from environmental disaster, civil strife and repression. The patterns have just begun to emerge and will grow with intensity in decades to come.

Abstract figures don't tell the whole story. To consider fully the national security implications of in-migrations, we must also examine the dynamics of the demographic picture. It's an aphorism now to observe that demographics is destiny, but it's true. The size of the youthful component, in particular the size and growth rate of the illiterate young male population entering the labor force relative to the size of the labor force as a whole, has a great bearing on a nation's (tribe or bloc's), political stability. Idle young men are the leading edge of any radical political force. They are the pool of discontent that most readily challenges static institutions and habits. Other factors, such as rural to urban migration, educational attainment generally, and differential growth rates between different ethnic groups are key to any fair appraisal of the security implications of immigration.

Robert Kaplan's now much-cited "The Coming Anarchy," from the February (1994) issue of the Atlantic Monthly, painted a dismal mosaic of fragmenting nations and tribes in regional and local flare-ups worldwide. Citing Samuel Huntington's thought-provoking piece in Foreign Affairs (Summer 1993), entitled "the Clash of Civilizations," Kaplan observes that "the world * * * has been moving during the course of this century from nation-state conflict to ideological conflict to, finally, cultural conflict. I

(Kaplan) would add that as refugee flows increase and as peasants continue migrating to cities around the world—turning them into sprawling villages—national borders will mean less, even as more power will fall into the hands of less educated, less sophisticated groups. In the eyes of these uneducated but newly empowered millions, the real borders are the most tangible and intracticable ones: those of culture and tribe * * * It is apparent how surging populations, environmental degradation, and ethnic conflict are deeply related." (at 60)

Look at Haiti. Haiti today is a very poor nation of 6.3 million. It has a rapidly growing population (2.3 percent per annum), and a population doubling time of 30 years. From a population under 5 million in 1980, its extraordinary growth will cause it to exceed 7.6 milion people by the year 2000. the "population pyramid" of Haiti compares to Rwanda, and starkly contrasts with that of France (a nation that enjoys population size stabilization, a high standard of living and the political stability that accompanies healthy national institutions). Today, most of Haiti's civilian legal structure is dysfunctional, its economy is in ruins, and the nation lacks even the ability to enforce its own frontiers. It is an ecological disaster, and the povery/illiteracy rate is over 80 percent. And, as Kaplan says, the rapid growth of young people—especially young males—into such an unstable and overcrowded situation can throw a nation into anarchy.

Haiti is not unique, of course. We don't need Kaplan to remind us that Haiti's troubles are part of a pattern emerging worldwide. As the political situation deteriorates, general civil violence erupts. Power and influence are spread about each community as local thugs—Kaplan calls them "less sophisticated groups"—control access to necessities of life. Official and unofficial corruption merge and blur into a generalized pattern of bribery, favoritism and fraud. As more and more young people enter their teenage years (as a result of a very rapid teen growth), they are recruited into what amounts to street gangs. Central political control collapses into generalized anarchy and civil war. In the coming decades, scholars and the United Nations suggest, this scenario will repeat itself over and over in country after country.

In much of the less developed world we have witnessed the flight from rural to urban areas of the past two generations. Those in the countryside are moving—voting with their feet—in response to poor and declining living conditions. Pushed from the countryside and pulled by the city's bright lights and economic opportunity—real or imagined—tens of millions have elected to crowd into teeming metropolitan areas. Mexico City, for example, with 3.5 million people as recently as 1950, now holds around 18 million. And what we have witnessed to date is only the tip of the iceberg. The UN estimates that between 1987 and 2025, the urban population of the Third World will have grown by 2.75 billion—twice the amount that were added during the period from 1950 to 1987. In 1950, North America had an urban population of 108 million; Asia (excluding Japan) had an urban population of 175 million. In 1990, the figures were 207 million and 900 million, respectively. By 2025, North America is projected to have 280 million urban dwellers, while Asia will have an urban population of 2.5 billion—roughly the population of the entire world in 1950.

In other words, by 2025, Asia's urban population will be as large—in itself—as was the population of the entire world in 1950 (about the time many of us here today were born!).

In 1990, the entire labor force of the more developed regions was 584 million people. In just the next 10 years, the less developed countries will have to produce 372 million jobs to accommodate all the new labor force entrants. These are not projections. The workers of the early 21st Century are already born. By 2025, another billion people will be seeking employment, a number more than double the present total labor force of the more developed regions.

These figures represent an economic challenge unsurpassed in the history of the human race. They paint a picture of tomorrow's megacity: teaming with uneducated souls, trapped in urban squalor and poverty, who, gaping at U.S.-made movies, believe that passage to the United States is the only real opportunity for an improved state of being. These same figures reveal that the size of the population most likely to migrate—15 to 45—is growing explosively in real terms unimaginable to earlier generations. Of those who want to move and can physically move, the numbers are swelling at a staggering rate.

We do not know the degree to which civil war and violence will intensify this desire to move, but we do know that many who would like to move only want to move to a particular country. If only those fleeing under emergent conditions are admitted to a country like the United States, then soon everyone will try to flee under the same pretense of emergency.

THE "GOOD OLD DAYS"

This acute pressure can only grow in intensity. Any loophole in our immigration processes, any opportunity for exploitation or illegal border crossing will produce uncontrolled waves of in-migrants. This is the most obvious impact on our national security.

I will discuss more about border security in a bit. But for now, let's keep in mind that these are the "good old days." That may seem hard to believe, but recently, the United Nations named 17 nations as "potential Somalias," or nations that could face collapse, including Mexico, Egypt, Nigeria, and Algeria. Thirteen are already in various stages of crisis, including Afghanistan, Angola, Haiti, Iraq, Mozambique, Burma, Sudan, Zaire, Rwanda, Burundi, Georgia, Liberia, and Tajikistan. The Chiapas region of Mexico is considered extremely volatile. Cuba, Haiti, Venezuela, Mexico, the Dominican Republic, and portions of Central America remain the greatest migration threats in our Hemisphere. In each nation or region, we see similar phenomena: a breakdown of civil order, a large, growing, poorly-educated and dissatisfied population in danger of starvation. There are right now perhaps fifteen to twenty ongoing secessionist movements worldwide, most in full swing.[1] Civil war, separatist movements, generalized civil and social breakdown—each produce large refugee flows. It is a scenario we have warned was coming for many years. It was brought on—or made much more significant—by rapid, uncontrolled or differential population growth rates in high-risk nations.

This pattern has already generated an explosion in the number of refugees worldwide, and, over the next thirty years, is going to generate the most unregulated flow of migrants in the history of the human race. (The most recent estimates provided by the United Nations High Commissioner for Refugees suggest there are about 20 million refugees who live outside their home countries—eight times the number of two decades ago—and another 24 million displaced within their own borders.)

WHAT IS THE AMERICAN SECURITY INTEREST?

A typhoon occurs not because of pressure per se, but because of relative differences in pressure. In our case, the United States, with its generous entitlement structure, free public education, relatively high wages and lower density, is attractive for those who would like to leave a country that lacks those characteristics. Relative pressure dictates that those with the greatest advantage from the move will try to make the move—and all the pressure is moving more this way. The poor, less educated and lesser skilled have the most to gain by moving to the United States. Because of our high tax rates, relatively low quality of life factors, we have more difficulty in attracting the best and the brightest.

But let's not get ahead of ourselves, here.

The implications of these regional demographic facts are staggering. The U.S. security agencies were discussing the long-range challenges presented by this picture years ago. The National Security Council, in "National Security Study Memorandum 200: Implications of Worldwide Population Growth for U.S. Security and Overseas Interests," Washington, D.C., December 10, 1974," stated the threats this way: [P]opulation factors are indeed critical in, and often determinants of, violent conflict in developing areas. Segmental (religious, social, racial) differences, migration, rapid population growth, differential levels of knowledge and skills, rural/urban differences, population pressure and the spatial location of population in relation to resources—in this rough order of importance—all appear to be important contributions to conflict and violence * * * Clearly, conflicts which are regarded in primarily political terms often have demographic roots. Recognition of these relationships appear crucial to any understanding or prevention of such hostilities. (at 66)[2]

When this analysis was written, the 1980 Mariel Cuban boatlift had not occurred. Immigration from Mexico was problematic but still under some control, and illegal immigration was a minor political issue.

Today, things are different. We now know that this analysis correctly analyzed the relationship between population mobility/hostility dynamics and other security issues. It just didn't bother to place the United States anywhere in the picture. (This is not surprising, of course. Until recently, the United States was in the thrall of the "myth of American exceptionalism." This holds that all the lessons of human history have no bearing on the United States. We're different. "We're special," says immigration expansionist Larry King.)

Here is the bad news: Simply put, unless the United States develops better control over its borders and curtails immigration, we will simply be overhwelmed. Our institutions will erode, our harmony of outlook will disappear, and our entire sense of national cohesion will evaporate. In short, we will cease to be a nation. We will not continue to function as we have in the past. We will become, instead, groups living on this land, each contending for a larger share of its remaining resources.

Here is why.

THE SECURITY PERSPECTIVE

First, let me make one thing perfectly clear. The United States does not now have

Footnotes at end of article.

any security interest in additional immigration. We don't need immigration.

Now, on its face, that might not seem to be a very profound statement (particularly through our romanticized notions of our history). But consider that the United States did have a profound security interest in immigration from 1607 until 1920. The fledgling colonies needed immigration to create a buffer zone between themselves and the hostile Native American forces. They, and later the original thirteen states, also needed settlers to populate new territories that were subject to hostile foreign colonial domination. In other words, settling the continent—settling the land and claiming the territory—was a condition precedent to projecting jurisdiction and, therefore, the nation. That land would not have been left to the Indians. It would have been claimed by Spain, France, Russia, China, Holland, or some other colonial power.

So imperative was the need to populate the continent that the United States was admitting a new state almost every year in the early 19th Century. The mold for the new territories, laid out in the Northwest Ordinance of 1787, established the entire frame of government, legal and philosophical institutions, and basic natural rights of the future inhabitants.[3]

It might be worth noting here that the level of immigration was much, much lower than it is today. In fact, it was tiny by comparison. And most of the immigrants came from Northern Europe. So even though there was a language problem, these immigrant groups came primarily from Northern European nations, with the Enlightenment traditions of Western Civilization. (Even so, British immigration was high enough, relative to Dutch immigration, to virtually wipe out the colony of New Amsterdam in the mid-17th century. This was true demographic hegemony; New Amsterdam slipped under the waves without a fight.)

The Framers surely knew the relative importance of actors in making a nation competitive. Shortly after the Northwest Ordinance was passed by Congress, Alexander Hamilton noted in the Federalist Papers that: The wealth of nations depends upon an infinite variety of causes. Situation, soil, climate, the nature of the productions, the nature of the government, the genius of the citizens—the degree of information they possess—the state of commerce, of arts, of industry—these circumstances and many much too complex, minute, or adventitious, to admit of a particular specification, occasion differences hardly conceivable in the relative opulence and riches of different countries. (No. 21)

In the case of the United States, we undertook a long, protracted process of establishing a new nation across a vast, mostly unsettled territory. It was a territory possessed of vast, resource-rich tracts of land, game, wildlife, strategic and life-giving rivers and streams, and great natural bounty. This enormous resource base, the selective nature of immigration, the form of government (and its underlying philosophy), the social and civic institutions, and the industriousness of the citizens, all fused to create a great national superpower in the 20th Century.

Israel Zangwill's "melting pot" succeeded because:

(1) a firm, long-developed framework of national political and economic culture and operations had been firmly established by the time the largest immigration waves hit;

(2) sheer abundance of physical space permitted immigrants and their descendants extraordinary mobility, and an ability to move to, or establish, new communities in which to live;

(3) the absence of any large population that laid an a priori claim to burial grounds, holy land, ancestral homes or sacred grounds that would resist the encroachment of new settlers.

(4) the absence of any officially-sanctioned linguistic and cultural preservation, preference or priority that could discourage assimilation.

If the United States is exceptional, it is exceptional because of past historical circumstances and the recency of its settlement. But, as noted ecologist Garret Hardin has observed, the same factors that enable a group or nation to prosper and multiply are often the same ones that lead to its demise.

The nation's need for immigration ended shortly after the turn of this century. With the labor supplies met for the industrial revolution (accomplished through immigration from 1870 through 1920, and internal rural to urban migration over the same period), the annual immigration level was firmly capped at that point (below 200,000 a year). And, most importantly from our standpoint, there was never any national consensus to this day to raise the numbers. Lost in our somewhat rosy view of immigration history is the fact that this turn-of-the-century wave was an exception, not a rule. Most of our immigration history was of much lower levels, usually below 250,000, and often far below that.

We enjoyed a virtual end to immigration from 1920 through 1965. It was during this period that the children of the Ellis Island wave made great strides toward assimilating into the national culture. Arguably, this assimilation would not have occurred had there not been a stop to immigration in 1920. World War II gave immigrants' children a chance to enter the labor force, compete on equal terms and prove their worth in combat. Post-war prosperity led to the creation of new suburban communities that enabled the melting pot to work in earnest. A new suburban neighborhood had the advantage of eliminating the force of prior territorial claim so characteristic of urban ghettos. Everyone's new on the block.

Everything seemed to be working fine, until 1965. At that point, some in Congress and the holdovers from the Kennedy Administration decided that immigration should be viewed as a "civil rights issue," rather than one tailored to meet the national needs. In 1965, without meaningful debate, we put in place new immigration laws that set in motion the greatest single flow of immigration in American history. Why? At this point in our history, why do we need immigration?

Do we need more people? Are we underpopulated?

Is there an acute labor shortage in the U.S.?

Is there insufficient traffic on our roads?

Are the water tables in Florida, California and Texas flooded?

Is there an excess of prime farmland in America?

Is there too much wildlife in our national parks?

Is there an overabundance of beachfront property to be developed?

Do we need immigration to improve American public education?

Do we need immigration to reduce crime in America?

Do we need immigration to improve medical care?

Are there too many acres of wetlands in need of paving?

Are we too homogeneous to be a legitimate nation?

Does our national security depend on any way on significant immigration?[4]

I think (and FAIR thinks) the answer to each of these questions is no. So if we don't need immigration, why have it?

The answer seems to be perceived tradition and habit.

But this habit is going to create a lot of problems.

First, legal immigration ("legal immigration" is a fictional concept that implies "by consent of the majority," something that is not in any way happening today) is running too high for any reasonable national future. According to demographers Lindsey Grant and Leon Bouvier: the United States grew from a nation of 76 million in 1900 to 249 million in 1990 (and to an estimated 260 million in 1994). Forty-three percent of that growth consisted of post-1990 immigrants and their descendants. Present immigration and fertility patterns place us on the path to a population of 397 million by 2050 and 492 million in 2100. More than 90% of that growth will be a direct result of post-2000 immigration.* * * We find the idea of another doubling of U.S. population thoroughly frightening. Consider the impact of many of the nation's current problems: urban decay and unemployment, energy dependence, nuclear waste and sewage disposal; loss of biodiversity and resistance of agricultural pests and diseases to pesticides and medicines; acid rain, climate change, depletion of water resources, topsoil erosion, loss of agricultural lands and destruction of forests, wetlands and fisheries, to name just some.[5]

Most of this population growth will take place in America's coastal counties (the counties that include big cities like New York, Los Angeles and Miami). Fully 60 percent of the coastal county population increase during the 1980's is due to immigrants entering the U.S. during the decade, compared to a much smaller 20 percent share in the non-coastal counties. If you've driven through many of America's coastal counties, you know what is already happening: crowding and congestion are the norm, open space is the exception. Well, things are going to get a lot worse, thanks in large part to immigration.

In California's coastal counties, where 80 percent of the state's population is concentrated, population density is currently just over 600 people per square mile. By 2010, when California's population is projected to reach 50 million (or more—the projections grow faster than I can keep up with them), population density in the coastal areas would be a staggering 1,050 people per square mile! That's twice the population density of Haiti. Most of this growth is concentrated in the urban core or the coasts itself.[6]

So it's easy to see why Bouvier and Grant are concerned about urban decay, sewage disposal, housing, wetlands loss, crowding and congestion. Who wouldn't be? Most people don't seem concerned because they don't really know about it. But others who do know are turning a blind eye: most of the "establishment" environmental community, population organizations and government planning agencies have accepted a growth projection that cannot possibly be accommodated in these coastal regions without dramatic changes to our quality of life, living standards and basic liberties. Where are the roads? What about the housing, the infrastructure, jobs, waste removal and water? We will be marshalling our scarce national resources to try to accommodate this huge

influx of people without any sense of our national destiny or goal. Yet no one seems to want to pull heads out of the sand and ask "why"?

THE SKILLS MISMATCH

Another security concern relates to the mismatch of immigrants to skills. The family preference policies in place since the mid-1960's continue to select most immigrants based on who they know, not what they know. At a time when our economy is placing a premium on a highly skilled, educated work force, our immigration policies are admitting ever-growing numbers of unskilled, poorly educated people. Moreover, our policies, as they are currently formulated to favor family "reunification" (a euphemism of classic proportions), will result in an acceleration of this trend in the coming decades. Family preferences are self-promoting, self-multiplying, and capable of fueling downstream expectations prematurely among millions of prospective immigrants. These factors lead to a de-skilling of the immigrant stream.

In other word, immigrants are getting . . . well, less literate and technically endowed. Of the nearly 1 million people who come here through the legal immigration, refugee or asylum processes, a mere 160,000 visas are set aside for people based on their skills. And even that is a misleading statistic, because approximately two-thirds of those visas go to the dependents of the skilled workers. In addition, between 250,000 and 500,000 illegal aliens settle permanently each year. Thus, of the 1.2 to 1.4 million permanent immigrants who come to the United States each year, only about 60,000 or 5% are selected because they have some unique qualifications that our country desires. No doubt some highly skilled individuals come through the family preference or refugee process, but relying on that is the policy equivalent of fishing with a drift net. (Including educational and income data on the recent amnesty recipients only skews the data more dramatically in the same direction. Unlike 1970, today's immigrant is more likely to be on welfare, more likely to be working in a low income job, and more likely to be eligible for the Federal Earned Income Tax Credit than the native born American.)

As honest, sincere and hard working as most may be, the profile of today's immigrants simply does not match our needs as a nation. Faced with the already daunting task of making the transition to the high-tech, highly competitive global economy of the 21st Century, an immigration policy that admits more than a million people a year, without regard to their skills, is a luxury we can no longer afford.

BRAIN DRAIN

It has been often observed that the developed nations probably do not want to siphon all the technical talent from the developing nations. The American interest in the respective security of all nations means sometimes resisting the impulse to substitute American technical labor for cheaper imported labor.

But new evidence just reported in Money (July 1994) confirms what many of us have feared for some time. We are losing the best and the brightest to other nations. According to Money, "driven by rising crime rates, and limited job opportunities, as many as 250,000 Americans are leaving the country for good every year. Nearly one in five Americans are thinking about moving abroad, and fully 26% of those with incomes of $50,000 or more have contemplated it." The article claims this foreign flight is related to "a pervasive sense of disillusionment and pessimism in the country today." Many cite objective quality of life factors (many, I think, related to overcrowding). This out-migration trend would put the U.S. in the same position Britain found herself in back in the 1960's. Large scale unskilled immigration, native-born highly-skilled emigration. It is devastating to national competitiveness.

RAPID ETHNIC CHANGE—THE SECURITY OF AMERICA'S INSTITUTIONS

Immigration is an emotional issue for many good reasons. Race and ethnicity are two of them. These sensitive topics have a long history of exploitation by ethnic leaders, demagogues and historians. But the implications of current trends are so marked that they must be mentioned in any serious discussion of the impact of immigration on national security. Again, Leon Bouvier: If current demographic trends persist, that is to say, if fertility remains fairly low, if life expectancy increases slightly, and if net immigration is about 950,000 annually, the majority Anglo group, now representing about three-quarters of the population, will comprise just over half of that population by the middle of the twenty-first century. The Latino group will surpass Blacks before 2020 and comprise 22 percent of the nation's population by 2050 while the Black share will be about 13 percent. The proportion held by Asians too will grow—from 3 percent in 1990 to 11 percent sixty years later.[7]

We know from the growing border pressures down the line, these are probably conservative projections. Bouvier notes that "the remarkable shifts taking place in the composition of the population of the United States are bound to have momentous impact on the political structure of the United States." (Supra. note 6 at 7) This takes us back to the security questions enumerated earlier: we must look at the nature of these shifts, and their relative dynamic within the nation as a whole. In other words, we need to look at what is really going on.

There really is no precedent for these kinds of rapid ethnic shifts taking place in the U.S. over so short a period of time. (And no nation has ever sustained these kinds of shifts for any prolonged period of time and survived as a nation.) The last wave (still smaller than today's) at the turn of the century had features different than this one. First, in 1900 many Americans were also migrating from farms to cities. This meant that both foreign immigrants and native Americans were converging on cities simultaneously. Today, as we'll discuss in a moment, native Blacks and whites are fleeing high impact areas (Florida is the only exception, for its peculiar reasons).

Second, the rate of ethnic change is much faster now because of the stable population growth rates previously established by most of the U.S. population in the 1970's. At the turn of the century, the U.S. birth rate was much higher, as much as twice the current level. Today, whites are at or below replacement level, while minorities are above it. That means that immigration is a higher proportion of population change now than it was at the turn of the century-and it means that immigration in the 1980's (and 1990's) has been contributing to a higher percentage of population growth (over 35%) than it was in the first decade of this century (about 28%).

The result: faster and more robust ethnic changes, with greater regional concentration and growing fragmentation.

The 1990 Census revealed these troubling trends: sharpening regional divisions along racial and economic lines. University of Michigan's Dr. William Frey, a demographer, says that "rather than leading toward a new national diversity, the new migration dynamics are contributing to a demographic 'Balkanization' across broad regions and areas of the country." The evidence is clear: poor immigrants move in, poor whites and blacks move out. This is a new trend, not consistent with earlier historic immigration and internal mobility patterns. There emerges an increasingly bifurcated economy, in which low-skilled immigrant laborers have relatively few opportunities to work their way up into higher paying, skilled jobs and middle-class status. The loss of a middle class, combined with ethnic fragmentation, should be the first real flare in the sky. People have to want to live together, interact and assimilate to get along. At some point this must happen. But can it ever happen if there is no let up in immigration?

None of this new evidence surprises me, of course. Why should it? They are the natural consequences of the nation's immigration laws: admissions without planning, oversight or consideration of domestic impacts. (Not a single sponsor of the 1965 Act accurately predicted the full consequences of the laws effects.)

But these changes are happening, and we must face them or alter their course. While immigration policy should not discriminate against any particular immigrant based on race, religion or ethnicity, these ethnic concentrations must be considered within the context of our future security and health as a nation. We must consider whether we want to keep doing what we are doing, or try something else for a while. (Polls show most Americans want immigration reduced, and FAIR thinks the nation could use a moratorium or "time out" on immigration for a while.)

Few would deny that we are balkanizing and re-segregating the nation into regional enclaves at a time when our political, academic and cultural institutions eschew the "melting pot" concept. It is fashionable to foster the barriers that divide, and on college campuses today, it is required for social acceptance that one be part of an ethnically-defined subgroup. Through the operation of laws such as the Voting Rights Act (guaranteed seats, ethnically-based districts, bilingual ballots), the Census Act (counting illegal immigrants in the Census for reapportionment), the watering of distinctions of citizenship (non-citizen voting, certain "equal protection" holdings), and a full battery of federal and state programs, such as Affirmative Action and long-term, non-transitional bilingual education, that encourage separate identification, immigrants and their self-appointed ethnic leaders are inundated with messages that "unum" is out, "pluribus" is in.[8]

What does it all mean for the nation and its security? It depends on our speculations regarding the health of our institutions. For those influentials who believe that "United States is simply an idea," or "a nation of immigrants," or "a concept," all this probably means nothing much.

But a nation is more. It is a people, its land and its institutions. The institutions include customs and conventions, common conceptions of right and just, a shared history sufficient to create some bond, and shared habits and traditions that enable them to co-exist, interact and engage in commerce and political life. In short, through our civic institutions, a people must recognize one another and what defines them

as part of a national community. We must look realistically at the conditions that have allowed us to prosper and cohere as a nation. With those in mind, a people must be prepared to defend its land and institutions against outside assault. If we do not wish to protect American institutions, and defend the land for our people, then at that point we will cease to be a nation. Do we have a lot of time?

THE SECURITY OF THE LAND

If we don't really care to defend our domestic institutions, and we don't much care to define who we are as a people, then what about the land? Look at our borders. We've had ten million illegal immigrants come to the country since 1970, and more enter each year. Until recently, most Americans seemed willing to ignore this invasion of the soil. But polls show a changing public mood. People are ready for a change: they want the nation to control its borders. The reasons are simple: when illegal immigrants enter at low rates, no one minds a few harvesters and service workers. But on a sustained, chronic basis, large scale illegal immigration is a wage subsidy for employers that ultimately undermines the entire labor base of an area. And the costs all fall on state and local taxpayers. The voting public has again asserted its desire for meaningful borders and its prerogative to describe who "We the People" are and are not.

The dismal state of political asylum is now common knowledge.[9] Asylum has become a symbol of the broken state of America's entire immigration control system. People just show up at our airports and make phony asylum claims. Shortly, they receive work documents and a hearing date, often without any positive proof of identification. Many are never heard from again. The public is outraged at the situation. But what has Congress done? Nothing.

Attached as Appendix A is a flowchart of the steps required in the deportation process. The chart looks like something from the health care debate. No one could easily follow or understand it. But this is the procedural morass that has rendered America's borders unenforceable. Yet this chart illustrates the variety of appeals and delays that are available to the alien to stall deportation indefinitely. The possibilities for collateral attacks, motions to reopen, motions to reconsider, and parallel avenues of relief are endless, and so is the process.

Lacking adequate detention space for all but a tiny fraction of illegal aliens, most go free. This maze of delay serves their interest quite well. The entire process continues, broken and unabated, until the nation is faced with a highly visible national security crisis such as the World Trade Center bombing, or the Haiti and Cuba outflows. Then, suddenly, the political leadership pays attention.

CRIMINAL ALIENS

A series of jarring incidents in 1993 gave the public the unmistakable impression that immigrants are not all honest and hard working. Some are here to commit crimes, while others are part of a growing number of international organized crime rings that specialize in everything from alien smuggling to computer and credit card fraud. Criminal aliens are overrepresented in the Federal criminal justice system, and information about the nature of sophisticated international syndicates is creating resentment and anxiety among the general public.

The security threat comes from an inability to identify someone as an alien during pretrial screening or arrest. A person's capacity to slip in and out of the country with several identities certainly facilitates criminal activity. Agencies do not check with one another, and everyone knows the Immigration and Naturalization Service lacks the basic capacity to verify its own documents and information.

The internationalization of organized crime poses a particular security threat to the United States. Our ineffective identification technologies make it very easy for international criminal syndicates to manipulate U.S. admissions and eligibility procedures to render an illegal alien "entitled" to medical treatment, employment or residence. As the level of desperation to move grows around the world, these international syndicates that specialize in the movement of people are only going to grow, and be a more powerful component in the field of organized crime.

THE SECURITY OF A SECURE ID

In the United States today, we do not have any way of linking people to their birth records. This means there is an enormous gap between personal identity and basic government documents. For years, commissions and agencies have sought improved documentary standards. Nearly all advanced industrialized nations have ID systems. Yet, here in the U.S., we steadfastly oppose them. Why?

We will never properly secure our borders without improved ID systems. Yet just this month, we had another flare up over the ID issue. It was as predictable as the sun rising in the east. No sooner had Barbara Jordan, head of the Commission on Immigration Reform recommended a pilot program to test a verifiable Social Security card than the fear mongers leaped into action. The usual buzz words and phrases, designed to strike fear into the hearts of various groups of Americans flew in all directions. Jordan's recommendation was to simply create a fraud-proof social security card to verify the number electronically. Even that was tough to swallow (even though the Internal Revenue Service has several pilot Social Security number verification programs now underway).

The United States today maintains citizenship on the honor system, and millions of people around the world know it and are prepared to take advantage of that weakness. The nation needs a national birth-death registry.

Why this loophole hasn't been corrected seems less to do with the fact the idea is controversial and more to do with fact that no Federal agency really has responsibility for the problem. Secret Service worries about fraud and Social Security hands out numbers based on presentation of a (hopefully) valid state birth certificate. That's it at the Federal level. And there seems to be a great deal of inertia to tackle this problem. Given the absence of revenue possibilities, the projects seems to fall into the "too hard bin." Yet the security of our borders, and our ability to detect criminal aliens, depends upon more and better systems of identification verification now.

No amount of border enforcement will work without improved capacity to identify who is a citizen, and who is here legally and who is not. Unless we clean up the citizenship records, a vital crack in our national security remains vulnerable to exploitation.

CUBA AND HAITI

What a disaster! The Clinton Administration seems to be determined to demonstrate its inability to anticipate events that its own intelligence predict will occur with 100% certainty. Our intelligence agencies have seen this outflow from Cuba coming for at least two years (surely longer).

The Governor of Florida has just asked the Federal Government to declare a "state of immigration emergency." This is new. This is a new name to describe a phenomenon that has underscored the acute national security implications of massive, uncontrolled in-migration situations to Florida. First there are costs to Florida. State and county costs for health care, education, resettlement assistance, food stamps and related expenditures are prompting Florida to ask for Federal assistance.

Secondly, there is the Federal and national security interest in the regulation of our borders. A foreign nation that seeks to export its opposition, or its unemployed labor force should be considered as engaging in a hostile act. This interest must be asserted in a way that is consistent with our overall foreign policy in the region. But since we now know that these situations will be common and growing in frequency and magnitude, we cannot allow our foreign policy to be dictated by threats of massive expulsions or uncontrolled out-migrations of people.

As the Cuba and Haiti disasters reveal, the chronic threat of uncontrolled migration has the potential to jeopardize U.S. security interests in regional Hemispheric operations and in vulnerable domestic communities. It is also possible that larger U.S. security interests are threatened by the apparent readiness implications of the concentrated deployment of Navy ships in the affected regions. Drug trafficking, refugee and humanitarian relief, economic blockades and immigration interdiction emergencies have all siphoned money from potentially vital strategic hardware acquisition programs and related projects. Soon, if not already, America's military capacity is likely to be compromised.

Lastly, the Clinton Administration announced this week that it was prepared to detain Cubans in Guantanamo Bay Naval Base "indefinitely." While this threat was made to try to discourage Cubans from leaving Cuba, it may also produce a disaster at Gitmo. Firstly, the United States has as security interest in not detaining thousands—tens of hundreds of thousands perhaps—of foreign nations indefinitely on our soil (lease or otherwise). Putting that aside, what happens if Castro removes his Guards from the Cuba side of Gitmo and Cubans run in? Has anyone considered this?

CONCLUSION

The ad hocracy of this administration's response to migration crises amply illustrates the hazards and potential threats to our national security represented by uncontrolled migration. We must have a better plan in the future. We must have a better understanding now. As a nation, we must be better prepared psychologically to make the sure calls that sound principles permit. We need to understand that the age when international migration could solve human problems is over for the overwhelming majority of mankind. If we and the other developed nations are to control our own destinies and respective national security, then we must recognize the most worldwide will have to "bloom where they're planted." Most will never be able to move from their place of birth, instead individuals will have to work to change those conditions they find unacceptable.

Our role must be to try to help people improve conditions where they are, within our capacity as a people. While we have a moral

obligation to use our resources wisely, nations are and must remain the essential unit of governance. Some say the nation state is a thing of the past. I do not agree. Nation states will emerge from the present age stronger then ever.

But ours will not necessarily survive unless we prepare to weather the forces in our path these next thirty years. We must re-assert control over our borders now—before it is too late. We have been too lax for too long. Sovereignty is the guarantee of a nation's and its citizens' right to exist—and their right to regulate entry. It is the sole guarantor of our ability to pass along our natural and environmental resources in healthy conditions to future generations. It is our only reliable security for our future.

Thank you.

FOOTNOTES

[1]These include the Kurdish secessionist movements in three countries, Northern Somalia, the Tamils of Sri Lanka, the South Ossetians and Abkhazians in Georgia, the Indian Kashmiris, the Sikhs of India's Punjab, the Armenians of Nagorno-Karabakh, Northern Cyprus, the Southern Sudanese, the Oromo of Ethiopia, the continuing secessionist embroglio in Burma, Bougainville in Papua New Guinea, and the Chittangong Hill Tracts in Bangladesh. Basques, Quebec, Sardinia, Corsica, Wales, Scotland and Bretons are examples of ethnonational movements in the Western world. "Historical and Contemporary Assessment of How States Use Secessionist/Ethnic Movements to Achieve Political Objectives," Alexis Heraclides, et. al., June 1993, National Strategy Information Center paper, at 15.

[2]Reprinted in The Social Contract, Winter 1992-93, at 118.

[3]These were mostly carried forward in the Constitution of the United States as ratified, and later amended by Bill of Rights.

[4]Here there is some difficulty. Some argue, like Edward Luttwak and Ben Wattenberg, that the nation needs young people to form the modern day equivalent of Napoleon's Grand Armee. A nation that is unwilling to risk the lives of its (definitionally) expendable young people must no longer be a great power, says Luttwak in the July/August issue 1994 of Foreign Affairs. Wattenberg claims that a rapidly growing population is vital to national strength, especially if your enemies are growing faster. In 1987, for example, in a book entitled "The Birth Dearth," Wattenberg claimed we were in trouble because our population growth was not slated to grow as rapidly as that of the Soviet Union. This, he claimed, would leave us in mortal jeopardy by the year 2000. These arguments, like those arguments that insist immigration is needed to insure the solvency of Social Security, rely on a cramped view of the true source of national power. In the former case, it is a high quality, well trained and educated workforce, in the latter case, it is fiscal discipline at the federal level.

It's also possible that an Albert Einstein could immigrate as a refugee. No question about it. Albert Einstein not only expanded the productive potential of the American economy, he did wonders for improving our national security. But we can't run an immigration program admitting millions of people in the hopes of getting another Einstein. It is just not practical. The problem is that Einstein's greatness had nothing to do with the fact that he was a refugee. Had he been allowed to work anywhere, he would have made great contributions where ever he was. Remember, many great inventors produced inventions in other nations that led to great commercial advances here. Ideas can be freely exchanged more easily than people. (Of course, if you know you have an Einstein who wants to immigrate to the U.S., we could hardly be faulted for making the extra effort to bring him or her in. On the other hand, if America's only immigration problem was that ten Einstein's wanted to immigrate to the U.S. each year, I would not be here talking with you today.)

[5]Bouvier and Grant, "The issue is Overpopulation," Los Angeles Times, August 10, 1994, B7.

[6]For more information on these trends, see Fox and Mehlman * * * Crowding Out the Future: World Population Growth, U.S. Immigration, and Pressure on Natural Resources, Federal * * * American Immigration Reform (1992).

[7]Bouvier, "The Domestic Political Consequences of Projected Immigration to the United States in the First Quarter of the Twenty-first Century," National Strategy Information Center, June 3, 1993. It is a tribute to assimilation that today, all non-Hispanic whites are being labelled "Anglo."

[8]Bilingual translations and training in the military has been a mighty challenge when it has been tried. Consider that over 50 languages are now spoken in Los Angeles County public schools. Surely the maintenance of a common language in the military is of vital interest in ensuring the efficient operations of our military establishments.

[9]See, e.g., transcript of 60 Minutes, CBS News, air date, March 15, 1993, 7 p.m., e.s.t., segment "A" on political asylum abuse at JFK airport FAIR has endorsed several bills pending in Congress that would accelerate the hearing process and provide for "summary denials" at ports of entry. We believe that if the Clinton Administration had moved more aggressively to implement a one-shot summary procedure, there would be much less need for these chaotic, embarrassing interdiction efforts in the Windward Passage and between Cuba and Florida.●

HONORING HARRY LEMIEUX

● Mr. DURENBERGER. Mr. President, I rise today to honor a good friend of mine and a man who devoted his life to serving his country and advancing its health care institutions. Today we mourn the passing of Harry Lemieux of Eagan, MI, a champion of veteran's rights and the health care providers of our state.

Harry was born in St. Paul where he graduated from the old Marshall High School. He enlisted in the Navy and served for 22 years, including several years in the South Pacific during World War II. He specialized in submarine warfare and worked with the Naval Reserve's Weekend Warrior Program until his retirement from the military in 1966.

As chairman of the Veterans' Legislative Committee for 8 years, Harry led a coalition of military groups that still fights on the veterans' front. He was a member of the American Legion, VFW, Fleet Reserve, Shekinah Masonic Lodge 171, and Osman Temple Shrine.

He worked briefly for the St. Paul Housing and Redevelopment Authority before he and wife, Pearl, bought West St. Paul's Southview Acres, a nursing home complex in 1966, which they enlarged from 71 to 257 beds. In 1983, he built the 200-bed Apple Valley Health Care Center, and 3 years later a 208-bed Villa apartment complex for senior citizens attached to the health care center.

Harry was also an active leader in the health industry. He was president of the Minnesota Association of Health Care Facilities and lobbied the legislature on bills to benefit the elderly.

My good neighbor Harry Lemieux's contributions remind us, as we discuss health care reform, how important it is to maintain a system that cares for the individual and rewards individual achievement. Harry's contributions will not soon be forgotten by those who most benefited from his work—the veterans, the elderly and the beneficiaries of his innovative care. We will miss him greatly.●

UPDATE ON PROGRESS ON THE NATIONAL COMMISSION ON CHILDREN'S CHALLENGE: BEYOND RHETORIC: A NEW AMERICAN AGENDA FOR CHILDREN AND FAMILIES

● Mr. ROCKEFELLER. Mr. President, almost six years ago, thanks to the leadership of Lloyd Bentsen who was chairman of the Senate Finance Committee at the time, Congress established a bipartisan panel to take a comprehensive look at the well-being of children and families—the National Commission on Children.

It was my distinct honor and privilege to chair this panel of 32 members that included elected officials, child advocates, academics, and leaders from all levels representing the complete range of the political spectrum. Each of these individuals continue to provide tremendous service to children and families across the country.

As the Commission's charter directed, our group dedicated 4 years to studying the challenges facing America's children and families through intense study and by traveling the country to meet, not only with experts, but also with American children and parents.

Many of the most moving events and greatest learning experiences for the Commission were at our meetings with children who spoke in compelling personal terms about their needs and their fears. Our visit to West Virginia, to talk to families struggling to make ends meet and to explore ways to help them raise their children, was memorable.

After 2½ years of hard work and intense study, this diverse group voted unanimously in support of our final report released in 1991, Beyond Rhetoric: A New American Agenda for Children and Families.

The process of forging this historic consensus among such a diverse group was an important experience for me. It convinced me that when leaders are willing to set partisanship aside and focus on the core problems facing children and families, there is tremendous agreement on what should be done.

After issuing our report, the Commission stayed active for 2 more years to aggressively publicize our recommendations and the information gathered throughout our work. Our goal was to ensure that the course of action suggested in our unanimous report did not vanish into thin air. To go beyond rhetoric, we felt we had to promote the decisions and commitment needed at all levels to build a better future for America's children and families.

The Commission's final event was a major summit in Washington, DC, in 1993 to gather leaders and child advocates from around the country together to discuss how to move beyond rhetoric and into action. There, we

passed the torch from a commission to the people and organizations committed to children and families. I was especially proud that several Cabinet officials participated in our summit along with a wide array of leaders from communities, States, and national groups.

The report of the Children's Commission has become my own personal and legislative blueprint for action on behalf of children and families. I believe it charts the right course for helping children by strengthening families, a goal which has attracted increasing attention and bipartisan support since 1991.

Today, I want to report on the accomplishments made during this Congress in implementing recommendations of the National Commission on Children. This is also my chance to renew my pledge to push forward—bit by bit—until the full proposals of the Children's Commission becomes the Nation's agenda.

In order to keep pushing ahead, I think it is essential to recognize the results achieved on behalf of children and families since our Children's summit last year.

The Commission outlined several major areas for action on behalf of children and families. It challenges all of us—elected officials at every level, community leaders, parents, and concerned citizens to each do our part. It is gratifying to report that real progress has made in each of seven specific areas highlighted by the Commission for change:

ENSURING INCOME SECURITY

The National Commission on Children concluded that the fundamental key to improving the future of America's children is in strengthening the financial security of our Nation's families. In our report, we laid out the elements involved in achieving greater income security or families. We called on the country to recognize that investing first in families and making family income security a priority is the way to build a more stable society and promote the values of work, responsibility, and family.

This is a challenging agenda. It involves making decisions to direct resources to families rather than less important areas.

I am proud to note that last year when Congress enacted the deficit reduction and economic plan, called the 1993 Reconciliation Act, we made some major strides on behalf of children through elements of the package that some of us worked hard to include. Much of the national debate on this budget package focused on the tax provisions and spending cuts included to achieve the historic result of $500 billion in deficit reduction over a 5-year period.

That louder debate about the tough choices involved in deficit reduction practically drowned out the major steps we also included to meet other important goals.

In this budget package, we expanded the earned income tax credit to help parents who work but are struggling to raise their children. This provision will invest $21 billion in helping families with children over a 5-year period to lift them out of poverty. It sends all the right signals about work and personal responsibility. With President Clinton's strong commitment, I fought for this part of the agreement because it was a key recommendation of the Children's Commission strategy to enhance income security for families.

The package also strengthened child support enforcement by pushing States to be more aggressive with hospital-based paternity establishment programs. Obviously, we will need to do much more to strengthen child support enforcement as suggested by the Commission. I am continuing to press for the Commission's recommended demonstration of child support insurance to increase the income security of families broken up by divorce or in cases where a parent is absent.

The other remaining elements of the Children's Commission agenda include a refundable child tax credit and promoting work over welfare and dependency. President Clinton put forward a bold initiative with his welfare reform bill that tries to meet some of this challenge, and I am eager to work next year for passage of a balanced proposal to dramatically strengthen child support and provide jobs so parents can work and become role models for their children.

IMPROVING HEALTH CARE

The Commission laid out the importance of action to improve the chances of children being born healthy and growing up healthy. A majority of the members endorsed a detailed plan to achieve universal health coverage of children. While nine Commissioners differed from that proposal, we all expressed broad support for a series of actions to promote personal responsibility, prevention, and public health.

Since then, major progress has been made toward full funding for the Supplemental Food Program for Women, Infants and Children [WIC] with an increase of $600 million over the past 2 years. Every dollar spent on WIC yields savings in Medicaid because proper nutrition for pregnant women and infants makes a real difference in their health. Increased investments also are being made in a comprehensive program for child immunizations to ensure that every child gets vaccinated.

The Commission also agreed on the need for parents and communities to create a healthy, safe environment for children. Action in the Violent Crime Control and Law Enforcement Act of 1994 will provide funding to communities to keep our streets and schools safe. At a session with teens in Kansas City, Children's Commission members were stunned to hear teenagers candidly talk about fears of being shot or hurt. The numbing statistics that guns are the leading cause of death for both black and white teenage boys in America tell us that crime and violence is a severe health care problem.

Unfortunately, there is no single solution for the violence that plagues our Nation, but I hope that growing public awareness and investment in community-based prevention efforts in the crime package will help curb violent crime that places the lives of children and teens at such grave risk.

Having made health care reform a priority, I had hoped that this session of Congress would have done much more to provide health care to children by enacting comprehensive reform to provide universal coverage. Lack of action on this fundamental issue is a major disappointment. But we must learn from this effort, and I will continue to work for universal health care coverage with the belief that it makes sense to put children and pregnant women first.

INCREASING EDUCATION ACHIEVEMENT

The untold success story of this Congress is the magnitude of progress made to improve our schools and other aspects of education. Comprehensive changes and investments have been made over the past 2 years in areas that include education reform, Head Start improvement, and direct lending for college student loans. These legislative initiatives support the broad goals of the Children's Commission.

Our report emphasized fundamental points beginning with the need to prepare children to enter school ready to learn through the expansion of Head Start to all eligible children and greater emphasis on quality child development.

For schools, we called for rigorous academic curriculum, professional development for teachers, school-based management, greater accountability, improvements in school environments, and more equitable financing. The commissioners thoroughly debated the issue of school choice and ultimately supported school choice among public schools only.

These specific goals are reflected in both Goals 2000, Educate America Act, signed into law on March 31, 1994, and the Elementary and Secondary Education Act [ESEA] that the Senate approved by a strong vote on October 5, 1994. I was proud to support each of the bills. Special investments also have been made in promoting school safety which is a major factor in improving school environment.

Head Start continues to earn strong bipartisan support; and, despite the tight constraints of the Federal budget, this key program received an increase of more than $700 million combined in the past 2 years. Congress also

passed legislation reauthorizing this program which includes efforts to ensure that each Head Start Program delivers the full quality services promised to children and families. We have not achieved full funding yet, but we are on the right course; and the enactment of our national education goals which begin with school readiness should keep us on track.

Secretary of Education Dick Riley also has recently announced a major initiative to promote parental involvement in education, and I believe this is crucial. Nothing is as important for a child's education as having concerned, engaged parents who work with teachers and encourage children to read and work hard in school. As commissioners, we visited the Helene Grant Elementary School in New Haven, CT, and saw for ourselves what a difference parental involvement can make. Even though this school was old and somewhat rundown the classrooms were alive with eager students engaged in learning, thanks to the help from Dr. James Comer and his extraordinary work in school-based approaches that engage parents in school activities.

PREPARING ADOLESCENTS FOR ADULTHOOD

The Commission also called for greater emphasis and attention to helping teens make a smoother transition into adulthood. We stressed the need for education and training. Our report also urged greater efforts to link school to work, including expansion of the Job Corps Program. Our recommendations also noted the importance of promoting healthy development to urge teens to avoid high-risk behaviors.

Important progress has been made in this area with the passage of the bipartisan School-To-Work Opportunities Act which will promote a variety of innovative transitional programs like tech prep and apprenticeships so teens can get experience and acquire job skills needed to compete in the modern workforce. Many States, including my State of West Virginia, are investing in such programs. Enactment of this bill will promote a more comprehensive strategy to ensure that teens can learn the skills they need to get good jobs and become independent. I cosponsored this bill and hope recognition will grow to see the consensus on education that emerged during this Congress and allowed us to push forward on the Commission's education goals. Job Corps funding has increased, and the direct lending program should make it easier for students to borrow and then repay loans for college.

The effort to persuade teens to avoid high risk behaviors is a major challenge, but many communities are rallying to respond. At the Federal level, various prevention initiatives are underway to reduce dropping out of school, to reduce teen pregnancy, and to curb substance abuse. Trying new approaches through the demonstration projects is important, and I believe that we must provide flexibility in programs because what may work in inner cities may not necessarily be appropriate for teens in Elkins, WV. President Clinton's welfare reform proposal includes a major commitment to reduce teen pregnancy, and it deserves our attention and action next year.

As the Children's Commission noted time and time again, primary responsibility in this area rest with parents and caring adults willing to provide guidance and support for teens on a one-to-one level to avoid high risk behaviors as they grow up.

STRENGTHENING FAMILIES AND PROTECTING VULNERABLE CHILDREN

The Commission also clearly stated the simple but crucial fact that the best way to help children is to strengthen families. This basic truth will require many changes. Public policy can help reinforce fundamental values and provide crucial support for families; but the lion's share of this work must be done by caring individuals getting involved with their own families, friends, and communities.

Still, where Federal policies can make a difference, there has been positive action with the enactment of the Family Preservation and Family Support Services provisions of the 1993 Reconciliation Act. This program will invest almost $1 billion to offer intensive services to high-risk families and support innovative efforts like Parents As Teachers and Home Instruction Program for Preschool Youngsters [HIPPY] to help parents get the support and education they need to raise their children.

This initiative is a down payment on the more comprehensive approach suggested by the Commission to provide coordinated community-based family support networks with services ranging from intensive support for severely troubled families to more preventive services in parent education and child development. The idea is to give communities the resources and tools to reach out to families early with support.

MAKING POLICIES AND PROGRAMS WORK

Thanks to the leadership of Vice President GORE with the National Performance Review initiative to reinvent Government, there is a new concern about cutting redtape across-the-board on all Federal agencies which has enormous potential to help streamline programs for children and families.

While the Children's Commission never envisioned nor had the scope to suggest such a broad initiative to revamp Federal bureaucracy, the success of the National Performance Review can help meet the Commission's recommendations to bring greater cohesion and efficiency to the delivery of public health and social services to children and families. While uniform eligibility criteria and streamlined applications seems dry and unimportant, it is crucial. Complicated forms and regulations are serious barriers that prohibit children and families from getting the help they need and deserve.

CREATING A MORAL CLIMATE

The final chapter of our report challenged every American to take a leadership role in their own lives and communities in providing a clear, consistent message to children about personal conduct and responsibility. We urged every adult to renew their efforts to promote fundamental values of human dignity, character, and citizenship.

It is enormously gratifying to me to see this happening on many levels in a bipartisan manner. The bipartisan initiative, led with inspiration by Senator DOMENICI, called Character Counts, is just one example of an effort to reinforce fundamental values for our children; and I believe such initiatives are a vital piece of our comprehensive strategy for children and families.

While there is obviously much more to do on behalf of children and families, I am encouraged by these recent and significant achievements made in advancing the Children's Commission agenda. Our report provided a blueprint, and several cornerstones are now in place. We now must build on this success and keep working until we have a support structure for families that will help each child reach their potential and become a productive, caring citizen.

When asked, each one of us say that we care about our children. Words are simply not enough. The final chapter of our report focused on building the necessary commitment; and it begins with a quote from Goethe: "Knowing is not enough, we must apply. Willing is not enough, we must do."

With this statement, I have chosen to highlight the better news about children in America. We are surrounded with evidence of the failures and the problems that afflict children. We must never accept the intolerable. The progress described in this statement is the result of leadership, persistence, and cooperation.

We know how to help children and families, but we must summon the personal commitment and the political will to face the challenge and move beyond rhetoric to results.

This is a chance to thank the many individuals whose hard work and dedication have formed this record of achievement for America's children and families. With gratitude, I note the leadership of Cheri Hayes, who was the Executive Director of the National Commission on Children, and the talented team who worked with her over the years. With thanks, I commend my colleagues and administration officials for their consistent efforts to promote the values and the policies needed to hand America's children a brighter future.●

TRIBUTE TO EDWARD B. McREE

• Mr. RIEGLE. Mr. President, I would like to bring to the attention of my colleagues a renowned leader in health care in the State of Michigan. Mr. Edward B. McRee has just retired from his position as president of Ingham Medical Center Corp. in Lansing MI, after 33 years of service.

Mr. McRee is known to many as the "father of Ingham Medical Center." He has developed Ingham Medical Center from its early days as a tuberculosis sanitorium, into the highly specialized, acute-care institution that it is today. The center has become a premier heart care center in mid-Michigan, and is world renowned for implementing the use of arthroscopic surgery.

Edward McRee understands the need for comprehensive health care services, but he also believes in trying to control the rising costs. Due to his insight and creativity, Mr. McRee was the guiding force behind the merger of Ingham Medical Center and Lansing General Hospital in 1992, now referred to as Michigan Capital Medical Center. This system has allowed for the resources from each hospital to be joined, which means expanded services for clients at reasonable prices.

The leadership, public confidence, and character of Mr. McRee are demonstrated in his achievements in both his professional and private lifestyles. He is a life member of the Michigan Hospital Association, and currently holds positions as a trustee and executive committee member, and he has been a trustee for Blue Cross-Blue Shield of Michigan since 1986. Mr. McRee has been affiliated with numerous other local, State, and national professional, civic and religious organizations.

Mr. McRee demonstrates a deep personal commitment to improving the lives of others. He has dedicated his life to raising the quality of care for people in his community and across the United States. He has set a standard that all health care professionals should be proud to follow.

For his insights and leadership in the field of health care, I commend Edward McRee. He richly deserves this recognition for his important contributions to health care in Lansing, in Michigan, and in the world. On behalf of the citizens of Michigan, and on behalf of the U.S. Senate, I want to thank Mr. McRee for his outstanding efforts.•

SUE LUTHENS

• Mr. HARKIN. Mr. President, on Wednesday the Senate passed the conference report for the Improving America's Schools Act which includes a number of important provisions that impact our Nation's schools. I would like to highlight one change in this legislation and talk about the individual who brought to my attention the need to make this change.

In the 1988 reauthorization of the Elementary and Secondary Education Act, we recognized the unique circumstances facing schools with high numbers or concentrations of poverty and created the Concentration Grant Program. Under this program, certain high poverty school districts would receive additional title I funds.

The Des Moines Independent School District is the largest school district in Iowa. The district has the highest number of low-income children in Iowa as well as one of the highest concentrations of poverty. But, they do not substantially benefit from concentration grants.

Over 5 years ago, Sue Luthens, a member of the Des Moines Board of Education brought this issue to my attention. She was on a mission and talked with any one who would listen about the need to change the concentration grant formula. She provided evidence about the district's need for the additional funding to adequately meet the needs of the students. She never gave up and I am very pleased to report that the formula has now been changed. For the 1996–97 school year, Des Moines should receive about $700,000 in concentration grant funding.

This is the story of one woman's dedication to education and the students of Des Moines. So, if people say that one person can't make a difference, just tell them about Sue Luthens.

Sue served on the Des Moines Board of Education for 12 years and just retired from the board where she served as president for two terms and vice president for three. She also served on the board of directors of the Iowa School Boards Association and as chairperson of that organization's Federal relations network. She is a former high school teacher and has been involved in a number of other community activities.

Sue Luthens is a remarkable woman and as she retires from the Des Moines Board of Education I wanted to just let her know that her many contributions to education and children have been recognized and are greatly appreciated. I know that she will continue to serve her community in other ways. But maybe, she will have a little more time to do the things that she really enjoys, like spend time with and read to her grandchildren.

We thank you, Sue.•

USAF SCIENTIFIC ADVISORY BOARD 50TH ANNIVERSARY

• Mr. BINGAMAN. Mr. President, I rise today to commemorate the Air Force Scientific Advisory Board.

Fifty years ago, American technology ended a world war and saved several hundred thousand lives. General Hap Arnold formalized the role of top scientists played in advising the then Army Air Corps by creating the Scientific Advisory Group on December 1, 1944, and naming Dr. Theodore von Karman as its first chairman.

That group produced the renowned study, "Toward New Horizons," that set forth many of the early research and development goals by the early Air Force. The Scientific Advisory Group evolved into the Scientific Advisory Board that we commemorate today.

The mission of the Scientific Advisory Board is to provide the Air Force senior leadership with independent advice and counsel that will help the Air Force maintain technological superiority in air and space. Today's challenge for that group of renowned scientists is not unlike the original Scientific Advisory Group aim of assembling and evaluating facts on long-range research and development, and preparing special studies on scientific and technical matters pertaining to air power.

The growth of American air and space power since World War II has paralleled the scientific and technological development of the United States' industry. The Scientific Advisory Board established a vision for aerospace research and development and then remained active in forging lasting ties among academia, industry, and the military.

The Scientific Advisory Board epitomizes those critical ties that foster innovative concepts and applications of science and technology for a strong national defense. The people of these United States deeply appreciate the contribution Board members have made to preserving our freedoms and applaud their continued commitment to those ideals of self-sacrifice in public service.•

THE GOLDEN DOOR PROGRAM

• Mr. CAMPBELL. Mr. President, while the debate over the crime bill is finally over, the problems of crime are still with us. We must continue our search for creative and effective ways to confront these problems.

I have a unique perspective, from being on every side of the law, so to speak, as a youngster headed for trouble, as a sheriff's deputy and prison counselor, and now as a legislator. I know we have to lock up the violent criminals and keep them there.

I also know we simply can't ignore the other side of the question—prevention. Let's look at it realistically. When's the best time to go see the dentist—regularly, throughout your life, or after your teeth have all rotted out and your mouth is screaming in pain? Common sense tells us that preventative maintenance is a more efficient, cost-effective way to manage our lives and societal problems.

We must also realize that the problem is too big and too complex for government to handle alone. I want to tell

you about a private sector initiative that works by putting ex-offenders and the educationally, economically, and socially disadvantaged to work. It provides opportunity and alternatives to folks who need it most.

This program, called the Golden Door Program, is offered by Coors Brewing Co., in Colorado. For 25 years the Golden Door has given people a second chance.

The Golden Door teaches people to be more productive, reliable employees, providing participants the training and education needed to get and keep well-paying, full-time jobs. It's not a classroom training program—participants are paid an hourly wage for meaningful and responsible work at Coors' investment recovery facility. They learn how to operate fork lifts, pallet nailers and denailers, cutting torches, grinders, and other industrial equipment.

The Golden Door Program participants also receive counseling and other related services. Those without high school diplomas are required to complete GED certification through an on-site program. State and nonprofit agencies identify candidates for the program.

Golden Door graduates are eligible to compete as internal candidates for open positions at the company. Since 1977, 180 graduates, or almost 80 percent of the trainees, have taken regular production and office jobs with Coors. These folks have become loyal employees—about 75 percent are still with the company.

The Golden Door is a self-supporting program, with costs offset by the savings and income generated by the completed work. Of course, the real benefit is what it does for the individuals who return to a productive role in society.

The Coors Golden Door Program shows there is another group—business—ready, willing and able to partner with government to combat crime and its root causes. As Members of Congress, we should continue to look at ways to encourage this kind of private-sector creativity that allows us to help those who need a second chance.•

FACES OF THE HEALTH CARE CRISIS

• Mr. RIEGLE. Mr. President, I rise today to tell the story of a Michigan family that has been torn apart by the health care crisis. Although my Democratic colleagues and I have not been able to pass comprehensive health care reform legislation this year, the urgent need for such legislation has not diminished. I would like to tell you about Mark Foster, a 39-year-old divorced father of two children and a seasonal construction worker in Lansing, MI. Recently, Mark was diagnosed with testicular cancer.

Mark first realized that he might be ill this past August, when he noticed some swelling. Although his family has a history of cancer, Mark delayed consulting a doctor because, like thousands of Americans, he did not have any health insurance and was afraid that he could not afford medical care on his own. But within days the swelling had increased so dramatically, and was so extremely painful, that Mark left work and rushed to an emergency room for care.

Initially, Mark was referred to a urologist, who diagnosed a simple infection, prescribed an antibiotic, and sent him home. But the continuing pain was so excruciating that Mark returned for a second opinion. This time an ultrasound test was performed that revealed a large mass. A physician removed the mass, performed a biopsy and found the tumor to be malignant, so Mark's testicle was surgically removed to contain the cancer. Sadly, a CT Scan conducted at Mark's fourth follow-up exam showed that the cancer had already spread to several lymph nodes. So a second surgery has been scheduled for today, October 7, and will require 1 full week of inpatient hospital care. Mark's physician has warned him that chemotherapy treatments may also be necessary after the surgery to contain the malignancy.

Incredibly, Mark actually wanted to delay this second surgery until later this year because he is completely overwhelmed by the $10,000 in medical bills he already has received for his medical treatment to date. You see, because his employer is a small, non-union, seasonal business, it does not offer any health insurance coverage. Last year Mark earned $22,000 a year from both work and unemployment. He paid child support for his 9-year-old daughter Angie, who lives with her mother, and he has raised their 16-year-old son, Mark Jr., himself.

Mark's income varies widely during the year depending on the labor needs of the contracts the construction company can obtain. His hours can range from 8 hours up to 70 hours per week. Like many construction workers, he relies on unemployment benefits to support himself and his children during the winter months. With such variable income, a monthly premium payment is beyond Mark's ability to pay on his own, and his employer is unwilling to obtain group coverage for their workers.

Mark has been overwhelmed by the financial and emotional consequences of his cancer. Right now Mark is on an unpaid leave of absence because he is in constant pain, and faces further chemotherapy treatment after his second surgery. He has depleted his $1,600 in savings to pay what portion of the medical bills he can. The rest of his bills remain unpaid and the stack is growing.

Without any income, he has not been able to pay any child support since August. Because Mark is unable to care for his son, Mark Jr. has moved back in with his mother and sister, and the family depends on AFDC. Ironically enough, because their mother qualifies for AFDC, the children both now have health insurance coverage through Medicaid. Mark Jr. did not qualify for the program while he lived with his father because Mark made too much money, yet Mark could not afford to buy health insurance for himself and his children.

Mark contacted the American Red Cross for help with his medical costs through their Medical Access Program. Because Mark had no health insurance, did not qualify for any State programs and fell within low-income guidelines. The Red Cross negotiated with the hospital a 40-percent discount on the charges for his initial surgery and other treatment. Still, with the discount the nightly room charge alone was $2,800, which he will face again when he returns for a week's stay. Of the $10,000 charges he has accrued, Mark estimates that he still owes $6,000.

While Mark is debilitated by the pain and weakness caused by his cancer, he has even more obstacles facing him. His landlord has evicted him from his apartment because, after paying the medical bills, mark had no money left to pay rent. He has been staying with a friend who is herself disabled and faces eviction as well. Mark is separated from his children and unable to support them. Understandably, he feels as though the system has failed him.

Because he lacked health insurance, Mark tried to save money by not seeking medical treatment—now, with his advanced cancer, he has been wiped out financially. If health insurance coverage had been affordable, he would have purchased it. But right now in this country, millions of families like Mark's cannot find health insurance coverage that they can afford.

Mr. President, over the last 2 years I have presented the stories of 68 individuals and families from Michigan who suffer because of the breakdown of our health care system. People looked to us to help them through passage of health care reform. Sadly, we have not been able to pass such legislation this Congress. When I return to my home State of Michigan, I will continue to fight for health reforms as a private citizen, because I remain hopeful that my colleagues in the Senate and the House will continue this effort in the 104th Congress.•

HISPANIC BUSINESSES AND HISPANIC HERITAGE MONTH

• Mr. BINGAMAN. Mr. President, I rise today to recognize the role of Hispanic businesses in promoting trade and exports. As we are currently celebrating Hispanic Heritage Month, it seems a

particularly good time to recognize this important contribution to our nation's economy.

International trade between the United States and Spanish-speaking Mexico was given a tremendous boost last year when Congress approved the North American Free-Trade Agreement. This historic agreement, which removes trade barriers, tariffs, and other restrictions on the flow of goods, services, and investment among the United States, Mexico, and Canada, would likely not have been possible without the support of Hispanic Americans.

For Hispanics, NAFTA did not occur in a vacuum nor was it just another trade agreement. Although the number of Hispanic Americans has increased dramatically, Hispanic economic and political empowerment has yet to be fully realized in this Nation. Furthermore, Hispanic Americans face discrimination linked in part to antiimmigrant sentiments. Many Hispanics saw NAFTA as an opportunity to significantly participate in the development of policy that could help rebuild their communities, improve quality of life, and combat racism. In an increasingly global economic framework, many also saw an opportunity for the United States to move beyond its traditional focus of trade with Canada and along an East-West axis. For the first time since the demise of the Camino Real and other colonial trade routes, the United States had the opportunity to look south, toward Latin America, for trading partners.

Hispanics seized upon the opportunity provided by the NAFTA debate to not only discuss the economic benefits of improved trade relations with Mexico but to ensure that Hispanics and Hispanic communities would benefit from the job opportunities and economic development NAFTA would spawn. They highlighted the need for sustainable economic development, increased resources for border development, and community involvement in decisions affecting them. These efforts led to the creation of the North American Development Bank, a binational entity that will help generate billions of dollars of new resources to meet border needs. Hispanics also contributed to calling attention to the underlying consequences of immigrant bashing occurring in the United States, fueled in part by the ignorance in the United States about Mexico and Latin America.

Leading Hispanic organizations developed a Hispanic consensus on NAFTA to present to U.S. policymakers. Mexico, which had earlier reached out to develop a long-term working relationship with Hispanic Americans, opened its NAFTA process to them to forge an agreement that better addressed the vision of Hispanics through conferences and seminars, inviting Hispanic leaders to Mexico, and creating opportunities to assist Hispanics doing business in Mexico.

This month, as we celebrate Hispanic Heritage Month, we need to add to the long list of Hispanic contributions to our Nation this contribution to the expansion of trade with Mexico and Latin America and the renewed efforts that will be focused on border development. These efforts are already paying dividends. Trade with Mexico has surpassed that with Japan. Recent studies have shown that Hispanic-owned businesses are increasing dramatically. There are now 720,000 Hispanic-owned businesses in the United States, generating more than $30 billion in sales. Those involved in international trade are growing faster than nonexporting businesses. U.S. companies are also hiring record numbers of Hispanics as they expand their export-related activities. Furthermore, both Mexico and the United States are focusing on improving the infrastructure along the border.

As a result of contributions of Hispanics and their working relationship with Mexico, Americans can look forward to a cleaner environment, to more and better jobs, to increased living standards, to badly needed border infrastructure, and to improved quality of life on both sides of the United States-Mexico border.

In short, we have one more reason to reflect upon Hispanics' contributions to our country. I join in those saluting the Hispanic community and its achievements during this Hispanic Heritage Month.•

IN SUPPORT OF H.R. 5060

• Mr. DODD. Mr. President, I rise in support of H.R. 5060, a bill which must pass before we adjourn for the recess or the Securities and Exchange Commission [SEC] will have to shut down. This bill is part of a legislative package worked out to fund the SEC for the 1995 fiscal year.

Most of the SEC's funding, about $192 million, is available to the SEC only if further legislation is passed to authorize a level of fees charged to register securities that fully offsets the SEC's appropriation. Without this offsetting revenue, the SEC simply will not have most of the funding that it needs to stay in business, and will have no choice but to start shutting down.

Mr. President, H.R. 5060 has now been blocked for almost a week. The SEC is now nearly a week into its new fiscal year without sufficient funding to make it through the end of this calendar year. As of today, the U.S. Treasury has been drained of almost $20 million—$20 million that has just been wasted for no good reason.

The SEC has already had to suspend enforcement investigations and inspections of mutual funds and broker-dealers. The SEC plans to shut down its electronic filing system for companies within a few days. Tens of millions of investors trust the SEC to make sure that their mutual fund, their broker, and the securities markets themselves are honest and operating properly.

The entire American economic system ultimately depends on the confidence on investors in the fairness of the markets. That confidence is being needlessly threatened right now by the unjustified delay in passing the SEC bill.

The agency will have to lay off most of its work force within a few weeks unless the Senate acts before it adjourns. That development, if it were to come to pass, would amount to suspending the operation of the American capital markets, with economic consequences we can hardly imagine. I do not seriously believe this body would wish that to happen.

The funding delay is already taking its toll on morale at the SEC. This at an agency that competes with high-paying Wall Street firms for the talent needed to properly oversee derivatives markets or to detect and prosecute insider trading.

This bill must pass, and the delays that have already occurred are inflicting mounting damage on the SEC and on the confidence of the capital markets. I urge all of my colleagues to give their consent so that the Senate can take up and pass this essential measure at once.•

TRIBUTE TO THE SAGINAW GANG TASK FORCE

• Mr. RIEGLE. Mr. President, today I rise to pay tribute to the organizers and members of the Saginaw Gang Crime Task Force [SGCTF]. Comprised of Federal agents from the FBI, BATF, and the Secret Service, working with officers from State and local law enforcement agencies, the task force has just completed 6 months of successful operations.

While its primary mission is to save children from the ravages of gang activity by working full-time to help guarantee neighborhood safety, the task force has also dedicated itself to the improvement of the quality of life for all who live in the Saginaw area.

Saginaw Police Chief Alex Perez and Saginaw County Prosecutor Michael D. Thomas have praised the task force for its role in the recent reduction of crime in the city of Saginaw. Since its inception on April 6, 1994, the SGCTF effort has contributed to 40 arrests, a 10-percent reduction in violent crime, a 23-percent reduction in homicide, and a 12-percent reduction in assaults. The SGCTF has earned the respect and support of the entire Saginaw community through its aggressive multifaceted approach to law enforcement.

A number of individuals and groups deserve special mention for their efforts. They include: Gary L. Loster, mayor of the city of Saginaw, who, with the assistance of leaders from Milwaukee, Bridgeport, Buena Vista, Carrollton, Saginaw, and Thomas Townships, provided the leadership to inaugurate this crime fighting initiative; Senior FBI Agent Philip L. Kerby, task force supervisor, who organized the effort and designed the structure of the task force; the Michigan State Police Department, Saginaw County Sheriff's Department, Saginaw Police Department, Saginaw Township Police Department, and Bridgeport Police Department, all of which provided manpower and equipment; Larry Porte of the Secret Service, who has shared his expertise in crimes dealing with currency and food stamps; and the Federal Bureau of Investigation for funding the task force.

Finally, I would like to commend the Saginaw Gang Crime Task Force for its commitment to making the Saginaw area a better place in which to live and work. I am happy to join with the Saginaw community in wishing the task force continued success.•

THE FREEDOM AND FAIRNESS RESTORATION ACT

• Mr. CRAIG. Mr. President, I want to call the attention of my colleagues in the Senate to a bill introduced some weeks back by our colleague in the other body, Representative DICK ARMEY of Texas.

His bill, H.R. 4585, titled the Freedom and Fairness Restoration Act of 1994, outlines a far-ranging, sweeping declaration of war on big government. It displays again a vision of a government returned to the role of servant of the people, with its appetites for power and money reined in.

From reducing most Americans' tax return to the size of a postcard, to enforcing a balanced budget, and demanding that the government take responsibility for the costs that its mandates impose on other parties, the bill is a refreshing reminder that reinventing government ought to run deeper than adjusting at the margins.

A 17-percent flat tax system like that set forth in H.R. 4585 would represent the greatest paperwork reduction initiative in history. Automatic sunsetting of most government programs would remove the current presumption that, once a program is created, it is entitled to eternal life. Enforcing private property rights would recall the spirit of our Nation's founding.

I have been studying this bill over the past weeks and I urge my colleagues to do the same. When the 104th Congress convenes in January 1995, I believe many of us will realize that we return with a mandate to undertake just this kind of fundamental rethinking of the appropriate role of the Federal Government in our society.

I look forward to that endeavor. I also ask to include several editorials and columns that have appeared in recent weeks on this legislation.

The material follows:

[From the Washington Post, Sept. 11, 1994]

WE NEED THE FLAT TAX

(By George F. Will)

The first—make that the only—thing Congress should do before adjourning is pass Rep. Dick Armey's "Freedom and Fairness Restoration Act." Congress won't, any more than a crocodile will drain the swamp that is its habitat. Still, the bill is a blueprint for relimiting government and changing Washington's political culture.

Armey, a Dallas Republican, believes government grows faster than most Americans want or know because of the stealth and meretriciousness of the political class. The withholding tax siphons away money before earners see it. Everyone, says Armey, knows how much his monthly car payment costs, but who knows exactly how much the IRS is taking each month? By the fiction of the "employer contribution" to Social Security taxes, which actually is just part of the employees' compensation, government blurs the fact that government is taking a 15.3 percent bite from paychecks. Two-thirds of Americans pay more in Social Security taxes (counting the employer "contribution") than in federal income taxes, but do they know that? Under "current services baseline budgeting" a $2 billion spending "cut" is proclaimed when a program scheduled to increase $10 billion is increased by "only" $8 billion. And there is the hidden taxation of government subsidies and regulations, such as the 40 cents of the cost of an average jar of peanut butter that is the cost of subsidizing peanut farmers. The average family, says Armey, pays more in taxes than it spends on food, shelter and clothing combined.

The core of Armey's bill is a 17 percent flat tax on income. This net tax cut for the nation would be paid for by thorough simplification of the tax code and by spending restraints.

Taxpayers would add up their wages, salaries and pensions, subtract personal and dependent deductions, and pay 17 percent of the remainder. With a personal deduction of $26,200 for a married couple and $5,300 per child, a family of four earning $36,800 would pay nothing. These high allowances make Armey's flat tax progressive: The wealthy would pay a larger percentage of their incomes in taxes than middle-income people would pay. Many millions of the working poor would be removed from the tax rolls. A family of four earning $50,000 would pay 4 percent of its earnings, a similar family earning $200,000 would pay 14 percent.

But all would file their returns on a form the size of a postcard. This would radically reduce the estimated 5.4 billion hours a year—as many hours as the entire population of Indiana works—that Americans spend complying with federal income tax laws. Furthermore, a flat tax would cause wholesale and wholesome unemployment in Washington's parasite class of lawyers and lobbyists who rent themselves to the sort of people's economists call "rent-seekers"—people seeking to gain advantages, or impose disadvantages on others, by tampering with the tax code's baroque complexities.

Because savings would be untaxed under the flat tax, there would be more savings, so the pool of investment capital would grow, interest rates would fall and new businesses would proliferate. Elimination of capital gains taxation would remove the disincentive to shift money from old investments to new ones, and the stock market would boom.

Armey's bill would build into the American year a dozen incitements of popular resistance to government. By eliminating withholding, it would require taxpayers to write monthly checks to the IRS. Imagine: 12 occasions for comparing the value of government benefits received with the value of disposable income lost.

Armey knows that his bill stands no chance in Congress as it is currently controlled. However, he believes the flat tax idea is going to be carried to Washington by many new members of Congress next January. Certainly the end of the Democrats' control of Congress would churn the national agenda.

Armey, who has been tireless in taking his message on the road and onto talk radio, believes his bill could be in 1994 what the Kemp-Roth tax cut proposal was in 1978—an anticipation of a Republican president's program. Already there is occurring here an unexpected shift in the intellectual center of gravity.

The coming of the Clintons and their friends was assumed to mean the ascendancy in Washington of the Ivy League political culture. However, the tone of Congress, which today is the tone-setting institution in this town, is increasingly set by two former professors of economics from universities far from the Northeast, Sen. Phil Gramm from Texas A&M and the former chairman of the economics department at North Texas State University (now the University of North Texas), Dick Armey.

[From the Omaha World-Hearld, July 28, 1994]

"NEW" FLAT TAX IDEA STIRS UP INTEREST

(By William F. Buckley, Jr.)

Rep. Dick Armey is an economist by training, a legislator by profession, and a Republican of singular prominence. Indeed, he is the chairman of the House Republican Conference. He is not easily surprised, having been around the track for many seasons, but he professes to be astonished by the reception given to the bill he introduced last June in Congress, the "Freedom and Fairness Restoration Act." It is a call for organic revision of the tax code, and its key element is the flat tax, and according to the evidence, people are truly excited about it.

One gets proposals for a flat tax every now and again, and not always from the right. It was the principal economic plank of Jerry Brown when he ran for president in 1992, though it was thought an aberration of sorts given that liberals aren't supposed to endorse anything at all that could lower the rate at which wealthy Americans and corporations pay taxes.

There are people out there who would not vote to lower the tax rate these days, having inhaled presidential rhetoric about fairness, even if it were absolutely demonstrated that to do so would cause poor people to become richer. Their interest is minimal: to make rich people poorer.

Anyway, under the Armey tax code, you would be taxed 17 percent on what you earn. The word "earn" is used carefully. You would not be taxed anything at all on dividends or on capital gains. And corporations? Seventeen percent on their profit.

Wouldn't this gravely afflict poor people? Well, no, actually. Because under the Armey

tax code a single person would not pay any taxes at all until after he earned $13,100. If he were a household head, single—which nowadays applies to about 30 percent of gestating households—he would begin to pay only after earning $17,200. Every child would qualify the parent for a deduction of $5,300, which is about double the size of the current deduction and a great deal closer to the cost of raising a child.

What are the givebacks in the Armey proposal? No deductions. No, none for mortgage interest even.

What would be done about the deficit? Answer: For the first year you freeze all entitlements at the current level. Thereafter, entitlements rise only as much as inflation. The estimated saving here over a period of a mere two years is almost $600 billion. By pursuing such a code, which is to say preventing the government from growing any bigger in proportion to the private sector, we'd head toward a balanced budget.

Above all, the springs of productivity would leap up with the joy of liberation. This sensation of a reduced overhead would course through the arteries and veins of America.

The proposal—the flat tax—is not novel. Indeed, the author of these lines devoted a substantial part of a book to the question, and that was 20years ago. The idea is there, but the pulsations, to judge from the response to Armey, are greater than at any time in the recent past.

The reason for this, surely, is that the whole country is aching to hear from the Republican Party something truly, daringly, engagingly new. Not, "Will we have total medical coverage by 1998 or 1997?" but something truly bracing, and this is what Armey has come up with.

Now there are two traditional launches given to tax proposals of this kind. One is empirical, the second philosophical. There is simply no doubting the bona fides of economists like Armey and Milton Friedman, who genuinely believe the proposition—and who have abundant evidence to corroborate it—that the economic effect would be like the mobile that lifts everything simultaneously.

But the other launch asks the root question, which is: Are we committed to equal treatment under the law? If so, how do we swivel-hip our way around to charging a higher rate of taxation to someone who elects to drive his taxi 70 hours per week than to someone who works 40 hours per week?

Rep. Newt Gingrich has promised that late in September he will enunciate the half-dozen steps a Republican majority would take if brought to power in November. One hopes the Armey tax code will be one of them.

[From the Philadelphia Daily News, July 26, 1994]

FINALLY, A TAX PLAN THAT MAKES SENSE

You think the battle over health-care reform has been tough? Wait until everyone learns about Congressman Dick Armey's plan for basically abolishing the Internal Revenue Service.

You probably don't know much about Armey or his flat-tax proposal. Just wait. Later this year, as health care fades or dies as an issue, his Freedom and Fairness Restoration Act will become the biggest legislative battle since the income tax itself.

By the time the 1996 presidential election gets along, Armey's Army will make every other domestic policy debate seem second rate. As the congressman puts it, the average family is mad about paying "more in taxes than it spends on food, clothing and shelter combined."

Armey says his flat tax will "make it unnecessary for the IRS to send out eight billion pages of paper or for the taxpayers to spend 5.4 billion man-hours filling out tax forms."

How will it work? Today's incomprehensive tax forms would be replaced with a simple post card. You'd be asked how much you earned in wages, salary and pensions. Then you would deduct between $13,000 and $26,200 for dependents depending on whether you are single, a single head of household or married and filing jointly.

Then add other deductions of $5,300 for all dependents; not including your spouse, and you pay your tax of 17 percent of wages, salary and pensions—minus your family deductions.

That's it. On a post card.

Thanks to those hefty deductions, the flat tax also becomes very progressive while dropping lots of people from the tax rolls altogether. Armey estimates that "a family of four earning $36,800 would pay zero percent of its income in taxes, a family earning $50,000 would pay 4.5 percent, and a family earning $200,000 would pay 14 percent."

Corporate taxes would be similarly simplified. The same 17 percent would be applied to gross revenue less purchases of goods and services, capital equipment, structures, land and wages and pension contributions paid to employees. No deductions would be permitted for fringe benefits, interest or payments to owners.

Armey realizes his plan won't please many tax lawyers or accountants, let alone Maalox salesmen. However, individual and corporate taxpayers who spend about $600 billion completing those eight billion pages of tax forms will certainly smile as they throw away the Maalox.

Some critics will dismiss Armey's plan simply because the author is a conservative Republican from Texas. That's fair, if your objective is partisan politics. However, Armey's approach is disarmingly similar to the flat tax proposals presented during the 1992 presidential election by former California Gov. Jerry Brown.

That means a conservative Republican congressman from Texas has done nothing more, but nothing less, than translate liberal Governor Moonbeam's greatest campaign idea into legislative language. The result will be Armey's Army of taxpayers who have been mad as hell for a very long time but didn't realize there was anything they could do about it.

Just think of it. No more double taxation of savings because your capital gains and interest from savings are now tax-free. Why? You already paid the tax when you earned the money. No more double-dip for Uncle.

Sure, everyone loses the cherished homeowner's deduction, just as a business loses deductions for interest costs when it borrows billions of dollars to raid other businesses. The trade-off comes as everyone, and every business, gets a clearer, simpler and lower tax payment which only taxes what you earn, this year.

Simultaneously, a massive percent of that $600 billion which Americans now spend reading, preparing, defending, and disassembling under the current IRS non-system will be saved. Much of that $600 billion, annually, can now be invested in anything you or your employer wants instead of trying to fool Uncle Sam.

What's $600 billion worth? It's twenty times the amount of money President Clinton wanted for his economic stimulus package, but it's free. It's money we won't waste traipsing down the worthless IRS paper trail nor add to the national debt.

Army's proposal is so ingenious, so populist and so timely that it will probably be stolen by multiple 1996 presidential candidates. In fact, after he loses the health-care battle, a lame duck Bill Clinton may well embrace it.

He'll be desperate for something to polish his tarnished New Democrat image, and there won't be anything Armey could do to prevent Clinton from stealing this idea. It may surprise you to discover that Armey probably wouldn't care.

He's not one of those pit-bull partisans who cares more about getting credit than getting something done.

He see his Freedom and Fairness Restoration Act as "a populist proposal in the finest sense. By taking power from the government and returning it to the people, it reflects great confidence in the integrity and know-how of free Americans. It is a proposal for those who believe in the American Dream."

He won't care if Clinton steals his dream as long as everyone can enjoy it.

[From the Washington Times, June 16, 1994]

DECLARING WAR ON BIG GOVERNMENT

Why should big-government types have all the fun offering sweeping proposals? Why not a sweeping proposal for a drastic limitation on the size of the federal government and the scope of its activities? Now we have one. Rep. Dick Armey is introducing today a bill that amounts to nothing less than a declaration of war against big government and the pieties espoused by its acolytes.

His Freedom and Fairness Restoration Act, is not content to tinker at the margins with smallish conservative reforms, an activity rather like pruning kudzu. Instead, Mr. Armey's legislation proposes to radically alter the foundation of the modern federal government by changing the way Washington gets and spends taxpayer monies and by capping both the direct and the indirect costs of government.

Taxes would be radically reduced, and more important, simplified. After a couple of years of transition, the bill calls for one tax rate of 17 percent, both for individuals on their incomes and businesses on their profits. Single people would enjoy a personal exemptions on the first $13,100 of income, with single heads of household permitted a $17,200 exemption. Married couples filing together would have $26,100 as their tax starting point. Taxpayers would have a $5,300 exemption for each dependent. So much for all the wasted energy and complicated diseconomic actions taken through tax contortionism. With such a simple and straightforward tax code, businesses and individuals could make life decisions based on their true druthers rather than on their analysis of the tax consequences.

Such a tax system, because it would reduce Washington's revenues, would put a crimp in the federal government, but is not in and of itself enough to transform the dynamics of national politics. And so Mr. Armey's package proposes an even more radical assault on the current system: the end of withholding. Taxation was not able to soar until the invention of withholding. By taking money out of the paycheck before it is ever in the worker's pocket, taxpayers are not confronted with how much money they are handing over to the government. As any investment advisor will counsel, the way to save is to have money automatically taken out of your

pay—all of a sudden, saving is easy. So too with taxation. Not only do we not feel the true bite of taxation, the system has been set up so that we think we are getting goodies from Uncle Sam in the form of tax rebates. Voters will take a different view of taxes when they receive their pay up front and have to write a monthly check to cover their tax liabilities. Once this system of taxation is in place, there will hardly be any need for the spending limits Mr. Armey's bill also includes, because lawmakers will know all too well that they won't have any luck coercing new revenues out of the electorate through deficit spending.

The Freedom and Fairness Act also calls for truth in regulating. The CBO and OMB will be required to estimate in detail the costs that will flow from federal regulation. This would be a death blow to the current regulatory regime. How compelling, for example, would be the administration's current complaints about the expense of high tech medical devices ($5 million, for example, for a new surgical imaging machine) when those costs can be compared with the hundreds of millions spent per life only hypothetically saved by EPA rules and regulations?

Rounding out the legislation is a provision that would statutorily reestablish the Constitution's neglected takings clause. If the government writes a regulation that significantly reduces the value of a private citizen's property, compensation is in order. The Constitution, of course, already mandates this, but Mr. Armey isn't holding his breath for the courts to enforce the Fifth Amendment's injunction against takings.

Republicans may be hesitant to follow Mr. Armey's lead, thinking the legislation too fundamental a change. But fundamental change is what the electorate has been clamoring for, only to be bamboozled by Bill Clinton's vision of a new and improved leviathan. It's a safe bet they did not have in mind the creation of yet another gargantuan entitlement program when Mr. Clinton promised welfare reform.

Mr. Armey is showing that Republicans can take back the rhetoric of change, and perhaps even make electoral hay out of it. He says that some of his colleagues may fear that the bill is a bigger chew than they can chew, but he thinks the proposal is quite practical. "With a Republican majority in the House, this is eminently do-able," he says. "But we aren't going to get a Republican majority if we're timid."•

TRIBUTE TO MARYLAND STATE SENATOR TROY BRAILEY

• Mr. SARBANES. Mr. President, it is with deep personal sadness that I rise today to pay tribute to my long-time friend and colleague, Maryland State Senator Troy Brailey, who died yesterday.

Troy and I first elected to the Maryland House of Delegates in 1966, and served together there for 4 years. But even before he began his distinguished career of elected public service in the Maryland legislature, which spanned 24 years, Troy Brailey was already an outstanding national leader in both the labor and civil rights movements.

Early in his life, Troy Brailey was a Pullman porter, who worked with A. Philip Randolph in the early days of the Brotherhood of Sleeping Car Porters to organize the porters. He went on to serve as national vice president of the Afro-American Labor Council and president of the Baltimore division of the Porters Union.

His work on behalf of working men and women, combined with his leadership in the civil rights movement for justice and opportunity made Senator Troy Brailey an inspiration and model for all of us.

From his early efforts helping to plan the Washington march which was called off when President Franklin D. Roosevelt issued the Executive order establishing the Fair Employment Practices Commission, to his role as state chairman and organizer of the historic 1963 March on Washington, Troy Brailey was a tireless fighter for civil rights for all of our people.

Beyond his leading role in the labor movement, civil rights, and elected public service, Senator Troy Brailey was deeply involved in countless efforts on behalf of the people he served, including many years of service on the executive board of the NAACP; the Boy Scouts; the board of directors of the YMCA; the Baltimore Street Car Museum; the Apprenticeship Advisory Board and many others.

Mr. President, I have indeed been fortunate to be among those who were influenced by Senator Troy Brailey, who benefited from his wisdom and experience and who were honored to have him as a friend. I extend my heartfelt condolences to his widow Chessie, his son Norman, daughter Alice, and other members of his family on the passing of this genuine champion for working men and women.

I ask that articles from today's Baltimore Afro-American and Baltimore Sun recounting Maryland State Senator Troy Brailey's life and accomplishments be reprinted in the RECORD at this point.

The article follows:

[From the Baltimore Sun, Oct. 7, 1994]

TROY BRAILEY, CHAMPION FOR CIVIL RIGHTS, DIES AT 78

(By Fred Rasmussen and Dewitt Bliss)

F. Troy Brailey, civil rights champion, founder of the Maryland Legislative Black Caucus and former executive of the Brotherhood of Sleeping Car Porters, died yesterday of cancer at his West Baltimore Home. He was 78.

Mr. Brailey, who represented West Baltimore in the Maryland General Assembly for 24 years, was a staunch supporter of organized labor, but best known for his efforts in the civil rights movement. He often would regale friends with stories of the movement's leaders, as well as tales of old politicians and deals from the glory days of west-side politics.

While he had not been active in politics for four years, after losing a re-election bid for his seat in the Maryland Senate, he was remembered yesterday on all levels of government—on Capitol Hill, at the State House and at City Hall.

"Troy Brailey was a magnificent individual in this business who never lost the ability to poke fun at himself and offer a smile to others," said Democratic U.S. Rep. Kweisi Mfume of Baltimore. "His work in the 40th District is virtually legendary."

Gov. William Donald Schaefer, another elected official with roots in West Baltimore, said: "I remember [him] as a tireless worker who loved his community and the city of Baltimore. He was one of the civil rights workers who respected everyone and used the law to force change. He was my good friend, I'll miss him."

Senate President Thomas V. Mike Miller Jr. echoed the governor's praise and said he considered Mr. Brailey "living history."

"I was honored to serve with him in the House of Delegates and in the Senate of Maryland," said Mr. Miller, a Democrat from Prince George's County. "I enjoyed immensely his conversations and discussions * * * particularly the role he personally played in the civil rights movements in the 1960s. He helped organize the march in Washington, D.C., and before that was instrumental in promoting and achieving minority gains in the Pullman workers union."

Mayor Kurt L. Schmoke said "Senator Brailey was a true pioneer, making achievements in the fields of labor relations and politics. He worked with some of the giants of the civil rights movement, especially A. Philip Randolph, and he was an inspiration to a generation of political activists."

Mr. Brailey, a native of Lynchburg, S.C., rose from humble beginnings.

He would tell the story that he and the late Solomon Liss, a former Baltimore City Councilman, judge and state official, got their start on the same South Baltimore street corner, across the street from the Cross Street Market. They met there as very young men, when Mr. Liss was selling newspapers and Mr. Brailey was shining shoes.

He later pressed clothing and was a waiter at Rossiter's Restaurant in South Baltimore and the old Baltimore Press Club before becoming a railroad porter.

Mr. Brailey's work for civil rights included service as state chairman for the 1963 March on Washington, organizer for the 1957 Prayer Pilgrimage to Washington and state chairman for the 1958 and 1959 youth marches to Washington. He had also been a leader in the planned 1941 march on Washington, a demonstration that was called off after President Franklin D. Roosevelt issued an Executive Order 8802 establishing the Fair Employment Practices Commission. He had also been an adviser to local civil rights demonstrators who participated in sit-ins at restaurants that refused them service.

In the early 1960s, he had stopped work as a Pullman porter, a job he head held since 1941, and had ended his service as president of the Baltimore division of the Brotherhood of Sleeping Car Porters. He had worked to organize porters in the early days of the union.

For about 20 years, he was active in the Negro American Labor Council, also started by Mr. Randolph, serving as president of the local unit and as a national vice president.

"I'm really saddened to hear this," said Edward A. Mohler, president of the Maryland-D.C. AFL–CIO. "He had a long political career and was always interested in working people. He was proud of his union affiliation and for being able to boost folks. He was a first-class guy."

In 1966, Mr. Brailey was elected to the House of Delegates, where he served until 1982, when he defeated the late Verda F. Welcome, the state's first black woman senator, for the 40th District Senate seat.

He lost his seat in 1990 to Ralph M. Hughes, a two-term delegate who was credited for authoring the state law aimed at preventing the sale of cheaply made guns. Ironically, Mr. Brailey had long been a supporter of a ban on so-called "Saturday night specials" and had offered legislation as early as 1986 to outlaw them.

Just last month, his son, Norman Brailey, lost a bid to win back the seat from Mr. Hughes.

Mr. Brailey also informally aided individual workers and small groups. He advised black firefighters in Baltimore during the early days of integration. He also headed the labor committee of the Baltimore unit of the National Association for the Advancement of Colored People.

He was a member of the Enterprise Lodge of the Prince Hall Masons and of the Leadenhall Baptist Church, 1021 Leadenhall St., where he will lie in state from 9 a.m. to 11 a.m. Monday. The family hour will begin at 11 a.m. and the service will be held at noon.

He is also survived by his wife, the former Chessie Granger; a daughter, Alice Brailey-Torriente of Baltimore; two sisters, Ophelia Brailey Singletary of Washington and Fannie Brailey Bailey of Seat Pleasant; three grandchildren and two great-grandchildren.

[From the Baltimore Afro-American, Oct. 7, 1994]

SENATOR TROY BRAILEY DIES, WAS A POLITICAL PIONEER

Always regarded as a gentle man with a determination cast in concrete, Troy Brailey, 76, passed away quietly at his home early Thursday morning, bringing an end to a career that had seen him as a close ally and friend of such greats as A. Philip Randolph, Martin Luther King Jr., and others and a member of the Maryland General Assembly for more than 20 years.

Though he had been out of the Assembly for a number of years, he was still referred to as senator, as a mark of respect and affection for him.

Funeral services have been set for Monday, October 10, at 12 noon at Leadenhall Baptist Church, 1021 Leadenhall St. The family will receive from 11 a.m. until noon.

Senator Brailey's body will lie in state on Saturday and Sunday at the Leroy Dyett Funeral Home.

He had strong ties to organized labor, and during the height of the civil rights movement of the 1950s and 60s, he was a participant in many of the campaigns.•

HEALTH CARE REFORM THAT WORKS: A TRIBUTE TO TENNCARE

• Mr. MATHEWS. Mr. President, as I look toward the end of my service in the Senate, one of my few regrets is that we were not able to pass a measure that assures high-quality and cost-effective medical care for all Americans. However, there is one fortunate side effect of our inaction, and it is that we have another chance to study state-wide health delivery programs that achieve what we are attempting to create nationally. And one of the most effective of those programs is at home in my native Tennessee.

Last year, Tennessee was in a predicament common to many families and businesses: Medical costs were soaring out of control. Cost increases associated with Medicaid had outstripped inflation, the growth of Tennessee's economy, and the growth of any revenue source that could fund the program.

At the same time, Tennesseans needed Medicaid more than ever. Besides nearly 1 million enrolled in Medicaid at some time during the year, nearly 500,000 Tennesseans were uninsured or uninsurable—most of them working poor and middle-class Tennesseans.

Constitutionally prohibited from deficit spending, Tennessee had only three choices in dealing with the Medicaid dilemma: huge tax increases, major reductions in service, or fundamental change.

Tennessee tried the approach followed by many States—taxes. Between 1987 and 1993, taxes on health care providers produced nearly $500 million in annual revenues. However, smaller, rural hospitals lacked the revenue base to pay those taxes and stay in business. This endangered care in counties already underserved by the medical community, and still there was not enough money to continue "feeding the Medicaid bear," as Governor McWherter put it.

Fortunately, the State was developing a model for reforming its own employee health insurance program. This program utilizes a statewide managed care network of hospitals, doctors, pharmacists, and other providers put together by Blue Cross and Blue Shield of Tennessee. Initial implementation problems and resistance to the system were resolved in its first 3 years. A statewide network in place served urban and rural areas, employees were happy with their coverage, and costs were being controlled. In fact, Medicaid costs rose 15.3 percent in fiscal 1993, but State employee health care costs declined more than 1 percent.

President Clinton pledged cooperation in allowing States to become "laboratories of experimentation" for health care reform and his policy has given States like Tennessee flexibility in providing health care for their citizens. Tennessee used this flexibility to create a program that works. It is called TennCare, and it is based on two chief principles.

First it assumes there is enough money in the system to provide health care for all who need it if we use resources wisely. Policymakers long observed that the amount spent on Medicaid in Tennessee could buy private insurance at corporate rates for the Medicaid population and the uninsured. Success comes from group buying, competent management, and incentives to control costs.

Second, TennCare believes market forces are more effective than government control and intervention. By letting managed care organizations negotiate rates and provisions with health care providers, Tennessee provided incentives for efficiency and innovation.

Bolstered by these beliefs, Governor McWherter requested legislative authority to replace Medicaid with TennCare. His request was approved by a bipartisan majority in the Tennessee legislature. The Governor directed staff to prepare a section 1115 waiver request from the Health Care Financing Administration.

Organized medicine and others who benefited from the Medicaid system opposed TennCare—unlike the majority of Tennessee's physicians, nurses, pharmacists, dentists, hospital personnel, and health care providers who worked to resolve problems and serve patients. Before the waiver was granted, the Tennessee Medical Association launched an unprecedented lobbying effort at HCFA to have it delayed or denied. They insisted that more and more money would have to be spent on health care to satisfy them.

Mr. President, they are wrong. TennCare serves more than 800,000 people formerly on Medicaid plus 350,000 Tennesseans who were previously uninsured or uninsurable. It has survived every political and legal challenge. It is a remarkable success story being written every day in hospitals, doctor's offices, and the lives of working taxpayers.

By the end of 1994 Tennessee will achieve 95-percent insurance coverage for its citizens, the highest rate of any State. It puts Tennessee 7 years ahead of the ambitious timetable currently discussed in Congress to reach 95-percent coverage by 2002. And the money is already appropriated in the program to cover the State's remaining 300,000 uninsured individuals.

TennCare now covers about 350,000 people who were formerly uninsured or uninsurable. Nearly half of those Tennesseans are the working poor with incomes below poverty level.

TennCare is the cornerstone of Tennessee's efforts to reform welfare. TennCare uses a sliding scale of premiums, deductibles, and copayments for those who are working their way off welfare. They can maintain coverage for their family without quitting their job when someone becomes sick.

TennCare has enabled Tennessee to enact the largest tax cut in its history—a $500 million elimination of hospital service taxes that threatened the existence of many rural hospitals—while letting policymakers redirect savings to education and other programs. The budget for TennCare this year is about $3.3 billion, about $700 million less than projections for continuing with Medicaid.

The number of paid emergency room claims among Blue Cross' TennCare patients, which make up 40 percent of total enrollees, declined 90 percent in the first 5 months of TennCare. By paying for emergency room use only in

real emergencies and charging nominal fees for nonemergency cases, TennCare creates an incentive for patients to use less expensive primary care physicians as their first point of contact with the health care system.

TennCare is meeting all Federal requirements for access to care and for maintaining quality of care. In the Blue Cross TennCare network alone, the percentage of physicians seeing TennCare patients is almost double those who formerly would see Medicaid patients. Every Tennessee hospital now participates in TennCare, as do a majority of the State's doctors.

To the greatest extent possible, TennCare has preserved an individual's right to choose his or her own doctor. About half the Medicaid population and all the uninsured took advantage of the opportunity offered by TennCare to select the managed care organization they wanted to represent them when the program first began. Every enrollee will have the opportunity again this year to redesignate his or her choice of MCO's after determining which MCO his or her doctor has joined.

Maybe the best news about TennCare is that participants like the program, believe they are getting quality medical care, and have access to care. Those were the findings of a survey conducted among 5,000 Tennesseans by the University of Tennessee.

The bottom line, Mr. President, is that TennCare is working for Tennessee, thanks to the efforts of Tennessee Governor Ned McWherter and Commissioner of Finance and Administration David Manning. TennCare can teach many lessons as the Senate continues to study national health care reform. And I add that the efforts of President Clinton and the First Lady will do much in building a base for our Nation's continuing deliberations. I believe that the example of TennCare will serve as a worthy case to consider as those deliberations go forward in the 104th Congress.●

WHITEWATER

● Mr. PRYOR. Mr. President, it has been more than 2½ years since the "Whitewater" story first appeared on the front page of the New York Times. Since then, allegations of wrongdoing by the President and the First Lady have been replayed over and over by the national media. These allegations have been investigated for months by two different special prosecutors, at considerable taxpayer expense. In fact, this investigation is still ongoing. These allegations have also been the subject of no less than 4 days of hearings by the House Banking Committee and 6 days of hearings by its Senate counterpart.

And what have these efforts produced? Legal wrongdoing has yet to be found, but the reputations of Bill and Hillary Clinton, two devoted public servants, have been tarnished. The shadow of scandal has been cast over the Clinton Presidency. The public's perception that Government officials are more interested in partisan politics and personal gain than the welfare of the people they are supposed to represent has been reinforced.

This damage has already been done. And even if the special prosecutor's investigation finds all allegations to be groundless, it cannot easily be repaired.

The question remains, however: do these allegations warrant the attention they have been given, and continue to be given? Or are they merely unfounded insinuations that have been blown up into something more?

An article in this month's edition of Harper's Magazine addresses this very issue. It was written by Gene Lyons, an Arkansas journalist who describes his past writings about Clinton as "mostly critical." Lyons asserts that the Whitewater scandal began with a series of damaging articles by Jeff Gerth of The New York Times, articles which were thoroughly researched yet not fair or balanced in their content. According to Lyons, most reporters have adopted Gerth's findings without questioning their basis in fact, raising some question as to whether his articles were an example of the facts fitting a theory rather than the facts demonstrating a case. Lyons' article seeks to correct what he asserts are factual distortions and to refute specific allegations and/or insinuations of wrongdoing by the Clintons.

I hope my colleagues will take this opportunity to read Mr. Lyons' article. It presents a persuasive case that there may be less to the Whitewater affair than the media might have us believe.

I ask that a copy of Mr. Lyons' article be printed in the RECORD immediately following my remarks.

The article follows:

[From Harper's Magazine, Oct. 1994]

FOOL FOR SCANDAL—WHAT THE TIMES DIDN'T TELL YOU ABOUT WHITEWATER

(By Gene Lyons)

The Great Whitewater Political Scandal and Multimedia Extravaganza, now on the verge of entering its second smash year, has always played very differently here in Little Rock than in, say, Washington, New York, or Los Angeles. To read the great metropolitan newspapers, observe the grave demeanor of network TV anchors, and heed the rhetoric of the politicians and radio talk-show hosts who have made the issue their own, one would gather the republic teeters on the brink of a constitutional crisis. The dread "gate" suffix of Nixonian legend has been applied. Melodramic charges of bribery, corruption, cover-up, even suicide and murder, fill the air (although at the time of this writing the focus has shifted to "improprieties" in Washington). There has even been loose talk of presidential impeachment.

All this over a failed $200,000 dirt-road real estate deal up in Marion County and a savings and loan flameout that cost taxpayers a lousy $65 million—the 196th most costly S&L failure of the 1980s, nationally speaking, and one that accounted for about 7 percent of the roughly $1 billion tab bankrupt institutions ran up right here in little old Arkansas. For the longest time, it was hard for most Arkansans to take all the bellyaching over Whitewater and Jim McDougal's Madison Guaranty very seriously.

Apart from a superficial acquaintance with both Clintons shared by thousands of Arkansans, I know none of the characters in the Whitewater saga personally. (My wife gave Clinton a little bit of money and went to Wisconsin for a week on his behalf as an "Arkansas Traveler" at her own expense. But that's her business.) What little I have written over the years has been mostly critical. Indeed, I cherish a videotape of myself in a short-lived guise as the poor man's Andy Rooney on a Little Rock TV station back in 1988 predicting that the governor had won his last election.

It angers me, though, that Whitewater has brought back all the old stereotypes, what the Arkansas Times magazine once called the image of "the Barefoot State." Barefoot, hell. To hear the national press go on about it under Clinton poor little Arkansas became a veritable American Transylvania: a dark, mysterious netherworld populated by a mob of ignorant peasants and presided over by a half dozen corrupt tycoons in collusion with the Clintons as the Count and Countess Dracula. Scarcely a Whitewater story has appeared in the national press that hasn't made references to the state's uniquely "incestuous" links between business, government, and the legal establishment—concepts utterly foreign to places like Washington, D.C., and New York City, of course.

Even Arkansans long weary of Clinton's smooba-like style of leadership—his indecisiveness, his downright genius for equivocation, his habit of launching more trial balloons than the National Weather Service—can't recognize the caricature of either the man or his milieu in the national press. And we're not just talking about such off-the-wall publications as The American Spectator or the Wall Street Journal editorial page. In The New Republic, author L. J. Davis accused Bill and Hillary Clinton of a nefarious plot to void Arkansas usury limits for the benefit of the First Lady's banker clients. Problem is, the deed was done through an amendment to the Arkansas constitution by public referendum during the term of Republican Governor Frank White—a banker.

So how did we get here? Well, at the expense of shocking you, dear reader, it all began with the New York Times—specifically with a series of much-praised articles by investigative reporter Jeff Gerth: groundbreaking, exhaustively researched, but not particularly fair or balanced stories that combine a prosecutorial bias and the art of tactical omission to insinuate all manner of sin and skullduggery. Accompanied by a series of indignant editorials, Gerth's work helped create a full-scale media clamor last December for a special prosecutor. Testimony in recent Senate hearings showed that the Resolution Trust Corporation's Whitewater investigation began in direct response to the Times coverage; the hearings themselves resulted in large part from the Clinton Administration's panicky reaction to reporters' queries about the RTC probe, Gerth's among them. Absent the near-talismanic role of the New York Times in American journalism, the whole complex of allegations and suspicions subsumed under the

word "Whitewater" might never have made it to the front page, much less come to dominate the national political dialogue for months at a time. It is all the more insinuations in Gerth's reporting are either highly implausible or demonstrably false.

Let us return briefly to those thrilling days of yesteryear—specifically the 1992 primary season. On March 8, 1992, Jeff Gerth's initial story about Whitewater appeared on the Times front page under the headline "Clintons Joined S. & L. Operator in an Ozark Real-Estate Venture."

"[In 1984], Madison started getting into trouble. Federal examiners studied its books that year, found that it was violating Arkansas regulations and determined that correcting the books to adjust improperly inflated prices would "result in an insolvent position," records of the 1984 examination show.

"Arkansas regulators received the Federal report later that year, and under state law the securities commissioner was supposed to close any involvent institution.

"As the Governor is free to do at any time, Mr. Clinton appointed a new securities commissioner in January, 1985. He chose Beverly Bassett Schaffer. . . .

"In interviews, Mrs. Schaffer, now a Fayetteville lawyer, said she did not remember the Federal examination of Madison, but added that in her view, the findings were not "definitive proof of insolvency."

"In 1985, Mrs. Clinton and her Little Rock law firm, the Rose firm, twice applied to the [Arkansas] Securities Commission on behalf of Madison, asking that the savings and loan be allowed to try two novel plans to raise money.

"Mrs. Schaffer wrote to Mrs. Clinton and another lawyer at the firm approving the ideas. "I never gave anybody special treatment," she said.

"Madison was not able to raise additional capital. And by 1986 Federal regulators, who insured Madison's deposits, took control of the institution and ousted Mr. McDougal. Mrs. Schaffer supported the action."

Gerth's original story was recently praised in the American Journalism Review as containing 80 to 90 percent of what the press knows about Whitewater today. Rival reporters complained, though, that the 1992 article lacked a "nut paragraph" summing up what the Clintons had done wrong and why it was important.

The insinuations became clearer in subsequent Gerth stories in the fall of 1993.* Following the Washington Post's October 31, 1993, revelation that the RTC had made a referral to the Justice Department naming the Clintons as (perhaps unwitting) beneficiaries of possible criminal actions, Gerth and Stephen Engelberg, another Times reporter, wrote lengthy articles that appeared on November 2 and December 15. The first dealt mainly with the still-unsubstantiated claims of former Municipal Judge David Hale that Bill Clinton urged him to commit federal bank fraud by lending $300,000 to Jim McDougal's wife, Susan. (Gerth and Engelberg neglected to point out that David Hale—no Clinton intimate but a courthouse pol first appointed by Republican Governor Frank White—had set up thirteen dummy companies with the same mailing address as his own, evidently without pressure from the Clintons.) Elsewhere, the November 2 piece was pretty much a rehash of the original 1992 article, with a few characteristically misleading tidbits added for emphasis. "By 1983, Mr. McDougal's bank was in trouble with Arkansas regulators," the Times informed readers. The state's banking commissioner, Marlin S. Jackson, ordered the bank to stop making imprudent loans.

Mr. Jackson, a Clinton appointee, said in an interview last year that he told Mr. Clinton at the time of Mr. McDougal's questionable practices. "Now, what Jackson told the Los Angeles Times (which also turned the tale inside out but did give fair context) was that the governor had urged him to ignore politics and be the "best banking commissioner you can [be]." Jackson had acted on this suggestion, with the result that the Clintons' own note was called.

The real bombshell was Gerth and Engleberg's December 15, 1993, story, which all but accused both Clintons, Jim McDougal, and Beverly Bossett Schaffer of criminal conspiracy to keep Madison Guaranty afloat regardless of the cost. But the implicator in that account that has shown the most staying power involves a supposed quid pro quo involving Hillary Rodham Clinton. It centers on an April 1985 political fund-raiser Jim McDougal held and the suspicion that he may have illegally siphoned Madison Guaranty funds into Bill Clinton's campaign coffers. "Just a few weeks after Mr. McDougal raised the money for him," the Times noted darkly, "Madison Guaranty won approval from Mrs. Schaffer, Mr. Clinton's new financial regulator, for a novel plan to sell stock."

"The search for new capital," Gerth and Engelberg continued, took Madison to the offices of Mrs. Schaffer, who had the ultimate authority to approve any such stock sale. One of the lawyers employed by Madison to argue its case before the state regulators was Mrs. Clinton.

Within weeks, Mrs. Schaffer wrote a letter to Mrs. Clinton giving preliminary approval to Madison's stock plan.

The sale never went forward. But this fall the [RTC] asked the Justice Department to examine a number of Madison's transactions, and federal officials say the state's approval of the stock plan was among the matters raised by investigators.

The Times also quoted McDougal to the effect that Bassett Schaffer was his handpicked choice as Arkansas securities commissioner.

The theory implicit in Gerth's Times stories may be summarized as follows: when his business partner and benefactor McDougal got in trouble, Bill Clinton dumped the sitting Arkansas securities commissioner and appointed a hack, Beverly Bassett Schaffer. He and Hillary then pressured Bassett Schaffer to grant McDougal special favors—until the vigilant feds cracked down on Madison Guaranty, thwarting the Clintons' plan. This is the Received Version of the Whitewater scandal as it first took shape in the pages of the New York Times—what all the fuss is ultimately about. And it bears almost no relation to reality.

The distortions begin with the headline of the original Gerth story in the Times: "Clintons Joined S&L Operator in an Ozark Real-estate Venture." This headline was misleading because when Bill and Hillary Clinton entered into the misbegotten partnership to subdivide and develop 230 forested acres along the White River as resort property in 1978, Jim McDougal wasn't involved in the banking and S&L businesses at all. He was a career political operative—a former aide to Senators J. William Fulbright and John L. McClellan. In the meantime, McDougal had done well in the inflation-fueled Ozarks land boom of the Seventies. But it wouldn't be until five years later—by which time the Whitewater investment was already moribund—that he bought a controlling interest in Madison Guaranty.

Details, details. Gerth wrote that McDougal quickly built Madison "into one of the largest state-chartered associations in Arkansas." Wrong again. Among thirty-nine S&Ls listed in the 1985 edition of Sheshunoff's Arkansas Savings and Loans, Madison ranked twenty-fifth in assets and thirtieth in amount loaned. These errors of detail might be forgiven if Gerth had in fact uncovered a conspiracy between the Clintons and the Arkansas securities commissioner to treat Jim McDougal leniently. The appearance of conspiracy, however, was created not by the actions of the alleged parties but by selective reporting.

Consider, for example, Gerth's treatment of the appointment of Beverly Bassett Schaffer as Arkansas securities commissioner in his March 8, 1992, article. "After federal regulators found that Mr. McDougal's savings institution Madison Guaranty, was insolvent meaning it faced possible closure by the state, Mr. Clinton appointed a new state securities commissioner . . ." The clear implication is that in response to a Federal Home Loan Bank report dated January 20, 1984, suggesting that Madison might be insolvent, Clinton in January 1985 installed Bassett Schaffer as Arkansas securities commissioner for the purpose of protecting McDougal.

So how come he waited an entire year. In reality, the timing of Bassett Schaffer's appointment had nothing to do with the FHLBB report, which there's no reason to think Clinton knew about. (The Clintons had no financial stake in Madison Guaranty, although that, too, has been obscured.) The fact is that Bill Clinton had to find a new commissioner in January 1985 because the incumbent, Lee Thalhiemer, had resigned to reenter private practice. Appointed by Republican Governor Frank White and kept on by Clinton. Thalhiemer says he told Gerth this in an interview, and describes the Times version as "unmitigated horseshit."

Bassett Schaffer strenuously insists that to this day she had never met McDougal, never heard Bill Clinton mention his name, and does not believe he influenced her appointment—and told Gerth so. She had actively sought the job from the moment she learned that Thalhiemer was quitting (he confirms recommending her to Clinton). She herself had volunteered in Clinton's 1974 congressional campaign and had worked for him full time on the Arkansas attorney general's staff while in law school. And her brother, Woody Bassett, also a Fayetteville attorney, was a personal friend and supporter of Bill Clinton.

The claim that Jim McDougal was behind Bassett Schaffer's appointment rests entirely on the word of McDougal himself, a victim of manic-depressive illness whose lawyer filed an insanity plea in a 1990 bank-fraud trial in U.S. District Court, in which McDougal was ultimately found not guilty. In his original 1992 article, Gerth had acknowledged McDougal's history of emotional illness but described him as "stable, careful

*By this time, recall, the stakes were incontestably higher—Bill Clinton was President of the United States; politically damaging memos by one Jean Lewis, an employee in the ostensibly neutral RTC, had been leaked to Republican Congressman Jim Leach and others; and right-wing outfits like Floyd Brown's Citizens United had begun to churn out what Trudy Lieberman in the Columbia Journalism Review called "a steady stream of tips, tidbits, documents, factoids, suspicions and story ideas for the nation's press."

and calm." By 1993 mention of those difficulties had all but vanished from the pages of the New York Times—despite the fact that the supposed recipient of Bill Clinton's largess was living in Arkadelphia in a trailer on SSI disability payments. Also unmentioned, for what it's worth, was that McDougal had long since recanted his accusations against Clinton and taken to blaming the whole mess on Republican partisans in the RTC.

But did Bassett Schaffer help McDougal anyway? Did the Arkansas Securities Department, as Gerth asserts, have proof of Madison Guaranty's insolvency in early 1985? Did Bassett Schaffer have the legal authority to shut it down?

Consider the allegation that Madison was insolvent and Bassett Schaffer failed to respond. True, the 1984 FHLBB report did argue that Madison Guaranty had overestimated its profit from contract land sales—not including Whitewater—by $564,705. "Correcting entries will adversely effect [sic] net worth and result in an insolvent position." But is this proof of legal insolvency? Hardly. In the first place (although Gerth neglected to point this out), the title page of the document from which the Times reporter took the one brief passage he cited stipulated that it had "been prepared for supervisory purposes only and should not be considered an audit report." More significantly, federal auditors later accepted Madison's position on contract land sales, and the putative adjustments were never made. Indeed, on June 26, 1984, six months after the report Gerth cited, and six months before Bassett Schaffer took office, Madison Guaranty's board of directors met in Dallas with state and federal regulators. They agreed to enter a formal "Supervisory Agreement" with the FHLBB that spelled out detailed legal and accounting procedures designed to help the S&L improve its financial position. In a letter dated September 11, 1984, the FHLBB gave Madison formal approval of a debt-restructuring plan that "negat[ed] the need for adjustment of $564,705 in improperly recognized profits" and dropped all references to insolvency. Arkansas officials also called Gerth's attention to an independent 1984 audit that also refuted Madison's insolvency. In his story the reporter neglected to mention either document.

If McDougal shoved any funny money in the Clinton's direction—either through Whitewater or an April 1985 campaign fundraiser—the Arkansas Securities Department sure found an odd way to reward him. No sooner did Bassett Schaffer receive the FHLBB's 1986 report on Madison than she recommended stringent action. On July 11, 1986, she and a member of her staff flew to Dallas to meet with FHLBB and Federal Savings and Loan Insurance Corporation regulators for a showdown with Madison's board. McDougal himself was not invited. McDougal was stripped of authority, and federal officials agreed to supervise the failed thrift until the FSLIC found money to pay depositors. When, a year later, Bassett Schaffer received an audit for 1986 (and a revised audit for 1985) officially reflecting that Madison Guaranty was insolvent, she wrote the FHLBB and FSLIC a letter, dated December 10, 1987, strenuously urging them to shut down Madison and two other Arkansas S&Ls. Fifteen months later, federal regulators (whose tardiness cannot be blamed on pressure from a state governor) finally locked Madison's doors.

There is not the slightest evidence, then, that Bassett Schaffer inappropriately delayed taking action against Madison. Nor, it seems, did she bend the law when asked by Hillary Clinton to approve a stock sale by the ailing thrift.

Remember the dark hint of misdeeds in Gerth and Enelberg's December 15, 1993, story: "Just a few weeks after Mr. McDougal raised the money for [Governor Clinton], Madison Guaranty won approval from Mrs. Schaffer, Mr. Clinton's new financial regulator, for a novel plan to sell stock." Now, what made Madison Guaranty's plan "novel" is hard to say. The vast majority of state-regulated S&Ls in 1985 issued stock. Even so, the adjective, with its implication of wrongdoing, has recurred mantra-like in virtually every Whitewater roundup article since.

For Hillary Rodham Clinton to have ventured anywhere near Madison in any capacity was a damn fool thing to do. But the fact is that her entire involvement in the "novel" stock issue consisted of the mention of her name in a letter written by a junior member of the Rose Law Firm expressing the opinion that it would be permissible under state law for Madison Guaranty to make a preferred stock offering. After studying the applicable statutes and consulting with her staff, Bassett Schaffer agreed. "Arkansas law," she wrote in a two-paragraph letter dated May 14, 1985—the now-famous "Dear Hillary" missive—"expressly gives state chartered associations all the powers given regular business corporations . . . including the power to authorize and issue preferred capital stock." Bassett Schaffer had issued the narrowest sort of regulatory opinion. Had she ruled otherwise, Madison Guaranty would have had no difficulty finding a judge to reverse her. Anyway, no application was ever filed.

The Arkansas Securities Department's power to close ailing S&Ls was mostly theoretical. Unlike the feds, Bassett Schaffer's office had no plenary authority to shut S&Ls down and seize their assets. Nor did Arkansas law make any provision for the state to pay off depositors of bankrupt S&Ls. That duty belonged to the FSLIC. "We acted in unison at all times," says Walter Faulk, then director of supervision for the FHLBB in Dallas. "I never saw [Bassett Schaffer] take any action that was out of the ordinary. Nor, to be perfectly honest, could she have gotten away with anything if she did. To my knowledge, there is nothing that she or the governor of Arkansas did or could have done that would have delayed the action on this institution."

When I asked him recently about the discrepancies and omissions in his reporting, Jeff Gerth stood his ground, alternately argumentative and defensive, and did not wish to be quoted. He argues, for example, that he never literally wrote that Jim McDougal had in fact gotten Bassett Schaffer the job, merely that he'd claimed to. Her denial struck him as beside the point. In other instances, he pleaded limitations of time and space.

The perception that Gerth most resents is the one most talked about in Arkansas: his reliance upon the hidden hand of Sheffield Nelson—Clinton's 1990 Republican gubernatorial opponent and a legendary political infighter. The Times reporter insists that Nelson did no more than give him Jim McDougal's phone number and later introduce him to former Judge David Hale, whose defense attorney is Nelson's associate. Nelson, the Republican nominee for governor again in 1994, tends to be coy about his role. But he has given other reporters a thirty-eight-page transcript of an early 1992 conversation between himself and McDougal, then embittered by what he saw as Clinton's abandonment.

Indeed, Jeff Gerth, Sheffield Nelson, and the New York Times go way back. As long ago as 1978, Gerth wrote a well-timed exposé of Nelson's mortal foes Witt and Jack Stephens—the billionaire natural-gas moguls and investment bankers who ran Arkansas like a company store during the Orval Faubus era (1955–67). The Stephens brothers owned a small gas-distribution company in Fort Smith that was paying them at a better rate than other gas-royalty owners. But what made Gerth's piece significant was its timing; it appeared shortly before a Democratic primary in which the Stephenses' nephew, U.S. Representative Ray Thornton, was eliminated in a three-man race for the U.S. Senate. Gerth had promised local reporters he'd uncovered a scandal that would knock Thornton out of the race. Some observers think the Times article about the business dealings of Thornton's uncles did swing just enough votes in Fort Smith to keep him out of a runoff election won by Senator David Pryor.

A few more highlights from Sheffield Nelson's political biography may help underline his motives for helping reporters portray the Clintons in the worst possible light. Hired out of college as Witt Stephen's personal assistant. Nelson was later installed as CEO of Arkansas-Louisiana Gas Co. (Arkla), controlled by the Stephens family and the state's principal natural-gas utility. (It was his subsequent refusal to use Arkla pipeline to carry gas from other Stephens-owned companies to buyers east of the state that eventually provoked a lifelong blood feud of Shakespearean malevolence.) Until 1989 Nelson was a Democrat, impatiently biding his time until the end of the Clinton era. But when it became apparent that Clinton would run again in 1990, Nelson became a Republican and won the 1990 gubernational primary over an opponent funded by Stephens interests. Bill Clinton then proceeded to humiliate Nelson 58 percent to 42 percent in the general election.

Clinton owed his 1990 triumph in part to the fact that his Public Service Commission conducted an inquiry into a business deal involving Nelson and a friend of Nelson's named Jerry Jones. It seems that back when Nelson was CEO of Arkla, he'd overridden the objections of company geologists and sold the drilling rights to what turned into a mammoth gas field in western Arkansas to Arkoma, a company owned by Jones, whom Nelson had brought onto Arkla's board of directors. The price was $15 million. Jones found gas almost everywhere he drilled. Two years after Nelson's departure, Arkla paid Jones and his associates a reported $175 million to buy the same leases back as well as some other properties. Jerry Jones then proceeded to buy the Dallas Cowboys and win two Super Bowls. The election-year probe of the Arkla-Arkoma deal resulted in millions of dollars of refunds to rate payers, which wasn't necessarily the point. It also earned the President's permanent spot on Sheffield Nelson's enemies list. The result, it's no exaggeration to say, has been Whitewater.

The talents of investigative reporters now poring over Whitewater documents might be better spent looking into another McDougal real estate venture. Sheffield Nelson and Jerry Jones put up a reported $225,000 each in return for a 12.5 percent share of McDougal's ill-conceived luxury retirement community on Campobello Island, New Brunswick, Canada. It was New Deal Democrat McDougal's odd conceit that wealthy vacationers and retirees would be moved by sentimental memories of FDR's summer retreat (remember

Sunrise at Campobello?) to purchase lots on a resort island that is in fact damp, cold, foggy, and remote. The Campobello project not only failed but helped pull Madison Guaranty down with it. Gerth and the Times have left that aspect of the Madison Guaranty story unexplored—even though, unlike Whitewater, the name of Campobello Properties Ventures is mentioned prominently and repeatedly in the very FHLBB examination report that Gerth quoted in his original March 8, 1992, article. Also unlike Whitewater, the Campobello's project did put a big chunk of Madison Guaranty's scant capital at risk—some $3.73 million, to be exact, at a time when the FHLBB examiner contended that the S&L was actually $70,000 in the hole.

At last report, that particular picturesque stretch of Canadian coastline belonged to the Resolution Trust Corporation. Nelson and Jones, however, actually made a profit. In 1988, the FHLBB, then supervising Madison Guaranty's assets, bought the boys out for $725,000—leaving them a profit of $275,000. No doubt there's a plausible explanation, although William Seidman, chief of the FDIC and the RTC at the height of the S&L crisis, told the Fort Worth Star-Telegram that "I can't believe it. It's an extraordinary event. It smells. It could be legit, but I doubt it." Gerth says the Campobello deal holds no interest for Times readers. But imagine the uproar had your tax dollars bailed out the Clintons rather than an embittered Republican politician feeding damaging allegations to the New York Times.

The same faults that mar Jeff Gerth's reporting on Whitewater—misleading innuendo and ignorance or suppression of exculpatory facts—also showed up in the *Times* accounts of Hillary Rodham Clinton's commodity trades with Springdale attorney Jim Blair and her husband's dealings with Tyson Foods. "During Mr. Clinton's tenure in Arkansas," Gerth wrote near the top of his March 18, 1994, front-page account, "Tyson benefited from a variety of state actions, including $9 million in government loans, the placement of company executives on important state boards and favorable decisions on environmental issues." The alleged $9 million in loans was the implied quid pro quo for old pal Blair's generous tips to Hillary in the 1970s that helped her turn $1,000 into nearly $100,000.

Following Gerth's report the incriminating $9 million figure appeared virtually everywhere. The *Times* itself weighed in with a March 31 editorial called "Arkansas Secrets," attacking the "seedy appearances" of Bill and Hillary Clinton's "extraordinary indifference to . . . the normal divisions between government and personal interests." The same editorial went on to deride what it called "the Arkansas Defense": that "you cannot apply the standards of the outside world to Arkansas, where a thousand or so insiders run things in a loosey-goosey way that may look unethical or even illegal to outsiders." Nor have *Times* editorial writers been the only ones to scold the Clintons for succumbing to the lax moral climate of the President's native state. The *Baltimore Sun*, Spiro Agnew's hometown paper, opined that the First Lady's adventures in the cow trade "certainly [don't] smell right, especially considering that [Jim Blair] represented a giant, influential agribusiness firm in Arkansas that later received what seemed to be favors from Gov. Clinton." *Newsweek's* Joe Klein wrote of the President's "multiple-personality disorder," involving a moderate Clinton, a liberal Clinton, and "the likely suspect in the Whitewater inquiry, a pragmatic power politician who did whatever necessary to get and keep office in Arkansas . . . granting low-interest loans to not-very-needy business interests, who in turn contributed generously to his political campaigns. This Clinton snuggled up close to the Arkansas oligarchs, the bond daddies and chicken pluckers—and never quite escaped the orbit of the shadowy Stephens brothers, Witt and Jackson." (Witt Stephens has been dead for three years, and Jack Stephens is a Reagan Republican who has bankrolled nearly every Clinton opponent—except Sheffield Nelson—since the early 1980s.)

There's just one problem with this chorus of self-righteous denunciation: the $9 million in loans that inspired it never existed. Especially attentive readers of the New York Times may have noticed an odd little item in the daily "Corrections" column on April 20, 1994:

"An article on March 18 about Hillary Rodham Clinton's commodity trades misstated benefits that the Tyson Foods company received from the state of Arkansas. Tyson did not receive $9 million in loans from the state; the company did benefit from at least $7 million in state tax credits, according to a Tyson spokesman."

Gerth blames a chart misread on deadline.

But was the Times embarrassed? Hardly. In the journalistic equivalent of double jeopardy, the Times editors, having convicted Hillary Clinton on a spurious charge, decided she was guilty of a new charge: helping Tyson Foods to that $7 million in tax credits. No sooner had she held her April 22 press conference on Whitewater-related issues than the Times fretted that the First Lady's performance had been smooth but cleverly evasive. Particularly suspicious, an April 24 editorial found, were her dealings with Jim Blair, "a lawyer for Tyson Foods, a large company that was heavily regulated by and received substantial tax credits from the Arkansas government." [Emphasis added] And people call the President slick!

The truth is far less lurid. The $7 million in investment tax credits Tyson Foods claimed against its Arkansas state tax bill after 1985—that is, between seven and fourteen years after Hillary's commodity trades—were written into the state's revenue code and were never Bill Clinton's to bestow or withhold. True, the Clinton Administration did sponsor the 1985 legislation that created the tax credits. It did so under strong pressure, not from Tyson but from International Paper, which threatened to take its processing plants elsewhere unless Arkansas matched tax breaks available from other states—a potentially severe economic blow to the already poor southern half of the state. Far from being unique to Arkansas, state investment tax credits are now the rule from sea to shining sea. One week after the Times made its lame correction, Tyson announced the opening of a new plant in Portland, Indiana. According to a press release by Indiana Governor Evan Bayh, the state and local governments provided some $9 million in economic incentives—approximately equal to what Tyson got from Arkansas during Bill Clinton's six terms.

Elsewhere, nearly every bit of evidence cited as proof of shady connections between the Clintons and Tyson Foods in the Times March 18, 1994, front-page story got the familiar Gerth treatment. Besides the imaginary $9 million in loans, Gerth cited several other suspicious transactions, among them a bitter court battle over polluted groundwater in the town of Green Forest in which the Clinton Administration "failed to take any significant action," and a pair of seemingly tainted appointments—including renaming a Tyson veterinarian to the state Livestock and Poultry Commission and Jim Blair to the University of Arkansas board. An objective account of the court battle would have pointed out that the city of Green Forest was itself a defendant in the same lawsuit. Bill Clinton was not. Officials of the Arkansas Department of Pollution Control and Ecology testified for the plaintiffs against Tyson Foods. So much for yet another dark Clintonian conspiracy.

Reappointing a Tyson veterinarian to the Livestock and Poultry Commission? Clinton is guilty as charged. Except that the fellow happens to be the state's ranking expert on chicken diseases, the prevention and treatment of which is the commission's principal task. As for naming Jim Blair himself to the University of Arkansas board? Well it's quite an honor, and Blair can undeniably score great Razorback tickets. Otherwise, where's the scandal? At any rate, Blair wasn't a Tyson employee back when he and Hillary did their cattle trades. He was in private practice as one of Springdale's most prominent corporate attorneys, representing banks, trucking companies, insurance firms, and poultry interests.

Gerth portrayed chicken mogul Don Tyson as a major Clinton supporter and fund-raiser, one whose close ties to the President had "been a subject of debate for years in Little Rock and (which) became an issue during the 1992 Presidential campaign." The fact is that Clinton's battles with Tyson and the poultry industry are legendary in Arkansas. After Clinton failed to support an effort by the poultry and trucking lobbies to raise the truck weight limit to 80,000 pounds, Tyson backed his Republican opponent, Frank White, in 1980 and 1982 and refused to speak to Clinton for years. When Clinton finally gave in on the 80,000-pound limit (making Arkansas the last of the states to do so), he pushed through the legislature an unusual "ton-mile" tax on eighteen wheelers—scaling the fee to the weight and distance they drove on Arkansas highways. The ton-mile tax was eventually thrown out after a bitter court battle. (In keeping with tradition, a profile of Clinton in The New York Times Magazine by Michael Kelly last July omitted the political context and cited the same fight as evidence of Clinton's spinelessness.)

Like most Arkansans, Tyson did back Clinton's 1983 educational reforms and made relatively modest campaign contributions from then on—something that was clearly prudent on the part of one of the state's largest private employers. But in the legislature the poultry and trucking industries fought virtually every Clinton initiative. Indeed it was Clinton's anger at the poultry industry and the Stephens interests, among others, after they combined to beat back a half-cent education sales tax in 1987 that provoked him to create a statewide "blue-ribbon" panel to write Arkansas's first meaningful ethics and disclosure law. After the selfsame "special interests" gutted the thing during a special session, Clinton dissolved the legislative session, led the effort to put the new standard on the ballot as an inspired act, campaigned for it hard, and won. (Times editorial writers may be interested to know that New York Governor Mario Cuomo's having earned $270,000 in 1992 giving speeches might constitute a felony here in darkest Arkansas.)

Don Tyson did throw in with the governor on one notable issue during Clinton's last go-around with the Arkansas legislature. A

charter member of the so-called Good Suit Club—a group of wealthy bankers and businessmen, like the late Sam Walton of Wal-Mart, who met informally to encourage educational reform—Tyson endorsed Clinton's plan to levy a ½ of 1 percent increase in the corporate income tax to benefit community technical colleges, helping the bill win the necessary three-fourths vote. Quick, somebody call Gerth at the *New York Times* and notify the special prosecutor. Something tells me they're fixing to load those technical colleges up with poultry-science courses.

All of this raises the really interesting question at the heart of the Whitewater scandal: why—with representatives of the vaunted national press camped out in Little Rock for weeks at a time, squinting over aged public documents and pontificating nightly at the Capital Hotel bar—has nobody blown the whistle on Gerth and the *New York Times*? There are several reasons, ambition and fear among them. It is always safest to run with the pack, and editors who invest thousands of dollars on a scandal don't normally want to hear that there's no scandal to be found. Reporters who have challenged aspects of the official version, like Greg Gordon and Tom Hamburger of the *Minneapolis Star Tribune* and John Camp of CNN, have not found their celebrity enhanced. Those who have tried to split the difference, like the reporters for *Time* magazine—which has always reported (albeit parenthetically) that Arkansas bank regulators treated Madison Guaranty sternly—have ended up producing accounts as muddled and self-referential as a John Barth novel. "The dealings in question," *Time's* George Church wrote last January 24, "are so complex that it is difficult even to summarize the suspicions they arouse, let alone cite the evidence supporting such suspicions. * * * Violations of law, if any, would be extremely difficult to prove." And people call Clinton mealy-mouthed.

Regional bias and cultural condescension play a part, too. How could the *New York Times* be wrong and the *Arkansas Times* be right? But even if Bill Clinton had been governor of Connecticut instead of Arkansas, in the post-Watergate, post-everythinggate culture no reporter wishes to appear insufficiently prosecutorial—particularly not when the suspects are the President and his wife. By definition they've got to be guilty of something; it may as well be Whitewater.●

PROPERTY RIGHTS PROPOSAL

● Mr. HATCH. Mr. President, over the last year, I have been studying the problems posed by the takings clause to the fifth amendment and have concluded that a legislative solution may be necessary. Today, I would like to place into the CONGRESSIONAL RECORD a proposal I have developed for legislation entitled the "Property Rights Litigation Relief Act" so that the public as well as Members of the Senate can examine it. I hope the Judiciary Committee will give this issue a high priority next year.

According to James Madison, the "Father of the Constitution," government is instituted "to protect property of every sort; as well that which lies in the various rights of individuals, as that which the term particularly expresses. Thus being the end of government that alone is a just government which impartially secures to every man whatever is his own."

Sadly, Mr. President, in the rush by some to resolve all social problems through the heavy hand of governmental regulation, we have all too often failed to honor Madison's philosophy. All too often in order to protect the environment or to promote the esthetics of our neighborhoods, we have placed a disproportionate burden on small landowners. All this in violation of the fifth amendment's command of just compensation and that property be taken only for public use.

We have witnessed horror stories of the worst kind of arbitrary use of governmental power, in Utah and all around America, such as where a property owner was imprisoned for cleaning up his garage and backyard because the area was declared a wetland. Acts such as these have spawned a nationwide property rights movement—a revolt of small landowners, farmers and ranchers, and owners of "mom and pop" businesses. I believe that the fight to restore property rights is one of the premier civil rights issues of the nineties.

To be sure, the need to protect our natural resources—our environemt—is of great concern. It is a legacy owed to posterity. But a balance needs to be struck between conservation and development, between the environment and the right of property.

This proposed legislation would do just that. It will allow for the protection of the environment by affording no protection to those who actively pollute our rivers, land, or air. But it provides for the protection of private property through judicial action. It also establishes concrete standards for such claims, thereby clarifying what, heretofore, has been inconsistent and incoherent case law. Finally, it resolves the jurisdictional muddle between the Federal district courts and the Court of Federal Claims over takings litigation by allowing the action to be brought in either forum.

Mr. President, I ask to place this proposed measure in the RECORD. This will allow the public to offer their counsel and advice as to the nature of the problem and the efficacy of the solution.

The proposal follows:

SECTION 1. SHORT TITLE.

This Act may be cited as "Property Rights Litigation Relief Act of 1994."

SEC. 2. FINDINGS.

The Congress finds that—

(A) the protection in the Fifth Amendment to the Constitution of the United States, against takings of private property by the federal government without just compensation, is an essential component of the liberty of individual citizens;

(B) these rights have been abrogated often by the application of laws, regulations and other actions by the federal government that adversely affect the value of private property;

(C) the "Tucker Act," which delineates the jurisdiction of courts hearing property rights claims, complicates the ability of a property owner to vindicate a property owner's right to just compensation for a governmental action that has caused a physical or regulatory taking. The law currently forces a property owner to elect between equitable relief in the district court and monetary relief (the value of the property taken) in the United States Court of Federal Claims. Further difficulty arises when the law is used to urge dismissal in the district court on the ground that the plaintiff should seek just compensation in the Court of Federal Claims, and used to urge dismissal in the Court of Federal Claims on the ground that plaintiff should seek equitable relief in district court. The Supreme Court of the United States recently described the Tucker Act as "badly drafted" and noted that the Court's decision in *Keene Corporation* v. *United States*, 1993 U.S. LEXIS 3726 (1993), "may have the salutary effect of hastening its repeal or amendment." Id. at *41.

SEC. 3. PURPOSE.

The purpose of this Act is twofold: to establish a clear, uniform, and efficient process whereby aggrieved property owners can obtain vindication of rights guaranteed by the Fifth Amendment to the Constitution of the United States, and to amend the Tucker Act to correct procedural deficiencies noted by the Supreme Court in *Keene Corporation* v. *United States*, 1993 U.S. LEXIS 3726 (1993).

SEC. 4. DEFINITIONS.

(A) "Agency" means a United States department, agency or instrumentality of the United States that engages in activity with the potential for taking private property, including any military department, government corporation, government-controlled corporation, or other establishment in the executive branch of the United States Government.

(B) "Final agency action" means any action or decision taken by an agency as defined by this law, including actions treated as final under the doctrine of futility, that affects property interests, or any other type of action or decision that is intended to bind, or actually binds the owner of the property.

(C) "Just compensation" means compensation equal to the fair market value of the private property taken, whether the taking is by physical occupation or through regulation, exaction, or other means, and shall include compounded interest calculated from the date of the taking until the date of entry of judgment.

(D) "Owner" means the owner of property or rights in property at the time the statute, regulation, rule, order, guideline, policy or action was passed or promulgated, or the time that the permit, license, authorization or governmental permission was denied or suspended.

(E) "Private property" or "property" means all property protected by the Fifth Amendment to the Constitution of the United States, the constitution or commonwealth in which the property is located, or this Act, including, but not limited to: (1) real property, whether vested or unvested, including but not limited to estates in fee, life estates, estates for years, or otherwise; inchoate interests in real property such as remainders and future interests; personality that is affixed to or appurtenant to real property; easements; leaseholds; recorded liens; contracts or other security interests in, or related to, real property; (2) any water right, including any recorded lines on such water right; (3) rents, issues, and profits of

land, including but not limited to minerals, timber, fodder, crops, oil and gas, coal or geothermal energy; (4) rights provided by, or memorialized in, a contract; (5) any interest defined as property under state law; or (6) any interest understood to be property based on custom, usage, common law, and/or mutually reinforcing understandings sufficiently well-grounded in law to back a claim of interest.

(F) "Taking of private property" means any action whereby "private property" is taken in such a way, including by physical invasion, regulation, exaction, condition, or other means, as to require compensation under the Fifth Amendment to the United States Constitution or under this Act.

(G) "State agency" means any state department, agency, political subdivision, or instrumentality that carries out or enforces a regulatory program required under federal law, has been delegated administrative or substantive responsibility under a federal regulatory program, or receives federal funds in connection with a regulatory program established by a state.

SEC. 5. COMPENSATION FOR TAKEN PROPERTY.

(A) IN GENERAL.—No department, agency, or independent agency, or instrumentality of the United States, or state agency as defined in Section Four of this Act, shall take private property except for public purpose and with just compensation to the property owner. A property owner shall receive just compensation where, as a consequence of a final decision of any department, agency, or instrumentality of the United States or state agency, "private property" (whether all or in part) has been physically invaded, diminished in value, or appropriated for use without the consent of the owner, and

(i) such final action does not substantially advance the stated governmental interest to be achieved by the legislation or regulation on which the final action is based. The government shall bear the burden of proof with regard to showing the nexus between stated governmental purpose of the governmental interest and the impact on the proposed use of private property; or

(ii) such final action exacts the owner's constitutional or otherwise lawful right to use the property or a portion of such as a condition for the granting of a permit, license, variance, or any other agency action without a rough proportionality between the stated need for the required dedication and the impact of the proposed use of the property. The government shall bear the burden of proof with regard to showing the proportionality between the exaction and the impact of the proposed use of the property; or

(iii) such final action results in the property owner being deprived, either temporarily or permanently, of all or substantially all economically beneficial or productive use of the property or that part of the property affected by the final action without a showing that such deprivation inheres in the title itself. The government shall bear the burden of proof with regard to showing that such deprivation of value inheres in the title to the property; or

(iv) such final action diminishes the fair market value of property which is the subject of the final action by 25 percent or greater immediately prior to the governmental action. The property owner shall bear the burden of proof with regard to establishing the diminution of value of property.

(B) COMPENSATION AND PUBLIC NUISANCE EXCEPTION TO PAYMENT OF JUST COMPENSATION.—No compensation shall be required by virtue of this Act if the owner's use or proposed use of the property amounts to a public nuisance as commonly understood and defined by background principles of nuisance and property law, as understood within the state within which the property is situated, and to bar an award of damages under this Act, the United States shall have the burden of proof to establish that the use or proposed use of the property is a public nuisance; otherwise where the final agency action directly takes property or a portion of property under Section 5(A), compensation to the owner of the property that is affected by the final action shall be an amount equal to the difference between—

(i) the amount of the fair market value of the property or portion of the property affected by agency action before it becomes the subject of government regulation; and

(ii) the fair market value of the property or portion of the property at the time of the final action, except for Section 5(A)(iv) in which case it will be 25 percent or greater of the fair market value of the property at the time of the final action.

(iii) Compensation due under the Act shall include compounded interest calculated from the date of the taking until the date of entry of judgment.

(C) SOURCE OF COMPENSATION.—Except as provided in Section 7 (Alternative Dispute Resolution), the compensation referred to in this subsection shall be paid out of funds made available to the federal agency or department by appropriation for the fiscal year in which the property deprivation referred to in Section 5(A) occurred, provided that if no such funds have been made to the agency, such payment shall be made from the Judgment Fund.

SEC. 6. JURISDICTION AND JUDICIAL REVIEW.

(A) A property owner may bring suit under this Act to challenge the validity of legislation, a regulation, rule, order, policy, guideline, or action that adversely affects his or her interest in private property in either the United States District Court or Court of Federal Claims. Each court shall have concurrent jurisdiction over both claims for monetary relief and claims seeking invalidation of any Act of Congress or any regulation of an agency as defined by this act affecting private property rights. The plaintiff shall have the election of which court in which to file a claim for relief.

(1) Title 28 U.S.C. §1346(a)(2) (the district court) is hereby amended, striking the clause "not exceeding $10,000 in amount" in the first sentence. The first sentence of Title 28 U.S.C. §1346(a)(2) shall now read: "Any other civil action or claim against the United States, founded either upon the Constitution, or any Act of Congress, or any regulation of an executive department, or upon any express or implied contract with the United States, or for liquidated or unliquidated damages in cases not sounding in tort, except that the district courts shall not have jurisdiction of any civil action or claim against the United States founded upon any express or implied contract with the United States or for liquidated or unliquidated damages in cases not sounding in tort which are subject to sections 8(g)(1) and 10(a)(1) of the Contract Disputes Act of 1978."

(2) Title 28 U.S.C. §1491(a)(1), (the "Tucker Act," Court of Federal Claims), is hereby amended by adding the following clause at the end of the first sentence of subsection (a)(1); "or for invalidation of any Act of Congress or any regulation of an executive department that adversely affects private property rights in violation of the Fifth Amendment." The first sentence of Title 28 U.S.C. §1491(a)(1) shall now read as follows. "The United States Court of Federal Claims shall have jurisdiction to render judgment upon any claim against the United States founded either upon the Constitution, or any Act of Congress or any regulation of an executive department, or upon any express or implied contract with the United States, or for liquidated or liquidated damages in cases not sounding in tort, or for invalidation of any Act of Congress or any regulation of an executive department adversely affecting private property rights in violation of the Fifth Amendment."

(B) Persons adversely affected by an agency action taken pursuant to this Act shall have standing to challenge and seek judicial review of that action.

SEC. 7. ALTERNATIVE DISPUTE RESOLUTION.

(A) IN GENERAL.—Either party to a dispute over a taking of property as defined by this Act or litigation commenced under Section 6 of this Act may elect to resolve the dispute through settlement or arbitration—

(i) such alternative dispute resolution may only be effectuated by the consent of all parties;

(ii) arbitration procedures shall be in accordance with the alternative dispute resolution procedures established by the [ ]; and,

(iii) in no event shall arbitration be considered a condition precedent or an administrative procedure to be exhausted prior to the filing of a lawsuit under this Act.

(B) COMPENSATION AS A RESULT OF NEGOTIATED SETTLEMENTS OR ARBITRATION.—The funds used for compensation to the owner (as determined by the appropriate official of the federal agency or department) shall be transferred to the agency from the Judgment Fund for payment to the owner.

(C) REVIEW OF ARBITRATION.—Appeal from arbitration decisions shall be to the United States District Court or the United States Court of Federal Claims in the manner prescribed by law for the claim under this Act.

(D) PAYMENT OF CERTAIN COMPENSATION.—If a review is carried out pursuant to paragraph C, and the Court does not rule in favor of the federal agency or department, the amount of the award of compensation determined by the arbitrator shall be paid from funds made available to the federal agency or department by appropriation in lieu of being paid from the Judgment Fund, provided that if no such funds have been made available to the agency such payment shall be made from the Judgment Fund.

SEC. 8. RULES OF CONSTRUCTION.

Nothing in this Act shall be construed to—

(A) interfere with states' rights to create additional property rights; or,

(B) constitute a conclusive determination of the value of any property for purposes of an appraisal for the acquisition of property, or for the determination of damages.

SEC. 9. ATTORNEYS FEES AND COSTS.

The court, in issuing any final order in any action brought under this Act, shall award costs of litigation (including reasonable attorney and expert witness fees) to any prevailing plaintiff.

SEC. 10. EFFECTIVE DATE.

This Act shall apply to any activity of the United States Government after the date of enactment of this Act.•

SALUTE TO NORTHERN HIGH SCHOOL

• Mr. SARBANES. Mr. President, I rise today to pay tribute to the young men

and women of Northern High School, who on October 18, 1994, plan to dedicate a new environmental center in Calvert County, MD.

Four years ago, the students of Northern High School were given 1,000 juvenile rockfish to grow until they were ready to release back into the wild as part of the Department of Natural Resources' Raise and Release Program. This was the Department's first school-based project of its kind. Because of the dedicated efforts of these students, the program received significant praise from the community and substantial media attention. As a result, the program has grown and evolved over the past few years and parents, local businesses and county, State, and Federal agencies have now become involved.

Northern High's enthusiasm, commitment, and success eventually allowed the Raise and Release Program to prosper and develop into a permanent environmental center for Calvert County and the State of Maryland.

Mr. President, I am very pleased to have this opportunity to honor the outstanding efforts of Northern's students and faculty and members of the Calvert County community who have volunteered countless hours of their time and effort in making this center a reality.●

SENATOR DORGAN'S ARTICLE ABOUT DERIVATIVES

● Ms. MIKULSKI. Mr. President, I would like to bring to the attention of our colleagues an excellent article in this month's Washington Monthly written by our colleague, Senator BYRON DORGAN. The article eloquently states that derivatives pose a danger for our Nation's financial institutions and taxpayers. Senator DORGAN outlines the huge risks that Wall Street is taking when they do high stakes gambling with derivatives, and warns of a possible market shakeup could put taxpayers on the line for another bailout.

I am a cosponsor of Senator DORGAN's derivatives legislation because I do not believe federally insured deposits should fund high risk investments. This bill would prohibit banks and other federally insured institutions from investing funds insured by taxpayers in the derivatives market.

I commend Senator DORGAN for his article, and hope my colleagues will add it to their reading lists.

The article follows:

[From the Washington Monthly, Oct. 1994]

VERY RISKY BUSINESS

(By Senator Byron Dorgan)

Last spring, when the stock market took its hair-raising ride, in one corner of Wall Street there was more than the usual anxiety. In fact, there was stockbrokers-looking-for-upper-floor-windows kind of fright. In April, clients of the giant Bankers Trust New York Inc.—including Procter & Gamble—took multimillion dollar losses on a kind of trading most Americans had never even heard of, called "derivatives." A rumor went around the Street: Maybe something truly sinister was brewing. Maybe this was a . . . derivatives collapse.

The spring market panic hit just as the March issue of Fortune—hardly a carping business critic—cast a dark pall over derivatives, which are complicated futures contracts based on mathematical formulas. Fortune called them an "enormous, pervasive, and controversial financial force." The magazine added: "Most chillingly, derivatives hold the possibility of systemic risk—the danger that these contracts might directly or indirectly cause some localized or particularized trouble in the financial markets to spread uncontrollably."

The headline on the Fortune cover was "The Risk That Just Won't Go Away," shown over a pool of alligators. With that staring back at brokers and investors from their coffee tables, the sudden dip in the Dow and the story of Bankers Trust made people think, Hey, we really need to get a grip on this. But the dip turned out to be a blip, and the crisis passed out of the news. In typical fashion, the media moved on the other matters, content that where there's no immediate crisis, there can be no fire.

Yet, this "false alarm" could turn out to be a harbinger of a real financial conflagration—one that would make us nostalgic for the days of the $500 billion savings-and-loan collapse. In August, The Wall Street Journal declared that derivatives were now a $35 trillion—that's right, trillion—worldwide market. The U.S. share is estimated at $16 trillion, which is four times the nation's economic output. And the Journal estimates that since 1993 there have been $6.4 billion lost in the derivatives game—$6.4 billion that could have opened businesses and created jobs. Derivatives are no doubt widespread: An Investment Company Institute survey found that 475 mutual funds with net assets of $350 billion recently held derivatives; about two-thirds of those assets were in short-term bond funds sold to average investors. And here's the real kicker: Because the key players are federally insured banks, every taxpayer in the country is on the line.

So what is this thing called a derivative? Bankers and speculators maintain it's just hedging, a perfectly normal practice to manage risk. Farmers hedge, so do banks and businesses. So what's the big deal? Derivatives have become much more than managing risk. They have begun, in some cases, to look like a financial casino where the decisions are wagering decisions, not business ones. Derivatives may well be the most complicated financial device ever—contracts based on mathematical formulas, involving multiple and interwoven bets on currency and interest rates in an ever-expanding galaxy of permutation. Of course, what individual investors knowingly do with their own money is their own business. But when financial institutions are setting up what amount to keno pits in their lobbies, it's something that should concern all of us.

Let me explain by example. One form of derivative—the most simple—is a futures contract, which is the traditional device for a company to lock in a price for materials at a future time. Say a company that manufactures film—Company X—needs to buy silver every year and wants to guard against rising silver prices. So in 1994 it enters into a contract with a mining company to pay the going 1994 rate in 1995. This is a risk for X if silver prices tumble, because they will be required to pay the higher price. But if prices rise, X wins because it will be able to buy the silver for less than the 1995 market price. Of course, speculators can buy and sell such commodities contracts with no intention of actually obtaining the commodity, hence gambling on the fluctuation of prices. But this kind of traditional futures trading takes place on organized exchanges that are well-regulated and well-understood.

The troubling derivative deals are much different. They take the basic futures idea a quantum leap further into a netherworld of high finance. Let's take a simple example. Say Company X is under an obligation to sell film in Japan next year. Assume further that the company's analysts believe the value of the yen will fall against the dollar. The analysts would like to protect against the risk that silver and yen prices may fluctuate over the course of the year, thus hedging their original hedge. The company can't go to an exchange in Chicago and get that precise deal, so it gets on the telephone to its bankers and suggests that the bank write a customized contract that is based on the delivery price of silver in yen, not in dollars. This is called an "over-the-counter," or OTC, transaction, since it does not take place on an organized exchange.

The new speculative twist is much, much riskier for both Company X and the bank. It doubles the stakes: now, instead of betting just on the price of silver, it is also wagering on the value of the yen. Why would X do this? Because doubling the bet may hedge their risk in both the silver and yen markets. Why the yen? Because its analysts, in consultation with the bankers, used complex mathematical models and probability charts to decide the yen bet was a good gamble.

If the analysts were right about the yen, of course, it all works out. But if they were wrong about the yen, and wrong about the silver, too, the result would be like having two lead weights slide to one end of a seesaw.

Unlike a traditional future, moreover, these exotic derivatives are almost impossible to sell if one of the two bets goes south. They are especially tailored to X's needs, and are therefore unattractive to other buyers.

And that's a simple example. Currency fluctuations are just the beginning. Interest rate gambles are common, too, and in this volatile year have led to many of the big losses, including the $700 million that Piper Jaffray, the respected Minneapolis firm, lost on behalf of clients that included small city governments and the local symphony association. Piper Jaffray had decided on the basis of obscure mathematical formulas that interest rates would not rise. Unfortunately, the formula didn't anticipate the Federal Reserve Board's rate hikes this year.

More trouble comes from exotic new derivatives called "swaps." Say Company A has borrowed money at a floating interest rate but is worried that rates might rise. It wants to lock in the rates at the lower level. So it calls a derivatives dealer—often a major bank—to find another company, call it B, which is willing to bet that the floating rates will be more favorable than the set rate. A swap results: Company A will pay a fixed rate of interest to Company B, which will pay a floating market rate to Company A. The risk to Company A is that rates will fall but A will be obligated to pay the higher, fixed rate. The risk to Company B is that B will end up paying higher rates than the fixed rate it receives from A. If you had trouble following that, then you are starting to

get the idea. And all of this can be done without anyone even knowing, since such transactions can be done "off book"—effectively concealing them from stockholders and employees. Proctor & Gamble bought a floating rate deal like this from Bankers Trust, losing a reported $157 million in the process.

There has been a steady flow of such losses in past months. The reports of recent derivatives disasters could be the first trickles of water through a rickety dam: Askin Capital Management, in New York, lost $600 million; Kidder Peabody, $350 million; CS First Boston Inc., $40 million. Such debacles have led some leading Wall Street sages—Gerald Corrigan, the former president of the New York Federal Reserve; Felix Rohatyn, the investment banker; and Henry Kaufman, the bond guru, among others—to warn that derivatives are out of control. These men are not given to impetuous overstatement where finance is concerned. Nobody would care if these were just a few Donald Trumps taking a hit at a respectable financial casino.

But the truly scary thing is how losses like these could spread through the entire banking system. Suppose X, our film company, had entered into a swap with a New York bank. That bank in turn might then enter an offsetting contract with another bank which in turn might continue to pass along that risk on and on and on, perhaps using exchange-traded futures. So now a default by X could create a domino effect: X could not pay its bank, and its bank therefore couldn't make the payments on its offsetting contract, and so on until the chain of losses enters the exchange, where the originally esoteric bet can hurt real businesses. This is not mere fantasy. According to the Brady Report on the causes of 1987's Black Monday 508-point fall, the problem was worsened by automatic computer programs that kept ordering traders to sell stock index futures—which are, in essence, derivatives.

Making matters still worse is the concentration of big derivatives dealers. The General Accounting Office found this year that much of the big OTC derivatives dealing is concentrated among 15 major U.S. dealers—including federally insured banks—that are extensively linked to one another and to exchange-traded markets. The top seven domestic bank OTC dealers accounted for more than 90 percent of total bank derivatives action, and the top five U.S. securities firms accounted for 87 percent of all such activity in securities in the country. Add in the always-more-volatile foreign markets (tied to about $4 trillion of the U.S.'s $16 trillion) and we're talking real money.

"This combination of global involvement, concentration, and linkages," warns Charles Bowsher, the head of the GAO, "means that the sudden failure or abrupt withdrawal from trading of any of these large U.S. dealers could cause liquidity problems in the markets and could also pose risks to the others, including federally insured banks and the financial system as a whole."

If this seems a remote possibility, don't forget that financial implosions nearly always seem that way—before they happen. This kind has happened before, albeit on a smaller scale. The S&Ls are the most notorious example, of course, but there are others. The failure of the Bank of New England, in 1991, cost taxpayers $1.2 billion, and the bank had a $30 billion portfolio of derivatives that had to be painstakingly unwound to avoid, in the words of the GAO, "market disruptions." And the feds have had to clean up non-banking financial messes as well. In 1990, when Drexel Burnham Lambert failed, the government had to insure payments that flowed between Drexel's sundry creditors and debtors to avoid a chain reaction. With a $35 trillion derivatives market, a crash would make these precursors look Lilliputian.

All that stands between the public and a financial disaster of this sort is the guardians of the banking system in Washington. Regrettably, they are outgunned by the derivatives dealers in several ways. For one, there are fewer examiners than dealers, and many examiners are young and inexperienced. Worse, exotic derivatives—the stuff the big boys are doing—just don't fit within the existing scheme of federal finance regulation. It's a little like asking traffic cops to stop the nation's computer crime.

Perhaps it seems that none of this concerns you directly, but in this spooky new financial world, there are basically three ways you could lose.

You have money in a money market fund or a mutual fund. This is the scariest and most immediate prospect for most Americans. It's entirely possible—in fact, it's all too likely—that you wouldn't know whether your fund had money at risk. Two-thirds of the assets held by tax-exempt U.S. money market funds, which were created to give the small investor access to high rates of return, are now covered by derivatives. BankAmerica recently had to pump $67.9 million into its Pacific Horizon money market funds to make up for derivatives losses. As for mutual fund losses, ask Mound, Minnesota. When the public officials of the Minneapolis suburb wanted to tuck $2.5 million away to pay for new water meters and sewers, it chose an eminently respectable, reputedly conservative Piper Jaffray mutual fund that invests in U.S. government securities. But as the Wall street Journal reported this summer, Mound lost $500,000 because Piper Jaffray was playing a derivatives game with the town's money, betting that interest rates would fall. Leaders of Moorhead, Minnesota, can tell you a similar story.

A private investment goes bad. If you are a stockholder in a company that's trading in derivatives, and the bets turn out badly, the stock is going to take a hit. In some of the biggest cases so far, the German firm Metallgesellschaft, a mining, metals, and industrial company, took what may be a $2 billion loss on derivatives. One of the company's U.S. subsidiaries, MG Corp., which owns an oil refinery, bet on oil prices and lost badly. Several divisions of the company have had to be sold, and 7,500 out of 46,000 employees were laid off.

Government takes a hit—either directly or indirectly—through bank losses in derivatives. Mound's local taxpayers lost money; in Orange County, California, taxpayers had to meet a $140 million collateral call when some derivatives speculations started going bad. This is not the best use of the taxpayers' money. The federal government, too, is quietly but rapidly getting into the game. The Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation use exotic derivatives, as does Sallie Mae. And because these are federally chartered corporations, the possibility of the federal government getting stuck with clean-up costs is great.

BANK SHOTS

In the peculiar market of recent years, successful exotic derivatives have been a miracle drug for bank balance sheets, not to mention the dealers who are shovelling in millions. It's not surprising, then, that these banks and dealers are resisting reform. What is surprising is that the Office of the Comptroller of the Currency (OCC) and the Federal Reserve agree, too, that legislative reform is unnecessary. "As far as the Federal Reserve Board is concerned," Chairman Alan Greenspan testified in May, "we believe that we are ahead of the curve on this issue as best one can get." Why would Greenspan, in light of the mounting evidence, soft-peddle the problem? Partly, it's the old story. Because the Federal Reserve, like other banking regulators, tends to think more like the people it is supposed to be watchdogging—in this case, the banks and the larger financial community—than they think like the rest of us. And in fact, in the case of the Federal Reserve, it is the industry it is supposed to oversee: The members of the Federal Reserve are bankers.

This does not augur well. Just a few years ago, the S&L crisis began with a trickle of bad news, a few seemingly unrelated belly-flops. A chorus of operators, experts, and federal regulators assured the public and Congress that nothing was substantially amiss.

Certainly the industry understands the parallel—enough, at least to try to convince Congress that the parallel doesn't exist. The International Swamps and Derivatives Association, a trade group of the most exotic operators, recently hired one of the top Washington lobbying firms to make their case. And although some members of Congress are awake to the derivatives problem, it takes more than that to reach a critical mass.

That's where the press comes in—or should. But except for a few pieces, the nation press has been cowed by the complexity of the subject. Instead of inquisitive reporting, we get reports of assurances from Greenspan and others. Part of the reason is that, as with the S&Ls, the disasters so far seem local: Piper Jaffray is a Minnesota story, etc. Back in the mid-eighties, when thrifts were beginning to collapse, it seemed as if it were a Texas story one day, a California story the next—never a national story. With the huge exception of The Wall Street Journal (and even it is more specialized a publication than, say, The New York Times or The Washington Post), a story like the S&Ls or derivatives only makes it off the business pages after disaster strikes and it's too late to rally public attention to reform .

Another reason is that much of this story lies in the pedestrian precincts of the regulatory culture. "It's a case where the government is outgunned and outmanned," says a senior GAO official. "One or two people at the top of the agencies are really knowledgeable, but I don't know how deep the talent goes. And at the big banks, you're going to have talent all the way down." At the Fed and the OCC, there are about 3,000 examiners but hardly any of them monitor derivatives. That task falls to small teams of about 10 to 15 examiners who go into major banks like Citicorp and are expected to track deals that the banks need up to 100 different analysts and traders to put together.

DOLLARS AND SENSE

House Banking Chairman Henry Gonzalez wants to strengthen reporting requirements for derivatives trading—a sound step, but alone this keeps federal taxpayers in the line of fire. I think I have a better, cleaner idea. I have introduced S. 2123 in the U.S. Senate, which would prohibit banks and other federally insured institutions from playing roulette in the derivatives market. If an institution has deposits insured by the federal government, it should not be involved in trading risky derivatives. Of course, what investors

do with their own money is their own business. (And of course, dealers must be required to tell their customers when derivatives are involved; in the Piper Jaffray debacle, customers did not understand what was happening.) But what banks do with money insured by the taxpayers is another matter entirely.

The classic purpose of deposit insurance, one of the enduring legacies of the New Deal, is to encourage saving and create a pool of capital to build homes and businesses and jobs. Deposit insurance is not supposed to underwrite airy speculation on Wall Street, and my bill will stop that.

Banks will argue that derivatives are good since they hedge risks they take by loaning money to real people. But my proposal would not affect traditional, conservative forms of hedging. And banks, so long as they created pools of betting money outside their federally insured deposits, could gamble to their hearts' content. But not with our money.●

BANKRUPTCY REFORM ACT

● Mr. LAUTENBERG. Mr. President, let me begin by praising Chairman HEFLIN for his commitment to getting this bill passed. This has been a long and difficult process; it has taken years to get to this point and Chairman HEFLIN deserves a great deal of credit for his refusal to become discouraged and his determination to get this bill passed.

I want to comment briefly on one provision in the bill: section 209. I was the original sponsor of the amendment which became section 209 and I am pleased to see that it is contained in the current version of the bill.

The purpose of my original amendment and the current section 209 is to provide additional substantive and procedural protections for sellers of goods to reclaim their unpaid goods under section 546(c)(1) of the Bankruptcy Code. A similar amendment to section 546(c)(1) was included in the bankruptcy bill which died at the end of the last Congress.

Currently, section 546(c) incorporates the Uniform Commercial Code's [UCC] principle of reclamation. In all States, absent misrepresentation of solvency by the buyer, a seller of goods may demand return of goods sold to an insolvent buyer if the seller makes that demand within 10 days of delivery of the goods. The 10-day limit does not apply if the buyer misrepresented solvency to the seller; in that case, the seller may demand reclamation at any time.

There are, Mr. President, two problems with the current requirement. First, the 10-day rule to file reclamation notices is simply too short. Particularly in the bankruptcy context, many businesses—including small businesses—need more time to file reclamation notices. Trade creditors typically do not learn about the debtor's insolvency until an invoice goes unpaid or the debtor seeks bankruptcy relief—events that normally do not occur within 10 days of the debtor's receipt of goods. Additionally, because the definition of insolvency varies between the Bankruptcy Code and the UCC, notice effective under one law might not be effective under the other. The net result is that the 10-day rule precludes most creditors, especially small creditors, from exercising their reclamation rights.

Even if the seller meets the 10-day deadline problems remain. For example, the debtor is under no obligation to segregate and husband the goods. Again, smaller creditors are less likely to be able to preserve their rights. Additionally, again, even if the seller meets the deadline, unnecessary litigation often results. Issues related to truthfulness and fraud often make these proceedings lengthy and acrimonious. And since this litigation occurs at the outset of a bankruptcy filing, efforts by the court and the parties involved to determine the assets of the estate and settle preliminary matters are unnecessarily complicated.

The second major problem with the current reclamation rule relates to the fact that the provision only protects goods delivered within 10 days of the debtor becoming insolvent. As a result, creditors who deliver good 11 days before the purchaser files for bankruptcy have no protection. I recognize that any limit is inherently arbitrary, but 10 days is both arbitrary and unrealistic. I had originally proposed a 30-day limit; the bill before us extends the the right to reclaim goods received 20 days before the bankruptcy in those cases where a trade creditor has continued to deliver goods to a struggling company. It is less than I wanted but more than we have today.

Philosophically, reclamation should encourage sellers to provide inventory to struggling companies. Yet the current statute, with its "quick trigger," has the opposite effect; it encourages sellers to withhold vital supplies rather than run the risk of seeing them captured by the bankruptcy process. Under the bill before us, however, goods received during the prior 20 days can be reclaimed only if the supplier has delivered goods within 10 days prior to the bankruptcy. Thus, trade creditors are encouraged to continue to supply purchasers who might be teetering on the brink—a benefit to creditors and struggling companies as well.

One effect, then, of section 209 is to ease the burden of the filing on both debtor and seller by reducing the need for constant monitoring and interrogation of struggling companies and reducing the need for accelerated litigation at the outset of a bankruptcy filing. Section 209 provides sellers who continue to ship goods to a financially weak purchaser the right to reclaim goods delivered during the prior 20 days.

Operationally, Mr. President, section 209 is very simple. The first part continues current law by providing 10 days in which a seller may file a reclamation notice in most situations. But, second, section 209 will provide sellers of goods with up to 20 days in which to file notice of their intent to reclaim their goods in the event of an intervening bankruptcy. That strikes a reasonable balance between competing interests and will, I believe, solve many of the problems in the current statute.

Again, I commend Senator HEFLIN for his work on this legislation and urge its adoption.●

BUDGET ESTIMATES REGARDING S. 2266 AND S. 2253

● Mr. JOHNSTON. Mr. President, on September 26 the Committee on Energy and Natural Resources filed the reports to accompany S. 2266, a bill to amend the Recreation Management Act of 1992, and for other purposes, and S. 2253, the Mountain Park Project Act of 1994.

At the time these two reports were filed, the Congressional Budget Office had not submitted its budget estimates regarding these measures. The committee has since received these communications from the Congressional Budget Office, and I ask that they be printed in the RECORD in full at this point.

The letters follow:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 5, 1994.

Hon. J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 2253, the Mountain Park Project Act of 1994, as reported by the Senate Committee on Energy and Natural Resources on September 26, 1994. Enactment of S. 2253 could result in a long-run loss of offsetting receipts to the federal government, but over the 1995-1999 period, it would result in a net reduction in outlays of $8 million. Because the change in outlays would be direct spending, pay-as-you-go procedures would apply to the bill.

Under current law, the Bureau of Reclamation (BOR) is authorized to accept a prepayment of certain repayment obligations owned to the federal government for the construction of the Mountain Park water supply project in Oklahoma. The BOR has proposed prepayment terms, but the three cities required to pay a portion of the costs of constructing the project have rejected the current offer. While the cities are making annual payments totaling about $1.,3 million as required under current law, the amounts due each year are growing and the cities believe that they may be unable to continue making these payments in the future.

S. 2253 would allow BOR to recalculate the prepayments, using terms and conditions that are more favorable to the cities. The bill also would authorize BOR to reallocate certain costs of the Mountain Park project to environmental quality. The recalculation and reallocation would have the effect of lowering, by an estimated $15 million, the prepayment the cities may make to the federal government. Whether this reduction would result in a long-run loss to the federal government depends on whether the cities

would be able to meet their repayment obligations under current law.

The budget reflects these transactions on a cash basis in each fiscal year. On this basis, a prepayment, even if much smaller than the current repayment obligation, has the effect of reducing the deficit in the short term. Based on information provided to us by BOR, CBO estimates that enactment of this bill by October 1994 would result in additional offseting receipts to the federal government totaling about $12 million in fiscal year 1995. The federal government would lose offsetting receipts totaling about $1 million annually once this prepayment is made.

The following table summarizes the pay-as-you-go impact of this bill.

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998
Change in Outlays	−12	1	1	1
Change in Receipts	(1)	(1)	(1)	(1)

[1] Not applicable.

Enactment of S. 2253 would result in long-run savings to the three cities involved, and in no costs or savings to other state or local governments.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Theresa Gullo.

Sincerely,

JAMES L. BLUM,
(For Robert D. Reischauer, Director).

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 3, 1994.

Hon. J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has review S. 2266, a bill to amend the Recreation Management Act of 1992, and for other purposes, as reported by the Senate Committee on Energy and Natural Resources on September 26, 1994. We estimate that implementing S. 2266 would cost the federal government about $1 million annually, assuming appropriation of the necessary funds. The bill would not significantly affect the budgets of state and local governments. Because enactment of S. 2266 would affect direct spending and receipts, pay-as-you-go procedures would apply to this bill. We expect the pay-as-you-go impact to be insignificant.

S. 2266 would authorize the Secretary of the Interior to designate employees of the agency as law enforcement officers and other federal employees and state and local law enforcement officials as special officers. These officials would maintain law and order and protect property and persons on land under the jurisdiction of the Bureau of Reclamation (BOR). State and local governments would not be required to take part in these activities, and the Secretary of the Interior would be authorized, under certain circumstances, to reimburse state and local governments for their expenses. CBO estimates that implementing these provisions would cost the federal government about $1 million annually.

State and local law enforcement officials, when carrying out these law enforcement activities, would be considered federal employees for purposes of tort claims and work-related injuries. If a tort claim or work-related injury were to occur, the BOR would make any necessary payments from an appropriate appropriation, if one exists. If not, tort claims would be paid out of the Claims and Judgments Fund and injury compensation would be paid out of the Employee Compensation Fund. Payments from these two funds would be direct spending. CBO cannot estimate the extent of such payments, but we expect them to be small.

Finally, the bill would establish a criminal penalty for individuals who violate regulations promulgated by the Secretary of the Interior to protect resources and the public on BOR land. Any amounts collected from such fines would be deposited in the Crime Victims Fund and spent the following year. CBO estimates that the additional receipts and the resulting direct spending would be insignificant.

The following table shows the estimated pay-as-you-go impact of this bill.

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998
Change in Outlays	0	0	0	0
Change in Receipts	0	0	0	0

If you wish further details on this estimate, we will be pleased to provide them. The CBO contact is John Patterson.

Sincerely,

JAMES L. BLUM,
(For Robert D. Reischauer, Director.)•

THE VERMONT AIR NATIONAL GUARD/WILLIAM TELL COMPETITION

• Mr. LEAHY. Mr. President, I rise today to give recognition to a special group of Vermonters who are members of the Vermont Air National Guard. In the next few days, these dedicated men and women will compete in the annual William Tell competition to determine the Air Force's best fighter pilots and maintenance crews.

The competition is composed of different air-to-air engagements and ground maintenance evaluations, so the winning team must demonstrate seamless teamwork. Under the leadership of Col. "Farmer John" Scott, these Vermonters have worked countless hours preparing for this competition. When their F-16 Falcon fighters roar into the Florida sky next week, the thoughts and best wishes of all Vermonters go with them.

Mr. President, I ask that the names of the entire team from the Vermont Air National Guard be printed in the RECORD.

The team follows:

Rank, name, and Hometown:
SSG, Eric D. Anderson, Jericho, VT.
SSG, Scott W.F. Aubin, Plattsburgh, NY.
TSG, Paul E. Baldwin, Jr., Birdport, VT.
TSG, Kenneth C. Berry, Fairfield, VT.
TSG, David M. Bouffard, Winooski, VT.
CMS, Timothy J. Brisson, So. Hero, VT.
TSG, Gary B. Brousseau, Essex Junction, VT.
SRA, Alton L. Curtis, III, Windsor, VT.
SGT, Bryan P. Deep, Barre, VT.
TSG, Michael R. Delphia, Vergennes, VT.
TSG, James Desranlear, Milton, VT.
MSG, Donald W. Dingman, Underhill, VT.
TSG, Brent T. Farnham, Essex Junction, VT.
MAJ, Douglas E. Fick, Essex Junction, VT.
TSG, Joseph Forgione, Bolton, VT.
MSG, Kendrick J. Forguites, So. Burlington, VT.
LTC, Mark Fredenburgh, Colchester, VT.
MSG, Glenn G. Gale, Huntington, VT.
CPT, Lloyd J. Goodrow, Essex Junction, VT.
MAJ, Stephen P. Gulick, So. Burlington, VT.
SSG, Patrick T. Haire, Monticello, ME.
CPT, Richard N. Harris, Jr., Essex Junction, VT.
TSG, Gary L. Hopper, Jeffersonville, VT.
SMS, Kenneth B. Johnson, Irasburg, VT.
SSG, Richard G. Keiser, Jr., Moretown, VT.
SSG, Dennis D. King, Colchester, VT.
SSG, Kevin L. King, Shirleyburg, PA.
SSG, Daniel A. Lamont, Danville, VT.
TSG, Charles A. Magnant, Franklin, VT.
CPT, Mark J. Matsushima, Cleveland, OH.
SSG, Michael L. McCarty, Charlotte, VT.
STC, James S.McIntyre, Hinesburg, VT.
TSG, John L. Merchant, Jericho, VT.
MAJ, Terry B. Moultroup, Huntington, VT.
SSG, Leonard A. Nalette, Hinesburg, VT.
TSG, Foster Orton, Jr., Essex Junction, VT.
MSG, Charles W. Peacock, Essex Junction, VT.
MAJ, Martha T. Rainville, St. Albans, VT.
MSG, Nicholas P. Ricci, Jr., Danby, VT.
MSG, Michael J. Robert, Colchester, VT.
TSG, Dwight D. Rolston, Essex Junction, VT.
SSG, James S. Sanford, Waterburt Ctr., VT.
SSG, Kevin R. Sendra, Colchester, VT.
MSG, Raymond P. Steiner, Eden Mills, VT.
1LT, Scott H. Summers, Santa Rosa, CA.
SSG, John L. Talcott, Jr., Burlington, VT.
SSG, Christopher J. Walker, Stowe, VT.•

ILO CONVENTION 150 CONCERNING LABOR ADMINISTRATION

• Mr. MOYNIHAN. Mr. President, early this morning the Senate took action on a rare form of legislation—we adopted an ILO convention. While this year marks the 75th anniversary of the creation of the ILO, up until 1988, the United States had only ratified 7—6 maritime and 1 technical—of the 175 ILO conventions. However, in 1988 a new era commenced. The United States ratified its first convention in 35 years. In all, the Senate has now ratified four more since 1988. Most notably in 1991 when the United States for the first time ratified an ILO human rights convention: Convention 105 on the Abolition of Forced Labor. I think it fitting that the Senate has now chosen to commemorate the 75th anniversary of the ILO by ratifying our 12th convention: ILO Convention 150 concerning labor administration.

While ILO Convention 150 is not a substantive convention, I think it is the right one for this occasion. It is unique among all other conventions the ILO has adopted because it is the first attempt to directly address the importance of having in place a labor administration to implement the obligations a state assumes under the ILO. Convention 150 establishes guidelines for national systems of labor administration as a whole. It has precise minimum obligations, but allows for maximum flexibility in recognition of differing systems of government.

I can report to my colleagues that the Foreign Relations Committee held a hearing on September 20 to examine this convention. Testimony was received from representatives of government, labor, and business; specifically from Secretary of Labor Robert B. Reich; secretary-treasurer of the AFL–CIO Thomas R. Donahue; and from the international labor counsel for the U.S. Council for International Business, Edward E. Potter. All three stated for the record that the United States is already in compliance and that they support ratification of ILO Convention 150.

ILO conventions are not sent to the Senate on an arbitrary basis. In 1980, President Carter established the President's Committee on the ILO. This committee established the Tripartite Advisory Panel on International Labor Standards [TAPILS] to examine ILO conventions with a view toward making recommendations to the President on ones that can be ratified without changes in U.S. law.

The TAPILS review does not automatically ensure that an ILO convention will be transmitted to the Senate for ratification. If the United States is not found to already be in compliance with a particular convention, then TAPILS will not recommend ratification to the President, as was the case after they reviewed Convention 138 concerning minimum age for admission to employment. As much as we may like to ratify a specific treaty to show solidarity with its aims, we will not do so until our normal legislative process brings us into compliance.

Not every country is so responsible, and thus the nations with some of the worst labor standards have ratified the largest number of ILO conventions. In general, observing labor practices in a country offers important insights into the living conditions there. Secretary Reich in his testimony before the Committee said:

> Mr. Chairman, as you know—and you have talked on this many times—the less democratic the country, the greater the grounds for suspicion or concern that labor standards are being suppressed in order to serve narrow or misguided interests.

While some countries may have ratified too many ILO conventions, the U.S. ratification efforts can only be characterized as stingy. As Tom Donahue stated in his testimony:

> The typical member of the European community has ratified 70 of the conventions. Indeed of all the countries in the world that have been ILO members as long as the United States, there is only one, El Salvador, that has ratified fewer conventions than the United States.

He went on to state that at our current rate of ratification, it would take the United States 133 years to ratify our 70th convention.

The hearing also underscored an important point about the ILO. It was the forum for the first human rights conventions the world has known. Perhaps none is more important than the right to organize the bargain collectively. It took 30 years for these rights to be incorporated in labor treaty, as they finally were with the adoption of ILO Convention 88 the Freedom of Association and Protection of the Right to Organize, and Convention 98, which established the right to bargain collectively. Thus it is natural that at the end of the hearing the discussion turned to the next ILO convention which TAPILS will consider: Convention 111 concerning employment discrimination. Edward Potter concluded his testimony by noting that "we should be able to ratify [Convention 111], simply because we have the most far-reaching employment discrimination laws in the world."

And so the Senate can look forward to the possibility of receiving the second ILO human rights convention in the next Congress. I hope that those engaged in the TAPILS review of that convention will do so with dispatch.

Finally, Mr. President, in tribute to the 75th anniversary of the ILO, I would like to take a moment to focus on its early years. The history of the ILO goes a long way back into our national life, before it finally came to fruition at the end of the Great War. One of the strong demands of the working people in France, Britain, and the United States during that war was that there be some attention paid to the fact that labor standards were often the victim of international trade.

The Western nations were shaken by the revolution which had swept Russia in 1917. Samuel Gompers of the American Federation of Labor was enthusiastically received as he traveled through Europe in the fall of 1918 to speak out against the growing bolshevik influence in the European labor movement. The idea of an international labor organization became imperative to prevent uprisings like the one in Russia from spreading across Europe. So much so that as the terms of a new international order were being drawn up at the peace conference, a commission headed by Gompers created the ILO—much more a part of the campaign for the League of Nations than we remember.

The League of Nations, which was the subject of such fierce debate on the Senate floor in the fall and winter of 1919–20, came to life somewhat furtively in the cloak room of the Quai d'Orsay in Paris in January 1920. In point of fact the league system had already begun to work here in Washington in October and November of 1919 when the first international labor conference was held as directed by article 425 of the ILO Constitution signed as part of the Treaty of Versailles on June 28, 1919. The Washington Conference, held at the Pan American Union Building on Constitution Ave., turned out to be an almost complete success, despite all the prospects of failure. Six major labor conventions, the first human rights treaties in the history of the world, were adopted, including the 8-hour day convention, and the minimum age convention.

Woodrow Wilson, on his great trip across the nation campaigning for the United States to join the League, spoke continuously of the International Labor Organization. Indeed, almost the last words he spoke before his stroke, before he collapsed in Pueblo, CO, were about the ILO. Literally the last paragraphs. He told the people in Colorado about the League covenant and the ILO. But, he collapsed, and was prostrate when the International Labor Conference was organizing here in Washington.

His Secretary of Labor, William B. Wilson, did not know what to do. The Senate was caught up in a protracted debate about whether to have anything at all to do with the League. A very distinguished British civil servant, Harold Butler—later Sir Harold Butler—arrived in New York by ship and then came down here, assigned to put in place the new international organization as article 425 of the ILO Constitution intended. He found the President prostrate and silent, and the Secretary of Labor unable to take any action without the President.

By sheer chance, Butler dined one evening with the then Assistant Secretary of the Navy, a young, rising New York political figure, Franklin Delano Roosevelt, and his wife Eleanor. Butler recounted his difficulties. "Well, we have to do something about this," said Roosevelt. "I think I can find you some offices at any rate. Look in at the Navy Building tomorrow morning and I will see about it in the meanwhile." Roosevelt was devoted to Wilson. By the next day Roosevelt had 40 rooms cleared of its admirals and captains to make room for the conference.

Harold Butler later became the second director-general of the ILO, serving from 1932 to 1938. Subsequently, he returned to Washington during the second World War and his continued friendship with President Roosevelt made him a hugely influential figure in the wartime alliance. A biography of Sir Harold is long overdue.

Just as Roosevelt helped get the ILO off the ground, when he came to the oval office, his administration soon laid the groundwork for the United States to join. In June, 1934, the House and Senate both passed a resolution clearing the way for our participation. Thus while this is the 75th anniversary of the ILO, it is also the 60th anniversary of U.S. membership. The ILO is the part of the league system the United States was least likely to join. The league system consisted of the league itself, the Permanent Court of International Justice, and the ILO. In fact, the ILO was the only one we did join

and it was the only one to survive the next war.

And so we have before us today the fruits of the labors of men like Gompers and Butler. However, one might ask, since the United States has only ratified 12 of the 175 conventions are we getting all we could from our participation in the ILO. In 1988 when the Senate, which for 35 years had not ratified a single ILO convention, ratified two, Senator HATCH was struck by this fact when on the Senate floor he observed:

> The hearing [on the ILO conventions] made it quite clear that our failure to ratify a single ILO convention during the last 3 decades has undermined the effectiveness of our representatives to this important international organization. * * * Unfortunately, when we have criticized Communist violations of ILO standards, our credibility has always been somewhat suspect given our own refusal to even consider ratifying ILO conventions. To be taken seriously in this organization, Congress must break away from the policy of abstention we have practiced for the last 30 years, the policy of not ratifying a convention regardless of its content.

Those words are still instructive. With the observation that it was not just communist violations of labor standards which affect us. The premise of the ILO is that all states must act together to improve labor practices. Otherwise an imbalance occurs and an unfair advantage is created. I think it is fitting that on the 75th anniversary of the ILO that we take steps to strengthen our efforts to play a leading role there.●

THE VISIT OF NELSON MANDELA, PRESIDENT OF SOUTH AFRICA

● Ms. MOSELEY-BRAUN. Mr. President, I want to welcome President Mandela to the United States on the occasion of his first trip to America as Head of State, and to pay special tribute to him as a unique leader. His emergence from prison, and his ascent to the Presidency of the new South Africa, are a testament to his leadership, to his courage, and, at the same time, to his humility. He is successfully leading all of his people to a new South Africa.

I visited Nelson Mandela in South Africa 2 years ago, before I joined the Senate and before his election to the Presidency. I was struck at that time by his vision, by his total commitment to build a unified South Africa. And as someone who was involved through the years in the struggle against apartheid in this country, it gave me great pride to attend his inauguration as President in May.

South Africa has a long history of struggle that has been duly recognized by the international community. Mahatma Ghandi began his work preaching nonviolent civil disobedience in South Africa. Albert Luthuli was awarded the Nobel Peace Prize in 1960. It was later awarded to Bishop Desmond Tutu. And last year F.W. de Klerk and Nelson Mandela were so honored. This continuum of leadership was critical to the evolution of democracy today.

I also want to acknowledge the vision of Vice President de Klerk. He came to understand that the continuation of apartheid was untenable. Many white South Africans undoubtedly came to the same conclusion. But it takes a great leader to negotiate a peaceful transition to a new political order.

The United States and the international community recognized and supported and assisted in the struggle against apartheid. But the work is not finished. We must continue to lay the framework to ensure that President Mandela and South African democracy succeed. President Mandela and the South African people have won the war against racial injustice. But that war is only a preamble to the war against poverty, against homelessness, and against illiteracy.

Today, South Africa is on the verge of becoming one of the most influential nations in Africa. It can become an engine of economic growth for the whole continent. But it is also a shining example to the world that political revolution can be peaceful. It can be negotiated. It can occur without bloodshed and without civil war.

President Mandela has extended the hand of reconciliation to all South Africans. That country is enjoying stability because he has assured blacks as well as whites, coloreds as well as Asians, that everyone has a role to play in the new South Africa. And the people understand that everyone will benefit. We saw enormously long voting lines last April because no matter which party they supported, each person felt a vested interest in the development of the new South Africa. I believe that all of the enthusiasm and good will is in no small part due to the leadership and vision of Nelson Mandela.

We, in the U.S. Government, must now ask ourselves what we can do to help consolidate the incredible gains that have taken place. President Mandela has come to the United States not seeking aid. He has come seeking trade. His message is that South Africa is open for business.

Trade and investment are critical to the future success of President Mandela and the new South Africa, economic prosperity is the only guarantor of future stability, but expanding trade is good for the United States too. United States investment creates South African jobs. The standard of living of individual South Africans rises. More and more South Africans become consumers and able to afford United States products. As the United States sells more and more American made products to South Africa, we create jobs here at home. United States investment in South Africa today will encourage job creation and expand economic opportunities for both Americans and South Africans tomorrow, just as expanding trade and investment has expanded economic growth and improved the standard of living for people around the world throughout our history.

The U.S. Government has responded. President Clinton sent a trade mission to South Africa led by Secretary of Commerce Ron Brown. The Commerce Department has targeted South Africa as one of the 10 big emerging markets for United States exports. The United States Information Agency and some Members of Congress hosted a conference in Atlanta devoted to encouraging American trade and investment in South Africa. Some States have set up trade offices in South Africa.

U.S. multinationals have also responded. On Monday, Pepsi Cola announced a $20 million investment in a bottling venture that includes substantial investment from African-American entrepreneurs. This is but one high profile investment. Thirty United States firms have reinvested in South Africa since last year when Nelson Mandela asked for all trade restrictions to be lifted. I am very proud that Sara Lee, based in Chicago, is the largest United States employer in South Africa with over 4,700 employees.

These business people are not investing in South Africa out of altruism alone. They are investing because there is money to be made. In 1993, South Africa bought $2.2 billion worth of United States products, mostly airplanes, airplane parts, and grain. But forecasts predict that United States sales to South Africa could grow to $3.4 billion in 5 years. For this to happen, for the customer base to grow, South Africa must create jobs. It must provide for the wider distribution of wealth.

South Africa is blessed with valuable natural resources. It is a beautiful land, which tourists will find enchanting. South Africa has the best transportation infrastructure in Africa. It has modern banking and commercial laws. It has signed the GATT Agreements to reenter the international community of trading nations. And it has a hardworking labor force that is eager for new jobs and new opportunities.

Democracy means more than one person, one vote. It means more than the election of a President from the African majority. For democracy to succeed, it must meet the needs of all its people.●

THE VOLUNTARY ENVIRONMENTAL CLEANUP AND ECONOMIC REDEVELOPMENT ACT OF 1994

● Mr. RIEGLE. Mr. President, I rise to commend my friend and colleague,

Senator LAUTENBERG, for his efforts this legislative session to enact S. 773, the Voluntary Environmental Cleanup and Economic Redevelopment Act of 1994, and the compromise substitute to the bill that he and I worked together to develop.

The substitute bill—which is supported by members of both the Environment and Banking Committees—recognizes that the economic revitalization of our distressed communities depends upon the encouragement of voluntary cleanups and the availability of credit to help finance the removal of environmental contamination.

In crafting this substitute bill, Senator LAUTENBERG and I have built upon the objectives of S. 299, the Abandoned Land Reuse Act, which I introduced in February 1993 and which was referred to the Committee on Environment and Public Works.

Mr. President, the substitute bill does not incorporate some of the authorities we had proposed in S. 299. But it is very important legislation that will successfully encourage the revitalization of our Nation's abandoned industrial and commercial sites. For example, the substitute bill authorizes the Department of Housing and Urban Development to provide partial credit enhancement of site assessment and authorizes public or private lenders to provide to local governments, local community development organizations and other borrowers.

I am particularly pleased that the substitute bill contemplates a risk sharing arrangement, whereby the Federal Government shares equally with participating lenders in the credit risk of loans used to finance either environmental site assessment or site cleanup. An incentive for lenders to undertake sound loan underwriting is created by requiring participating lenders to assume 50 percent of the risk of loss. Additionally, the Federal Government's risk of realizing a loss on its guarantee of the remaining 50 percent of the loan is minimized by requiring that participating lenders fund a separate loss reserve to cover their anticipated program loan losses. Furthermore, the program requires that participating lenders have sufficient commercial lending experience and financial and managerial capacity.

Mr. President, I am also pleased that the credit program authorized by this legislation will be administered through State agencies selected by the Governors with HUD's concurrence. HUD's primary role, therefore, will be to allocate assistance among the States in response to information received annually from participating lenders and State administering agencies. This arrangement is an improvement over the credit program originally outlined in S. 773, in which HUD was given a direct lending role without lender participation. Representatives of HUD have confirmed that the substitute bill's economic redevelopment credit assistance program is preferable to a direct loan program administered by HUD. Private and public lenders have also indicated their interest in and support for the proposed credit assistance program.

Mr. President, I commend Senator LAUTENBERG for his efforts and cooperation in developing the substitute amendment for the Voluntary Environmental Cleanup and Economic Redevelopment Act of 1994. I hope that upon his return to the Senate next Congress, Senator LAUTENBERG will continue his efforts to enact this important legislation.•

THE EAST ST. LOUIS JEFFERSON NATIONAL EXPANSION MUSEUM

• Mr. SIMON. Mr. President, my colleagues and I from Illinois as well as my colleagues from Missouri have been working hard to extend the Jefferson National Expansion Memorial [JNEM] from the banks of the Mississippi River in St. Louis, MO, to the east bank of the river in Illinois. The extension of the JNEM to the Illinois riverfront completes the plans initiated in 1935 by the U.S. Congress for the construction of a memorial to Thomas Jefferson and the Nation's westward expansion, and fulfills the visions and dreams of Eero Saarinen, designer of the arch. It was his intention that the east side of the river be brought into the design of the memorial.

I think this effort will also provide hope for the troubled community of East St. Louis, IL. East St. Louis has suffered devastating economic hardships over the years. If we are successful in attracting the kind of public and private investment to the east side of the river as St. Louis, MO, did to the westbank, this effort could be a model for the renewal of other urban centers.

My bill is only one step in the long, involved process toward revival of the area. S. 1726 directs the National Park Service to conduct an architectural design competition to solicit design proposals for a museum commemorating the role of ethnic diversity in the development of the United States. A museum that celebrates the American spirit in all of its rich diversity would be a powerful statement. As a nation, we are strong because of that diversity. I believe there is no better place for such a symbol as in the heartland of Illinois, along the banks of the Mississippi River.

The bill goes further and requires that a study be done and submitted to Congress on possible funding mechanisms for the development, construction, and maintenance of such a world class museum.

The potential for redevelopment of East St. Louis has been studied for years. This project enjoys the bipartisan support of business leaders in St. Louis, mayors, Governors, and congressional delegation members of both States. The Senate should act judiciously and pass this legislation.•

HONORING DANIEL D. CANTOR

• Mr. GRAHAM. Mr. President, today I rise to honor Daniel D. Cantor of Tamarac, FL. Few Americans have a record of philanthropy and commercial accomplishment as distinguished as Daniel Cantor. He has well earned the honor of being selected by the Joint Commission on the American Promenade in Israel as a founding father for the State of Florida.

The United States and Israel have long shared special bonds—political, cultural, and economic. These bonds have led to an exceptional friendship between our two peoples. The people of Israel have initiated the American Promenade in Israel project, at the gateway to Jerusalem, as a monument to this exceptional friendship. The Promenade will consist of 50 marble, 20-feet high monuments bearing the flags and the official seals of the 50 States, as well as the United States-Israel Friendship Botanical Garden featuring Biblical and State trees, flowers and wildflowers. A stainless steel time capsule with a glass-lined interior will be buried 25 feet under each State obelisk, to be opened in the year 2048 at Israel's 100th anniversary celebrations.

A well-deserving personality from each State will be honored by the Joint Commission as a Founding Father, whose name will be permanently inscribed on the monument of their State. Daniel Cantor has been designated as the Founding Father from the State of Florida.

Daniel Cantor began his lifetime career of service in the United States Navy in 1942 immediately after his graduation from the City College of New York Law School. After his service in the Navy, Daniel went on to become a successful builder, developer, and operator of shopping centers and homes for the aged in Florida and New York. He has been a leader of the United Jewish Appeal, a member of the America-Israel Political Action Committee's Executive Committee, and has long been a key supporter of United States-Israel cooperative initiatives. Daniel has also been an honoree of numerous humanitarian awards for his contribution in the area of health and health services.

The American Promenade serves as a poignant reminder of the strength of friendship between two great democracies, the United States and Israel. It is to his credit that Daniel Cantor's name will be carved into the stone obelisk representative of the State of Florida, an eternal reminder of his generosity of spirit.•

TAIWAN IN INTERNATIONAL ORGANIZATIONS: VIEWS OF DR. TRONG CHAI

• Mr. SIMON. Mr. President, the 21 million people of Taiwan constitute the largest democratic society without an effective voice in international organizations. Despite that country's explosive growth in GDP and its progress in building a democratic political system—areas in which, I would note, Beijing comes nowhere close to Taipei—Taiwan finds itself closed out of major multilateral bodies such as the United Nations and the GATT. That is one reason why earlier this session I introduced a resolution that called for reintegration of Taiwan into international institutions, as well as a significant improvement in terms of dialog between the United States and Taiwan. I am pleased that so many colleagues joined me in cosponsoring or voting for that measure.

Of course, the question of Taiwan's representation in international institutions is also a very important one to that country's legislators. One such man is Dr. Trong Chai, a major leader in the Taiwanese parliament's principal opposition party, the Democratic Progress Party. It is a measure of Dr. Chai's commitment to Taiwan's future that, when democratic political action became possible, he gave up his American citizenship in order to run for parliament there.

The question of how best to get Taiwan into the United Nations is one to which Dr. Chai has devoted considerable thought. In his view, the country would stand a better chance applying under the name "Taiwan," rather than under the name "Republic of China." Dr. Chai recommends that the people of Taiwan be given the chance to vote in a referendum on the question of which name it should use.

I am not going to advocate or discourage the referendum proposal, which is one with domestic political repercussions in Taiwan, and one that ultimately the people of Taiwan must decide themselves. But as someone who has known and respected Dr. Chai for some years, I always listen with interest his proposals on Taiwan and the world stage.•

BANNING BONUSES FOR POLITICAL APPOINTEES DURING A PRESIDENTIAL ELECTION CYCLE AND PLACING A COMPLETE BAN ON BONUSES TO EXECUTIVE SCHEDULE OFFICERS

• Mr. LEVIN. Mr. President, I am pleased that the Senate today is passing my amendment banning bonuses to political appointees for the 6-month period at the end of an administration and placing a permanent ban on bonuses to the very top political appointees—Executive Schedule I–V and their equivalents who are Senate-confirmed, Presidential appointees.

This amendment is nearly identical to legislation I sponsored in the last session of Congress, S. 1070—a bipartisan proposal cosponsored by Senators STEVENS and DORGAN. S. 1070 passed the Senate last November by unanimous consent. It was then referred to the House Post Office and Civil Service Committee's Subcommittee on Compensation and Employee Benefits chaired by Congresswoman HOLMES NORTON where it was discovered that the legislation's provisions regarding the permanent ban on cash bonuses unintentionally covered certain career employees. The amendment we are acting on today corrects that error and tightens the bill's provisions to ensure that no career employees are affected.

The need for this legislation was amply demonstrated by the midnight bonuses award to political officials at the close of the Bush administration. While in 1991, 50 bonuses were awarded to this class of Federal employees, in 1992—the end of the Bush administration—that figure rose to 133. While this increase on its face did not prove an abuse of the system, it certainly raised questions about the purpose of these bonuses—especially given the number of top-level political officials who received them.

President Clinton directed the Office of Personnel Management [OPM] to conduct a review of these bonuses and report back to him. The review looked at monetary awards during the "Presidential transition period" which was defined as October 1992 through January 1993. OPM's initial report was released in late March. The findings of the report are quite compelling. The report states,

> In brief, we found that there was a significant increase in the number of awards granted to political appointees during the transition period, creating at least the appearance that they were granted for reasons other than recognition of benefit to the Government. While technical procedures were followed, we believe the spirit and purpose of the awards program was evaded, and that additional safeguards are needed.

Mr. President, I ask that the executive summary of the OPM report from which I quoted be included in the RECORD immediately following my remarks.

This legislation is an important step in an effort to reassess and revise the Federal Government's bonus system to ensure that bonuses are not merely rewards for political loyalty but for effective governing and a true commitment to public service. As it now stands, the waters have been muddied by the bonuses awarded during the final months of the Bush administration and the integrity of the bonus system has been weakened.

The legislation places a 6-month ban on cash awards from June 1 prior to a Presidential election to the following January 20. This would put an end to the bonuses which, at the very least, give rise to the appearance that they are rewards for political loyalties at the end of an administration rather than for effort.

The complete ban on cash awards for those top-level officials in the Executive Schedule codifies current OPM policy regarding the award of cash bonuses to those who are in positions which require Senate confirmation. Individuals in the Executive Schedule are making salaries which range from $108,200 to $148,400 and serve in very high profile positions. Cash bonuses are unnecessary and inappropriate at this level. The OPM guidance states that "(h)onorary recognition is considered appropriate in light of the honor, salaries, and perquisites associated with such positions, and advisable because of the potential for adverse publicity that could result if such officials were to receive significant cash awards." OPM indicates that at the close of the previous administration, this policy guidance was ignored in several instances. My legislation would enforce this guidance as law.

During the Federal Services, Post Office and Civil Service Subcommittee's consideration of this legislation, an amendment was added by Chairman PRYOR to include what are termed "Executive Schedule Equivalents" under the complete ban on cash awards. These are political appointees who are not in the Executive Schedule itself, but whose pay rates are equivalent to Executive Schedule employees by law.

At a time when we are all undertaking efforts to restore faith in the integrity of our Federal Government, it makes sense to make appropriate changes in our bonus system to eliminate any opportunity for abuse. Bonuses can be an effective management tool, but they become counterproductive if there is an appearance that they are being awarded for political purposes.

As I indicated before, I see this as a first step in the effort to reassess and revise our Federal employee bonus system. An additional issue that was raised by the OPM report and which I believe needs to be addressed is the award of bonuses to inspectors general [IG's]. OPM reports that nine IG's received bonuses during the final days of the previous administration. IG's play one of the most significant roles in our efforts to increase the effectiveness, efficiency, and the integrity of the Government. Their independence and integrity must be without question. Bonuses to IG's can become highly questionable when they are authorized by the head of the agency over which a particular IG holds oversight responsibility.

I am pleased that the Inspectors General in the current administration have signed pledges not to take bonuses. This is an important step to address this issue in the short term. However,

we need to devise a policy for the long term. This is an issue which concerns Senator GLENN as the chairman of the Governmental Affairs Committee, and his staff is working closely with the IG community to devise an effective and equitable pay system for IG's. My staff and I will be working with Senator GLENN and his staff to explore ways to address this matter in the long term and, therefore, I have decided to not address bonuses for IG's in this bill.

This amendment would eliminate two problems which were identified by the OPM report, and it has the support of the administration. Mr. President, I ask that a May 31, 1994, Office of Personnel Management letter in support of S. 1070 also appear in the RECORD immediately following my remarks.

I thank my Senate colleagues for their support in passing this legislation, and it is my expectation that our colleagues in the House will also act quickly to get these important reforms enacted into law.

The letter follows:

EXECUTIVE SUMMARY

In response to the President's direction, the Office of Personnel Management (OPM) conducted a review of monetary awards granted during the Presidential transition period.

The President expressed concern that the granting of large monetary awards as the former Administration departed raised disturbing questions about their timing and amounts. The review focused on awards granted for superior accomplishment (also call special acts) granted at the headquarters of major departments and agencies.

PURPOSE OF THE REVIEW

OPM's review focused on two questions: whether the awards were granted consistent with established criteria and procedures and whether new or revised safeguards are necessary.

FINDINGS OF THE REVIEW

There was a substantial increase in the number of awards given to political appointees during the transition period as compared to the same months the year before (from 49 to 133). The number and dollar value of awards granted by each agency reviewed during the relevant periods are presented in attachment 5 to the report.

Current safeguards clearly were not adequate to prevent misuse of flexibilities in the awards program. The political leadership at several agencies used these flexibilities to grant awards to political appointees that create the appearance they were given as "political favors" rather than for their intended purpose.

Six of the 23 agencies reviewed accounted for two-thirds of awards to political appointees. These were Energy, Education, Agriculture, Justice, Small Business Administration, and Labor.

Technical procedures were followed, but the evidence indicates that the purpose of the award program was evaded. For example, the justification on a large number of awards was questionable. Superior accomplishment awards should not be given for the performance of regular duties, particularly given the level of the employees involved. Also, there is an indication that some of these awards were given as a means to avoid the limitations on other award categories.

The review revealed that awards were given to Inspectors General in five agencies. While the awards were legal and in line with previous awards in non-transition periods, we believe the practice of giving awards in non-transition periods, we believe the practice of giving awards to IG's is problematic because it could call into question the integrity and independence of their work.

The Department of Justice granted several awards to Presidential appointees. These awards contravene explicit OPM guidance in Chapter 451 of the Federal Personnel Manual.*

SCOPE OF THE REVIEW

The Government gives thousands of awards to its employees each year. Of all these, two types have the greatest cash value: "superior accomplishment" and "performance" awards. This review focused on the superior accomplishment awards because, although a small percentage of the total, these are the ones most likely to be abused—agencies have broad discretion in making them and they can be given at any time.

The larger group of awards are performance awards. They are based on written standards, given on a scheduled basis, and approved only after a multiple review process. Given the volume of these awards, a manual examination would be a huge and costly undertaking and infeasible within our timeframe. However, when the automated awards data for FY 92 is compiled on a Governmentwide basis later this year, we will be able to conduct a parallel examination to see if our concerns with superior accomplishment awards also apply to performance awards.

CONCLUSION

Clearly the flexibility granted agencies under the awards program must be exercised responsibly and only for the purpose for which the awards are intended. Our review indicates that this was not the case in all agencies during the recent transition period. Since the awards program is a critical part of the Federal performance management system, used to recognize the outstanding contributions of our many fine employees, maintaining its integrity in both fact and appearance is of great importance.

The report contains a number of options for providing greater safeguards for the awards program in the future. OPM will further develop these options and take steps to monitor the program more closely. In addition, given the importance of the awards program to the Federal service and to the public's perception of it, we believe the issues surfaced in the report would also be appropriate for consideration in the context of the National Performance Review.

OFFICE OF PERSONNEL MANAGEMENT,
Washington, DC, May 31, 1994.

Hon. WILLIAM L. CLAY,
Chairman, Committee on Post Office and Civil Service, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This is to offer the views of the Office of Personnel Management on S. 1070, concerning awards for political appointees under Federal employee awards programs. S. 1070 would bar awards during Presidential election periods to noncareer members of the Senior Executive Service and to lower-level political appointees, and would establish a complete prohibition on cash awards to most appointees in Executive Schedule positions or equivalent positions.

The Office of Personnel Management supports enactment of S. 1070. OPM's March 1993 study, conducted at the President's request, found that there was a significant increase in the number of awards granted to political appointees during the preceding transition period. We believe that S. 1070 will provide the additional safeguards needed to ensure that the future operation of the Government's awards programs with respect to political appointees will be free from the reality or appearance of abuse. This Office would be pleased to provide any assistance that may be helpful to your Committee on matters related to S. 1070.

The Office of Management and Budget advises that, from the standpoint of the President's program, there is no objection to the submission of this report.

Sincerely,

JAMES B. KING,
Director.●

*OPM recommends that: "Presidential appointees whose appointments require Senate confirmation receive honorary, rather than monetary awards. Honorary recognition is considered appropriate in light of the honor, salaries, and prerequisites associated with such positions, and advisable because of the potential for adverse publicity that could result if such officials were to receive significant cash awards."

THE AMERICAN PROMENADE IN ISRAEL

● Mr. RIEGLE. Mr. President, I rise today to speak about the progress that has been made on the American Promenade in Israel. The Promenade, once completed, will stand as a monument to the strong friendship between Israel and the United States. Funded entirely by private citizens, the American Promenade will be a national park at the gateway to Jerusalem consisting of 50 marble monuments bearing the flags and official seals of the 50 States, and the United States-Israel Friendship Botanical Garden featuring Biblical and State trees, flowers and wildflowers.

In 1988, the year that marked Israel's 40th anniversary, I was named to the honorary National Advisory Council of the Joint Commission on the American Promenade in Israel. I continue to take provide in having my name attached to a project which so elegantly commemorates the American-Israeli friendship. But friendships between countries really are forged by dedicated individuals. As part of its efforts to honor those who have played a particularly important role in fostering United States-Israeli relations, the Joint Commission on the American Promenade will honor one outstanding personality from each State as a founding father of the project. As a member of the National Advisory Council, I am particularly pleased to recognize Mr. Louis Berry who has been chosen as the founding father from Michigan.

Born to a working-class family in Liverpool, England, Mr. Berry came to the United States in 1922, bringing his widowed mother and five brothers and sisters to Detroit shortly thereafter. But even as he struggled to build a life of his own in America, he tirelessly supported the Zionist movement. Thanks to the deep commitment of individuals like Louis Berry, the Zionist

dream was finally realized when the state of Israel was founded in 1948. Today, he continues to raise millions of dollars for Israel and volunteer his time and talents to numerous organizations including refugee committees, committees for mental health, Jewish charities, hospitals, synagogues, schools, and other educational institutions. His tireless efforts on behalf of Israel will long be remembered.

Louis Berry is an exemplary representative of the special bond of friendship which is shared by the United States and Israel. I am proud to express my support for the American Promenade and for the Joint Commission's excellent choice of Louis Berry as the founding father from Michigan.●

THE FORMULA OF PYE

● Mr. LAUTENBERG. Mr. President, the Star Ledger is our State's largest paper. It speaks with a powerful voice on issues of concern to New Jersey. It is a big paper—especially if you pick up the Sunday edition. It is also a successful one.

Mr. President, the Star Leger's prominent standing in our State can be largely attributed to its editor, Mort Pye. The news and editorial comments of his newspaper have informed and entertained. They have opened the publics' and public officials' eyes to emerging issues and problems that need attention.

The September issue of New Jersey Monthly ran a profile of this remarkable man and the mark that he has made and continues to make on his newspaper and our State.

I ask that the full text of the article be printed in the RECORD.

The article follows:

[From the New Jersey Monthly, Sept. 1994]

THE FORMULA OF PYE

(By Stephen Barr)

In early May, Star-Ledger editor Mort Pye sat in his Newark office waiting for the arrival of Governor Christine Todd Whitman. Running New Jersey's largest newspaper had always assured him of easy access to the state's chief executives. Tom Kean promptly took his phone calls; Jim Florio occasionally stopped by the newsroom of a lunchtime sandwich, and a private chat. But this encounter would be neither casual nor amiable: Carl Golden, Whitman's press secretary, had contacted Pye to schedule a meeting so that the governor could give him an earful.

Seven weeks earlier, in her March 15 budget address, Whitman had announced that she was dismantling the state Board of Higher Education. She wanted to give New Jersey's public colleges and universities more autonomy over their affairs. There would still be state oversight, she insisted, but exactly what it would be and how it would work was uncertain.

With no press leaks before the speech, the governor's announcement hit Pye particularly hard. At the helm of the Star-Ledger since 1963, he considers the newspaper's support for the board's creation in 1967 part of his legacy. "I had the idea that higher education could be stronger in New Jersey if it had its own separate department," Pye says. "We were involved in [the board's] formation. It was one of the first big things we promoted, so you can understand out feelings about what's happening now."

Education editor Robert Braun—who at the time of the announcement had been working for a month on a multipart series about the board's achievements over the past 27 years—immediately launched a full-scale assault on the Whitman plan. Day after day, in news stories and twice-weekly opinion pieces, he attacked—often viciously—Whitman's move and anybody who supported it. "There's no way any governor can say to a newspaper, 'Get with the program,'" complains a Whitman-administration insider. "Her only request was for fairness and balance in the coverage, which was utterly and totally lacking. The way Braun goes from elucidation to advocacy and agitprop, it's disgusting."

Pye talked to the governor and then talked to Braun, but little changed and the newspaper continued to attack Whitman's proposal. Pye now disputes the assessment of Braun's work and makes no apologies for the Ledger's campaign—albeit an unsuccessful one—to save the higher-education board. Apologizing is not Mort Pye's style.

For more than three decades, Pye has refused to give in. When he joined the paper as an associate editor in 1958, the Ledger was on shaky ground. Since then, he has not only reversed its fortunes but has built it into the nation's fifteenth largest daily and eleventh largest Sunday paper. Two out of every five New Jersey newspaper readers buy the Ledger. It is the dominant paper even in counties like Middlesex and Morris, which boast their own local dailies.

Pye has done this while defying conventional wisdom. The Ledger regularly uses its news pages to launch crusades and influence policy. And while its competitors have jazzed up their offerings with vibrant color, zippy graphics, and snappy writing, this slumbering giant has prospered in spite of a heavy gray look and a flat writing style. Pye makes no apologies for that either. "What you're trying to do is get people addicted to the paper the way it is," he explains. "If you suddenly make drastic changes, then you're telling the reader, 'What you're used to is no good, and now we're going to give you something that's really good.' That's an insult."

While most contemporary editors might find such an argument ludicrous, there is no debating the fact that the Ledger has spent the last decade gobbling up readers while barely changing its news presentation.

During his dynastic reign, Mort Pye has done as much to influence state affairs and promote New Jersey's interests as any other individual. He has watched six governors come and go, and the 76-year-old editor shows no signs of coasting toward retirement.

Pye's achievement of building what appears to be an invincible temple of journalism is rather remarkable when one considers that few people—particularly in journalism—think of the Ledger as a world-class newspaper. Editors and reporters around the sate routinely slam the paper's quality, although they follow and clip the paper religiously. But even as they toss insults, Pye is having the last laugh. To him, it is the readers of the Star-Ledger who count, and in an age when fewer and fewer people are buying newspapers, it is clear they are buying Mort Pye's in droves. "It is the 800-pound gorilla of New Jersey newspapers," says Neil Upmeyer, president and editor of the public-policy journal New Jersey Reporter.

Mort Pye brown-bags his lunch, which today consists of a cheese-and-mustard sandwich on white bread and an apple. We're eating in the conference room adjacent to his humble office (which overlooks a Newark side street and lacks any trappings of power). The surfaces are neat and tidy; the only sign of clutter is on the walls, which are plastered with plaques from business and civic groups and the New Jersey Press Association. Conspicuously missing is journalism's top award—the Pulitzer prize.

Over the years, Pye has steadfastly remained offstage, ducking interviews and refusing personal publicity. He rarely ventures far from his office, except to visit the newspaper's fifteen bureaus around the state. His idea of a vacation is to drive the back roads of New Jersey with his wife in search of hideaways along the Delaware River or in the mountains. And he shies away from newspaper-industry seminars because, he says, colleagues always "try to talk me out of what I'm doing."

What he's doing—or, more accurately, what he's done—is to take a failing property and make it the most lucrative link in the privately held newspaper chain owned by billionaire brothers Si and Donald Newhouse. How he's done it is the stuff of legend in newspaper circles. By opting for sheer heft—an eleven-person Trenton bureau, a huge sports section, a cadre of specialty writers—he has fashioned the only New Jersey newspaper with truly statewide appeal. He has shrewdly pushed regional and local coverage as suburbs boomed, and added readers as the state's population migrated south and west from the Ledger's base in Essex County. By shamelessly turning his news pages into a soapbox for causes and crusades, he has made the newspaper a major player behind big development projects and countless public-policy initiatives.

Pye accomplished all of this by stubbornly and doggedly shaping the newspaper into a creature of his own making. "If there ever was a man dedicated to putting out a newspaper, it is Mort Pye. He is the Star-Ledger," says Joseph Carragher, a former Trenton bureau chief. "He built the paper section by section, as if he had an idea in his head of how he wanted to make the Ledger number one. His imprint is on every page of that paper."

Pye, a small man with a frail, reedy voice, has a manner that is both gentle and gracious. When he displays anger, which is rare, staffers say he can manage no more than a high-pitched squeal. Today at lunch he wears a maroon cardigan over a robin's-egg-blue shirt, with a striped tie of mutted browns and blues. As he speaks, he leans back and curls his fingers around his belt. In such asceric environs, his angular jaw and the remains of white hair on his bald head give him a monklike look.

But his low-key appearance belies a certain impish quality. Below the surface is an intensely competitive man who seems to revel in the brickbars that come his way: that the Ledger's advocacy of issues compromises its journalistic integrity, that the newspaper goes after impersonal bureaucracies (the Department of Motor Vehicles is a favorite) and not public officials, that the look of the paper is woefully out of date, that the writing favors the assembling of facts and statements over style and perspective.

Releasing a mirthful, almost devilish chuckle, Pye recalls the name of a television

talk show that featured media experts dissecting the paper. It was called Pye = Power. "The approach was to try and show we were up to no good, too big for our britches," he says. He had no desire to be part of that dressing-down, but jokes that the real reason he didn't participate was that "I don't like to go on TV because I don't have the right voice. And no one's interested in seeing my sexy bald head."

When Rutgers University president Francis L. Lawrence gave Pye an honorary degree in May, he cited the editor's "disarmingly modest mien" as he raised "the quality of life and caliber of politics" in the state. Pye hadn't told his staff that he would be receiving the Rutgers accolade, but it's no secret he thrives on just that sort of praise.

That is evident from a sampling of favorable letters he's saved over the years, dating from 1968 to 1993 (interestingly, he throws out all unfavorable letters). One bunch is from business and community leaders, public figures, and just plain readers. In its own way, each letter strikes the same theme—that Pye's newspaper is good for New Jersey. A 1975 note from Lawrence's predecessor, Edward J. Bloustein, is particularly apt:

"Dear Mort:

"I have only recently returned from an all too brief vacation, but I did not want to let too much time slip by before complimenting the Star-Ledger on the exceptionally fine August series on higher education written by Bob Braun.

"It was one of the most comprehensive and thoughtful series that I have seen and I believe that you and Bob and the Star-Ledger have done a great service for both higher education in New Jersey and for the people of this state."

Mort Pye got his first taste of newspapering in 1926 at the wizened age of eight. Even then, his focus was decidedly local. A cousin gave him an old typewriter, and he published several issues of the Sumner Park Gazette—a flyer with news about the street he grew up on in Rochester, New York.

At the University of Illinois, Pye wrote for the Daily Illini and sent dispatches about school activities to the New York Times, which sent back checks for $25 every once in a while. After his sophomore year, he moved to New York and began playing the trombone in swing bands while finishing his degree at City College of New York. He decided to pursue a career in journalism upon graduation in 1940, sending three articles to a newspaper called PM. Two of them—one on efforts to control the weather, the other on suicides in the military—were accepted at a rate of two cents a word.

At the same time, Pye sent 250 letters to newspapers all over the country. One response came from the Long Island Press, which, like Pye, was based in Jamaica, Queens. Managing editor Ed Gottlieb noticed the local postmark and offered a few dollars a pop for freelance work. Soon Pye was making about $35 a week, which was $10 more than staff reporters, so he was given a job. He continued playing the trombone at dances and bar mitzvahs, which paid more for a Saturday night than he earned in a week at the paper. But after Pye refused one too many weekend assignments, Gottlieb gave him an ultimatum: journalism or the jive joints. Pye chose journalism.

One day, Gottlieb asked Pye to drive a woman's-page reporter to the dentist. Florence Newhouse was a cousin of the newspaper's owner, S. I. Newhouse, and she had a toothache. "I drove her in my beat-up old Chevy," says Pye, "and that's how we got acquainted." The romance quickly blossomed, and the two were inseparable. When Pearl (as she's known) would get off from the paper at midnight, she'd go to a deli down the street and kill time by helping to make coleslaw and potato salad for the couple who ran the store. When Mort got off two hours later, they'd drive into Manhattan and chase fire engines or hang out in Greenwich Village. They wouldn't get back to Queens until after sunrise.

Professionally, things were starting to gel as well. One night in 1941, Pye was on the rewrite desk when he got a call from a reporter with a late-breaking story. A woman's body had been found in a Rockaway Beach bungalow. The 23-year-old Pye felt a surge of adrenaline as he scribbled down the details. This was hot stuff: a nude body in a cottage owned by a local politician. He wrote up the story with all the verve and sensation he could muster. "Blonde Found Dead" screamed the next day's front page.

That afternoon, Pye was near a newsstand waiting for Pearl when a well-dressed businessman stopped to look over the rack of a dozen or so newspapers. As he reached for the New York World-Telegram, the Long Island Press seemed to catch his eye. He plunked down his nickel for the Press, and Pye, excited at the ideas that his story had sold a newspaper, went up to the man and asked him what had changed his mind. "I remembered I needed to look for something in the classifieds," the man responded.

Pye relates the tale as an amusing anecdote, but in a way it poignantly reveals the source of his vision for the Star-Ledger and one of the secrets of its success. In Pye's view, the more things there are in the paper, the more readers there will be. "Not everybody is interested in everything, but hopefully everybody is interested in something," he says. "The percentage of people who read a particular story is very low. If you cut out everything with less than 15 percent readership, what would you have left? Maybe 'Ann Landers,' the horoscope, and a couple of comics."

The Star-Ledger was little more than that in 1958, when Pye was named its associate editor. S. I. Newhouse had owned the paper since 1934, and it was the wallflower of the newsstands. "It was not making a lot of money," says Newhouse's son Donald, whose office today is one floor below Pye's. "It was a marginal operation, and it might have been losing money."

The Ledger was a scandal sheet that played up crime stories, carried racing results on the front page, and saw its readership rise when circulation contests were running and then fall when the promotions ended. By the mid-fifties, city editor Arthur Heenan, a staunch supporter of Senator Joseph McCarthy, avidly pushed reporters to root out Reds in New Jersey. All along, the Ledger was Newark's second paper—a poor stepchild to the beloved Newark Evening News, which had more readers, national recognition, and a reputation as New Jersey's New York Times.

After Pye arrived, he walked into the newsroom one day carrying an edition of the Ledger from a year or two before. Noted gangster Longie Zwillinan had killed himself, and the paper ran a main story and eighteen sidebars (accompanying stories) on the suicide. "Mort said, 'This will never happen again,'" Joseph Carragher recalls. "The whole attitude of the place changed: the philosophy, the tone, what was important and what was not." Crime news was relegated to the back of the newspaper, and Pye began demanding a front-page education story every Sunday.

Pye decided to stay at the Ledger because he liked the New York metropolitan area, but progress was slow and the roadblocks substantial. The newspaper operation was run out of a converted horse barn on Halsey Street, and antiquated presses made it impossible to add more news and better features or build the circulation much beyond what at the time was about 200,000 daily readers.

The moment of truth came in 1963, when S. I. Newhouse sent Donald, then the general manager of the Jersey Journal, to see Pye. It was their first real conversation, and Donald Newhouse did all the talking. He said the Ledger was in bad shape and of poor quality; it was time to either spend a lot of money to build the paper up or shut it down. "We had great faith in Mr. Pye's ability as an editor and substantial belief that a properly edited paper could be a successful paper," Newhouse says. "Our decision [to continue] reflected our confidence in him as an individual."

Newhouse unequivocally displayed his faith. A new plant with new presses opened in February 1966, and though they would talk frequently, Newhouse never asked Pye for a formal plan to turn the Ledger around. Pye never had a budget, and spent what he wanted to increase news coverage and add staff. Newhouse never balked when his editor asked if he was overstepping his bounds, and he often encouraged him to spend more.

"The rules of the game were changing, and Mort and Donald saw that," says a Ledger insider. The growth of the suburbs had fostered the building of highways, and the new roads were free and clear before daybreak for the delivery of a morning paper like the Ledger. It was a snap to reach once distant towns and follow readers as they moved into Middlesex, Morris, and Somerset counties and beyond.

What helped matters was that Richard Scudder, the owner of the Newark Evening News, apparently wasn't seeing what Pye and Newhouse were. He had built a new plant in downtown Newark in the sixties, but delivery of his evening paper during daytime hours proved increasingly difficult: His trucks faced clogged roadways and had trouble getting out to the suburbs. "The News was never really able to break out of its urban base," says former Ledger political reporter Jim McQueeny. "It had news from around the state, but when people left Newark, they left the News."

Pye declines to offer specifics about going head-to-head with the News ("I don't want to talk about them, I want to talk about us," he says), but by the end of the sixties, the Ledger had as many readers—about 255,000 daily and 400,000 Sunday—as its once seemingly invincible competitor. An eleven-month strike at the News starting in [97] was the final blow; on August 31, 1972, the paper folded. That afternoon, Pye came as close to making a newsroom speech as anyone could remember. "We never had staff meetings, but Mort talked to employees for about fifteen minutes," says Fred Hillmann, a former reporter who was there at the time. "There was a sense of euphoria, but not so much because we bear the News. It was for the opportunity that we now had."

In Pye's cache of letters is this one he received from Scudder in 1984:

"Dear Mort:

"I am much indebted to your for your help in securing clippings about automobile insurance. The articles are excellent, and so

far as I know, are the only thoroughly competent review of the matter by any New Jersey newspaper. Indeed, The Star-Ledger under your direction is, in my opinion, the most powerful force for good in the State today. Your series on pollution by New York was excellent.

"It makes me feel less sad about there being no Newark News to see The Star-Ledger do that kind of work so competently."

Mort Pye loves New Jersey. For proof, look no farther than his desk, where he keeps a small framed drawing by Bunny Hoest, who pens "The Lockhorns" syndicated comic strip. A few years ago, Hoest poked fun at New Jersey in one of his cartoons, and Pye promptly canceled the strip. He reinstated it when Hoest personally called to apologize and promised he wouldn't knock the Garden State again. To seal the deal, the cartoonist sent a drawing of Mr. And Mrs. Lockhorn standing in front of an outline of the state and making a toast: "We love New Jersey."

But Pye's fondness for the state is a lot more complex than that. It exists because he knows that what is good for New Jersey is good for the Ledger. Construction of Giants Stadium started seven years after the Ledger floated the idea. (Pye says he wondered, "If Green Bay can have a football team, why can't New Jersey?") The newspaper was also a force behind the building of key highways to the suburbs, like Route 78 and Route 280 (Ledger insiders call the latter the Pyeway). The Liberty Science Center and Newark's new Center for the Performing Arts represent more recent projects that the newspaper has promoted.

There's probably not a bigger newspaper in the country with a focus so relentlessly local. The Ledger depends primarily on wire-service copy for national and international news; unlike other papers its size, it has no reporters in major cities and foreign capitals. Even the news from its two-person Washington bureau always carries a hometown view. "A reporter in Sussex County at the Ledger is like a New York Times reporter based in London in terms of importance in filling the news pages," says Nancy Jaffer, who runs the Morris/Sussex/Warren county bureau.

It's all part of Pye's basic formula: Build circulation by covering things that interest the largest number of readers—but don't leave anything out. Clearly, the Ledger's franchise has been that it offers a lot of stuff for a quarter (75 cents for the Sunday edition, whose telephone-book weightiness dwarfs other New Jersey newspapers). It doesn't matter what the stuff is, because there's something for everybody; and at 25 cents, you know you're getting a good deal. "I've always credited their overall growth to the fact that they've kept the circulation price extremely low," says Frank J. Savino, a former advertising executive at the Home News and the Record of Hackensack. The Ledger cost 15 cents as recently as 1990 and remains of the cheapest daily newspapers in the state. "People bought the paper," adds Savino, "and readers mean advertisers."

But many journalists are quick to point out that a large readership doesn't necessarily mean the product is top-quality. "The Star-Ledger's strength is that no other newspaper is as thorough in its coverage of the state. There's no comparable source for the news," admits Neil Upmeyer of the New Jersey Reporter. But he feels the paper's photographs are a big culprit in its tedious feel. "Whether a social event or a legislative event, they're straightforward stock shots. That, as much as the character and length of the stories, leads readers to see the Ledger as a gray, boring paper."

Trenton was one of the first beats that Pye beefed up in the midsixties, and one of his first big crusades was against inflated milk prices. "Mort came in one Monday morning," says managing editor Chick Harrison, who was the paper's assistant city editor at the time, "and he asked, "Why are they paying less for milk on Long Island than in New Jersey?" A reporter was assigned to write a series on the issue. Soon afterward, the Legislature changed some regulations and milk prices came down.

Pye added sports coverage—an area where the News was weak—and also put reporters on the education and legal beats, because news out of the schools and the courts touched so many lives across the state. He ran a Monday party page, with pictures from a dozen or more week-end parties, and he hit on the idea of the multipart series starting on Sunday—knowing that readers would be inclined to pick up the daily paper to see what came next.

Pye also balanced his public-policy crusades with stories that catered directly to politicians and opinion makers. The front page, particularly on Sunday, is the space reserved for New Jersey's elite. Daily stories regularly feature straightforward, unexciting photographs of the state's powerful standing around in suits and ties or pearls and heels, shaking hands, cutting ribbons, or testifying before legislative committees. The dry stuff of politics is spiced with people pleasers, such as lots of sports stories, sometimes two cross-word puzzles, and both "Ann Landers" and "Dear Abby."

The voice of the Ledger is best defined by its specialty writers—Bob Braun on education, Herb Jaffe on law, and Gordon Bishop on the environment, to name a few. Over the years, these reporters have been given long leashes; they've mounted their soapboxes, and by dint of the decades spent on them, they have helped make the Ledger influential. They are loathed or revered, depending on what advocacy position they have taken up lately. The specialty reporters are often behind the Ledger's signature multiday series stories that fill page after page of the newspaper.

Responding to the charge that the Ledger's stories keep going and going longer than the Energizer bunny, assistant managing editor Leonard Fisher says: "That criticism is fair. We write too long, and part of that is the luxury of space. We're conscious of that problem, but making changes is not easy to do—It can be a battle of egos. Reporters want as much space as the next person, and they don't want their words, their pearls of wisdom, cut."

The crusades themselves have also not gone unnoticed in the media at large. Ledger reporters have become a lightning rod for criticism that they hide sometimes virulent opinion behind the guise of objective reporting. "There's unanimous opinion among journalists in the state that the newspaper often violates journalism standards by editorializing through news articles," says Upmeyer.

Not long after the demise of the Newark Evening News, Pye began to invest heavily in bureaus around the state, a strategy that has proved to be very successful. The paper today has bureaus in 15 out of 21 New Jersey counties, and by adding local coverage in areas of potential growth, the Ledger has been able to attain more circulation than the local daily newspapers.

Was all of this part of some master plan that Pye had been nurturing for years? Not exactly. The only principle at work was that he wanted to take things slowly. "In my mind I had a plan, and you had to proceed with caution so you didn't regret what you did," Pye says. Former managing editor Andy Stasiuk, who was Pye's top associate until he retired in 1992, says there was nothing formal about the way the Ledger worked. "It's a very informal place," he says. "We don't have meetings and proposals and so forth. This is a catch-as-it-flies operation."

While Pye's style was quietly cautious, he depended on Stasiuk, a hulking man whose biceps bulged out of his short-sleeved shirts, for brashness and motivation. "Andy got everybody going," says Joseph Carragher, "but Mort was back there telling Andy what he wanted. They were a great good cop-bad cop ream; if Mort wanted something, Andy carried it out, would go the extra mile to please Mort and get the staff to respond."

Chick Harrison, Stasiuk's replacement, is a more gentle spirit. Reporters observe a change in the tone of the newsroom. It's a bit quieter with a bit less nervous energy. What hasn't changed is that Mort Pye is in control.

Pye grabs the previous Sunday's front page and throws it on the table. "One of the things that pleases me is the play we give a story like that," he says, pointing to the launch of a series on biotechnology by Kitta MacPherson, his science editor. "This is not the kind of thing a tabloid would go crazy over, but it's a big story." Why? "Because [biotechnology] is important to the state," he answers. "It's a positive thing, which I like, and it could be very important to the future of the state in terms of the economy if we're in the forefront. It should get this kind of play because it's more important than another car being hijacked."

Pye relates the contents of another love letter to the Ledger, this one from Princeton scientist Joseph Cecchi effusively praising a series on biotechnology written by MacPherson in 1987. "The last line pleased me quite a bit," Pye says. "It said, 'You've made a Star-Ledger reader out of me.'"

It's just before noon on a Saturday in June. As has been his practice almost every Saturday for more than 30 years, Pye is in the composing room, taking a last look at the layout of Sunday's front page. The Sunday Ledger is his pride and joy. Saturday is a slow news day, so he has always seen Sunday as a chance to push some big idea or to launch a boffo series that would carry through the rest of the week. With 728,579 readers—over three times more than its closest competitor—the Sunday Ledger has the advantage of a front page that gets noticed.

On this Saturday, however, the end of an era is nearing. The composing room is where the copy, headlines, and pictures are pasted up together on each page, and it used to be a flurry of activity. But almost the entire operation is computerized now; millions of dollars have been spent in recent years to buy state-of-the art presses and the latest technology to go with them. The Sunday front page is one of the last pages to be done the old way, and it, too, will be done electronically in a few months.

Pye scans the page, which is mounted on a drafting table, and his attention is drawn to the headline of a D day anniversary story by Bill Gannon. It reads Memories Amid Headstones in bold type and capital letters. Wondering if it's too strong, Pye asks a composing-room worker to strip it off and put in an alternative. Memories Among the Headstones, in a lighter typeface with uppercase and lowercase characters. "That's too

weak," he says. He asks for the original back. He studies it approvingly but wants a final touch: a thin line under the headline that he feels makes it slightly less overpowering. "The key to quality is attention to details," Pye says after giving the final okay. "Folks at home aren't going to notice what we're fussing over, but fussy is a good thing. It's the fun part of the business."

Curiously, despite his obvious, obsessive interest in tinkering and his willingness to embrace technological innovations, Pye steadfastly refuses to ape his competitors by livening up his sleeping giant with loud graphics, lots of color, and snappy writing. change does occur, but the pace is as leaden as the Ledger's gray look. Since last year, the Sunday front page has had color photographs and a few more varied graphic elements, but that's it.

Even as television and other media threaten to erode newspaper circulation, Pye, unlike other newspaper editors, has decided not to try to make his paper as fast-paced as watching TV. "People who are interested in a story are interested in the details. If you cut a story down to a few paragraphs, it doesn't tell you more than you already know or whet your appetite for more. We try to get all the detail, and that's what brings people to the paper. Apparently there's something right about it."

People don't leave the Star-Ledger. Its staff of some 300 reporters and editors includes financial writer Alexander Milch, who is nearing 90 and covered the depression for the Newark Evening News, and sports editor Willie Klein, who is 80. The office that houses the newspaper's four main editorial writers—three of whom are in their seventies—is fondly called the geriatric ward by some of the younger journalists. Pye makes it clear that he, too, has no plans to retire.

I ask one editor why staffers stay at the Ledger for life; he says it's because many old-timers have no place else to go. But it's also because the Ledger is a difficult place to leave. Loyalty is based on the "golden handcuff" theory; reporters are paid better than many of their unionized counterparts at other newspapers (union is a dirty word at the Ledger), and everybody's on the honor system when it comes to expense accounts and overtime. "They don't play head games that way," one reporter says. When it's time for a raise, Pye makes the call personally, and year-end bonuses are doled out bureau by bureau, as reporters and editors are summoned to Newark for a brief chat with Pye in his office.

For business writer Iris Taylor, her loyalty to the Ledger was solidified three years ago. During the recession, ad revenues were down at all New Jersey newspapers. Some were forced out of business; others laid off workers. But at the Ledger, a rare memo was circulated. It told staffers that they would never be laid off for economic reasons—a sure sign that profitability was never in jeopardy. "We don't live with the fear that we won't have a job tomorrow," says Taylor. "This is a lean-and-mean operation. The paychecks are good and the bonuses are good and there are no fancy anythings."

"No doubt there's plenty of carping among other journalists that the Ledger's stories are long and tedious, that the look is drab and boring, that opinion is passed off as fact," adds Upmeyer, "But a lot of that may also be professional jealousy. Reporters aspire to the New York Times or the Philadelphia Inquirer for the professional prestige, but they aspire to the Star-Ledger because they will get paid more and they will write for a paper with a huge circulation. You wouldn't hear a reporter carp if Mort offered him a job."

Some of the Ledger's top editors are bucking the work-till-you-drop motif, however. The newsroom was stunned two years ago when Andy Stasiuk, who was 69 at the time, announced he was retiring to Las Vegas after 38 years with the paper. Chick Harrison, who moved up from assistant managing editor when Stasiuk left, told me that he may retire as early as next year and certainly within two years, even though he just turned 65.

Former assistant city editor Isabelle Spencer once told me that she thought Pye, Stasiuk, and Harrison would all leave at once. But that wouldn't have been Pye's style. No matter how prepared their replacements might be, that would be quite a void to fill. If anything is obvious, it is that Pye believes in gradual change, and with one top editor bowing out every few years, the organization can better absorb what is a wrenching but ultimately unavoidable transition in leadership.

Whether Mort Pye will ever be ready to step down—say on May 28, 1998, his 80th birthday—may depend on how wise Christie Whitman's decision to abolish the Board of Higher Education turns out to be, Pye assures me that even though he couldn't dissuade the governor from radically changing state oversight of higher education, the Ledger and its resident pit bull, Bob Braun, will stay on top of developments under Whitman's system.

Pye won't say it, but perhaps what's at stake is the one accolade that has eluded him: the Pulitzer prize. "Mort has done something that few in the newspaper business can claim, but he hasn't been justly rewarded," says Joseph Carragher, who believes that Braun's recent work on the board's dissolution was Pulitzer-quality.

I mention to Carragher that Braun won't even have a chance at such an award unless he can expose the flaws in Whitman's policy and force her to admit that her action was foolhardy. "It may not happen this year," he concedes, "but maybe next year or the year after. It would be the crowning touch if Mort won the Pulitzer for his education coverage."

In the interim, Mort Pye will just keep selling papers—one hefty issue at a time.•

THE HOLOCAUST MEMORIAL CENTER IN WEST BLOOMFIELD

• Mr. RIEGLE. Mr. President, I rise today to offer my congratulations to the Holocaust Memorial Center in West Bloomfield, MI, which will celebrate its 10th anniversary on October 21 of this year. The HMC is America's first free standing Holocaust center. Since opening to the public, it has worked to preserve the memory of the 6,000,000 Jews killed during the Holocaust and to disseminate the universal lessons of this tragic period in history—most importantly, the need to protect the freedom and dignity of all people. Its unique facilities and educational programs instruct thousands of young people annually, and its extensive library-archive comprises one of the most impressive collections in the world on the Holocaust, the Christian-Judaic relationship, and European Jewish history.

In 1962, Rabbi Charles Rosensveig first proposed the idea for a Holocaust Memorial Center to a group of Holocaust survivors in Metropolitan Detroit. The group, known as Shaarit Haplaytah ("the Remnant"), quickly embraced the idea. After years of planning, the Holocaust Memorial Center finally opened to the public in 1984 on the Jewish Community Campus in West Bloomfield, MI. Since that time, the center has educated the public through daily tours, periodic lectures by knowledgeable Holocaust scholars and authors, and annual seminars and symposiums for teachers. In order to reach the larger community, the HMC also frequently sponsors special events such as the "Celebration of Survival" and the children's opera "Brundibar."

The contributions that have been made to the community of Detroit and to all of Michigan by the Holocaust Memorial Center in its first 10 years are significant. In addition, the HMC has served as a catalyst and a role model for other Holocaust centers in the United States and abroad. The center honors the dead and ensures that they will not be forgotten. But most importantly, the HMC perpetually strives to promote tolerance and understanding between people of diverse cultural backgrounds.

Mr. President, centers like the HMC have significantly elevated public awareness about the lessons of the Holocaust. Today, I think most Americans understand how deeply important it is that we remember the tragedies that occurred in order that history not be allowed to repeat itself. Hatred, intolerance, fear and silence were the accomplices of the Holocaust. We are very fortunate to have dedicated individuals in our communities like Rabbi Rosensveig, and the people Shaarit Haplaytah, to show us the perils of succumbing to such debilitating weaknesses. It is a pleasure to commemorate the 10th anniversary of the Holocaust Memorial Center in West Bloomfield, and it is an honor to recognize the individuals who made it possible.•

THE DEPARTURE OF TAIWANESE REPRESENTATIVE DING AND THE ARRIVAL OF TAIWANESE REPRESENTATIVE LU

• Mr. SIMON. Mr. President, over the past few months the Senate has focused additional attention on the need to improve the quality of United States relations with the 21 million people of Taiwan. By an overwhelming margin, this body has urged the Clinton administration to reduce the increasingly outdated restraints that hinder what should be a more healthy and open political dialog between the United States and Taiwan.

The Taiwan phenomenon is remarkable in many respects. Its political evolution to a wide-open democracy with free, multiparty elections makes Taiwan the first Chinese society in history

to embrace democracy. Added to that is an amazing record of economic achievement, one that makes Taiwan's robust economy the envy of much of Asia. Yet, absurdly, the 21 million people of Taiwan have no voice in most multilateral organizations. On the level of such organization, other nations, our own included, sustain an artificial situation that treats Taiwan as if it does not exist. If "the truth will set us free," we must be open and honest about this issue so as to be fair to the very people whose political liberalization we so actively urged over the years.

For that reason, I introduced a resolution earlier in this session that called for reintegration of Taiwan into multilateral institutions, as well as a significant improvement in terms of dialog between this Government and the government of Taiwan. The administration has taken some small steps in the right direction, but, admittedly, most of us were disappointed that it did not seize the opportunity to make substantial, meaningful movement forward. The recent policy review will not, we trust, be the last word on United States relations with Taiwan.

That Taiwan has so far not been able to achieve the level of official recognition that its political and economic development warrants is no reflection on the caliber of its diplomatic representatives here. On the contrary; Taiwan's representatives have distinguished themselves by their energy, intelligence, and great friendship for the United States.

One such man, Ambassador Moo-Shih Ding, has just completed his tour of duty in Washington. I know I speak for others in this Chamber when I say his efforts were appreciated, and he will be truly missed. I likewise am sure my colleagues will join me in extending a warm welcome to his successor, Benjamin C. Lu, who has just assumed his duties. We pledge to the new Taiwan extending a warm welcome to his successor, Benjamin C. Lu, who has just assumed his duties. We pledge to the new Taiwan representative that our dialog with his country will continue to grow in quality and strength, both politically and economically, during his period of service here.●

NAFTA

● Mr. DECONCINI. Mr. President, about this time last year, Congress was engaged in a contentious debate about the North American Free-Trade Agreement. Many colorful remarks were made about the supposed effects NAFTA would have on the American economy. Many of the most memorable, were those made by Ross Perot. He claimed that with the passage of NAFTA there would be a "giant sucking sound" of jobs being lost in the United States and moved to Mexico.

Almost 1 year after NAFTA went into effect, however, the facts paint a much different picture than the alarmist concerns raised by some opponents of NAFTA. For example, in my home State of Arizona, it is estimated that our State's exports to Mexico in the first half of 1994 were up almost 25 percent. This comes on the heels of the 1993 all-time record high for exports to Mexico—$1.9 billion. Nationwide, United States exports to Mexico in the first half of this year were up 17 percent, a record level. Our exports to Canada during the same period increased 10 percent. These export figures compare to our exports to the rest of the world which increased 5 percent over the same period.

This increase in exports to Mexico and Canada will support an estimated 100,000 new American jobs in 1994. These jobs are in such areas as agriculture, semiconductors, computer equipment, electronics and other consumer items.

By reducing tariffs and other barriers to trade among the United States, Mexico, and Canada, NAFTA has made American products more available for Mexicans and Canadians. And when our exports are available they are popular with consumers because of their high quality. With the implementation of NAFTA we have created the largest free trade area in the world where American products are welcomed, not blocked.

Several examples from Arizona show that American companies are taking advantage of reduced tariffs and import restrictions to start selling their products and services to Mexican consumers. An Arizona housing company has contracted to build 1,000 housing units in Nogales, Mexicali, and Tijuana using building materials from the United States, a Phoenix-based bank has created a group to provide financing to medium-sized businesses seeking to increase their exports to Mexico and has joined with the largest Mexican commercial bank to establish a credit card service in Latin America, and a Phoenix based retailer is opening locations in Mexico. These are just a few of the many examples from Arizona of companies which are taking advantage of the tremendous opportunities created by NAFTA to increase the sale of their goods and services into Mexico.

Passage of NAFTA was a difficult political battle for the President and congressional supporters of NAFTA. But as we approach the 1 year anniversary of the implementation of NAFTA, all assessments show that voting for NAFTA was the right vote. NAFTA has been greatly beneficial for American companies and American jobs.●

TRIBUTE TO MARYLAND STATE SENATOR TROY BRAILEY

● Mr. SARBANES. Mr. President, it is with deep personal sadness that I rise today to pay tribute to my long-time friend and colleague, Maryland State Senator Troy Brailey, who died yesterday.

Troy and I were first elected to the Maryland House of Delegates in 1966, and served together there for 4 years. But even before he began his distinguished career of elected public service in the Maryland Legislature, which spanned 24 years, Troy Brailey was already an outstanding national leader in both the labor and civil rights movements.

Early in his life, Troy Brailey was a pullman porter, who worked with A. Philip Randolph in the early days of the brotherhood of Sleeping Car Porters to organize the porters. He went on to serve as national vice president of the Afro-American Labor Council and president of the Baltimore Division of the Porters Union.

His work on behalf of working men and women, combined with his leadership in the civil rights movement for justice and opportunity, made Senator Troy Brailey an inspiration and model for all of us.

From his early efforts helping to plan the Washington march which was called off when President Franklin D. Roosevelt issued the Executive order establishing the Fair Employment Practices Commission, to his role as State chairman and organizer of the historic 1963 March on Washington, Troy Brailey was a tireless fighter for civil rights for all of our people.

Beyond his leading role in the labor movement, civil rights, and elected public service, Senator Troy Brailey was deeply involved in countless efforts on behalf of the people he served, including many years of service on the executive board of the NAACP; the Boy Scouts; the board of directors of the YMCA; the Baltimore Street Car Museum; the Apprenticeship Advisory Board, and many others.

Mr. President, I have indeed been fortunate to be among those who were influenced by Senator Troy Brailey, who benefited from his wisdom and experience, and who were honored to have him as a friend. I extend my heartfelt condolences to his widow Chessie, his son Norman, daughter Alice, and other members of his family on the passing of this genuine champion for working men and women.●

RHINOCEROS AND TIGER CONSERVATION ACT

Mr. FEINGOLD. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 692, H.R. 4924, the Rhinoceros and Tiger Conservation Act of 1994, that the bill be read three times, passed, and the motion to reconsider be laid upon the table, and that any statements relating to this item be placed in the RECORD at the appropriate place as if read.

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

So the bill (H.R. 4924) was deemed read the third time, and passed.

THOMAS PAINE MEMORIAL JOINT RESOLUTION—MESSAGE FROM THE HOUSE

Mr. FEINGOLD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on a joint resolution (S.J. Res. 227) to approve the location of a Thomas Paine Memorial.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the resolution from the Senate (S.J. Res. 227) entitled "Joint resolution to approve the location of a Thomas Paine Memorial", do pass with the following amendments:

Strike all after the resolving clause, and insert:

That (a) the location of a Thomas Paine Memorial, authorized by Public Law 102-407, as amended by Public Law 102-459, within either Area I or Area II as described in Public Law 99-652 (100 Stat. 3650), is approved and (b) the location of a World War II Memorial, authorized by Public Law 103-32, within either Area I or Area II as described in Public Law 99-652 (100 Stat. 3650), is hereby approved.

Strike the preamble, and insert:

Whereas section 6(a) of the Act entitled "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes," approved November 14, 1986 (Public Law 99-652; 100 Stat. 3650) provides that the location of a commemorative work in the area described as Area I shall be deemed disapproved unless the location is approved by law not later than 150 days after notification of Congress that the commemorative work may be located in Area I; and

Whereas Public Law 102-407, as amended by Public Law 102-459, authorized the Thomas Paine National Historical Association U.S.A. Memorial Foundation to establish a memorial on Federal land in the District of Columbia to Thomas Paine; and

Whereas Public Law 103-32, approved May 25, 1993 (107 Stat. 90), authorized the American Battle Monuments Commission to establish a memorial on Federal land in the District of Columbia to members of the Armed Forces who served in World War II; and

Whereas the Secretary of the Interior has notified the Congress of his determination that such memorials should be located in Area I: Now, therefore, be it

Amend the title so as to read as follows: "Joint resolution approving the location of a Thomas Paine Memorial and a World War II Memorial in the Nation's Capitol".

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the Senate concur in the House amendments.

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

WARREN B. RUDMAN UNITED STATES COURTHOUSE—MESSAGE FROM THE HOUSE

Mr. FEINGOLD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2073.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2073) entitled "An Act to designate the United States courthouse that is scheduled to be constructed in Concord, New Hampshire, as the "Warren B. Rudman United States Courthouse", and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SECTION 1. WARREN B. RUDMAN UNITED STATES COURTHOUSE.

(a) DESIGNATION.—The United States courthouse to be constructed in Concord, New Hampshire, shall be known and designated as the "Warren B. Rudman United States Courthouse".

(b) LEGAL REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in subsection (a) shall be deemed to be a reference to the "Warren B. Rudman United States Courthouse".

SEC. 2. JAMIE L. WHITTEN FEDERAL BUILDING.

(a) DESIGNATION.—The Federal building located at the northeast corner of the intersection of 14th Street and Independence Avenue, Southwest, in Washington, District of Columbia, shall be known and designated as the "Jamie L. Whitten Federal Building".

(b) LEGAL REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in subsection (a) shall be deemed to be a reference to the "Jamie L. Whitten Federal Building".

SEC. 3. WILLIAM H. NATCHER FEDERAL BUILDING AND UNITED STATES COURTHOUSE.

(a) DESIGNATION.—The Federal building and United States courthouse located at 242 East Main Street in Bowling Green, Kentucky, shall be known and designated as the "William H. Natcher Federal Building and United States Courthouse".

(b) LEAGAL REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building and United States courthouse referred to in subsection (a) shall be deemed to be a reference to the "William H. Natcher Federal Building and United States Courthouse".

Amend the title so as to read: "An Act to designate the Warren B. Rudman United States Courthouse, the Jamie L. Whitten Federal Building, and the William H. Natcher Federal Building and United States Courthouse.".

Mr. FEINGOLD. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. FEINGOLD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

MEASURES INDEFINITELY POSTPONED—H.R. 4576 AND H.R. 4577

Mr. FEINGOLD. I now ask unanimous consent that Calendar No. 572 and 573 be indefinitely postponed.

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

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

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

RECESS UNTIL SATURDAY, OCTOBER 8, 1994 AT 9 A.M.

Mr. FEINGOLD. Mr. President, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 12:34 a.m., recessed until tomorrow, Saturday, October 8, 1994, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate October 7, 1994:

EXECUTIVE OFFICE OF THE PRESIDENT

G. EDWARD DESEVE, OF PENNSYLVANIA, TO BE CONTROLLER, OFFICE OF FEDERAL FINANCIAL MANAGEMENT, OFFICE OF MANAGEMENT AND BUDGET, VICE EDWARD JOSEPH MAZUR, RESIGNED.

MARTIN NEIL BAILY, OF MARYLAND, TO BE A MEMBER OF THE COUNCIL OF ECONOMIC ADVISERS, VICE ALAN S. BLINDER, RESIGNED.

SECURITIES INVESTOR PROTECTION CORPORATION

CHARLES L. MARINANCCIO, OF THE DISTRICT OF COLUMBIA, TO BE A DIRECTOR OF THE SECURITIES INVESTOR PROTECTION CORPORATION FOR A TERM EXPIRING DECEMBER 31, 1996, VICE GEORGE H. PFAU, JR., TERM EXPIRED.

FEDERAL TRADE COMMISSION

ROBERT PITOFSKY, OF MARYLAND, TO BE A FEDERAL TRADE COMMISSIONER FOR THE TERM OF 7 YEARS FROM SEPTEMBER 26, 1994, VICE DEBORAH KAYE OWEN, TERM EXPIRED.

NUCLEAR REGULATORY COMMISSION

ROBERT M. SUSSMAN, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE NUCLEAR REGULATORY COMMISSION FOR A TERM OF 5 YEARS EXPIRING JUNE 30, 1998, VICE JAMES R. CURTISS, TERM EXPIRED.

COMMUNICATIONS SATELLITE CORPORATION

CHARLES T. MANATT, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMUNICATIONS SATELLITE CORPORATION UNTIL THE DATE OF THE ANNUAL MEETING OF THE CORPORATION IN 1997, VICE RUDY BOSCHWITZ.

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

LT. GEN. SAMUEL E. EBBESEN, 096-30-1327

CONFIRMATIONS

Executive Nominations Confirmed by the Senate October 7, 1994:

DEPARTMENT OF THE TREASURY

VALERIE LAU, OF CALIFORNIA, TO BE INSPECTOR GENERAL, DEPARTMENT OF THE TREASURY.

DEPARTMENT OF STATE

THOMAS E. MCNAMARA, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AN ASSISTANT SECRETARY OF STATE.

THE JUDICIARY

VANESSA RUIZ, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE DISTRICT OF COLUMBIA COURT OF APPEALS FOR THE TERM OF 15 YEARS.

DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION

ALAN J. DIXON, OF ILLINOIS, TO BE A MEMBER OF THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION FOR A TERM EXPIRING AT THE END OF THE FIRST SESSION OF THE 104TH CONGRESS.

ALAN J. DIXON, OF ILLINOIS, TO BE CHAIRMAN OF THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION.

ENVIRONMENTAL PROTECTION AGENCY

FREDERIC JAMES HANSEN, OF OREGON, TO BE DEPUTY ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY

DEPARTMENT OF EDUCATION

G. MARIO MORENO, OF TEXAS, TO BE ASSISTANT SECRETARY FOR INTERGOVERNMENTAL AND INTERAGENCY AFFAIRS, DEPARTMENT OF EDUCATION.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

JOEL DAVID VALDEZ, OF ARIZONA, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 1998.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

JORGE M. PEREZ, OF FLORIDA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 1998.

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.

DEPARTMENT OF JUSTICE

CHARLES R. WILSON, OF FLORIDA, TO BE U.S. ATTORNEY FOR THE MIDDLE DISTRICT OF FLORIDA FOR THE TERM OF 4 YEARS.

STEVEN SCOTT ALM OF HAWAII, TO BE U.S. ATTORNEY FOR THE DISTRICT OF HAWAII FOR THE TERM OF 4 YEARS.

EISENHOWER DURR, OF MISSISSIPPI, TO BE U.S. MARSHAL FOR THE SOUTHERN DISTRICT OF MISSISSIPPI FOR THE TERM OF 4 YEARS.

MICHAEL R. RAMON, OF CALIFORNIA, TO BE U.S. MARSHAL FOR THE CENTRAL DISTRICT OF CALIFORNIA.

MICHAEL D. CARRINGTON, OF INDIANA, TO BE U.S. MARSHAL FOR THE NORTHERN DISTRICT OF INDIANA FOR THE TERM OF 4 YEARS.

ROBERT BRADFORD ENGLISH, OF MISSOURI, TO BE U.S. MARSHAL FOR THE WESTERN DISTRICT OF MISSOURI FOR THE TERM OF 4 YEARS.

JOHN R. MURPHY, OF ALASKA, TO BE U.S. MARSHAL FOR THE DISTRICT OF ALASKA FOR THE TERM OF 4 YEARS.

HERBERT M. RUTHERFORD III, TO THE DISTRICT OF COLUMBIA, TO THE U.S. MARSHAL FOR THE DISTRICT OF COLUMBIA FOR THE TERM OF 4 YEARS.

ROBERT MOORE, OF ILLINOIS, TO BE U.S. MARSHAL FOR THE CENTRAL DISTRICT OF ILLINOIS FOR THE TERM OF 4 YEARS.

SHELDON C. BILCHIK, OF MARYLAND, TO BE ADMINISTRATOR OF THE OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION.

STATE JUSTICE INSTITUTE

JOSEPH FRANCIS BACA, OF NEW MEXICO, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 1995.

ROBERT NELSON BALDWIN, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 1995.

FLORENCE K. MURRAY, OF RHODE ISLAND, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 1995.

THE JUDICIARY

JAMES A. BEATY, JR., OF NORTH CAROLINA, TO BE U.S. DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF NORTH CAROLINA.

DAVID BRIONES, OF TEXAS, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF TEXAS.

OKLA JONES II, OF LOUISIANA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF LOUISIANA.

G. THOMAS PORTEOUS, JR., OF LOUISIANA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF LOUISIANA.

JAMES ROBERTSON, OF MARYLAND, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF COLUMBIA.

THOMAS B. RUSSELL, OF KENTUCKY, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF KENTUCKY.

KATHLEEN M. O'MALLEY, OF OHIO, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF OHIO.

DAVID F. HAMILTON, OF INDIANA, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF INDIANA.

DIANE E. MURPHY, OF MINNESOTA, TO BE U.S. CIRCUIT JUDGE FOR THE EIGHTH CIRCUIT.

FRED I. PARKER, OF VERMONT, TO BE U.S. CIRCUIT JUDGE FOR THE SECOND CIRCUIT.

WILLIAM T. MOORE, JR., OF GEORGIA, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF GEORGIA.

DAVID A. KATZ, OF OHIO, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF OHIO.

SEAN J. MCLAUGHLIN, OF PENNSYLVANIA, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF PENNSYLVANIA.

ELAINE F. BUCKLO, OF ILLINOIS, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ILLINOIS.

ROBERT W. GETTLEMAN, OF ILLINOIS, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ILLINOIS.

HELEN W. GILLMOR, OF HAWAII, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF HAWAII.

ROSLYN MOORE-SILVER, OF ARIZONA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF ARIZONA.

ALVIN W. THOMPSON, OF CONNECTICUT, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF CONNECTICUT.

WILLIAM H. WALLS, OF NEW JERSEY, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF NEW JERSEY.

SVEN E. HOLMES, OF OKLAHOMA, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF OKLAHOMA.

VICKI MILES-LAGRANGE, OF OKLAHOMA, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF OKLAHOMA.